



*Transport Operations (Marine Safety) Act 1994*

# **Transport Operations (Marine Safety) Regulation 2004**

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Queensland

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# **Transport Operations (Marine Safety) Regulation 2004**

[as amended by all amendments that commenced on or before 7 July 2006]

## **Part 1 Preliminary**

### **1 Short title**

This regulation may be cited as the *Transport Operations (Marine Safety) Regulation 2004*.

### **2 Commencement**

This regulation commences on 16 August 2004.

### **3 Role of this regulation compared to the standards**

- (1) The role of this regulation is to prescribe various matters for the Act.
- (2) Some provisions of this regulation state matters with which particular people must comply.
- (3) The requirement to comply with a provision of this regulation is in addition to any requirement to comply with a provision of the Act, including, for example, the provisions about the general safety obligations.<sup>1</sup>
- (4) The role of the standards is to help people understand the general safety obligations.<sup>2</sup>

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1 See sections 40 (General safety obligation of ship designers, ship builders and marine surveyors about condition of ships) and 41 (General safety obligation of ship owners and masters about condition of ships) of the Act.

2 See sections 31(1) (What is a standard) and 42 (Relationship between regulatory provisions and general safety obligations about the condition of ships) of the Act.

#### **4 Definitions**

The dictionary in schedule 15 defines particular words used in this regulation.

#### **5 References to latitude or longitude**

A reference in this regulation to latitude or longitude is a reference to latitude or longitude using the coordinate framework known as Geocentric Datum of Australia (GDA94).

#### **6 References to length of ship**

A reference in this regulation to the length of a ship is a reference to—

- (a) for sections 40 and 176, and schedule 10, sections 9 (other than section 9(2)(c)(i)), 19 and 20—the distance measured from the foremost tip of the hull to the aftermost part of the hull, excluding appendages; or
- (b) otherwise—the measured length of the ship within the meaning of the USL code, section 1, part 2.<sup>3</sup>

#### **7 References to standards in sch 1**

- (1) Schedule 1 lists the following standards mentioned in this regulation—
  - AS
  - AS/NZ
  - BS
  - ISO.
- (2) Schedule 1 is included for information purposes only.

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<sup>3</sup> USL Code, section 1 (Introduction, definitions and general requirements), part 2 (Definitions)

## **Part 2                      Safety equipment**

### **Division 1                  Introduction**

#### **8                      Purpose of pt 2**

- (1) The purpose of this part is to—
  - (a) require particular ships to be equipped with safety equipment;<sup>4</sup> and
  - (b) declare equipment that is safety equipment to which section 44<sup>5</sup> of the Act applies.
- (2) Subsection (1)(a) is achieved in part by giving effect to the USL code, sections 10 and 11, with changes.<sup>6</sup>

### **Division 2                  EPIRB for all ships**

#### **9                      All ships in Queensland waters to be equipped with EPIRB**

- (1) This section applies to a ship in Queensland waters other than a ship—
  - (a) in smooth waters; or
  - (b) in partially smooth waters; or
  - (c) within 2n miles from land.<sup>7</sup>

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4 There are also standards that specify equipment, other than safety equipment mentioned in this part, with which a ship may be equipped. Two of these standards are—

- *Transport Operations (Marine Safety—Commercial Ships and Fishing Ships Miscellaneous Equipment) Standard 2006*
- *Transport Operations (Marine Safety—Recreational Ships Miscellaneous Equipment) Standard 2006.*

5 Section 44 (Safety equipment obligation) of the Act

6 USL code, sections 10 (Life-saving appliances) and 11 (Fire appliances)

7 ‘n mile’ is the symbol for ‘international nautical mile’.

- (2) The ship must be equipped with an EPIRB that—
  - (a) complies with AS/NZS 4330—1995; or
  - (b) is classified as category 1 under AS/NZS 4280—1995, section 2.1.2(a) and complies with the standard.
- (3) An EPIRB that complies with AS/NZS 4330—1995 or 4280—1995 is safety equipment to which section 44<sup>8</sup> of the Act applies.

## **Division 3                      Other safety equipment for commercial ships**

### **10      Application of div 3**

This division applies to the following ships in Queensland waters—

- (a) a ship registered under this regulation as any of the following—
  - (i) a commercial ship, class 1 passenger ship—class 1A, 1B, 1C, 1D, 1E or 1F;<sup>9</sup>
  - (ii) a commercial ship, class 2 non-passenger ship—class 2A, 2B, 2C, 2D or 2E;
- (b) a ship that is registrable under this regulation as a commercial ship in a class mentioned in paragraph (a), but is not registered;
- (c) a commercial ship mentioned in section 60(2)(c) to (l).

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8 Section 44 (Safety equipment obligation) of the Act

9 The USL code, section 1, part 3, clause 6 describes the classifications applicable to commercial and fishing ships under this regulation.

**11 Declaration applying Act, s 44 to equipment under this division**

The equipment with which a ship is required to be equipped under this division is safety equipment to which section 44<sup>10</sup> of the Act applies.

**12 Fire appliances—commercial ships to comply with USL code with changes**

- (1) This section applies to a commercial ship mentioned in the USL code, section 11.<sup>11</sup>
- (2) The ship must be equipped with the fire appliances required for the class of ship under the USL code, section 11.
- (3) For subsection (2), a reference in the USL code, section 11 to a portable fire extinguisher is taken to be a reference to a fire extinguisher that—
  - (a) complies with AS/NZS 1850—1997; and
  - (b) has been serviced annually and otherwise maintained in accordance with AS 1851.1—1995; and
  - (c) if the fire extinguisher is a dry powder fire extinguisher—
    - (i) is fitted with a discharge hose in accordance with AS 2444—1995; and
    - (ii) has a rating of at least 2A30B(E) under AS/NZS 1850—199; and
  - (d) if the fire extinguisher is a foam fire extinguisher—has a rating of at least 3A20B under AS/NZS 1850—1997; and
  - (e) if the fire extinguisher is a CO<sub>2</sub> fire extinguisher—has a rating of at least 5B(E) under AS/NZS 1850—1997.
- (4) In this section—

***commercial ship*** does not include a personal watercraft.

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10 Section 44 (Safety equipment obligation) of the Act

11 USL code, section 11 (Fire appliances)

**13 Lifesaving appliances—commercial ships to comply with USL code with changes**

- (1) This section applies to a commercial ship mentioned in the USL code, section 10, part 3.<sup>12</sup>
- (2) The ship must be equipped with the lifesaving appliances required for the class of ship under the USL code, section 10, part 3.
- (3) Subsection (2) has effect with the following changes—
  - (a) if the ship is registered as a class 1D or 2D ship operating only in daylight hours, the requirement under the USL code, section 10, part 3 to be equipped with 3 distress rockets is taken to be complied with if the ship is equipped with 4 hand held orange smoke signals;
  - (b) if the ship is registered as a class 1E or 2E ship, the requirement under the USL code, section 10, part 3 to be equipped with distress signals is taken to be complied with if the ship is equipped with a V sheet, 2 hand held red flares and 2 hand held orange smoke signals;
  - (c) if the ship is less than 7m, the ship may be operated without lifebuoys;
  - (d) if the ship is operating in smooth waters, the requirement under the USL code, section 10, part 3 to be equipped with life jackets is taken to be complied with if there is a PFD type 1 for each person on board;
  - (e) if the ship is involved in diving operations, the requirement under the USL code, section 10, part 3 to be equipped with life jackets is taken to be complied with for any particular person if the person is wearing an inflatable diver's jacket complying with BS EN 12628:1999;
  - (f) if the ship is registered in more than 1 class, the ship need only be equipped with the lifesaving equipment required for the class in which it is then operating.

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12 USL code, section 10 (Life-saving appliances), part 3 (Scales of life-saving appliances)

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*Example for paragraph (f)—*

A ship is registered as a class 1C, 1D and 1E ship. When it is operating as a class 1D ship, it is only necessary for the ship to be equipped with the lifesaving equipment for a class 1D ship.

- (4) If the ship is registered as a class 1D, 1E, 2D or 2E ship, it must be equipped with emergency portable lighting devices, capable of giving off reasonable light in an emergency, for all crew of the ship.
- (5) If the ship is registered as a class 1E or 2E ship and is a high speed ship—
  - (a) it must be equipped with a flashing yellow all-round light; and
  - (b) the light must be used while the ship is under way.
- (6) If the ship is registered other than as a class 1F ship, it must be equipped with the daylight signalling lamp or signalling light stated for the class of ship in the USL code, section 13, part 3.<sup>13</sup>
- (7) If a provision of the USL code, section 10, part 3<sup>14</sup> requires the ship to be equipped with life jackets, lifeboats, life rafts or buoyant appliances having regard to the number of persons the ship is registered to carry, however expressed, the reference to the number is taken to be a reference to the number of persons on board.
- (8) However, if the ship is required under this section to be equipped with lifeboats, life rafts or buoyant appliances, the requirement does not apply if—
  - (a) the ship may have, under the USL code, section 10, part 3, and does have, internal buoyancy as stated in the USL code, section 10, appendix N;<sup>15</sup> or

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13 USL code, section 13 (Miscellaneous equipment), part 3 (Scales of miscellaneous equipment)

14 USL code, section 10 (Life-saving appliances), part 3 (Scales of life-saving appliances)

15 USL code, section 10 (Life-saving appliances), appendix N (Internal buoyancy in small vessels)

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- (b) the ship is less than 6m and there is a statement in the approved form for the ship that the ship has positive flotation; or
  - (c) for a ship that is an inflatable ship, there is a statement in the approved form for the ship that the ship has positive flotation when its largest air chamber is deflated; or
  - (d) the ship is registered as a class 1E ship and carries the buoyant appliances or the life jackets stated in the USL code, section 10, part 3.
- (9) If life jackets required under the USL code, section 10, part 3 are not available for persons under 32kg, the ship may be equipped with a PFD type 1 for each person under 32kg on board.
- (10) In this section—  
*commercial ship* does not include a personal watercraft.

#### **14 Lifesaving appliances for class 1F commercial ship**

- (1) This section applies if the ship is registered as a class 1F ship.
- (2) The ship must be equipped as follows—
  - (a) when operating in smooth waters, as if it were a class 2E ship, but the ship need not be fitted with coastal life jackets if the ship is equipped with a PFD type 1 for each person on board;
  - (b) when operating in partially smooth waters, as if it were a class 2D ship;
  - (c) when it is operating beyond partially smooth waters, as if it were a class 2C ship, but with the following exceptions—
    - (i) the ship need not be fitted with the life rafts required for a class 2C ship if—
      - (A) the ship has with it a tender capable of carrying everyone on board; and
      - (B) the tender is marked or coloured in a way that helps to make the tender visible in the water; and



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- (C) there is a statement in the approved form for the tender that the tender has positive flotation;
  - (ii) if the ship operates only in daylight hours, any coastal life jacket required under the USL code, section 10 need not be fitted with a light;
  - (d) if it is less than 6m, with the safety equipment that would be required for it under section 30(1), 31 or 33<sup>16</sup> if it were a recreational ship;
  - (e) if it is not equipped with the distress signals required by the USL code, section 10, part 3, with a V sheet, 2 hand held red flares and 2 hand held orange smoke signals;
  - (f) with emergency portable lighting devices, capable of giving off reasonable light in an emergency, for all crew of the ship;
  - (g) with the lighting device for signalling mentioned in section 29(2)<sup>17</sup> for a recreational ship.
- (3) If the ship is less than 7m, the ship may be operated without lifebuoys.

**15 Lifesaving appliances for class 2E commercial ship owned and operated by particular entity and operating in river etc.**

- (1) This section applies to a commercial ship if the ship—
- (a) is registered as a class 2E ship; and
  - (b) is a type of ship, and is being operated in a way, mentioned in section 84(2)(h);<sup>18</sup> and
  - (c) is operating in a river, creek, stream or waters contained within breakwaters or revetments.

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16 Section 30 (Safety equipment for recreational ship operating in smooth waters), 31 (Safety equipment for recreational ship operating in partially smooth waters and beyond) or 33 (Safety equipment for recreational ship that is a personal watercraft)

17 Section 29 (Lighting devices for signalling for recreational ship on water at night)

18 Section 84 (Application of Act, pt 5, div 3)

- (2) Despite section 13(3)(d), the requirement under the USL code, section 10, part 3 to be equipped with life jackets is taken to be complied with if—
- (a) the ship is equipped with grab lines, grab rails or other permanent means of giving each person on board a way of keeping a secure hold to the ship; and
  - (b) there is a statement in the approved form for the ship that the ship has positive flotation.

## **16 Commercial ship used as training ship**

- (1) This section applies to a commercial ship if—
- (a) the ship is registered as a class 2E ship; and
  - (b) the ship is used as a training ship by a training provider; and
  - (c) the person conducting the training accompanies the training ship in another ship equipped with the safety equipment required under this division for a ship of the class of the other ship.
- (2) The training ship need not be equipped with the safety equipment required under this division for a class 2E ship if each person on board the training ship wears a PFD type 1 or 2 at all times.

## **17 Commercial ship that is a personal watercraft**

- (1) A commercial ship that is a personal watercraft, other than a ship registered as a class 1F ship, must be equipped with—
- (a) when operating in smooth waters—a PFD type 2 or 3 for the operator of, and each passenger on, the watercraft; and
  - (b) when operating in partially smooth waters or beyond—
    - (i) a PFD type 2 for the operator of, and each passenger on, the watercraft; and
    - (ii) 2 hand held red flares; and
    - (iii) 2 hand held orange smoke signals.

- (2) For subsection (1), if the operator of, or a passenger on, the personal watercraft is not wearing a PFD with which the personal watercraft is equipped, the personal watercraft is taken not to be equipped with the PFD.

## **18 Safety equipment not otherwise stated**

If this division does not otherwise state the safety equipment that a commercial ship must be equipped with, the ship must be equipped with the safety equipment for a recreational ship as required under division 5.

## **19 Safety equipment to comply with particular provisions of USL code**

- (1) The safety equipment with which a commercial ship must be equipped under this division must be stowed, marked, and be of a type, as stated in the USL code, section 10, parts 1, 2 and 4.<sup>19</sup>
- (2) If there is a failure to comply with subsection (1), the ship is taken not to be equipped with the safety equipment.

## **Division 4 Other safety equipment for fishing ships**

### **20 Application of div 4**

- (1) This division applies to the following ships—
- (a) a ship registered under this regulation as a fishing ship—class 3A, 3B, 3C, 3D or 3E;
  - (b) a ship that is registrable under this regulation as a fishing ship in a class mentioned in paragraph (a), but is not registered;
  - (c) a fishing ship less than 10m.

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<sup>19</sup> USL code, section 10 (Life-saving appliances), parts 1 (Preliminary), 2 (General provisions) and 4 (Types of life-saving appliances)

- (2) However, this division does not apply to the following—
- (a) a fishing ship used for fishing in an ocean beach fishery under the *Fisheries Act 1994*;
  - (b) a tender of the type described in section 60(2)(h) if the tender—
    - (i) is not powered; or
    - (ii) is powered by an engine of less than 3kW.

**21 Declaration applying Act, s 44 to equipment under this division**

The equipment with which a ship is required to be equipped under this division is safety equipment to which section 44<sup>20</sup> of the Act applies.

**22 Fire appliances—fishing ships to comply with USL code with changes**

- (1) If the ship is a ship mentioned in the USL code, section 11,<sup>21</sup> it must be equipped with the fire appliances required for the class of ship under the provision.
- (2) For subsection (1), a reference in the USL code, section 11 to a portable fire extinguisher is taken to be a reference to a fire extinguisher that—
  - (a) complies with AS 1850—1997; and
  - (b) has been serviced annually and otherwise maintained in accordance with AS 1851.1—1995; and
  - (c) if the fire extinguisher is a dry powder fire extinguisher—
    - (i) is fitted with a discharge hose in accordance with AS 2444—1995; and
    - (ii) has a rating of at least 2A30B(E) under AS/NZS 1850—1997; and

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20 Section 44 (Safety equipment obligation) of the Act

21 USL code, section 11 (Fire appliances)

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- (d) if the fire extinguisher is a foam fire extinguisher, has a rating of at least 3A20B under AS/NZS 1850—1997; and
- (e) if the fire extinguisher is a CO<sub>2</sub> fire extinguisher, has a rating of at least 5B(E) under AS/NZS 1850—1997.

**23 Lifesaving appliances—fishing ships to comply with USL code with changes**

- (1) This section applies to a fishing ship if it is a ship mentioned in the USL code, section 10, part 3.<sup>22</sup>
- (2) The ship must be equipped with the lifesaving appliances required for the class of ship under the USL code, section 10, part 3.
- (3) Subsection (2) has effect with the following changes—
  - (a) if the ship is registered as a class 3D ship operating only in daylight hours, the requirement under the USL code, section 10, part 3 to be equipped with 3 distress rockets is taken to be complied with if the ship is equipped with 3 hand held orange smoke signals;
  - (b) if the ship is registered as a class 3E ship, the requirement under the USL code, section 10, part 3 to be equipped with distress signals is taken to be complied with if the ship is equipped with a V sheet, 2 hand held red flares and 2 hand held orange smoke signals;
  - (c) if the ship is less than 7m, the ship may be operated without lifebuoys.
- (4) The ship must be equipped with the daylight signalling lamp or signalling light stated for the class of ship in the USL code, section 13, part 3.<sup>23</sup>
- (5) If the ship is registered as a class 3D or 3E ship, it must be equipped with emergency portable lighting devices, capable

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22 USL code, section 10 (Life-saving appliances), part 3 (Scales of life-saving appliances)

23 USL code, section 13 (Miscellaneous equipment), part 3 (Scales of miscellaneous equipment)

of giving off reasonable light in an emergency, for all crew of the ship.

- (6) If a provision of the USL code, section 10, part 3 requires the ship to be equipped with life jackets, lifeboats, life rafts or buoyant appliances having regard to the number of persons the ship is certified to carry, however expressed, the reference to the number is taken to be a reference to the number of persons on board.

**24 Fishing ship less than 10m or tender boat under Fisheries Act 1994**

- (1) This section applies to each of the following—
- (a) a fishing ship less than 10m;
  - (b) a fishing ship that is a tender boat under the *Fisheries Act 1994*.
- (2) The provisions of the USL code about distress signals, life jackets, lifeboats, life rafts or buoyant appliances do not apply to the ship if it is equipped with the safety equipment required by section 31<sup>24</sup> for a recreational ship operating beyond smooth waters.

**25 Safety equipment not otherwise stated**

If this division does not otherwise state the safety equipment that a fishing ship must be equipped with, the ship must be equipped with the safety equipment as required for a recreational ship under division 5.

**26 Safety equipment to comply with particular provisions of USL code**

- (1) The safety equipment with which a fishing ship must be equipped under this division must be stowed, marked and be

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24 Section 31 (Safety equipment for recreational ship operating in partially smooth waters and beyond)

of a type, as stated in the USL code, section 10, parts 1, 2 and 4.<sup>25</sup>

- (2) If there is a failure to comply with subsection (1), the ship is taken not to be equipped with the safety equipment.

## **Division 5                      Other safety equipment for recreational ships**

### **27            Application of div 5**

- (1) This division applies to the following ships—
- (a) a ship registered under this regulation as a recreational ship;
  - (b) a ship that is registrable under this regulation as a recreational ship but is not registered;
  - (c) a recreational ship mentioned in any of paragraphs (a) to (l) of section 60(2),<sup>26</sup> other than paragraphs (f) and (i).
- (2) Also, this division applies to a commercial ship or fishing ship to the extent necessary to give effect to sections 18 and 25.<sup>27</sup>

### **28            Declaration applying Act, s 44 to equipment under this division**

The equipment with which a ship is required to be equipped under this division is safety equipment to which section 44<sup>28</sup> of the Act applies.

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25 USL code, section 10 (Life-saving appliances), parts 1 (Preliminary), 2 (General provisions) and 4 (Types of life-saving appliances)

26 Ships mentioned in section 60(2) do not have to be registered.

27 Sections 18 (Safety equipment not otherwise stated) and 25 (Safety equipment not otherwise stated)

28 Section 44 (Safety equipment obligation) of the Act

**29 Lighting devices for signalling for recreational ship on water at night**

- (1) Despite section 27(1)(c), this section also applies to a recreational ship mentioned in section 60(2)(f) and (i).
- (2) A recreational ship on the water at any time between sunset and sunrise must be equipped with a lighting device for signalling to attract attention.

*Examples of lighting devices—*

torches, lanterns, fluorescent lights and cyalume sticks

- (3) Also, the ship must display a flashing white all-round light if the ship—
  - (a) is used for training or competition; and
  - (b) is not powered but is propelled by using oars or paddles; and
  - (c) is operated on the Brisbane River.
- (4) Subsections (2) and (3) do not limit the obligation of the person operating the ship to equip the ship with navigation lights as required under section 126.<sup>29</sup>

**30 Safety equipment for recreational ship operating in smooth waters**

- (1) A recreational ship, other than a personal watercraft, operating in smooth waters must be equipped with—
  - (a) a PFD type 1, 2 or 3 for each person on board; and
  - (b) if the ship is more than 5m, fire fighting equipment capable of extinguishing fire on the ship quickly and effectively.
- (2) However, subsection (1)(a) does not apply if—
  - (a) the ship operates in a river, creek, stream or the waters contained within breakwaters or revetments; and

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29 Section 126 (Person operating ship to comply with collision regulations)



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- (b) the ship is equipped with grab lines, grab rails or other permanent means of giving each person on board a way of keeping a secure hold to the ship; and
- (c) there is a statement in the approved form for the ship that the ship has positive flotation.

**31 Safety equipment for recreational ship operating in partially smooth waters and beyond**

- (1) A recreational ship, other than a personal watercraft, operating in or beyond partially smooth waters must be equipped with—
  - (a) if the ship is operating in partially smooth waters—a PFD type 1 or 2 for each person on board; and
  - (b) if the ship is operating beyond partially smooth waters—a PFD type 1 for each person on board; and
  - (c) a V sheet; and
  - (d) 2 hand held red flares; and
  - (e) 2 hand held orange smoke signals; and
  - (f) if the ship is more than 5m—fire fighting equipment capable of extinguishing fire on the ship quickly and effectively.
- (2) The flares and signals mentioned in subsection (1)(d) and (e) must conform to—
  - (a) the USL code; or
  - (b) SOLAS; or
  - (c) AS 2092—2004.

**32 Exception for person on recreational ship wearing diver's jacket**

Despite sections 30 and 31,<sup>30</sup> a recreational ship need not be equipped with a personal flotation device for a person on board, if the person is wearing an inflatable diver's jacket complying with BS EN 12628:1999.

**33 Safety equipment for recreational ship that is a personal watercraft**

- (1) A recreational ship that is a personal watercraft must be equipped with a PFD for the operator of, and each passenger on, the watercraft.
- (2) For subsection (1), if the operator of, or a passenger on, the personal watercraft is not wearing a PFD with which the personal watercraft is equipped, the personal watercraft is taken not to be equipped with the PFD.
- (3) In this section—

*PFD* means—

  - (a) if the watercraft is operating in smooth waters—a PFD type 2 or 3; or
  - (b) if the watercraft is operating in partially smooth waters or beyond—a PFD type 2.

**Division 6 Other safety equipment for tenders**

**34 Application of div 6**

This division applies to a tender, if the tender is required to be registered.

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30 Sections 30 (Safety equipment for recreational ship operating in smooth waters) and 31 (Safety equipment for recreational ship operating in partially smooth waters and beyond)

**35 Declaration applying Act, s 44 to equipment under this division**

The equipment with which a tender is required to be equipped under this division is safety equipment to which section 44<sup>31</sup> of the Act applies.

**36 Lighting device for signalling for tender on water at night**

- (1) A tender on the water at any time between sunset and sunrise must be equipped with a lighting device for signalling to attract attention.

*Examples of lighting devices—*

torches, lanterns, fluorescent lights and cyalume sticks

- (2) Subsection (1) does not limit the obligation of the person operating the tender to equip the tender with navigation lights as required under section 126.<sup>32</sup>

**37 Safety equipment for tender operating in smooth waters**

- (1) A tender operating in smooth waters must be equipped with—
- (a) a PFD type 1, 2 or 3 for each person on board; and
  - (b) if the tender is more than 5m—fire fighting equipment capable of extinguishing fire on the tender quickly and effectively.
- (2) Despite subsection (1)(a), a tender operating in smooth waters is not required to be equipped with a PFD type 1, 2 or 3 for each person on board—
- (a) if—
    - (i) the tender is used within 1km of the ship for which it is a tender; and
    - (ii) there is a statement in the approved form for the tender that the tender has positive flotation; or
  - (b) if—

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31 Section 44 (Safety equipment obligation) of the Act

32 Section 126 (Person operating ship to comply with collision regulations)

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- (i) the tender operates in a river, creek, stream or the waters contained within breakwaters or revetments; and
- (ii) the tender is equipped with grab lines, grab rails or other permanent means of giving each person on board a way of keeping a secure hold to the tender; and
- (iii) there is a statement in the approved form for the tender that the tender has positive flotation.

**38 Safety equipment for tender operating in partially smooth waters and beyond**

- (1) A tender operating in or beyond partially smooth waters must be equipped with—
  - (a) if the tender is operating in partially smooth waters—a PFD type 1 or 2 for each person on board; and
  - (b) if the tender is operating beyond partially smooth waters—a PFD type 1 for each person on board; and
  - (c) a V sheet; and
  - (d) 2 hand held red flares; and
  - (e) 2 hand held orange smoke signals; and
  - (f) if the tender is more than 5m—fire fighting equipment capable of extinguishing fire on the tender quickly and effectively.
- (2) Despite subsection (1)(a), a tender operating in partially smooth waters is not required to be equipped with a PFD type 1 or 2 for each person on board if—
  - (a) the tender is used within 1km of the ship for which it is a tender; and
  - (b) there is a statement in the approved form for the tender that the tender has positive flotation.
- (3) Despite subsection (1)(b), a tender operating beyond partially smooth waters is not required to be equipped with a PFD type 1 or 2 for each person on board if—

- (a) the tender is operated within a radius of 500m from its primary ship; and
  - (b) there is a statement in the approved form for the tender that the tender has positive flotation.
- (4) The flares mentioned in subsection (1)(d) must conform to—
- (a) the USL code; or
  - (b) SOLAS; or
  - (c) AS 2092—2004.

### **39 Exception for person on tender wearing diver's jacket**

Despite sections 37 and 38,<sup>33</sup> a tender need not be equipped with a personal flotation device for a person on board if the person is wearing an inflatable diver's jacket complying with BS EN 12628:1999.

## **Division 7 Life jackets and personal flotation devices**

### **40 Life jackets and personal flotation devices**

- (1) This section applies if the requirements under this regulation for a ship's safety equipment include a requirement for a life jacket or personal flotation device for each person on board.
- (2) The ship is taken not to be equipped with the required safety equipment unless—
  - (a) there is an appropriate life jacket or personal flotation device for each person on board; and
  - (b) if the ship is an open boat that is less than 4.8m—
    - (i) while the ship is underway, each person on board who is under 12 years is wearing—

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<sup>33</sup> Sections 37 (Safety equipment for tender operating in smooth waters) and 38 (Safety equipment for tender operating in partially smooth waters and beyond)

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- (A) the required appropriate life jacket or personal flotation device; or
- (B) an appropriate PFD type 1; and
- (ii) while the ship is crossing a coastal bar, each person on board is wearing—
  - (A) the required appropriate life jacket or personal flotation device; or
  - (B) an appropriate PFD type 1.
- (3) In this section—

*appropriate*, in relation to a life jacket or personal flotation device for a person, means of an appropriate size for the person.

*open boat* means a ship the structure of which does not include a permanent rigid deckhouse, cabin or other enclosed space suitable for a person to occupy.

*person* means an individual who is 1 year or more.

## **Division 8                      Expiry date for safety equipment**

### **41                      Expiry date for particular safety equipment**

- (1) This section applies if a ship is equipped with any of the following safety equipment for this part—
  - (a) an EPIRB;
  - (b) a fire extinguisher;
  - (c) flares;
  - (d) a life raft that is inflatable;
  - (e) a PFD type 1, 2 or 3 that is inflatable;
  - (f) smoke signals.
- (2) The safety equipment mentioned in subsection (1) must show a legible expiry date (however described) for the equipment.

- (3) The equipment must be serviced by the manufacturer or the manufacturer's authorised service agent, or be replaced, before the expiry date.
- (4) If there is a failure to comply with subsection (2) or (3), the ship is taken not to be equipped with the safety equipment.

## Part 3                                      **Accreditation, ship building and registration of ships**

### Division 1                                 **Accreditation of ship designers, ship builders and marine surveyors**

#### **42           Application of Act, pt 5, div 4**

- (1) Part 5, division 4<sup>34</sup> of the Act applies to a commercial ship or fishing ship that—
  - (a) the general manager would not be able to register under this part<sup>35</sup> unless an application to register the ship were accompanied by a certificate of compliance for the ship; or
  - (b) is built in Queensland but is to be operated in another State, or a foreign country, and for which—
    - (i) an accredited ship designer or marine surveyor (each of whom is an *accredited person*) has been requested to issue a certificate of compliance; or
    - (ii) the general manager has been requested to issue a certificate of survey under division 5.<sup>36</sup>

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34 Part 5 (Registration, licensing, permits and accreditation), division 4 (Accreditation of ship designers, ship builders and marine surveyors) of the Act

35 See division 4 (Registration of ships).

36 Division 5 (Certificates of survey)

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- (2) For this division and section 70<sup>37</sup> only, a ship mentioned in subsection (1)(b) is a ship connected with Queensland.
- (3) However, section 67<sup>38</sup> of the Act does not apply to a commercial ship if after the ship is built—
  - (a) the ship will be less than 6m; and
  - (b) the ship will operate only in smooth or partially smooth waters or within 15n miles from land; and
  - (c) a statement in the approved form that the ship has positive flotation will be issued.

**43 Declaration of alterations or replacements that may affect marine safety—Act, s 4, definition *building***

- (1) This section declares, for section 4 of the Act, definition *building*, alterations or replacements that may affect marine safety.
- (2) An alteration or replacement affecting any of the following in a substantial way is an alteration or replacement that may affect marine safety—
  - (a) electrical systems;
 

*Example—*

An alteration to, or replacement of, components or wiring in an electrical system.
  - (b) machinery and associated systems;
 

*Example—*

An alteration to, or replacement of, engines, winches, pumping systems or stern gear.
  - (c) stability;
 

*Examples—*

    1. An alteration in position or amount of permanent ballast.
    2. An alteration to scuppers and freeing ports impairing drainage.

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37 Section 70 (General manager may issue certificate of survey for ship)

38 Section 67 (Restriction on building of ships) of the Act



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3. An alteration to, or replacement of, a part of a ship (including machinery), that, because of its weight or location, alters the stability of the ship.
- (d) structural sufficiency;

*Example—*

An alteration to, or replacement of, the hull, bulkhead, deck or superstructure.

- (e) watertight integrity and subdivision.

*Example—*

An alteration of, or replacement to, a hull, watertight bulkhead, deck, enclosed superstructure, or weathertight or watertight closing device.

#### **44 Accreditation as a ship designer, ship builder or marine surveyor**

- (1) The general manager may accredit a person as a ship designer, ship builder or marine surveyor.
- (2) The general manager may accredit the person only if the person satisfies the general manager that the person qualifies for accreditation under a standard made for this section.
- (3) The procedure for accreditation is in part 6.<sup>39</sup>

#### **45 Categories of accreditation for ship designer**

- (1) The categories of accreditation as a ship designer are as follows—
  - (a) for hulls—aluminium hull, ferro-cement hull, fibre reinforced plastic hull, steel hull or timber hull;
  - (b) for superstructures—for any of the hull materials mentioned in paragraph (a);
  - (c) electrical;
  - (d) load line;

- (e) machinery—including propulsion and associated systems;
  - (f) MARPOL requirements;
  - (g) safety equipment;
  - (h) stability—including subdivision.
- (2) The categories of accreditation as a ship designer may include any part of a category mentioned in subsection (1) decided by the general manager.

#### **46 Categories of accreditation for ship builder**

- (1) The categories of accreditation as a ship builder are as follows—
- (a) for hulls—aluminium hull, ferro-cement hull, fibre reinforced plastic hull, steel hull or timber hull;
  - (b) for superstructures—for any of the hull materials mentioned in paragraph (a);
  - (c) electrical;
  - (d) machinery—including propulsion and associated systems;
  - (e) MARPOL requirements;
  - (f) safety equipment.
- (2) The categories of accreditation as a ship builder may include any part of a category mentioned in subsection (1) decided by the general manager.

#### **47 Categories of accreditation for marine surveyor**

- (1) The categories of accreditation as a marine surveyor are as follows—
- (a) for hulls—aluminium hull, ferro-cement hull, fibre reinforced plastic hull, steel hull or timber hull;
  - (b) for superstructures—for any of the hull materials mentioned in paragraph (a);

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- (c) electrical;
  - (d) load line;
  - (e) machinery—including propulsion and associated systems;
  - (f) MARPOL requirements;
  - (g) safety equipment;
  - (h) stability—including subdivision.
- (2) The categories of accreditation as a marine surveyor may include any part of a category mentioned in subsection (1) decided by the general manager.

**48 Hull and superstructure taken to be built of particular material**

For sections 45(1)(a) or (b), 46(1)(a) or (b) and 47(1)(a) or (b), a hull or superstructure is taken to be built of a material if it is primarily built of the material.

**49 Authority given by accreditation**

- (1) An accredited person may issue a certificate of compliance in the approved form for a ship in the category for which the accredited person is accredited.
- (2) The certificate of compliance has effect subject to the conditions stated in the Act, including in this regulation, and the accredited person's accreditation.
- (3) However, an accredited person that is a corporation must not issue a certificate of compliance for a ship unless the individual having the supervision and management of the designing, building or surveying of the ship has the same accreditation as the corporation.

Maximum penalty—200 penalty units.

- (4) An accredited person that is a corporation must inform the general manager when an individual having the supervision

and management of the designing, building or surveying of a ship stops being engaged by the corporation.

Maximum penalty—20 penalty units.

## 50 Accredited person to keep documents

- (1) This section applies to an accredited person who carries on a business (the *business*) of ship designing, ship building or marine surveying.
- (2) The accredited person must, under subsection (3) and (4), bring into existence and keep the following documents (the *documents*) for the business—
  - (a) an operational plan (the *operational plan*) of a suitable standard showing—
    - (i) the management structure; and
    - (ii) individual responsibilities and the professional or trade qualifications of employees of the business; and
    - (iii) a system for monitoring, at each critical stage, the quality and integrity of the process of—
      - (A) for a ship designer—designing a ship or part of a ship; or
      - (B) for a ship builder—building a ship or part of a ship; or
      - (C) for a marine surveyor—surveying a ship or part of a ship;
  - (b) a record (the *production record*) showing details of the following—
    - (i) ships, or parts of ships, designed, built or surveyed by the accredited person;
    - (ii) the carrying out of the monitoring stated in paragraph (a)(iii);
    - (iii) all significant rectifications and alterations found necessary in the designing, building or surveying process.

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Maximum penalty—100 penalty units.

- (3) The operational plan must be brought into existence within 30 days after the business is started.
- (4) The production record must be brought into existence within 1 week after the business is started, and must be brought up-to-date every week after the business is started.
- (5) The operational plan is taken to be of a suitable standard if it is a current operational quality management and assurance system certified by a certification entity.
- (6) The accredited person must ensure that—
  - (a) entries in the documents are complete and accurate; and
  - (b) if there is a change to something mentioned in subsection (2)(a)—the documents are amended to show the change within 14 days after the change; and
  - (c) the documents are kept—
    - (i) at the accredited person's place of business; and
    - (ii) for at least 7 years after they are made.

Maximum penalty—100 penalty units.

- (7) In this section—

***accredited*** includes temporarily accredited under section 153.<sup>40</sup>

***certification entity*** means an entity that—

- (a) is accredited by the council; and
- (b) is kept on the council's register of certification entities.

***council*** means the Council of Joint Accreditation Systems of Australia and New Zealand.

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<sup>40</sup> Section 153 (Temporary authorities)

**51 Accredited person not to issue certificate of compliance unless insured**

- (1) An accredited person must not issue a certificate of compliance for a ship, or part of a ship, that is designed, built or surveyed by the person while the person is accredited unless the person is covered by an insurance policy providing for the person's legal liability arising out of or in respect of the issue of the certificate.

Maximum penalty—100 penalty units.

- (2) This section is subject to section 53.

**52 Accredited person to maintain policy**

- (1) This section applies if an accredited person has issued a certificate of compliance for a ship, or part of a ship, whether before or after the commencement of this section.

- (2) While the accredited person continues to be accredited, the person must obtain and keep in force an insurance policy providing for the liability mentioned in section 51(1).

Maximum penalty—100 penalty units.

- (3) The accredited person must give the general manager a copy of the certificate of insurance or renewal of the policy within 5 business days after taking out or renewing the policy.

Maximum penalty—50 penalty units.

- (4) This section is subject to section 53.

**53 Accredited person who can not obtain insurance for s 51**

- (1) This section applies if the general manager is satisfied that an accredited person can not reasonably obtain or keep in force an insurance policy providing for the liability mentioned in section 51(1).

- (2) The general manager may, by written notice given to the accredited person, allow the person to issue a certificate of compliance for a ship, or part of a ship, if the general manager is satisfied that—

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- (a) it is necessary to allow the accredited person to issue certificates of compliance to maintain the efficiency and effectiveness of the Queensland maritime industry, and
  - (b) marine safety will not be significantly affected.
- (3) The notice may contain any conditions about issuing certificates of compliance that the general manager considers necessary.
- (4) The accredited person must comply with any conditions imposed by the general manager about issuing certificates of compliance.

Maximum penalty—100 penalty units.

- (5) Before the accredited person enters into a contract with another person in relation to an activity for which the accredited person is accredited, the accredited person must give the other person a written notice stating that the accredited person does not have an insurance policy providing for the liability mentioned in section 51(1).

Maximum penalty—100 penalty units.

## **Division 2                      Other provisions about ship design and survey**

### **54            Application of Act, pt 5, div 5**

Part 5, division 5<sup>41</sup> of the Act applies to the ships to which, under section 42(1)<sup>42</sup> of this regulation, part 5, division 4<sup>43</sup> of the Act applies.

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41 Part 5 (Registration, licensing, permits and accreditation), division 5 (Other provisions about ship design and survey) of the Act

42 Section 42 (Application of Act, pt 5, div 4)

43 Part 5 (Registration, licensing, permits and accreditation), division 4 (Accreditation of ship designers, ship builders and marine surveyors) of the Act

## **Division 3                      Building of ships**

### **55            Application of div 3**

This division applies to a ship that—

- (a) is mentioned in section 42(1); or
- (b) if built, would be a ship mentioned in section 42(1); or
- (c) is registered under this regulation, if—
  - (i) the documents produced to the general manager when the ship was registered included a current certificate of survey for the ship issued under section 70,<sup>44</sup> or a certificate equivalent to a certificate of survey issued under a law of the Commonwealth or another State, or by a classification society; and
  - (ii) the ship is the subject of further building.

### **56            Certificate for design and other documents to be given to general manager before building starts**

A person, including an accredited ship builder, must not start building a ship, or part of a ship, unless the person has given the general manager at least 5 business days written notice of the person's intention to build the ship or part together with—

- (a) particulars of the certificate of compliance for the design of the ship or part and the plans and other documents mentioned in the certificate; or
- (b) the design approval certificate for the ship or part.

Maximum penalty—100 penalty units.

### **57            Responsibility for ensuring issue of certificate of compliance for survey**

- (1) This section applies if—

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44 Section 70 (General manager may issue certificate of survey for ship)



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- (a) a person (the **builder**) is building a ship or part of a ship; and
  - (b) the builder is not an appropriately accredited ship builder to build the ship or part.
- (2) The builder must—
- (a) ensure the ship or part is surveyed by a marine surveyor who is accredited to survey the ship or part; and
  - (b) obtain from the surveyor a certificate of compliance for the survey of the ship or part.

Maximum penalty—100 penalty units.

- (3) If the builder is building the ship or part for another person, the builder must give the certificate of compliance mentioned in subsection (2)(b) to the other person when delivering the ship or part.

Maximum penalty—10 penalty units.

- (4) However, the builder is not required to comply with subsections (2) and (3) if—
- (a) the builder is building the ship or part for another person; and
  - (b) before the building started, the other person gave the builder a signed notice stating the other person did not require the builder to comply with subsections (2) and (3).

- (5) If, under subsection (4), the builder is not required to comply with subsections (2) and (3), the other person must—
- (a) ensure the ship or part is surveyed by a marine surveyor who is accredited to survey the ship or part; and
  - (b) obtain from the surveyor a certificate of compliance for the survey of the ship or part.

Maximum penalty—100 penalty units.

**58 Effect on certificates if further building**

- (1) This section applies if—

- (a) further building of a ship takes place; or
  - (b) something happens to a ship that requires further building of the ship before it may be operated safely.
- (2) A certificate of compliance or design approval certificate for the ship stops having effect so far as it relates to the ship, or part, that is the subject of the further building or required further building.

### **59 Copy of certificate to general manager**

- (1) Subsection (2) applies if—
- (a) further building of a ship, or part of a ship, is to take place; and
  - (b) an accredited ship designer issues a certificate of compliance for the ship or part.
- (2) The accredited ship designer must give the general manager a copy of the certificate within 5 business days after issuing the certificate.

Maximum penalty—10 penalty units.

- (3) Subsection (4) applies if—
- (a) further building of a ship, or part of a ship, has been completed; and
  - (b) an accredited ship builder or marine surveyor issues a certificate of compliance for the ship or part.
- (4) The accredited ship builder or marine surveyor must give the general manager a copy of the certificate within 5 business days after issuing the certificate.

Maximum penalty—20 penalty units.

## **Division 4                      Registration of ships**

### **60        Application of Act, pt 5, div 2**

- (1) The following are ships to which part 5, division 2<sup>45</sup> of the Act applies<sup>46</sup>—
  - (a) all ships operating in Queensland waters owned or chartered by—
    - (i) an individual whose place of residence, or principal place of residence, is in Queensland; or
    - (ii) a person whose place of business, or principal place of business, is in Queensland; or
    - (iii) a person whose principal place of business for managing the ship's operations is in Queensland;
  - (b) all ships not mentioned in paragraph (a)—
    - (i) on Queensland intrastate voyages; or
    - (ii) on interstate voyages while they are in Queensland waters.
- (2) However, part 5, division 2 of the Act does not apply to the following ships<sup>47</sup>—
  - (a) a ship that must be, and is, registered under the *Shipping Registration Act 1981* (Cwlth), and for which there is a current certificate of survey under the law of the Commonwealth;
  - (b) a commercial ship, other than a barge or a composite ship, that—
    - (i) is not powered; or
    - (ii) is powered by an engine of less than 3kW;

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45 Part 5 (Registration, licensing, permits and accreditation), division 2 (Registration of ships) of the Act

46 Ships mentioned in subsection (1) must be registered.

47 Ships mentioned in subsection (2) do not have to be registered.

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- (c) a commercial ship less than 15m that is a barge or a composite ship, if the barge or ship is—
  - (i) not powered, or is powered by an engine of less than 3kW; and
  - (ii) used for a purpose other than—
    - (A) carrying persons, other than employees of the person operating the ship; or
    - (B) carrying bulk petroleum or gas products; or
    - (C) living on board or entertainment; or
    - (D) operating a pile frame; and
  - (iii) not equipped with—
    - (A) a crane with a safe working load of more than 3t; or
    - (B) dredging machinery having a total brake power of 500kW or more;
- (d) a commercial ship that—
  - (i) is not powered; and
  - (ii) is not intended for navigation; and
  - (iii) is permanently fixed to a structure on the shore by a steel cable, chain or rod;
- (e) a fishing ship less than 10m;
- (f) a recreational ship that—
  - (i) is not powered; or
  - (ii) is powered by an engine of less than 3kW;
- (g) a recreational ship on a Queensland intrastate voyage if—
  - (i) the ship is registered under a law of another State about the registration of ships; and
  - (ii) the ship's owner is not an individual or person mentioned in subsection (1)(a)(i), (ii) or (iii);
- (h) a tender, other than a tender boat under the *Fisheries Act 1994*, to a fishing ship if—

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- (i) the tender is operated only within the same distance from the fishing ship as a tender boat under the *Fisheries Act 1994* may, under that Act, operate from its primary boat; and
  - (ii) before the tender is used for the fishing ship, the owner of the ship writes in an equipment list or log book kept for the ship particulars of the tender sufficient to identify it;
- (i) a tender to a registered recreational ship if the tender is operated only within a radius of 2n miles from the recreational ship;
- (j) a tender to a registered commercial ship if the tender is—
  - (i) operated only within a radius of 2n miles from the commercial ship; and
  - (ii) before the tender is used for the commercial ship, the owner of the ship writes in an equipment list or log book kept for the ship particulars of the tender sufficient to identify it;
- (k) a ship displaying a restricted use flag under division 8;<sup>48</sup>
- (l) a recreational ship from a foreign country if—
  - (i) the ship is in Queensland waters for less than 1 year; and
  - (ii) the ship's owner is not an individual or person mentioned in subsection (1)(a)(i), (ii) or (iii);
- (m) to the extent the ship may be required to be registered as a commercial ship under this division, a ship registered as a recreational ship that—
  - (i) is a personal watercraft; and
  - (ii) is provided and operated by a person participating in a training program in the operation of personal watercraft.

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48 Division 8 (Restricted use flag)

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- (3) Part 5, division 2<sup>49</sup> of the Act does not apply to a ship that is not on or in water.

*Example of subsection (3)—*

If the registration of a ship expires when the owner has the ship out of water, the owner need only register the ship when the owner intends to put the ship back in the water.

- (4) In subsection (2)(c)—

***composite ship*** means a ship made up of a number of ships welded, bolted or otherwise rigidly connected together.

## 61 Owner to register ship

- (1) The owner of a ship to which part 5, division 2 of the Act applies must register the ship unless the owner has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) The procedure for registration is in part 6.<sup>50</sup>

## 62 Chief executive and general manager to register ships

- (1) The chief executive may register a ship as a recreational ship if the chief executive considers the ship is, or will be, a recreational ship.
- (2) The general manager may register a ship as a commercial ship or fishing ship according to its class under the USL code if the general manager considers the ship is, or will be, a commercial ship or fishing ship of that class.

*Examples of registration for subsection (2)—*

- commercial ship—class 1 passenger ship, class 1B
- fishing ship—class 3 fishing ship, class 3B.

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49 Part 5 (Registration, licensing, permits and accreditation), division 2 (Registration of ships) of the Act

50 Part 6 (Authorities)

**63 Classes of registration of commercial ships and fishing ships**

- (1) The registration classes under the USL code for a commercial ship are set out in schedule 2, part 1 of this regulation for information purposes.
- (2) The registration classes under the USL code for a fishing ship are set out in schedule 2, part 2 of this regulation for information purposes.

**64 Use of commercial or fishing ship for private recreational purposes**

- (1) This section applies if the owner of a registered commercial or fishing ship intends the ship to be used for genuine private recreational purposes by the owner or a person nominated by the owner.
- (2) Before the ship is used for recreational purposes, the owner must state in the ship's records—
  - (a) the date and time when the recreational use of the ship starts; and
  - (b) if a nominated person is to use the ship—the name of the nominated person.

Maximum penalty—20 penalty units.

- (3) The following provisions apply for the period of the recreational use—
  - (a) the ship is taken to be registered as a recreational ship;
  - (b) the provisions of this regulation about recreational ships and their operation apply to the ship;
  - (c) the provisions of this regulation about the operation of the ship as a commercial ship or fishing ship, do not apply to the ship;
  - (d) the provisions of this regulation about a condition of registration applying to the ship, do not apply to the ship.

- (4) After the recreational use of the ship ends, the owner must state in the ship's records the date and time when the use ended.

Maximum penalty—20 penalty units.

## **65 Requirements for first registration of commercial ship**

- (1) This section applies if—
- (a) an application is made to the general manager to register a ship as a commercial ship; and
  - (b) either of the following applies to the ship—
    - (i) the ship has not been previously registered as a commercial ship under this regulation or the 1995 regulation;
    - (ii) the ship has been previously registered as a commercial ship under this regulation or the 1995 regulation and—
      - (A) the registration was cancelled under part 6 or the 1995 regulation; or
      - (B) the registration has expired and more than 6 months has elapsed since the expiry.
- (2) If the ship has not been previously registered as a commercial ship, the general manager may register it as a commercial ship only if the application for registration of the ship is accompanied by—
- (a) certificates of compliance for the whole ship from—
    - (i) an accredited ship designer; and
    - (ii) an accredited ship builder or an accredited marine surveyor; or
  - (b) the following documents for the whole ship—
    - (i) for the ship design—
      - (A) a design approval certificate for the ship; and



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- (B) any other certificates of compliance for the design of the ship not covered by the design approval certificate;
  - (ii) other than for the ship design, certificates of compliance from an accredited ship builder or an accredited marine surveyor; or
  - (c) a current certificate of survey for the ship issued under section 70, or a certificate equivalent to a certificate of survey issued under a law of the Commonwealth or another State, or by a classification society.
- (3) A person is taken to have given the general manager certificates of compliance necessary for subsection (2)(a) if—
- (a) the person gives the general manager a certificate of compliance for the survey of the whole ship from an accredited marine surveyor issued not more than 1 month before the application for the registration of the ship is made; and
  - (b) the ship is a ship for which—
    - (i) a replacement certificate was issued, or could have been issued, under the 1995 regulation, section 191(3)<sup>51</sup> as in force immediately before the expiry of the section; or
    - (ii) design plans, subdivision and stability documents were approved as part of an application for the survey and registration of the ship under the 1987 regulation; or
    - (iii) a certificate equivalent to a certificate of survey has been issued under a law of the Commonwealth or another State.
- (4) For subsection (3)(b)(iii), the general manager may also require the person to give the general manager—
- (a) details of the issue of the certificate for the ship under the law of the Commonwealth or the other State; and

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51 Section 191 (Existing certificates of survey) of the 1995 regulation expired 1 January 1997.

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- (b) copies of the design plans and any other documents approved for the ship under the law of the Commonwealth or the other State.
- (5) If the ship has been previously registered as a commercial ship, the general manager may register it as a commercial ship if the application for registration of the ship is accompanied by a certificate of compliance for the survey of the whole ship from an accredited marine surveyor issued not more than 1 month before the application for registration of the ship is made.
- (6) If, under this section, a person seeks to use a certificate equivalent to a certificate of survey issued for a ship under a law of the Commonwealth or another State, the general manager may also require a certificate of compliance for the survey of the whole ship or part of the ship from an accredited marine surveyor issued not more than 1 month before the application for registration of the ship is made.
- (7) If, under this section, a person seeks to use a certificate equivalent to a certificate of survey issued for a ship by a classification society and the certificate does not relate to the whole ship, the general manager may register the ship only if the application for registration of the ship is accompanied by the certificates of compliance mentioned in subsection (2)(a) for those parts of the ship not covered by the certificate of survey.

**66 Exception for particular ships**

- (1) This section applies to a commercial ship of less than 6m that—
  - (a) is registrable as a class 1F, 2C, 2D or 2E ship; and
  - (b) operates in smooth or partially smooth waters, or within 15n miles from land.

- (2) Despite section 65,<sup>52</sup> the general manager may register the ship if the application for registration of the ship is accompanied by—
- (a) both of the following documents—
    - (i) a statement in the approved form that the ship has positive flotation;
    - (ii) a signed statement, that the ship is suitable for its intended use and area of operation, by the ship's builder, the builder's agent, an accredited ship designer, an accredited ship builder or an accredited marine surveyor; or
  - (b) a certificate of compliance for the building or surveying of the whole ship from an accredited ship builder or an accredited marine surveyor; or
  - (c) a design approval certificate stating the information about the suitability of the ship and its positive flotation that would be included in the statements mentioned in paragraph (a)(i) and (ii); or
  - (d) if the ship is a standard production vessel—a design approval certificate issued for a ship of the same make and model.
- (3) If a design approval certificate mentioned in subsection (2)(c) or (d) does not include information that would be included in the statements mentioned in subsection (2)(a)(i) and (ii), the application for registration must include the information.

## **67 Exception for sail training ships**

- (1) Despite section 65, the general manager may register a commercial ship used as a sail training ship if the application for registration of the ship is accompanied by a safety compliance form for the ship issued by Yachting Queensland.
- (2) For subsection (1), the safety compliance form—

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52 Section 65 (Requirements for first registration of commercial ship)

- (a) must have been issued not more than 1 month before the application for registration is made; and
- (b) must be to the effect that the ship complies with relevant Yachting Australia standards.

## **68 Requirements for first registration of fishing ship**

- (1) This section applies if—
  - (a) an application is made to the general manager to register a ship that is at least 10m as a fishing ship; and
  - (b) either of the following applies to the ship—
    - (i) the ship has not been previously registered as a fishing ship under this regulation;
    - (ii) the ship has been previously registered as a fishing ship under this regulation or the 1995 regulation, and—
      - (A) the registration was cancelled under part 6 or the 1995 regulation; or
      - (B) the registration has expired and more than 6 months has elapsed since the expiry.
- (2) However, this section does not apply if the ship—
  - (a) is less than 14m; and
  - (b) operates only in a pilotage area; and
  - (c) was built and operated as a fishing ship in the intended area of operation before 1 January 1988.
- (3) If the ship has not been previously registered as a fishing ship, the general manager may register it as a fishing ship only if the application for registration of the ship is accompanied by—
  - (a) certificates of compliance for the whole ship from—
    - (i) an accredited ship designer; and
    - (ii) an accredited ship builder or an accredited marine surveyor; or
  - (b) the following documents for the whole ship—

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- (i) for the ship design—
    - (A) a design approval certificate for the ship; and
    - (B) any other certificates of compliance for the design of the ship not covered by the design approval certificate;
  - (ii) other than for the ship design, certificates of compliance from an accredited ship builder or an accredited marine surveyor; or
  - (c) a current certificate of survey for the ship issued under section 70, or a certificate equivalent to a certificate of survey issued under a law of the Commonwealth or another State, or by a classification society.
- (4) A person is taken to have given the general manager certificates of compliance necessary for subsection (3)(a) if—
- (a) the person gives the general manager a certificate of compliance for the survey of the whole ship from an accredited marine surveyor issued not more than 1 month before the application for the registration of the ship is made; and
  - (b) the ship is a ship for which—
    - (i) a replacement certificate was issued, or could have been issued, under the 1995 regulation, section 191(3)<sup>53</sup> as in force immediately before the expiry of the section; or
    - (ii) design plans, subdivision and stability documents were approved as part of an application for the survey and registration of the ship under the 1987 regulation; or
    - (iii) a certificate equivalent to a certificate of survey has been issued under a law of the Commonwealth or another State.
- (5) For subsection (4)(b)(iii), the general manager may also require the person to give the general manager—

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53 Section 191 (Existing certificates of survey) of the 1995 regulation expired 1 January 1997.

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- (a) details of the issue of the certificate for the ship under the law of the Commonwealth or the other State; and
  - (b) copies of the design plans and any other documents approved for the ship under the law of the Commonwealth or the other State.
- (6) If the ship has been previously registered as a fishing ship, the general manager may register it as a fishing ship if the application for registration of the ship is accompanied by a certificate of compliance for the survey of the whole ship from an accredited marine surveyor issued not more than 1 month before the application for the registration of the ship is made.
- (7) If, under this section, a person seeks to use a certificate equivalent to a certificate of survey issued for a ship under a law of the Commonwealth or another State, the general manager may also require a certificate of compliance for the survey of the whole ship or part of the ship from an accredited marine surveyor issued not more than 1 month before the application for the registration of the ship is made.
- (8) If, under this section, a person seeks to use a certificate equivalent to a certificate of survey issued for a ship by a classification society and the certificate does not relate to the whole ship, the general manager may register the ship only if the application for registration of the ship is accompanied by the certificates of compliance mentioned in subsection (3)(a) for those parts of the ship not covered by the certificate of survey.

**69 Declaration about ship's seaworthiness in certificate of compliance**

- (1) A certificate of compliance for a ship, or part of a ship, must include a declaration in the approved form about whichever of the following aspects of seaworthiness the certificate relates to—
- (a) ship design;
  - (b) ship construction;
  - (c) ship's survey;

- (d) ship's safety equipment;
  - (e) ship stability;
  - (f) ship's load line.
- (2) The certificate may also include other issues about the condition of the ship, or part, affecting marine safety.

## **Division 5                      Certificates of survey**

### **70            General manager may issue certificate of survey for ship**

- (1) The general manager may issue a certificate of survey for a ship.
- (2) The general manager may issue the certificate only if the application for the certificate is accompanied by—
- (a) certificates of compliance for the whole ship from—
    - (i) an accredited ship designer; and
    - (ii) an accredited marine surveyor; or
  - (b) the following documents for the whole ship—
    - (i) for the ship design—
      - (A) a design approval certificate for the ship; and
      - (B) any other certificates of compliance for the design of the ship not covered by the design approval certificate;
    - (ii) other than for the ship design, a certificate of compliance for the survey of the whole ship issued by an accredited marine surveyor.
- (3) The general manager may issue the certificate only if—
- (a) the general manager has inspected the ship, if the general manager considers an inspection is necessary; and
  - (b) the general manager is satisfied the design or survey of the ship conforms with the requirements of standards

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about ship design or survey made under part 4, division 2<sup>54</sup> of the Act and applying to the ship.

- (4) A person is taken to have given the general manager the certificates of compliance necessary for subsection (2)(a)(i) if—
- (a) a replacement certificate was issued, or could have been issued, under the 1995 regulation, section 191(3)<sup>55</sup> as in force immediately before the expiry of the section; or
  - (b) design plans, subdivision and stability documents were approved as part of an application for the survey and registration of the ship under the 1987 regulation; or
  - (c) a certificate equivalent to a certificate of survey has been issued under a law of the Commonwealth or another State, or by a classification society.
- (5) If the certificate mentioned in subsection (4)(c) is issued by a classification society and does not relate to the whole ship, the general manager may issue the certificate of survey only if the application is accompanied by the certificates of compliance mentioned in subsection (2)(a) for those parts of the ship not covered by the certificate of survey.
- (6) For subsection (4)(c), the general manager may also require the person to give the general manager—
- (a) details of the issue of the certificate for the ship under the law of the Commonwealth or the other State; and
  - (b) copies of the design plans and any other documents approved for the ship under the law of the Commonwealth or the other State.
- (7) A certificate of compliance for survey mentioned in subsection (2)(a)(ii) or (2)(b)(ii) must have been issued not more than 1 month before the application for the certificate of survey is made.

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54 Part 4 (General safety obligations and standards), division 2 (Standards) of the Act

55 Section 191 (Existing certificates of survey) of the 1995 regulation expired 1 January 1997.



- (8) The procedure for obtaining a certificate of survey for a ship is in part 6.<sup>56</sup>

## **Division 6                      Ship register**

### **71            Definitions for div 6**

In this division—

***insolvent under administration*** means—

- (a) a person who is an undischarged bankrupt under the *Bankruptcy Act 1966* (Cwlth) or the provisions of a foreign law that correspond to that Act; or
- (b) a person who has executed a deed of arrangement under the *Bankruptcy Act 1966* (Cwlth), part X or the provisions of a foreign law that correspond to that Act, if the terms of the deed have not been fully complied with; or
- (c) a person whose creditors have accepted a composition under the *Bankruptcy Act 1966* (Cwlth), part X or the provisions of a foreign law that correspond to that Act, if a final payment has not been made under that composition; or
- (d) a person for whom a debt agreement has been made under the *Bankruptcy Act 1966* (Cwlth), part IX or the provisions of a foreign law that correspond to that Act, if the debt agreement has not ended or has not been terminated.

***interested person*** means a person who satisfies the chief executive or the general manager that the person has a legitimate interest in obtaining access to the information in the register kept by the chief executive or general manager under this division, including, for example, that the person—

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- (a) is proposing to sign, or has signed, a contract to buy, sell, lease or insure the ship or to otherwise deal with the ship; or
- (b) is proposing to commence, or has commenced, litigation in a proceeding in a court for which information in the register about a particular ship is, or may be, of relevance, but only if—
  - (i) the proceeding is about—
    - (A) a marine incident involving the ship; or
    - (B) the registered owner of the ship being or possibly becoming an insolvent under administration; or
    - (C) the application, or the possible application, to the registered owner of the ship, of the provisions of the Corporations Act relating to external administration; or
    - (D) fraudulent activities of the registered owner of the ship; or
  - (ii) the proceeding is before the Family Court of Australia and involves the registered owner of the ship; or
  - (iii) in the course of the proceeding, the court decides information about the registered owner of the ship is required, including, for example, to help to finalise the proceeding.

## **72 Register of registered recreational ships**

- (1) The chief executive must keep a register of registered recreational ships.
- (2) The chief executive must record in the register the following particulars for a registered recreational ship—
  - (a) the registered owner's name and address;
  - (b) the registration number;
  - (c) the type of registration;

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- (d) a description of the ship including length and beam, engine details and construction materials.
- (3) The register may also include other particulars for a recreational ship decided by the chief executive.
- (4) Within 14 days after changes to a particular of a ship's registration, other than a change in the ship's ownership,<sup>57</sup> the registered owner must give the chief executive written notice of the change in the approved form.

Maximum penalty—10 penalty units.

- (5) An interested person may, on payment of the appropriate fee for the inspection and on reasonable conditions imposed by the chief executive—
  - (a) inspect the register at the chief executive's office when the office is open to the public; and
  - (b) take extracts from, or obtain a copy of particulars in, the register.

### **73 Register of registered commercial and fishing ships**

- (1) The general manager must keep a register of registered commercial ships and fishing ships.
- (2) The general manager must record in the register the following particulars for a registered commercial ship or fishing ship—
  - (a) the registered owner's name and address;
  - (b) the registration number;
  - (c) the type of registration and class;
  - (d) a description of the ship including length and beam, engine details and construction materials.
- (3) The register may also include other particulars for a commercial ship or fishing ship decided by the general manager.
- (4) Within 14 days after changes to a particular of a commercial ship's or fishing ship's registration, other than a change in the

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<sup>57</sup> For transfer of a ship's registration, see section 173 (Transfer of ship's registration).

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ship's ownership, the registered owner must give the general manager written notice of the change in the approved form.

Maximum penalty—10 penalty units.

- (5) An interested person may, on payment of the appropriate fee for the inspection and on reasonable conditions imposed by the general manager—
  - (a) inspect the register at the general manager's office when the office is open to the public; and
  - (b) take extracts from, or obtain a copy of particulars in, the register.

## **Division 7                      Display of registration and other documents and markings on ships**

### **74            Registration number of commercial ship or recreational ship to be displayed**

- (1) A person who is the owner or master of a registered commercial ship or recreational ship must ensure the ship's registration number is displayed on the ship in the way required under this section.

Maximum penalty—50 penalty units.

- (2) The registration number must be—
  - (a) above the water line when the ship is afloat; and
  - (b) permanently displayed—
    - (i) in dark colours on a light background; or
    - (ii) in light colours on a dark background; and
  - (c) legible from 30m away.
- (3) Also, the registration number must be displayed—
  - (a) for a ship capable of achieving a planing attitude, other than a personal watercraft—on both sides of the ship in characters at least 200mm high; or

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- (b) for a personal watercraft—on both sides of the watercraft in characters at least 100mm high; or
- (c) for all other ships—either on both sides of the ship or on its stern, in characters at least 75mm high.

**75 Registration certificate of commercial ship or fishing ship to be displayed**

- (1) A person who is the owner or master of a registered commercial ship or fishing ship must ensure the ship's registration certificate is displayed in the following way, unless it is not reasonably practicable to do so—
  - (a) in a conspicuous place on the ship;
  - (b) in a way that allows it to be read by anyone on board.

Maximum penalty—100 penalty units.

- (2) If it is not reasonably practicable for the person to comply with subsection (1), the person must ensure that the ship's registration certificate is kept on the ship.

Maximum penalty—100 penalty units.

**76 Registration label of recreational ship to be attached**

- (1) A person who is the owner or master of a registered recreational ship must ensure that the ship's current registration label is attached to the ship in the way required under this section.

Maximum penalty—10 penalty units.

- (2) The registration label must be—
  - (a) on the exterior of the ship in a conspicuous place; and
  - (b) above the waterline when the ship is afloat.
- (3) Also, the registration label must be—
  - (a) if the ship's registration number is displayed on the stern of the ship—on the ship's stern; or

- (b) if the ship's registration number is displayed on the sides of the ship—on the ship's port side near the registration number.

**77 Capacity label of registrable recreational ship to be attached**

- (1) A person who is the owner or master of a registrable recreational ship must ensure that a capacity label is permanently attached to the ship in a place that—
  - (a) is adjacent to each steering position in the ship; and
  - (b) allows the capacity label to be seen clearly from the steering position.

Maximum penalty—10 penalty units.

- (2) A person must not remove, deface, obliterate or conceal a capacity label attached to a recreational ship.

Maximum penalty—20 penalty units.

- (3) In this section—

*recreational ship* does not include a recreational ship that is a sailing ship, whether or not the ship has an auxiliary means of mechanical propulsion.

**78 Ride smart sticker to be displayed on personal watercraft**

- (1) A person who is the owner or master of a personal watercraft must ensure a ride smart sticker is displayed on the watercraft in a place that allows the sticker to be seen clearly from the operator's position.

Maximum penalty—10 penalty units.

- (2) In this section—

*ride smart sticker* means a sticker with the title 'RIDE SMART' issued by the general manager or the chief executive.

## 79 Markings for particular tenders

- (1) This section applies to—
  - (a) a tender (other than a tender boat under the *Fisheries Act 1994*) to a fishing ship, if the tender is not required to be registered because of section 60(2)(h);<sup>58</sup> or
  - (b) a tender to a registered commercial or recreational ship, if the tender is not required to be registered because of section 60(2)(i) or (j).
- (2) A person who is the owner or master of the tender must ensure the tender is marked in the way required under this section.  
Maximum penalty—50 penalty units.
- (3) The tender must be clearly, legibly and permanently marked on its exterior, above the waterline when the ship is afloat, with the word ‘TENDER’ and also with—
  - (a) if subsection 1(a) applies—the boat mark required under the *Fisheries Act 1994* for the ship to which the tender is a tender; or
  - (b) if subsection 1(b) applies—the registration number of the ship to which the tender is a tender.
- (4) The markings required under subsection (3) must be in characters not smaller than 75mm.
- (5) However, if a tender can not be practicably marked on its exterior in the way required under subsection (3) or in the size of characters required under subsection (4), it must be marked on its interior in the largest characters practicable.
- (6) If a tender does not permanently attend the same ship but is used by its owner to attend a number of ships owned by the owner, the tender may be marked with the owner’s name or business name instead of the marking or number required under subsection (3)(a) or (b).

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58 Section 60 (Application of Act, pt 5, div 2)

## **Division 8                      Restricted use flag**

### **80            Consent to use restricted use flag**

- (1) The general manager may consent to the use of a restricted use flag for a ship.
- (2) The general manager may give the consent for the ship only if the general manager is satisfied the ship is safe to operate for its intended use in its intended area of operation.
- (3) A consent may authorise the operation of the ship for any of the following purposes, to the extent stated in the consent—
  - (a) a genuine trial, test or demonstration of the ship's seaworthiness or some other operational aspect of the ship or its equipment;
  - (b) a demonstration or display purpose associated with the sale of the ship;
  - (c) building, disposing of, fitting out, relocating, removing or repairing the ship;
  - (d) if the building of a ship has been completed—use of the ship as a commercial ship or fishing ship while the certificates and documents required under section 65 or 68<sup>59</sup> for registration of the ship are being obtained;
  - (e) use for a purpose necessarily directed at maintaining the effectiveness and efficiency of the Queensland maritime industry.
- (4) The procedure for obtaining the consent is in part 6.<sup>60</sup>

### **81            Operation of ship under consent to use restricted use flag**

- (1) The holder of a consent to use a restricted use flag for a ship must not operate, or allow someone else to operate, the ship unless—

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<sup>59</sup> Section 65 (Requirements for first registration of commercial ship) or 68 (Requirements for first registration of fishing ship)

<sup>60</sup> Part 6 (Authorities)



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- (a) the consent or a copy of it—
  - (i) is carried on the ship while it is operating; and
  - (ii) if it reasonably practical to do so, is displayed in a conspicuous place on the ship and in a way that allows it to be read by anyone on board; and
- (b) the holder tells a person who is to operate the ship as its master, or to act as a crew member of the ship—
  - (i) how the ship may be operated under the consent; and
  - (ii) the conditions to which the consent is subject; and
- (c) the ship prominently displays the flag.

Maximum penalty—20 penalty units.

- (2) The conditions of the consent may require a person operating the ship as its master, or acting as a crew member, to hold a licence stated in the conditions.
- (3) A person must comply with the conditions of the consent if the person is—
  - (a) the holder of the consent; or
  - (b) a person operating the ship as its master; or
  - (c) a person acting as a crew member of the ship.

Maximum penalty—50 penalty units.

## **82 Misuse of restricted use flag**

- (1) The holder of a consent to use a restricted use flag for a ship must not operate, or allow someone else to operate, a ship displaying a restricted use flag unless the ship is the ship for which the consent was given.

Maximum penalty—50 penalty units.

- (2) A person must not operate a ship displaying a restricted use flag if the person knows there is no consent to use the flag for the ship.

Maximum penalty—50 penalty units.

- (3) A person must not operate a ship displaying a restricted use flag for a purpose other than the purpose stated in the conditions of the consent.

Maximum penalty—50 penalty units.

### **83 Flag to be returned**

The holder of a consent to use a restricted use flag for a ship must return the flag to the general manager within 14 days after any of the following happens, unless the person has a reasonable excuse—

- (a) the consent expires or is cancelled;
- (b) the consent is suspended and the general manager asks for the return of the flag.

Maximum penalty—20 penalty units.

## **Part 4 Licences to operate ships**

### **Division 1 Application of Act for licensing of masters, crew members and pilots**

#### **84 Application of Act, pt 5, div 3**

- (1) The following are ships to which part 5, division 3<sup>61</sup> of the Act applies—
- (a) for the licensing of a person to operate a ship as its master or to act as a crew member of a ship—the ships mentioned in section 11(1)<sup>62</sup> of the Act;

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61 Part 5 (Registration, licensing, permits and accreditation), division 3 (Licensing of masters, crew members and pilots) of the Act

62 Section 11 (General application of Act to ships) of the Act

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- (b) for the licensing of a person to have the conduct of a ship as its pilot—the ships to which part 8<sup>63</sup> of the Act applies.<sup>64</sup>
- (2) However, part 5, division 3 of the Act does not apply to the following ships—
  - (a) a ship connected with Queensland under section 6(c)<sup>65</sup> of the Act while the ship is not operating in Queensland waters;
  - (b) a commercial ship or fishing ship that—
    - (i) is not powered; or
    - (ii) is powered by an engine of less than 3kW;
  - (c) a commercial training ship, including a ship that is a personal watercraft, operated by a person participating in a training program in the operation of ships, if—
    - (i) the person is operating the ship under the direct and immediate supervision of the training provider or an employee of the provider; and
    - (ii) the provider or the employee—
      - (A) accompanies the training ship in another ship; and
      - (B) if a licence is required to operate the accompanying ship, holds an appropriate licence to operate it, at the level of at least a coxswain licence;
  - (ca) a personal watercraft that—
    - (i) is registered as a recreational ship; and
    - (ii) is provided and operated by a person being assessed in relation to an application for a personal watercraft licence;

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63 Part 8 (Pilots) of the Act

64 Section 176 (Application of Act, pt 8) lists ships to which part 8 of the Act applies.

65 Section 6 (Meaning of ship *connected with Queensland*) of the Act

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- (d) a tender to a commercial ship, other than a tender that is a personal watercraft, operating within a radius of 1000m from the commercial ship if—
  - (i) the tender is operated by a person under the direct supervision and in the sight of, the master of the commercial ship; and
  - (ii) the master of the commercial ship has a way of immediately helping the person if the need arises;
- (e) a tender to a commercial ship, other than a tender that is a personal watercraft, if the tender—
  - (i) is less than 6m; and
  - (ii) is operated by the holder of a recreational marine driver licence;
- (f) a recreational ship that—
  - (i) is not powered; or
  - (ii) is powered by an engine of 4.5kW or less;
- (g) a ship, other than a personal watercraft, operated in a way that complies with the *Transport Operations (Marine Safety—Bareboat Ships) Standard 2000* or *Transport Operations (Marine Safety—Hire and Drive Ships) Standard 2000*;
- (ga) a ship that is a personal watercraft, operated—
  - (i) in a way that complies with the *Transport Operations (Marine Safety—Hire and Drive Ships) Standard 2000*; and
  - (ii) if the ship is operated from a place other than the point of hire—by the holder of—
    - (A) a recreational marine driver licence or a current equivalent licence issued under the law of another State; and
    - (B) a personal watercraft licence or a current equivalent licence issued under the law of another State.

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- (h) a commercial ship owned and operated by either of the following entities, if the ship is being operated in the course of the entity's activities by a person who holds a current certificate issued by the entity authorising the person to operate the ship—
  - (i) a volunteer marine rescue association or a surf lifesaving association accredited by the emergency services department;
  - (ii) the emergency services department;
- (i) a ship, other than a personal watercraft, that is—
  - (i) a fishing ship less than 10m or a recreational ship; and
  - (ii) operated by a person holding a current certificate, issued by the Queensland Fishing Industry Training Council, to operate a fishing ship less than 10m.
- (3) Despite subsection (2)(f), part 5, division 3 of the Act does not apply to a commercial ship, whether powered or not powered, to which a standard under the Act about hired ships applies, if the ship is being operated and used in accordance with the standard.
- (4) In this section—

***commercial training ship*** means—

  - (a) a commercial ship, including a ship that is a personal watercraft, being used by a training provider for persons participating in a training program in the operation of ships, if the ship is—
    - (i) less than 6m; and
    - (ii) not carrying anyone on board other than the person participating in the program; or
  - (b) a ship that is a personal watercraft, if the ship is—
    - (i) registered as a recreational ship; and
    - (ii) provided by a person participating in a training program in the operation of personal watercraft; and

- (iii) not carrying anyone on board other than the person participating in the program.

***hire and drive ship*** see the *Transport Operations (Marine Safety—Hire and Drive Ships) Standard 2000*, section 5.

***point of hire*** means a place where a hire and drive ship is hired or made available to a user.

## **Division 2                    Masters, crew members and pilots to be licensed**

### **Subdivision 1            Definitions for div 2**

#### **85            Definitions for div 2**

In this division—

***commercial ship*** means a commercial ship to which part 5, division 3<sup>66</sup> of the Act applies, other than a commercial ship that—

- (a) is less than 6m; and
- (b) does not carry persons other than employees of the ship's owner, unless the ship is operated by—
  - (i) the Queensland Police Service for official purposes; or
  - (ii) the emergency services department for official purposes, but only in an emergency; or
  - (iii) a department or instrumentality of the State, another State or the Commonwealth, or a university, for a genuine research or scientific purpose; and
- (c) is operated by—

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<sup>66</sup> See section 84 of this regulation for the application of part 5, division 3 of the Act.

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- (i) the holder of a recreational marine driver licence or a current equivalent licence issued under the law of another State; and
- (ii) if the ship is a personal watercraft—the holder of a personal watercraft licence or a current equivalent licence issued under the law of another State.

***fishing ship*** means—

- (a) a fishing ship to which part 5, division 3 of the Act applies, other than a fishing ship that—
  - (i) is a tender to another fishing ship; and
  - (ii) does not carry persons other than employees of the ship's owner; and
  - (iii) is operated by—
    - (i) the holder of a recreational marine driver licence or a current equivalent licence issued under the law of another State; and
    - (ii) if the ship is a personal watercraft—the holder of a personal watercraft licence or a current equivalent licence issued under the law of another State.
- (b) a fishing ship that is a boat for which a licence has been granted under the *Fisheries Management Act 1991* (Cwlth) or the *Torres Strait Fisheries Act 1984* (Cwlth).

***recreational ship*** means a recreational ship to which part 5, division 3 of the Act applies.

## **Subdivision 2      Licensing responsibilities of owners and masters**

### **86      Owner or master to ensure master and crew members appropriately licensed**

- (1) The owner of a commercial ship or fishing ship must ensure the ship is operated by a master who—

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- (a) holds an appropriate current licence to operate the ship as its master; and
- (b) if the ship is a personal watercraft—also holds a personal watercraft licence or a current equivalent licence issued under the law of another State.

Maximum penalty—200 penalty units.

- (2) A person who is the owner or master of a commercial ship or fishing ship must ensure that—
  - (a) all crew members of the ship hold an appropriate current licence to act as a crew member of the ship for the ship's operational area; and
  - (b) other than in relation to a ship that is a personal watercraft—the ship has a person acting as engineer of the ship who holds an appropriate current licence to act as engineer of the ship.

Maximum penalty—200 penalty units.

- (3) However, if the propulsion power of the commercial ship or fishing ship is less than 750kW, a person does not contravene subsection (2)(b) if the master of the ship—
  - (a) holds an appropriate current licence to act as engineer of the ship; and
  - (b) acts as both master and engineer of the ship.

## **87 Operation of ship by unlicensed person**

- (1) The master of a recreational ship must not allow an unlicensed person to operate the ship unless—
  - (a) the unlicensed person is under the direct supervision of the master; and
  - (b) the master is immediately able to resume operating the ship.

Maximum penalty—50 penalty units.

- (2) The master of a commercial ship or fishing ship must not allow an unlicensed person to operate the ship unless—
  - (a) the master—



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- (i) believes, on reasonable grounds, the unlicensed person is competent to operate the ship; and
  - (ii) believes, on reasonable grounds, the unlicensed person holds at least a recreational marine driver licence or a current certificate to operate a fishing ship less than 10m issued by the Queensland Fishing Industry Training Council; and
  - (iii) gives the unlicensed person clear instructions on the way the person is to operate the ship; and
  - (iv) is on board and able to resume operating the ship; or
- (b) the master—
- (i) believes, on reasonable grounds, the unlicensed person is competent to operate the ship under supervision; and
  - (ii) gives the unlicensed person clear instructions on the way the person is to operate the ship; and
  - (iii) directly supervises the person; and
  - (iv) is able to immediately resume operating the ship.

Maximum penalty—200 penalty units.

- (3) The master of a commercial ship, fishing ship or recreational ship must not allow an unlicensed person to operate the ship while the ship is towing someone else by a line attached to the ship, including for example, someone water skiing.

Maximum penalty—100 penalty units.

- (4) In this section—

***unlicensed person***, for a ship, means a person who does not hold an appropriate licence to operate the ship as its master.

### **Subdivision 3      Licensing requirements for commercial ships**

#### **88      Required licences for commercial ships**

- (1) Subject to section 87, a person must hold an appropriate licence to operate a commercial ship as its master or act as a crew member.
- (2) The appropriate licence for a person to hold for a commercial ship operating in an area is, at least, the class of certificate stated for the area in the USL code, section 2, part 4, clause 37.<sup>67</sup>
- (3) For applying the USL code, section 2, part 4, clause 37—
  - (a) a reference to a trading vessel is taken to be a reference to a commercial ship; and
  - (b) a reference to a certificate or a certification requirement is taken to be a reference to a licence or a licensing requirement; and
  - (c) a reference to a class of certificate ‘master class 5 endorsed’ is a reference to ‘master class 5’; and
  - (d) the relativity between the classes of certificates is as stated in the USL code, section 2, part 2, clause 9.<sup>68</sup>
- (4) If the commercial ship is a personal watercraft, the person must also hold a personal watercraft licence or a current equivalent licence issued under the law of another State.

#### **89      Licensing exceptions for particular commercial ships**

- (1) Despite anything in section 88(2), the appropriate licence is—
  - (a) for a person who operates as its master, or acts as a chief mate of, a commercial ship 35m or more but less than

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<sup>67</sup> USL code, section 2 (Qualifications and manning, trading vessels), part 4 (Minimum safety manning of trading vessels), clause 37 (Particular Provisions—trading vessels—minimum certification requirements)

<sup>68</sup> USL code, section 2 (Qualifications and manning, trading vessels), part 2 (General provisions), clause 9 (Relative value of certificates)

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80m within 50n miles of the coast or in the Great Barrier Reef Region or Torres Strait zone—

- (i) if the person is operating the ship as its master—at least a master class 4 licence; or
  - (ii) if the person is operating the ship as its chief mate—at least a master class 5 licence; or
- (b) for a person who operates as its master a cable operated ship that is a commercial ship registered as a class 1E or 2E ship of 24m or more but less than 80m—at least a master class 5 licence; or
- (c) for a person who operates as its master a commercial ship the operational area for which is set out in section 108(6)<sup>69</sup>—at least a coxswain licence; or
- (d) for a person who acts as chief engineer of a commercial ship in the Great Barrier Reef Region or Torres Strait zone—
- (i) if the propulsion power of the ship is 1500kW or more but less than 3000kW—at least an engineer class 3 licence; or
  - (ii) if the propulsion power of the ship is 750kW or more but less than 1500kW—at least a marine engine driver grade 1 licence.
- (2) In this section—

***chief engineer*** means a chief engineer under the USL code, section 2, part 4, clause 34.<sup>70</sup>

***chief mate*** means a chief mate under the USL code, section 2, part 4, clause 34.

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<sup>69</sup> Section 108 (Operational area of commercial ship or fishing ship)

<sup>70</sup> USL code, section 2 (Qualifications and manning, trading vessels), part 4 (Minimum safety manning of trading vessels), clause 34 (Interpretation)

## **90 Hovercraft**

- (1) A person who holds a licence to operate a commercial ship as its master is not appropriately licensed to operate a commercial ship that is a hovercraft unless—
  - (a) the person satisfies the general manager the person is competent to operate a hovercraft of the intended size in the intended area of operation; and
  - (b) the general manager amends the person's licence to permit the operation of the hovercraft in the intended area of operation.
- (2) The general manager may require the person to give the general manager a practical demonstration of the person's skills in operating a hovercraft.
- (3) If the general manager is satisfied the person is competent to operate a hovercraft, the general manager must amend the person's licence accordingly.
- (4) The procedure for amending the licence is in part 6, division 4.<sup>71</sup>
- (5) This section applies despite anything in sections 88 and 98.<sup>72</sup>

## **91 Wing in ground effect craft**

- (1) A person is not appropriately licensed to operate a commercial ship that is a wing in ground effect craft unless—
  - (a) the person satisfies the general manager the person is competent to operate a wing in ground effect craft of the intended size in the intended area of operation; and
  - (b) the general manager issues a licence to the person to operate the wing in ground effect craft in the intended area of operation.

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<sup>71</sup> Part 6 (Authorities), division 4 (Amendment of authority)

<sup>72</sup> Sections 88 (Required licences for commercial ships) and 98 (Qualifications for licences for commercial ships and fishing ships)

- (2) The general manager may require the person to give the general manager a practical demonstration of the person's skills in operating a wing in ground effect craft.
- (3) If the general manager is satisfied a person is competent to operate a wing in ground effect craft, the general manager must issue a licence to the person to operate the wing in ground effect craft.
- (4) The procedure for obtaining the licence is in part 6, division 2.<sup>73</sup>
- (5) This section applies despite anything in sections 88 and 98.<sup>74</sup>

## **Subdivision 4      Licensing requirements for fishing ships**

### **92      Required licences for fishing ships**

- (1) Subject to section 87,<sup>75</sup> a person must hold an appropriate licence to operate a fishing ship as its master or act as a crew member.
- (2) The appropriate licence for a person to hold for a fishing ship operating in an area is, at least, the class of certificate stated for the area in the USL code, section 3, part 4, clause 24.<sup>76</sup>
- (3) For applying the USL code, section 3, part 4, clause 24—
  - (a) a reference to a certificate or a certification requirement is taken to be a reference to a licence or a licensing requirement; and

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73 Part 6 (Authorities), division 2 (How authority is obtained)

74 Sections 88 (Required licences for commercial ships) and 98 (Qualifications for licences for commercial ships and fishing ships)

75 Section 87 (Operation of ship by unlicensed person)

76 USL code, section 3 (Qualifications and manning, fishing vessels), part 4 (Minimum safety manning of fishing vessels), clause 24 (Particular provisions—fishing vessels—minimum safety manning)

- (b) the relativity between the classes of certificates is as stated in the USL code, section 3, part 2, clause 6.<sup>77</sup>
- (4) If the fishing ship is a personal watercraft, the person must also hold a personal watercraft licence or a current equivalent licence issued under the law of another State.

**93 Licensing exceptions relating to operating fishing ship as master**

- (1) The appropriate licence is, at least, a coxswain licence for a person operating a fishing ship as its master if the ship is—
  - (a) less than 15m; and
  - (b) operating within the fishing ship operational area.
- (2) The appropriate licence is, at least, a skipper grade 3 licence for a person operating a fishing ship as its master if the ship is—
  - (a) less than 24m; and
  - (b) operating—
    - (i) not more than 200n miles from the coast; or
    - (ii) if the ship is operating within the fishing ship operational area—any distance from the coast more than 200n miles within the area.
- (3) The appropriate licence is a recreational marine driver licence for a person operating a fishing ship as its master if the ship is—
  - (a) a tender to a commercial fishing boat licensed under the *Fisheries Act 1994*; and
  - (b) operating only in its licensed area of operation under that Act.
- (4) Subsections (1) to (3) apply despite anything in section 92(2).<sup>78</sup>

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<sup>77</sup> USL code, section 3 (Qualifications and manning, fishing vessels), part 2 (General provisions), clause 6 (Relative value of certificates)

<sup>78</sup> Section 92 (Required licences for fishing ships)

**94 Licensing exceptions relating to operating fishing ship as chief engineer**

- (1) The appropriate licence is, at least, a marine engine driver grade 3 licence for a person acting as the chief engineer of a fishing ship if—
  - (a) the propulsion power of the ship is less than 300kW; and
  - (b) the ship is operating—
    - (i) not more than 200n miles from the coast; or
    - (ii) if the ship is operating within the fishing ship operational area—any distance from the coast more than 200n miles within the area.
- (2) The appropriate licence is, at least, a marine engine driver grade 1 licence for a person acting as the chief engineer of a fishing ship if—
  - (a) the propulsion power of the ship is more than 750kW but less than 1500kW; and
  - (b) the ship is operating—
    - (i) not more than 50n miles from the coast; or
    - (ii) if the ship is operating within the fishing ship operational area—any distance from the coast more than 50n miles within the area.
- (3) The appropriate licence is, at least, an engineer class 3 licence for a person acting as the chief engineer of a fishing ship if—
  - (a) the propulsion power of the ship is 1500kW or more; and
  - (b) the ship is operating within 600n miles from the coast.
- (4) Subsections (1) to (3) have effect despite anything in section 92(2).<sup>79</sup>
- (5) In this section—

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<sup>79</sup> Section 92 (Required licences for fishing ships)

*chief engineer* means a chief engineer under the USL code, section 3, part 4, clause 21.<sup>80</sup>

## **Subdivision 5      Licensing requirements for recreational ships**

### **95      Required licences for recreational ships**

- (1) Subject to section 87,<sup>81</sup> a person must hold an appropriate licence to operate a recreational ship as its master.
- (2) The appropriate licence for a person to hold for a recreational ship is any of the following—
  - (a) a recreational marine driver licence;
  - (b) a current equivalent licence issued under the law of another State;
  - (c) a current licence to operate a commercial ship or fishing ship as its master.
- (3) If the recreational ship is a personal watercraft, the person must also hold a personal watercraft licence or a current equivalent licence issued under the law of another State.

## **Subdivision 6      Licensing requirements for pilots**

### **96      Required licence to have the conduct of a ship as its pilot**

A person must hold a pilot licence to have the conduct of a ship as its pilot.

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80 USL code, section 3 (Qualifications and manning, fishing vessels), part 4 (Minimum safety manning of fishing vessels), clause 21 (Interpretation)

81 Section 87 (Operation of ship by unlicensed person)



## **Division 3                    Issue of and qualifications for licences**

### **97            Chief executive or general manager may issue licences**

- (1) The general manager may issue a class of licence mentioned in schedule 3<sup>82</sup> to a person—
  - (a) to operate a ship as its master; or
  - (b) to act as a crew member of a ship; or
  - (c) to have the conduct of a ship as its pilot.
- (2) The chief executive may also issue a class of licence mentioned in schedule 3, column 1, item 4 or 7 to a person.
- (3) The procedure for obtaining a licence is in part 6.<sup>83</sup>

### **98            Qualifications for licences for commercial ships and fishing ships**

- (1) The general manager may grant an application for a licence of the type specified in schedule 3, column 1, items 1 to 3<sup>84</sup> only if the applicant meets the requirements stated in the USL code, section 2 or 3<sup>85</sup> for the issue of a certificate appearing opposite the licence in schedule 3, column 2.<sup>86</sup>
- (2) To allow the general manager to assess whether an applicant meets the qualifying service requirement stated in the USL code, the applicant must give the general manager evidence of the applicant's sea service.
- (3) The general manager may accept evidence of the applicant's sea service in 1 or more of the following ways—

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82 Schedule 3 (Classes of licences)

83 Part 6 (Authorities)

84 Schedule 3 (Classes of licences), column 1 (Licences)

85 USL code, section 2 (Qualifications and manning, trading vessels) or 3 (Qualifications and manning, fishing vessels)

86 Schedule 3 (Classes of licences), column 2 (Certificates under USL code)

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- (a) a book called 'Record of Service', published by the department, and signed by the master or owner of the ships in which the applicant's sea service was obtained;
  - (b) a book called 'National Record of Practical Experience and Sea-Service', published by The National Marine Safety Committee, and signed by a competent person mentioned in the book;
  - (c) another document signed by the master or owner of a ship in which the applicant's sea service was obtained;
  - (d) the applicant's statutory declaration about the applicant's sea service.
- (4) A person must not sign a document mentioned in subsection (3)(a), (b) or (c) if the person knows that the information about the applicant's sea service is false or misleading in a material particular.

Maximum penalty for subsection (4)—50 penalty units.

## **99 Qualifications for recreational marine driver licence**

The chief executive or general manager may grant an application for a recreational marine driver licence only if the applicant—

- (a) is 16 years or more; and
- (b) has knowledge, to the satisfaction of the chief executive or general manager, of—
  - (i) the Act and this regulation as they affect recreational ships; and
  - (ii) the collision regulations; and
- (c) has demonstrated competency in safe operating practices for recreational ships to the satisfaction of the chief executive or general manager.

## **99A Qualifications for personal watercraft licence**

The chief executive or general manager may grant an application for a personal watercraft licence only if the applicant—

- (a) has 1 of the following—
  - (i) a recreational marine driver licence or a current equivalent licence issued under the law of another State;
  - (ii) a current commercial ship or fishing ship licence to operate the ship as its master or a current equivalent licence issued under the law of another State;
  - (iii) a current certificate to operate a fishing ship less than 10m issued by the Queensland Fishing Industry Training Council; and
- (b) is 16 years or more; and
- (c) has knowledge, to the satisfaction of the chief executive or general manager, of—
  - (i) the Act and this regulation as they affect personal watercraft; and
  - (ii) the collision regulations; and
- (d) has demonstrated competency in safe operating practices for personal watercraft to the satisfaction of the chief executive or general manager.

## **100 Chief executive or general manager may recognise other qualifications**

- (1) This section applies if—
  - (a) an applicant for a licence mentioned in section 98, 99 or 99A<sup>87</sup> does not have the qualifications, training or

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<sup>87</sup> Section 98 (Qualifications for licences for commercial ships and fishing ships), 99 (Qualifications for recreational marine driver licence) or 99A (Qualifications for personal watercraft licence)

- experience required for the licence under the section;  
and
- (b) the chief executive or general manager, whoever may grant the licence, is satisfied the applicant has other qualifications, training or experience equivalent to, or better than, the qualifications, training or experience required under the section.
- (2) Despite section 98, 99 or 99A, the chief executive or general manager may grant the application for the licence as mentioned in the section.

### **101 Qualifications for licence as ship's pilot**

The general manager may grant an application for a licence to have the conduct of a ship as its pilot in a pilotage area, or part of a pilotage area, only if the applicant satisfies the general manager—

- (a) the applicant has either—
  - (i) a licence to operate a ship as its master of a class appropriate for the ships (*piloted ships*) the person would have the conduct of as pilot in the pilotage area; or
  - (ii) skills and experience that in the opinion of the general manager are equivalent to the skills and experience of a person holding a licence mentioned in subparagraph (i); and
- (b) the applicant has—
  - (i) appropriate ship handling ability to have the conduct of the piloted ships as its pilot; and
  - (ii) a detailed knowledge of the pilotage area, or the part of the pilotage area, for which the licence is sought.

### **102 Examinations of applicants for licences**

- (1) The general manager may conduct examinations, in a way the general manager considers necessary and appropriate in the

circumstances, to establish whether an applicant for a commercial ship or fishing ship licence has the qualifications for the licence under this regulation.

- (2) The chief executive or general manager may conduct examinations, in the way the chief executive or general manager considers necessary and appropriate in the circumstances, to establish whether an applicant for a personal watercraft or recreational marine driver licence has the qualifications for the licence under this regulation.

### **103 Approval of entity to conduct examinations**

- (1) The general manager may approve an entity to conduct examinations for issuing licences only if the entity qualifies as an entity to conduct the examinations under a standard made for this section.
- (2) An entity approved under subsection (1) may conduct examinations as if it were the general manager.
- (3) In exercising a power under subsection (2), an approved entity is subject to any conditions of the approval and directions of the general manager about the conduct of examinations.
- (4) The procedure for obtaining the approval is in part 6.<sup>88</sup>

### **104 Approval of entity to provide training programs for the operation of ships**

- (1) The general manager may approve an entity to provide training programs in the operation of ships only if the entity qualifies as an entity to provide training programs under a standard made for this section.
- (2) The procedure for obtaining the approval is in part 6.

## **Division 4                      Temporary permits**

### **105      Application of div 4**

This division applies to the following ships—

- (a) a commercial ship as defined under section 85,<sup>89</sup> including a ship that is a personal watercraft;
- (b) a fishing ship as defined under section 85, including a ship that is a personal watercraft.

### **106      General manager may issue temporary permit for master or crew member**

- (1) The general manager may issue a permit to a person to operate a ship as its master, or to act as a crew member of a ship, on a particular voyage or for a stated period.
- (2) The general manager may issue a permit only if the general manager is satisfied—
  - (a) the person is, for the voyage or the period, competent to operate the ship as its master or act as a crew member of the ship; and
  - (b) marine operations will not be endangered on the voyage; and
  - (c) the voyage is necessary to maintain the effectiveness and efficiency of the Queensland maritime industry.
- (3) The term of the permit must not be longer than 30 days.
- (4) The procedure for obtaining the permit is in part 6.<sup>90</sup>
- (5) Subsection (1) applies despite another provision of this part.

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<sup>89</sup> Section 85 (Definitions for div 2)

<sup>90</sup> Part 6 (Authorities)

**107 Permit holder taken to be appropriately licensed if complying with conditions**

- (1) A person to whom a permit under section 106(1) is issued is taken to be appropriately licensed to operate the ship as its master, or act as a crew member of the ship, for section 88 or 92.
- (2) However, if the person does not comply with the conditions of the permit, subsection (1) does not apply to the person.

## **Part 5 Ship operations**

### **Division 1 Operational areas**

**108 Operational area of commercial ship or fishing ship**

- (1) This section applies if a commercial ship's or fishing ship's registration certificate does not include a condition about the ship's operational area.
- (2) A person who is the owner or master of the ship must not operate the ship in waters beyond the waters stated in the USL code for a ship of the ship's class.

Maximum penalty—200 penalty units.

- (3) However, if another operational area is stated for the ship in subsections (4) to (8), the person does not contravene subsection (2) if the person also operates the ship in the stated operational area.
- (4) The operational area for a commercial ship registered as a class 1C or 2C ship, or a fishing ship registered as a class 3C ship, is—
  - (a) if the ship is operating within the Great Barrier Reef Region or Torres Strait zone—anywhere within the region or zone; or
  - (b) otherwise—within 50n miles of the coast.

- (5) The operational area for a commercial ship that is a pontoon and is registered as a class 1E ship is anywhere within the Great Barrier Reef Region.
- (6) The operational area for a commercial ship registered as a class 1D, 1E, 2D or 2E ship that is permanently based at a pontoon mentioned in subsection (5) is, if the pontoon is anchored outside the operational area for the ship, the area in which the ship is in sight of, and is able to communicate with, the pontoon.
- (7) The operational area for a commercial ship registered as a class 1D, 1E, 2D or 2E ship that is operating from an island is the area in which the ship is in sight of, and is able to communicate with, the island.
- (8) The operational area for a commercial ship registered as a class 1D, 1E, 2D or 2E ship that is a tender to a commercial ship is the area within a radius of 2n miles from the commercial ship if—
  - (a) the tender is operated by a person under the direct supervision of the master of the commercial ship; and
  - (b) the master of the commercial ship has a way of immediately helping the person if the need arises.
- (9) In this section—

***pontoon*** means a barge that—

  - (a) is not powered and permanently anchored; and
  - (b) if a commercial ship registered as a class 1 ship capable of carrying everyone on the barge is not moored to it—is equipped with the safety equipment that would be required for a class 1 ship operating lawfully in the area where the barge is anchored.

## **Division 2                      Number of persons ships may carry**

### **109      Commercial ship**

A person who is the owner or master of a commercial ship must not carry on the ship, or on a part of the ship, more



persons than is stated for the ship, or for the part of the ship, in the ship's registration certificate, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

## **Division 3                      Safety training for crew**

### **110      Crew to complete safety course**

- (1) This section does not apply to a cable operated ship.
- (2) A person must not be part of the crew of a commercial ship or fishing ship unless the person has completed—
  - (a) if the person has been employed as part of the crew for at least 6 months—
    - (i) the course 'Occupational Health and Safety at Sea' provided by a training provider approved by the general manager to provide the course; or
    - (ii) a course equivalent to the course mentioned in subparagraph (i); or
  - (b) otherwise—a safety induction course approved by the general manager appropriate to the expected length of the person's employment.

Maximum penalty—100 penalty units.

- (3) A person who is the owner or master of a commercial ship or fishing ship must ensure that every person in the ship's crew has complied with subsection (2).

Maximum penalty—100 penalty units.

## **Division 4                      Compliance with particular USL code provisions**

### **111      Ship to be operated under USL code, s 15**

The master of a registrable commercial ship or fishing ship must comply with the USL code, section 15, parts 1 and 2<sup>91</sup> when operating the ship.

Maximum penalty—200 penalty units.

## **Division 5                      Load line certificates**

### **112      Definitions for div 5**

In this division—

*appropriately accredited*, for a ship designer or marine surveyor, means accredited as a ship designer or marine surveyor for load line.

*ship* means a registrable commercial ship other than a ship for which—

- (a) a load line certificate, or an exemption from a requirement for a load line certificate, has been granted under the law of another State; or
- (b) a current restricted use flag has been issued.

### **113      Application of div 5**

This division applies to a ship that is a vessel under the USL Code, section 7, part 1.<sup>92</sup>

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91 USL code, section 15 (Emergency procedures and safety of navigation), parts 1 (Preliminary) and 2 (Emergency procedures)

92 USL code, section 7 (Load lines), part 1 (Preliminary)

**114 General manager may issue load line certificate for ship**

- (1) The general manager may issue a load line certificate for a ship.
- (2) The general manager may issue the certificate only if the application for the certificate is accompanied by a certificate of compliance for the ship's load lines from an appropriately accredited ship designer or marine surveyor.
- (3) The certificate of compliance must have been issued not more than 1 month before the application for the load line certificate is made.
- (4) The procedure for obtaining a ship's load line certificate is in part 6.<sup>93</sup>

**115 Ship not to be operated unless load line certificate issued**

- (1) A person who is the owner or master of a ship must not operate the ship unless a current load line certificate has been issued for the ship.

Maximum penalty—100 penalty units.

- (2) In this section—

*load line certificate* means a load line certificate issued—

- (a) under this regulation; or
- (b) by another State, a classification society, or a marine authority of a foreign country under the International Convention on Load Lines 1966.

**116 Load line certificate to be displayed on ship**

- (1) A person who is the owner or master of a ship for which a current load line certificate is issued must ensure the certificate is displayed in the following way, unless it is not reasonably practical to do so—
  - (a) in a conspicuous place on the ship;

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(b) in a way that allows it to be read by anyone on board.

Maximum penalty—100 penalty units.

- (2) If it is not reasonably practicable to comply with subsection (1), the person must ensure that the ship's load line certificate is kept on the ship.

Maximum penalty—100 penalty units.

### **117 Renewal of load line certificate**

- (1) The general manager may renew a load line certificate only if the application for the renewal of the certificate is accompanied by a certificate of compliance for the ship's load line from an appropriately accredited ship designer or marine surveyor.
- (2) The certificate of compliance must have been issued not more than 1 month before the application for the renewal of the load line certificate is made.
- (3) Subsection (1) has effect despite anything in part 6.

### **118 USL code, s 7 applies to assignment of freeboard**

- (1) The USL code, section 7, parts 2, 3, 5, 6, 10 and 11<sup>94</sup> apply with the changes made by subsection (3) when a ship's freeboard is assigned and its load line marked.
- (2) Only an appropriately accredited ship designer or marine surveyor may assign a ship's freeboard and mark the ship's load line.
- (3) For applying the USL code, section 7, parts 2, 3, 5, 6, 10 and 11, a reference to authority, assigning authority or survey authority is taken to be a reference to an appropriately accredited ship designer or marine surveyor.

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94 USL code, section 7 (Load lines), parts 2 (Conditions of assignment), 3 (Structural strength and stability of vessels), 5 (Calculations and assignment of freeboards), 6 (Marking of load lines and associated marks), 10 (Appropriate load lines) and 11 (Modifications applicable to vessels operating within smooth and partially smooth waters)

- (4) For the USL code, section 7, part 6, clause 56,<sup>95</sup> the mark of the assigning authority that assigns the ship's freeboard is to be 'QA'.

### **119 USL code, s 7 applies to loading of ship**

- (1) A person who is the owner or master of a ship must, when operating the ship, comply with the USL code, section 7, part 14.<sup>96</sup>

Maximum penalty—200 penalty units.

- (2) A person who is the owner or master of a ship does not commit an offence under subsection (1) if the USL code, section 7, part 15, clause 78<sup>97</sup> permits the ship to be overloaded.

### **120 Stability documents to be carried on ship**

A person who is the owner or master of a ship must, when operating the ship, have on board the stability documents stated for the ship in the USL code, section 8, subsection A, clause A.4.<sup>98</sup>

Maximum penalty—100 penalty units.

## **Division 6 Signals**

### **121 Signals of distress**

- (1) The following signals are prescribed signals of distress for section 206(1)(a)<sup>99</sup> of the Act—

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95 USL code, section 7 (Load lines), part 6 (Marking of load lines and associated marks), clause 56 (Assigning authority marks)

96 USL code, section 7 (Load lines), part 14 (Overloading)

97 USL code, section 7 (Load lines), part 15 (Miscellaneous), clause 78 (Permissible overloading)

98 USL code, section 8 (Stability), subsection A (Preliminary), clause A.4 (Presentation of data)

99 Section 206 (Signals of distress) of the Act

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- (a) a V sheet;
  - (b) the signals stated in the USL code, section 16, annex IV, clauses 1 and 3.<sup>100</sup>
- (2) A person may use or display a prescribed signal of distress only for indicating distress and a need for help.
- (3) For section 206(2)(b) of the Act, a person must revoke the prescribed signal of distress when the distress or need for help finishes.

**122 Authority to use or display prescribed signal for training or demonstration**

- (1) Despite section 121(2), the general manager may consent to the use or display of a prescribed signal of distress by a person for genuine training or demonstration purposes.
- (2) The procedure for obtaining the consent is in part 6.<sup>101</sup>

**123 Prescribed signal and information—Act, s 129**

- (1) The signal for section 129(2)<sup>102</sup> of the Act is the word ‘SECURITE’ spoken 3 times.
- (2) The information required under section 129(2) and (3) of the Act about a danger to navigation is the information appropriate to the danger stated in the USL code, section 15, clause 18.<sup>103</sup>

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100 USL code, section 16 (Collision regulations), annex IV (Distress signals), clauses 1 and 3

101 Part 6 (Authorities)

102 Section 129 (Report of dangers to navigation) of the Act

103 USL code, section 15 (Emergency procedures and safety of navigation section), clause 18 (Information required in messages)

## **Division 7                    Monitoring radio communications**

### **124    Fishing ship to have speaker on afterdeck**

A person who is the owner or master of a fishing ship must ensure the ship is equipped with a speaker on its afterdeck that is suitably located, workable and adequate to allow crew working on the afterdeck to monitor VHF radio communication with other ships.

Maximum penalty—50 penalty units.

## **Division 8                    Prevention of collisions**

### **125    Application of collision regulations**

The collision regulations have effect as if they were part of this regulation.

### **126    Person operating ship to comply with collision regulations**

- (1) A person involved with a ship's operation (including a person who is the owner, master, pilot or deck watchkeeper) must comply with the collision regulations.
- (2) Subsection (1) is a regulation to which section 211(2)<sup>104</sup> of the Act applies.
- (3) In this section—

***deck watchkeeper*** means—

  - (a) for a commercial ship—a deck watchkeeper under the USL code, section 2, part 4, clause 34;<sup>105</sup> or

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104 Section 211 (Regulation may give effect to treaties, conventions or international agreements or documents) of the Act provides for a penalty of 500 penalty units or imprisonment for 1 year for a breach of the provision.

105 USL code, section 2 (Qualifications and manning, trading vessels), part 4 (Minimum safety manning of trading vessels), clause 34 (Interpretation)

- (b) for a fishing ship—a deck watchkeeper under the USL code, section 3, part 4, clause 21.<sup>106</sup>

*ship* includes an aircraft when it is on water, or is taking off or landing on water.

## **Division 9                      Speed limits and other restrictions**

### **127      Speed limit for ship, other than personal watercraft, operating in particular places**

- (1) This section applies to a ship other than a personal watercraft.
- (2) A person must not operate a ship in waters at a speed of more than 6kn if the ship is within 30m of any of the following—
- (a) a person in the waters;
  - (b) a ship at anchor, moored or made fast to the shore or aground;
  - (c) a jetty, wharf, boat ramp or pontoon in or on the waters.
- Maximum penalty—200 penalty units.
- (3) Subsection (2) does not apply to a ship if the ship is in waters for which a speed limit of 6kn or less has been fixed under section 206A<sup>107</sup> of the Act.

### **127A    Speed limit for personal watercraft operating in particular places**

- (1) A person must not operate a personal watercraft in waters at a speed of more than 6kn if the personal watercraft is within 60m of any of the following—
- (a) a person in the waters;
  - (b) a ship at anchor, moored or made fast to the shore or aground;

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106 USL code, section 3 (Qualifications and manning, trading vessels), part 4 (Minimum safety manning of fishing vessels), clause 21 (Interpretation)

107 Section 206A (General manager's power to fix speed limits for ships) of the Act



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- (c) a jetty, wharf, boat ramp or pontoon in or on the waters;
- (d) the boundary of a bathing reserve;
- (e) the shore.

Maximum penalty—200 penalty units.

- (2) Despite subsection (1)(e), a person may operate a personal watercraft in waters within 60m of the shore at a speed of more than 6kn but no more than the speed limit for the waters if—
  - (a) the personal watercraft is being operated for the purpose of water skiing; or
  - (b) each of the following apply—
    - (i) the waters are less than 120m wide;
    - (ii) the person is operating the personal watercraft along or near the centre of the waters, or within a marked channel;
    - (iii) the person uses the personal watercraft to move through the waters in a straight line or in the most appropriate or direct route taking into account the circumstances of the waters; or
  - (c) complying with subsection (1)(e) would endanger the person or another person.
- (3) Subsections (1) and (2) do not apply to a personal watercraft if the personal watercraft is in waters for which a speed limit of 6kn or less has been fixed under section 206A<sup>108</sup> of the Act.
- (4) In this section—

***bathing reserve*** means a bathing reserve established under the *Local Government Act 1993*, section 935.<sup>109</sup>

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108 Section 206A (General manager's power to fix speed limits for ships) of the Act

109 *Local Government Act 1993*, section 935 (Management and regulation of bathing reserves)

**127B Other restrictions for personal watercraft operating in particular places**

- (1) A person must not while operating a personal watercraft freestyle, surf or wave jump within 200m of the shore if—
- (a) the personal watercraft is being operated in coastal waters; and
  - (b) 1 or more dwellings are within 100m of the shore and are visible from, and in the vicinity of, where the personal watercraft is being operated.

Maximum penalty—200 penalty units.

- (2) In this section—

*coastal waters* means the coastal waters of the State, and includes other waters within the limits of the State that are subject to the ebb and flow of the tide.

**128 Speed limit for ship if wash can cause marine incident or shoreline damage**

- (1) A person must not operate a ship at a speed at which the ship's wash is reasonably capable of causing—
- (a) a marine incident; or
  - (b) damage to the shoreline.

Maximum penalty—200 penalty units.

- (2) Subsection (1) applies even if a speed limit is fixed under section 206A<sup>110</sup> of the Act.

**129 No offence if ship operated at speed necessary for safety**

- (1) A person does not commit an offence against section 127 or 128 if—
- (a) a ship must be operated at a control speed that is more than the highest speed at which the ship may be operated under section 127 or 128 (the *statutory speed*)

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<sup>110</sup> See section 206A(7) of the Act.

because it is unsafe for the ship to be operated at a speed less than the ship's control speed; and

- (b) the person operates the ship at a speed more than the statutory speed only to the extent that it is reasonably necessary for the safe operation of the ship.

- (2) In this section—

*control speed*, of a ship, means the minimum speed at which the ship can be kept on its course in the prevailing circumstances and conditions.

### **130 Interfering with speed sign**

- (1) A person must not interfere with a speed sign erected or marked by the general manager under section 206A(4) of the Act unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (2) In this section—

*interfere with* includes damage, destroy, mark and remove.

## **Division 10 Enforcement officers**

### **131 Application of particular provisions to enforcement officers**

- (1) This section applies to an enforcement officer who—
  - (a) holds a licence to operate a commercial ship as its master; and
  - (b) operates a ship in carrying out the officer's duties.

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- (2) Despite anything in sections 88, 126 to 128, 219, 220, 221 and 222A,<sup>111</sup> the officer may, if reasonably necessary in performing the officer's duties, operate the ship—
- (a) beyond the operational area stated in the officer's licence; or
  - (b) at any safe speed; or
  - (c) displaying lights and sounding a repeater horn or siren in addition to the lights and sound devices required for operating the ship under the collision regulations; or
  - (d) in a place to which section 219, 220, 221 or 222A applies.
- (3) In this section—
- enforcement officer*** means—
- (a) a police officer; or
  - (b) an officer of the Queensland Boating and Fisheries Patrol; or
  - (c) an officer of MSQ who is a shipping inspector.
- operate*** a ship, includes anchor, berth and moor the ship.

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111 Sections 88 (Required licences for commercial ships), 126 (Person operating ship to comply with collision regulations), 127 (Speed limit for ship, other than personal watercraft, operating in particular places), 127A (Speed limit for personal watercraft operating in particular places), 127B (Other restrictions for personal watercraft operating in particular places), 128 (Speed limit for ship if wash can cause marine incident or shoreline damage), 219 (Prohibition on anchoring in particular places), 220 (Prohibition on ship operations near particular structures), 221 (Unlawful operations if endangering marine safety) and 222A (Marine zones)

## **Division 11 Documents for ship**

### **132 Purpose of div 11**

- (1) The purpose of this division is to require the person who is the owner or master of a particular ship to keep documents for the ship.
- (2) Generally, the documents must be kept on board the ship.

### **133 Manuals and plans to be kept**

- (1) This section applies to a ship that is more than 8m if it is—
  - (a) a registrable commercial ship operating in Queensland waters, other than a ship operating in smooth waters that does not make voyages of more than 15 minutes duration; or
  - (b) a registrable fishing ship operating beyond partially smooth waters.
- (2) A person who is the owner or master of the ship must ensure the following documents are on board—
  - (a) the operational manual for the ship;
  - (b) the technical manual for the ship;
  - (c) the maintenance and service manual for the ship;
  - (d) the marine occupational health and safety manual for the ship;
  - (e) the safety management plan for the ship for onboard emergencies;
  - (f) the manual of procedures for verification of passenger numbers.

Maximum penalty—100 penalty units.

- (3) The person must also ensure each of the following—
  - (a) the manuals and plan mentioned in subsection (2) are available to the ship's crew;

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- (b) every person in the ship's crew has a working knowledge of those parts of the manuals and plan that are relevant to the person's role on the ship.

Maximum penalty—100 penalty units.

**134 Records to be kept**

- (1) This section applies to a registrable commercial ship or fishing ship.
- (2) A person who is the owner or master of the ship must ensure the following are kept—
  - (a) for a registered commercial ship—records about the matters mentioned in schedule 4, part 1 and the certificates and other documents mentioned in schedule 4, part 2;
  - (b) for a registered fishing ship—records about the matters mentioned in schedule 4, part 3 and the certificates and other documents mentioned in schedule 4, part 4.

Maximum penalty—100 penalty units.

**135 Currency and accuracy of documentation mentioned in ss 133 and 134**

- (1) This section applies to the following (the *division documents*)—
  - (a) the manuals and plan mentioned in section 133; and
  - (b) the records and certificates and other documents mentioned in section 134.
- (2) A person who is the owner or master of the ship must, unless the person has a reasonable excuse, ensure that the division documents are kept in a secure place—
  - (a) if the ship is an open ship and it is impracticable to keep the records on board the ship—at a prescribed place that is accessible to the ship's crew; or
  - (b) otherwise—on board the ship to which the division documents relate.

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Maximum penalty—100 penalty units.

- (3) For division documents that are records mentioned in schedule 4, part 1 or 3 for a ship, a person who is the owner or master of the ship must ensure that entries in the records are complete, accurate and up-to-date.

Maximum penalty—100 penalty units.

- (4) Also, for division documents, a person who is the owner or master of the ship to which the division documents relate must not do, or allow anyone else to do, any of the following—
- (a) deface, erase or obliterate an entry in a division document for the ship;
  - (b) destroy or otherwise dispose of a division document for the ship.

Maximum penalty—100 penalty units.

- (5) However subsection (4) does not apply to the following—
- (a) an entry in a division document mentioned in schedule 4, part 1 or 3, if the entry is more than 5 years old;
  - (b) a division document mentioned in schedule 4, part 2 or 4, if the division document is not current.

- (6) In this section—

***prescribed place*** means either of the following places—

- (a) if the person who is the owner or master of the ship has a place of business in Queensland for managing the ship's operations—that place;
- (b) if paragraph (a) does not apply and the person is an individual—the person's place of residence.

## **Division 12                      Orderly control for particular ships**

### **136      Application of Act, pt 14, div 2**

All commercial ships on Queensland intrastate voyages<sup>112</sup> are ships to which part 14, division 2<sup>113</sup> of the Act applies.

## **Division 13                      Dangerous cargo**

### **137      Duties of person sending dangerous cargo by ship**

(1) A person must not send dangerous cargo, other than dangerous goods, by ship unless the person gives the master of the ship, before sending the cargo, a written notice about the cargo stating each of the following—

- (a) the proper shipping name of the cargo;
- (b) the UN number for the cargo stated in the IMDG code;
- (c) the quantity of the cargo;
- (d) if the cargo has a flash point—its flash point or flash point range.

Maximum penalty—200 penalty units.

(2) A person must not send dangerous goods by ship unless, before sending the goods, the person—

- (a) packs, secures, marks, labels, placards (for a cargo transport unit) and documents the goods in the way required under the IMDG code; and
- (b) gives the master of the ship the documents required under the IMDG code.

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112 See section 11(1)(c) (General application of Act to ships) of the Act and schedule (Dictionary) of the Act, definition *Queensland intrastate voyage*.

113 Part 14 (Orderly control over ships), division 2 (Passenger carrying ships) of the Act



- (3) Subsection (2) is a regulation to which section 213(3)<sup>114</sup> of the Act applies.

### **138 Application of dangerous cargo codes**

The dangerous cargo codes have effect as if they were part of this regulation.

### **139 Duties of owner or master about dangerous cargo**

- (1) A person who is the owner or master of a ship handling dangerous cargo, other than dangerous goods, must, to the extent it is reasonably practicable, comply with the appropriate dangerous cargo code for the cargo while handling that cargo.

Maximum penalty—200 penalty units.

- (2) A person who is the owner or master of a ship handling dangerous goods must, to the extent it is reasonably practicable, comply with the IMDG code for the goods while handling those goods.
- (3) Subsection (2) is a regulation to which section 213(3) of the Act applies.

### **140 Reporting requirements for ship with dangerous cargo**

- (1) This section applies if—
- (a) a ship, other than a ship that is to be operated on a local marine service, is carrying dangerous cargo and—
    - (i) is to arrive at, or depart from, a pilotage area; or
    - (ii) is at a berth or anchorage in a pilotage area and—
      - (A) is to be removed to another berth or anchorage in the pilotage area; or
      - (B) is to transfer the dangerous cargo to another ship in the pilotage area; or

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<sup>114</sup> Section 213(3) (Regulations about dangerous substances) of the Act provides for a penalty of 500 penalty units for a breach of the provision.

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- (b) a ship, other than a ship that is to be operated on a local marine service, is to load dangerous cargo while in a pilotage area; or
  - (c) a ship is to be operated on a local marine service.
- (2) A person who is the owner or master of a ship mentioned in subsection (1)(a) or (b) must report the following matters in the approved form and in the way required under this section—
- (a) the expected time of—
    - (i) the arrival or departure of the ship; or
    - (ii) the removal of the ship to another berth or anchorage; or
    - (iii) the transfer of the cargo to another ship; or
    - (iv) the loading of the cargo;
  - (b) the information mentioned in AS 3846—1998, section 3.

Maximum penalty—200 penalty units.

- (3) A person who is the owner or master of a ship mentioned in subsection (1)(c) must report the following matters in the approved form and in the way required under this section—
- (a) the start of the local marine service;
  - (b) voyages under the service;
  - (c) the nature of the dangerous cargo to be handled.

Maximum penalty—200 penalty units.

- (4) However, if the dangerous cargo mentioned in subsection (2) or (3) is dangerous goods—
- (a) the penalty provision for the subsection does not apply; and
  - (b) subsections (2) and (3) are regulations to which section 213(3) of the Act applies.
- (5) The report under subsection (2) or (3) must be made—

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- (a) for the arrival of the ship—at least 48 hours before the expected arrival; or
  - (b) for the departure or removal of the ship—at least 3 hours before the expected departure or removal; or
  - (c) for the transfer of the cargo—at least 24 hours before the transfer is expected to start; or
  - (d) for the loading of the ship—at least 24 hours before the loading is expected to start; or
  - (e) for operation on a local marine service—
    - (i) for the start of the service—at least 48 hours before the start of the service; and
    - (ii) for subsequent voyages that are part of the service—at the time (if any) the person to whom the report is made under subsection (6) or (7) considers reasonable and of which written notice is given to the owner or master of the ship.
- (6) If an event to be reported is to happen in a pilotage area, the report must be made to the harbour master of the pilotage area.
- (7) If an event to be reported is to happen outside a pilotage area, the report must be made to the general manager.
- (8) The general manager may, by gazette notice, change a time mentioned in subsection 5(a) to (e)(i), for a particular place, if the general manager is satisfied the change is necessary for the particular place—
- (a) to ensure marine safety; or
  - (b) to enable the effectiveness and efficiency of the Queensland maritime industry to be developed.
- (9) A person who is the owner or master of a ship operating on a local marine service must notify the general manager within 14 days after the person stops operating the service.
- Maximum penalty—50 penalty units.
- (10) In this section—

**handle** includes carry, discharge, load, move, restow, stack, stow and unload and anything incidental to carrying, discharging, loading, moving, restowing, stacking, stowing or unloading.

**local marine service** means a shipping service in which a ship is operated on Queensland intrastate voyages to handle dangerous cargo.

### **141 Reporting dangerous cargo event**

- (1) This section applies to a person if—
  - (a) the person is a person in charge of a place where a ship is, or is about to be, berthed, or is the owner or master of a ship; and
  - (b) the person becomes aware that a dangerous cargo event has happened at the place or on the ship.

- (2) The person must report the event in the approved form and in the way required under subsections (3) and (4).

Maximum penalty—100 penalty units.

- (3) The person must report the event as soon as reasonably practicable after the person finds out about it.
- (4) The person must report the event—
  - (a) if the event happens in a pilotage area—to the harbour master of the area; or
  - (b) otherwise—to the general manager.
- (5) In this section—

**dangerous cargo event** means—

- (a) for dangerous cargo—
  - (i) the loss, or likely loss, of the cargo from a ship into Queensland waters; or
  - (ii) a breach, or danger of a breach, of the containment of the cargo that could endanger marine safety; or
  - (iii) another event involving, or that could involve, the cargo that causes risk of an explosion, a fire, a

person's death or grievous bodily harm to a person;  
or

- (b) for cargo that is a MHB—an event that causes a risk of an explosion, a fire, a person's death or grievous bodily harm to a person.

**MHB** means materials hazardous only in bulk under the BC code.

### **142 General manager may require declaration about ship's cargo**

- (1) This section applies if the general manager believes on reasonable grounds that a ship in Queensland waters, other than the waters of a pilotage area, is carrying dangerous cargo.
- (2) The general manager may ask the owner or master of the ship to tell the general manager about the cargo the ship is carrying.
- (3) The request may be made in the quickest and most convenient way.
- (4) If the request is not written, the general manager must make a written note of the request and its details.
- (5) The written note is evidence that the request was made.
- (6) The person given the request must comply with the request by radio or any form of electronic communication in the shortest practicable time, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

### **143 Restriction on loading combination carrier**

- (1) A person who is the owner or master of a combination carrier that has carried bulk liquid dangerous cargo on 1 or more of its last 3 voyages must not load the carrier with bulk solid cargo in a pilotage area unless—
  - (a) an approved chemist has—
    - (i) tested the atmosphere in all places on the carrier that had previously contained the dangerous cargo

to ensure that they are gas free in the way stated in ISGOTT; and

- (ii) verified that all tanks on the ship containing slops are in an inert condition in the way stated in ISGOTT; and
  - (iii) issued a safety test certificate in the approved form for the ship; and
- (b) the owner or master of the carrier has given the harbour master of the pilotage area a copy of the safety test certificate.

Maximum penalty—200 penalty units.

- (2) In this section—

***approved chemist*** means an approved chemist under the Marine Orders, part 41.

#### **144 Exceptions to restrictions under s 143**

- (1) Section 143 does not apply to a combination carrier if—
- (a) the carrier has not been loaded with bulk liquid dangerous cargoes on its last 3 loaded voyages; and
  - (b) after the last voyage when the carrier carried a bulk liquid dangerous cargo consisting of crude oil or petroleum products with a flash point of not more than 60°C, an approved chemist—
    - (i) tested the atmosphere in all places on the carrier that had previously contained the cargo to ensure that they are gas free in the way stated in ISGOTT; and
    - (ii) verified that all tanks on the ship containing slops were in an inert condition in the way stated in ISGOTT; and
    - (iii) issued a safety test certificate in the approved form for the ship; and
  - (c) the owner or master of the carrier has given the harbour master—

- (i) a copy of the safety test certificate; and
  - (ii) a statement in the approved form about the carrier's last 3 loaded voyages and the cargoes it carried on each voyage.
- (2) In this section—
- approved chemist*** means—
- (a) an approved chemist under the Marine Orders, part 41; or
  - (b) a competent person under AS 3846—1998.

#### **145 Obligations under s 139 not limited**

Sections 143 and 144 do not limit the obligations of the owner or master of a ship under section 139.<sup>115</sup>

## **Division 14 Other operational issues**

### **146 Start of particular business activities to be notified**

- (1) This section applies if a person who is the owner or master of a commercial ship starts using the ship in carrying on business for any of the following purposes—
- (a) carrying passengers for reward;
  - (b) providing the ship for another person to use as a commercial hire ship;
  - (c) providing a leisure tourism or entertainment activity for a person for reward including, for example, parasailing or waterskiing.
- (2) Before starting the business, the owner or master must give written advice about starting the business in the way required under subsection (3).

Maximum penalty—50 penalty units.

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<sup>115</sup> Section 139 (Duties of owner or master about dangerous cargo)

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- (3) The written advice must—
- (a) be given to—
    - (i) if the business is started in a pilotage area—the harbour master of the area; or
    - (ii) if the business is started in waters outside a pilotage area—the general manager; and
  - (b) contain the following particulars—
    - (i) the person's name and address;
    - (ii) the starting date of the business;
    - (iii) a brief description of the business and the waters where it will be mainly carried on.
- (4) If the owner or master stops carrying on the business, the owner or master must notify the harbour master or the general manager in writing within 1 month after the person stops carrying on the business.

Maximum penalty—50 penalty units.

- (5) In this section—

***commercial hire ship*** means a commercial ship without master or crew, hired or made available by a person for the recreational use of someone else under a commercial arrangement between those persons.

*Examples of a commercial hire ship—*

A cruiser, dinghy, houseboat, personal watercraft or yacht hired for recreational use.



## Part 6                      Authorities

### Division 1                  Interpretation

#### 147      Definition for pt 6

In this part—

*administering agency*, for an authority under this part, means—

- (a) for an approval,<sup>116</sup> that relates to recreational ships or personal watercraft—the chief executive or the general manager; or
- (b) otherwise—the general manager.

#### 148      What is an authority

(1) An *authority* is any of the following—

- (a) an approval;<sup>117</sup>
- (b) a certificate of survey issued under section 70;
- (c) a consent under section 80 to use a restricted use flag;
- (d) an approval of an entity to conduct examinations under section 103;

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116 Schedule (Dictionary) of the Act provides—

*approval* means any of the following—

- (a) registration of a ship;
- (b) licensing a person as a master, crew member or pilot;
- (c) accreditation of an entity to license a person as a master, crew member or pilot;
- (d) approval of an entity to conduct training programs relating to the operation of ships;
- (e) permission for a person to operate a ship as its master or pilot;
- (f) accreditation of a ship designer, ship builder or marine surveyor.

117 See previous footnote.

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- (e) an approval of an entity to provide training programs under section 104;
  - (f) a temporary permit under section 106 to operate a ship as a master or act as a crew member;
  - (g) a load line certificate under section 114;
  - (h) a consent under section 122 to use or display prescribed signals of distress for training or demonstration;
  - (i) a pilotage exemption certificate under section 179;
  - (j) an approval to establish a buoy mooring under section 209;
  - (k) a consent under section 218 to hold an aquatic event;
  - (l) a design approval certificate.
- (2) Subject to section 153(1) to (3),<sup>118</sup> a reference in this regulation to an authority, other than in section 154,<sup>119</sup> includes a reference to a temporary authority in force under section 153.

## **Division 2                      How authority is obtained**

### **149      Making the application**

- (1) A person may apply to the administering agency for an authority.
- (2) The application must—
  - (a) be in the approved form; and
  - (b) be supported by enough information to enable the administering agency to decide the application; and
  - (c) be accompanied by the fee prescribed under a regulation.

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118 Section 153 (Temporary authorities)

119 Section 154 (Refusal of application for authority)

### **150 Administering agency to decide application within 30 days**

- (1) The administering agency must decide each application for an authority within 30 days after the application is made.
- (2) However, if within the 30 days, the administering agency has told an applicant that the application is not supported by enough information to enable the administering agency to decide the application, the administering agency must decide the application within 30 days after the further information is given to the administering agency.
- (3) If an application for an authority is an application for the accreditation of a person as a ship designer, ship builder or marine surveyor and the general manager grants temporary accreditation to the person under section 153, the general manager must decide the application for accreditation before the temporary accreditation ends.
- (4) Subsection (3) applies despite subsection (1).

### **151 Issuing of authority if application granted**

- (1) If the administering agency decides to grant an application for an authority, the administering agency must, within 30 days after making the decision to grant the application, issue to the applicant the appropriate authority in the approved form (an *issued authority*).
- (2) However, if the authority is a recreational marine driver licence or a personal watercraft licence, the administering agency need not issue the authority to the applicant but instead must, if asked by the applicant, give the applicant written notice of the granting of the authority.
- (3) The authority, or the notice, must include all conditions to which the authority is subject under section 155.<sup>120</sup>

### **152 Term of authority**

- (1) The term of an authority is the term stated in it.

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<sup>120</sup> Section 155 (Grant of authority on conditions)

- (2) However, the term of the following authorities is unlimited—
- a licence to act as coxswain of a commercial ship
  - a licence to operate a fishing ship as its master
  - a licence to operate a fishing ship as its engineer
  - a personal watercraft licence
  - a recreational marine driver licence.

### **153 Temporary authorities**

- (1) This section applies if an application for an authority is an application for—
- (a) the accreditation of a person as a ship designer, ship builder or marine surveyor; or
  - (b) the registration of a commercial ship or fishing ship; or
  - (c) the licensing of a person as a master, crew member or pilot of a commercial ship or fishing ship.
- (2) The general manager may grant a temporary authority to the applicant for a term of not more than 6 months.
- (3) The temporary authority is in force until the earliest of the following happens—
- (a) the term stated in the authority ends;
  - (b) the application is finally decided by the general manager and the general manager notifies the applicant of the general manager's decision;
  - (c) the general manager suspends or cancels the authority under division 5.

### **154 Refusal of application for authority**

- (1) If the administering agency decides to refuse an application for an authority, the administering agency must give the applicant written notice of the decision within 14 days after making the decision.

- (2) Without limiting subsection (1), the administering agency may refuse an application for an authority if the administering agency is satisfied—
- (a) the applicant has contravened marine safety legislation; or
  - (b) the applicant has had another authority under the Act cancelled or suspended; or
  - (c) the applicant has been convicted of an indictable offence; or
  - (d) the applicant has not paid fees payable under this Act; or
  - (e) if the application is for the registration of a ship—the administering agency is satisfied, on reasonable grounds, that the ship is not seaworthy even though a certificate of compliance or survey has been issued for the ship.
- (3) The notice must state—
- (a) the reasons for the refusal; and
  - (b) that the person may appeal against the decision under part 16<sup>121</sup> of the Act.

### **155 Grant of authority on conditions**

The administering agency may grant an application for an authority on conditions the administering agency considers reasonable and relevant.

## **Division 3 Renewal of authority**

### **156 Renewal of authority**

- (1) The holder of an authority may apply for its renewal to the administering agency.
- (2) The application must—

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121 Part 16 (Review of and appeals against particular decisions) of the Act

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- (a) be made in the approved form; and
- (b) be supported by enough information to enable the administering agency to decide the application; and
- (c) be accompanied by the fee prescribed under a regulation.

**157 Div 2 applies to application for renewal**

- (1) Division 2<sup>122</sup> applies to an application for renewal of an authority in the same way it applies to an application for an authority.
- (2) However, the administering agency may also refuse an application for renewal of an authority if—
  - (a) the authority was issued in error or because of a document or representation that—
    - (i) is false or misleading; or
    - (ii) was obtained or made in another improper way; or
  - (b) the applicant has not complied with a condition of the authority; or
  - (c) if the authority is an approval to establish a buoy mooring—there has been a significant change in circumstances affecting marine safety in the vicinity of the buoy mooring.

**Division 4 Amendment of authority**

**158 Amendment of authority at holder's request**

- (1) The holder of an authority may apply to the administering agency for an amendment of the authority.
- (2) The application for an amendment must—
  - (a) be made to the administering agency in the approved form; and

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122 Division 2 (How authority is obtained)

- (b) be supported by enough information to enable the administering agency to decide the application; and
- (c) be accompanied by the fee prescribed under a regulation.

### **159 Div 2 applies to application for amendment**

Division 2<sup>123</sup> applies to an application for an amendment of an authority in the same way it applies to an application for an authority.

### **160 Amendment of authority on administering agency's initiative**

- (1) The administering agency may amend an authority at any time if—
  - (a) the holder of the authority agrees to the amendment; or
  - (b) the administering agency considers it necessary or desirable because—
    - (i) the holder has contravened the Act or this regulation; or
    - (ii) the authority was granted because of a materially false or misleading representation or declaration, made either orally or in writing.
- (2) If the administering agency considers it necessary or desirable to amend an authority, the administering agency must give the holder a written notice under this section.
- (3) The notice must state the following—
  - (a) the proposed amendment;
  - (b) the grounds for the proposed amendment;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;

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123 Division 2 (How authority is obtained)

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- (d) an invitation to the holder to show within a stated time, which must be at least 30 days, why the authority should not be amended;
  - (e) the period, which must be at least 30 days after the notice is given to the holder, within which the representations may be made.
- (4) If, after considering all written representations made within the stated time, the administering agency still considers the amendment is necessary or desirable, the administering agency may amend the authority.<sup>124</sup>
  - (5) If the administering agency does not consider the amendment is necessary or desirable, the administering agency must give the holder written notice of the decision within 14 days after making the decision.

### **161 When amendment of authority takes effect**

If the administering agency amends an authority, the amendment takes effect from—

- (a) the day the authority is amended; or
- (b) if the administering agency provided for a later day when granting or deciding the amendment, the later day.

### **162 Authority to be returned for alteration after amendment**

- (1) The administering agency may, by written notice, ask the holder of an authority to return the issued authority to the administering agency within a stated time, of at least 30 days, to enable the administering agency to alter the authority to reflect an amendment made to it.
- (2) The holder must comply with the notice, unless the holder has a reasonable excuse.  
Maximum penalty—20 penalty units.
- (3) After altering the authority, the administering agency must return it to the holder.

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<sup>124</sup> Part 16 of the Act provides for appeals.



- (4) The amendment of an authority by the administering agency does not depend on it being altered under this section.

## **Division 5                      Suspension and cancellation of authorities**

### **163      Grounds for suspension or cancellation of authorities**

The administering agency may suspend or cancel an authority on any of the following grounds—

- (a) the holder has contravened marine safety legislation;
- (b) the authority was issued in error or because of a document or representation that—
  - (i) is false or misleading; or
  - (ii) was obtained or made in another improper way;
- (c) the holder has not complied with a condition of the authority;
- (d) the holder has been convicted of—
  - (i) an indictable offence; or
  - (ii) if the authority is a licence—an offence against the *Transport Operations (Road Use Management) Act 1995*, section 79 or 80;<sup>125</sup>
- (e) the holder has not paid fees payable under this Act;
- (f) if the authority is the registration of a ship—the administering agency is satisfied, on reasonable grounds, that the ship is not seaworthy even though a certificate of compliance or survey has been issued for the ship.

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<sup>125</sup> *Transport Operations (Road Use Management) Act 1995*, section 79 (Driving etc. whilst under influence of liquor or drugs or with prescribed concentration of alcohol in blood or breath) or 80 (Provisions with respect to breath tests and laboratory tests)

## **164 Procedure for suspension or cancellation**

- (1) If the administering agency considers a ground exists to suspend or cancel an authority (the *proposed action*), the administering agency may give the holder of the authority a written notice stating the following—
  - (a) the proposed action;
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) if the proposed action is to suspend the authority, the proposed suspension term;
  - (e) an invitation to the holder to show within a stated time, which must be at least 30 days, why the proposed action should not be taken.
- (2) If, after considering all written representations made within the stated time, the administering agency still considers grounds to take the proposed action exist, the administering agency may—
  - (a) if the proposed action was to suspend the authority for a stated term—suspend the authority for not longer than the proposed suspension term; or
  - (b) if the proposed action was to cancel the authority—cancel the authority or suspend it for a term.
- (3) The administering agency must inform the holder of the decision by written notice.
- (4) The notice must be given within 14 days after the administering agency makes the decision.
- (5) If the administering agency decides to suspend or cancel the authority, the notice must state—
  - (a) the reasons for the decision; and
  - (b) that the holder may appeal against the decision under part 16<sup>126</sup> of the Act.

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126 Part 16 (Review of and appeals against particular decisions) of the Act

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- (6) The decision takes effect on the later of the following—
  - (a) the day when the notice is given to the holder;
  - (b) the day of effect stated in the notice.
- (7) However, if the authority is suspended or cancelled because of the conviction of a person for an offence—
  - (a) the suspension or cancellation does not take effect until—
    - (i) the end of the time to appeal against the conviction; and
    - (ii) if an appeal is made against the conviction—the appeal is finally decided; and
  - (b) the suspension or cancellation has no effect if the conviction is quashed on appeal.

### **165 Action by general manager after marine incident**

- (1) This section applies to a person or ship involved in a marine incident if the general manager has required a shipping inspector to investigate the marine incident under section 126<sup>127</sup> of the Act.
- (2) The general manager may, by signed notice given to the person, or a person who is the owner or master of the ship, suspend or amend the relevant approval.
- (3) The notice must state each of the following—
  - (a) the grounds for suspension or amendment;
  - (b) an outline of the facts and circumstances forming the basis of the general manager's decision;
  - (c) if the notice suspends the approval—the suspension term, which must be reasonable in the circumstances but not longer than 6 months;
  - (d) if the notice amends the approval—the way the approval is amended and for how long the amendment is to be in effect;

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127 Section 126 (Investigation process into marine incident) of the Act

- (e) that the holder of the approval may appeal against the suspension or amendment under part 16<sup>128</sup> of the Act.
- (4) The suspension or amendment takes effect on the later of the following—
  - (a) the day on which the notice is given;
  - (b) the day specified in the notice.
- (5) This section does not limit section 164.<sup>129</sup>

**166 Extension of term of suspension or amendment after marine incident**

- (1) This section applies if the general manager suspends or amends, under section 165(2), an approval after a marine incident.
- (2) If, within 14 days after the general manager has considered a shipping inspector's report about the marine incident, a board of inquiry is not established, but the general manager has given a notice under section 164(1) to the holder of the approval before its suspension or amendment under section 165 ends, the suspension or amendment of the approval continues until the general manager informs the holder of the general manager's decision about the notice under section 164(3).
- (3) However, if a board of inquiry has been established within 14 days after the general manager has considered an inspector's report about the marine incident, the general manager may, by signed notice given to the holder of the approval suspended or amended under section 165, extend the term of the suspension or amendment of the approval until 7 days after the board has given the Minister its report under section 132<sup>130</sup> of the Act.
- (4) If a notice under section 164(1) has been given to the holder of the approval within 7 days after the board has given the Minister its report, the suspension or amendment of the

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128 Part 16 (Review of and appeals against particular decisions) of the Act

129 Section 164 (Procedure for suspension or cancellation)

130 Section 132 (Role of board of inquiry) of the Act

approval under section 165 continues until the general manager informs the holder of the general manager's decision about the notice under section 164(3).

- (5) If, within 14 days after the general manager has considered an inspector's report about the marine incident, a board of inquiry has not been established and the general manager has not given a notice under section 164(1) to the holder of the approval, the suspension or amendment of the approval under section 165 ends and the general manager must notify the holder of the approval accordingly.

### **167 Effect of suspension on renewal of authority**

- (1) An authority that is suspended may be renewed.
- (2) However, the suspension continues until the end of the suspension period.

### **168 Authority to be returned after suspension or cancellation**

- (1) A person whose authority is suspended or cancelled must return the issued authority to the administering agency within 7 days after the suspension or cancellation takes effect, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) If an issued authority is returned to the administering agency, the administering agency must return it to the holder at the end of the suspension term.

## **Division 6 Other provisions about authorities**

### **169 Holder to notify change of address**

If the holder of an authority changes address, the holder must, within 14 days after the change, give the administering agency written notice of the holder's new address, unless the holder has a reasonable excuse.

Maximum penalty—10 penalty units.

**170 Keeping of authority**

- (1) This section applies to an authority other than the following types of authority—
  - (a) a certificate of survey;
  - (b) a design approval certificate;
  - (c) a load line certificate.
- (2) The holder of a current authority must keep the authority or a document about the granting of the authority.  
Maximum penalty—20 penalty units.

**170A Defacing or changing authority**

The holder of an issued authority must not deface or otherwise change the authority.

Maximum penalty—20 penalty units.

**171 Replacement of authority**

- (1) If an issued authority is lost, damaged or destroyed, the holder of the authority may apply to the administering agency for a replacement authority.
- (2) The application must—
  - (a) be made in the approved form; and
  - (b) be accompanied by the fee prescribed under a regulation.
- (3) The administering agency may replace the issued authority only if the administering agency is satisfied it has been lost, damaged or destroyed.

### **171A Copy of authority may be given to person with interest in ship**

- (1) If a person obtains an interest in a ship, the person may apply to the administering agency for a copy of an authority mentioned in section 148(1)(b), (g) or (l)<sup>131</sup> that has been issued for the ship.
- (2) The application must be in the approved form.
- (3) The administering agency may give a copy of the authority to the person if the administering agency is satisfied the person has an interest in the ship.
- (4) The administering agency may change the authority before giving a copy of it to the person to ensure that the authority is addressed to the person.

### **172 Surrender of authority**

- (1) The holder of an authority may surrender it by written notice given to the administering agency.
- (2) The notice must be accompanied by the issued authority.
- (3) The surrender of the authority takes effect—
  - (a) on the day the notice is given; or
  - (b) if a later day is stated in the notice—the later day.

## **Division 7 Transfer of ship's registration**

### **173 Transfer of ship's registration**

- (1) The administering agency may transfer the registration of a ship.
- (2) A person who buys or otherwise acquires a registered ship from another person must, within 14 days after acquiring the ship, apply to the administering agency for the transfer of the ship's registration.

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131 Section 148 (What is an authority)

Maximum penalty—20 penalty units.

- (3) A ship's registered owner may apply for transfer of the ship's registration to another person if—
  - (a) the ship has been sold or otherwise disposed of to the other person; and
  - (b) the registered owner reasonably believes the other person has not applied for transfer of the ship's registration within 14 days after acquiring the ship.
- (4) Until the administering agency receives notice of the transfer of a ship's registration, the registered owner is taken to be, for this regulation, a person who is the owner of the ship.

#### **174 Particular provisions about authorities apply to transfer of ship's registration**

- (1) Sections 149 to 151 and 154<sup>132</sup> apply, with all necessary changes, to an application for the transfer of a ship's registration in the same way they apply to an application for an authority.
- (2) If the administering agency decides to transfer a ship's registration, the administering agency must, within 14 days after making the decision—
  - (a) record the new registered owner's name and address in the relevant register; and
  - (b) issue an amended certificate of registration for the ship in the new registered owner's name.
- (3) If the ship's registration is subject to conditions imposed by the administering agency under section 155,<sup>133</sup> the conditions continue to apply after the registration is transferred.

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132 Sections 149 (Making the application), 150 (Administering agency to decide application within 30 days), 151 (Issuing of authority if application granted) and 154 (Refusal of application for authority)

133 Section 155 (Grant of authority on conditions)



## Part 7 Pilotage areas, compulsory pilotage areas and pilots

### Division 1 Pilotage areas and compulsory pilotage areas

#### 175 Declaration of pilotage areas and compulsory pilotage areas—Act, s 71(a)

- (1) Schedule 5<sup>134</sup> states the areas of Queensland waters that are pilotage areas.
- (2) Schedule 6<sup>135</sup> states the pilotage areas, or parts of pilotage areas, that are compulsory pilotage areas.

### Division 2 Pilots

#### 176 Application of Act, pt 8

- (1) The following are ships to which part 8<sup>136</sup> of the Act applies—
  - (a) a ship that is 50m or more;
  - (b) a small ship (the *relevant ship*) if—
    - (i) it is combined with another small ship for propelling 1 of the ships; and
    - (ii) the total of the lengths of the ships is 50m or more; and
    - (iii) the master of the relevant ship has command of the combined ships;
  - (c) a ship whose owner or master asks for the services of a pilot;

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134 Schedule 5 (Pilotage areas)

135 Schedule 6 (Compulsory pilotage areas)

136 Part 8 (Pilots) of the Act

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- (d) a ship whose master is directed by a harbour master to use the services of a pilot.
- (2) However, part 8 of the Act does not apply to a ship mentioned in subsection (1)(a) or (b) if—
- (a) the ship is operated in a pilotage area by a master who holds a pilotage exemption certificate for the ship in the area and the master personally operates the ship; or
  - (b) the ship is operated in a pilotage area by a master who holds a licence to operate the ship as its master, the licence is endorsed for the pilotage area, and the ship is a registered ship that is not more than 80m; or
  - (c) for a ship that is a dredge operating only in a pilotage area under the charge of a master who holds a pilotage exemption certificate for the dredge for the area but who is not personally operating the dredge—the dredge is being operated by a dredge master who—
    - (i) holds a licence to operate a commercial ship as its master; and
    - (ii) has satisfied the general manager the person is competent to operate the dredge in the area.
- (3) In this section—
- propelling* includes towing.
- small ship* means a ship that is less than 50m.

## 177 Transfer of pilot to ship

- (1) A pilot may be transferred to or from a ship—
- (a) by a pilot ship flying the appropriate distinguishing flag or showing the appropriate distinguishing lights; or
  - (b) by a helicopter that lands on the ship or from which the pilot is lowered by winch.
- (2) The master of a ship to or from which a pilot is to be transferred must give the harbour master for the pilotage area of the pilot's operations all information necessary to determine the suitability of the ship for transferring the pilot by a helicopter.

Maximum penalty—50 penalty units.

- (3) The way the pilot is transferred to a ship is at the sole discretion of the harbour master for the pilotage area of the pilot's operations.
- (4) When a pilot is transferring to or from a ship or conducting a ship as its pilot, the master of the ship must comply with—
  - (a) the Marine Orders, part 57 and part 21, section 17;<sup>137</sup> and
  - (b) any reasonable directions of the master of the pilot ship, or person in charge of the helicopter, from which the pilot is being transferred, about safely transferring the pilot to or from the ship; and
  - (c) the pilot's reasonable directions about the pilot's personal safety.

Maximum penalty for subsection (4)—200 penalty units.

### **178 Master to give pilotage charge to pilot**

After a pilot has transferred to a ship and the ship is about to be navigated in a compulsory pilotage area, the master of the ship must, when requested by the pilot, give pilotage charge of the ship to the pilot, unless the master has a reasonable excuse.

Maximum penalty—100 penalty units.

### **179 Pilotage exemption**

- (1) The general manager may issue a pilotage exemption certificate to a person for a ship or class of ship in a pilotage area.
- (2) The general manager may issue the certificate to the person only if—

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<sup>137</sup> Marine Orders, part 57 (Helicopter Operations) and part 21 (Safety of navigation and emergency procedures), section 17 (Pilot transfer arrangements)

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- (a) the person holds an appropriate licence to operate the ship, or class of ship, as its master under this regulation or the law of the Commonwealth or another State; and
  - (b) the person passes a pilotage exemption test comprising—
    - (i) a written test about the person’s knowledge of the pilotage area; and
    - (ii) a practical ship handling test in the pilotage area; and
  - (c) the general manager is satisfied—
    - (i) the person has completed a reasonable number of voyages in the area as the master, or the chief mate in charge of a navigation watch, of a ship comparable in size to the ship or class of ship; and
    - (ii) marine operations in the pilotage area will not be endangered by issuing the certificate.
- (3) The general manager may issue the certificate only for a ship that is—
- (a) an Australian registered ship, other than a tank ship of 200m or more; or
  - (b) a foreign registered ship that is less than 100m and operating in a pilotage area stated in schedule 7.<sup>138</sup>
- (4) The procedure for obtaining a pilotage exemption certificate is in part 6.<sup>139</sup>
- (5) In this section—
- chief mate*** means—
- (a) for a commercial ship—a chief mate under the USL code, section 2, part 4, clause 34;<sup>140</sup> or
  - (b) for a fishing ship—a chief mate under the USL code,

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138 Schedule 7 (Pilotage areas for which exemption certificate may be issued)

139 Part 6 (Authorities)

140 USL code, section 2 (Qualifications and manning, trading vessels), part 4 (Minimum safety manning of trading vessels), clause 34 (Interpretation)

section 3, part 4, clause 21.<sup>141</sup>

***tank ship*** means a ship that is—

- (a) an oil tanker; or
- (b) a chemical carrier; or
- (c) a liquefied gas carrier.

## **Division 3                      Pilots and fatigue management**

### **180      Fatigue management**

- (1) A person who employs pilots to perform pilotage services on the person's behalf at a port must devise and implement, for the pilots, a fatigue management program complying with subsections (2) and (3).

Maximum penalty—40 penalty units.

- (2) The program, when implemented, must be capable of ensuring that the pilots are properly rested and fit to perform their duties.
- (3) Without limiting subsection (2), the program must make suitable provision for maximum work times, maximum pilotage times and minimum rest times.
- (4) The person must take reasonable steps to ensure the pilots comply with the program.

Maximum penalty—40 penalty units.

- (5) A pilot to whom the program applies must not have the conduct of a ship as its pilot if—
- (a) the pilot's fatigue level may cause the ship to be operated unsafely; or
  - (b) the pilot has not substantially complied with the program.

Maximum penalty for subsection (5)—40 penalty units.

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141 USL code, section 3 (Qualifications and manning, fishing vessels), part 4 (Minimum safety manning of fishing vessels), clause 21 (Interpretation)

## **Division 4                      Reporting movements of ships**

### **181      Reporting movement of ship mentioned in s 176(1)**

- (1) This section applies if a ship mentioned in section 176(1)<sup>142</sup>—
  - (a) is to arrive at, or depart from, a pilotage area; or
  - (b) is to be removed from a berth or anchorage in a pilotage area to another berth or anchorage in the pilotage area.
- (2) A person who is the owner or master of the ship must report the expected time of arrival, departure or removal of the ship to the harbour master for the pilotage area in the approved form within the time stated in subsection (3).

Maximum penalty—100 penalty units.

- (3) The report must be made—
  - (a) for the arrival of the ship—at least 48 hours before the expected arrival; or
  - (b) for the departure or removal of the ship—at least 24 hours before the expected departure or removal.

### **181A    Reporting movement of ship 35m or more but less than 50m**

- (1) This section applies if a ship that is 35m or more but less than 50m—
  - (a) is to arrive at, or depart from, a pilotage area; or
  - (b) is to be removed from a berth or anchorage in a pilotage area to another berth or anchorage in the pilotage area.
- (2) A person who is the owner or master of the ship must report the expected time of a movement of the ship to the harbour master for the pilotage area in the approved form within the time stated in subsection (3).

Maximum penalty—40 penalty units.

- (3) The report must be made—

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142 Section 176 (Application of Act, pt 8)

- (a) for the first movement of the ship in a reporting period for the ship—at least 24 hours before the movement; and
  - (b) for any subsequent movement of the ship in the reporting period for the ship—within the time decided by the harbour master necessary to maintain the effectiveness and efficiency of the Queensland maritime industry.
- (4) In this section—  
*movement*, of a ship, means an arrival, departure or removal of the ship.

*reporting period*, for the ship, means a period of 30 days from the day of a movement of the ship in the pilotage area not otherwise covered by an existing reporting period for the ship in the pilotage area.

## Division 5                      Reporting ship movements to VTS

### 182      Definitions for div 5

In this division—

*area VTS*, for a pilotage area, means the vessel traffic services operated by the general manager in the pilotage area.

*radio* means VHF radio.

*small ship* means a ship that is less than 35m.

### 183      Application of div 5

This division, other than section 190,<sup>143</sup> applies to a ship only if the ship is fitted with radio and is 1 of the following ships—

- (a) a ship that is 35m or more;
- (b) a small ship (the *relevant ship*) if—

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143 Section 190 (Report requested by harbour master)

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- (i) it is combined with another small ship for propelling 1 of the ships; and
- (ii) the length of the combined ships is 35m or more; and
- (iii) the master of the relevant ship has command of the combined ships;
- (c) a small ship whose master asks for the services of a pilot;
- (d) a small ship whose master is directed by a harbour master to use the services of a pilot;
- (e) a small ship carrying dangerous cargo;
- (f) a small ship (the *relevant ship*) if—
  - (i) it is combined with another small ship for propelling 1 of the ships; and
  - (ii) the length of the combined ships is less than 35m and either of the ships is carrying dangerous cargo; and
  - (iii) the master of the relevant ship has command of the combined ships;
- (g) a small ship that is a fishing ship that is 10m or more and operating in a pilotage area or part of a pilotage area stated in schedule 8;<sup>144</sup>
- (h) a small ship that is 10m or more and operating in a pilotage area or part of a pilotage area stated in schedule 9.<sup>145</sup>

### **184 Obligation under s 181 not limited**

This division is in addition to and does not limit a person's obligations under section 181.<sup>146</sup>

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144 Schedule 8 (Pilotage area, or parts of pilotage area, for particular fishing ships for vessel traffic services)

145 Schedule 9 (Pilotage area, or parts of pilotage area, for particular small ships for vessel traffic services)

146 Section 181 (Reporting movement of ship mentioned in s 176(1))



### **185 Entering pilotage area**

The master of a ship that is underway and entering, or about to enter, a pilotage area must report to the area VTS by radio the following particulars for the ship—

- (a) the ship's name;
- (b) the ship's position with reference to the closest aid to navigation;
- (c) the place in the pilotage area to which the ship is navigating;
- (d) the name and quantity of all dangerous cargo the ship is carrying;
- (e) details of damage to, and defects and deficiencies in, the ship that could affect the safety of the ship, a person or the environment;
- (f) if requested by the harbour master for the pilotage area—
  - (i) the ship's draught fore and aft; and
  - (ii) the expected arrival time of the ship at the place to which the ship is navigating.

Maximum penalty—100 penalty units.

### **186 Navigating ship from berth or anchorage**

- (1) This section applies if the master of a ship that is at a berth, or at anchor, in a pilotage area is about to navigate the ship in the pilotage area.
- (2) The master must report to the area VTS by radio the following particulars for the ship—
  - (a) the ship's name;
  - (b) the name of the berth, or if at anchor, the name of the anchorage or the position where the ship is anchored with reference to the closest aid to navigation;
  - (c) if the ship is to leave the area—the place where it will leave the area;

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- (d) if the ship is not leaving the area—the place to which the ship is navigating;
- (e) the name and quantity of all dangerous cargo the ship is carrying;
- (f) details of damage to, and defects and deficiencies in, the ship that could affect the safety of the ship, a person or the environment;
- (g) if requested by the harbour master for the pilotage area—
  - (i) the ship's draught fore and aft; and
  - (ii) the expected arrival time of the ship at the place to which the ship is navigating.

Maximum penalty for subsection (2)—100 penalty units.

### **187 Reaching destination**

- (1) When a ship mentioned in section 185 or 186 arrives at its destination in a pilotage area, its master must, as soon as practicable after the ship has been made fast or is anchored, report to the area VTS by radio the following particulars for the ship—
  - (a) if the ship is secured at a berth—the time when the ship was fully secured;
  - (b) if the ship is anchored—the time when the ship was brought up at anchor.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to a ship leaving a pilotage area.
- (3) However, when a ship leaves a pilotage area, its master must report to the area VTS by radio the time the ship leaves the area.

Maximum penalty—100 penalty units.

**188 Ship entering pilotage area using services of a pilot**

- (1) This section applies if a ship entering a pilotage area is to be navigated in the area using the services of a pilot.
- (2) As soon as practicable after the pilot transfers to the ship, its master must report to the area VTS by radio the time the transfer was made.

Maximum penalty for subsection (2)—100 penalty units.

**189 Ship navigating in pilotage area using services of a pilot**

- (1) This section applies if a ship mentioned in section 186 is being navigated in the area using the services of a pilot.
- (2) As soon as practicable after the ship stops being navigated using the pilot's services, its master must report to the area VTS by radio when the pilot transfers, or is expected to transfer from the ship.

Maximum penalty for subsection (2)—100 penalty units.

**190 Report requested by harbour master**

- (1) The harbour master for a pilotage area may direct the master of any ship navigating in the area and equipped with radio to report to the area VTS by radio the following particulars for the ship—
  - (a) the ship's name;
  - (b) the ship's position by reference to an aid to navigation;
  - (c) the place in the pilotage area to which the ship is navigating.
- (2) The ship's master must not contravene the direction unless the master has a reasonable excuse.

Maximum penalty for subsection (2)—100 penalty units.

## **191 Radio frequencies**

The radio frequencies used by an area VTS are stated in notices to mariners published by the Maritime Safety Agency of Queensland.<sup>147</sup>

# **Part 8 Pilotage fees and conservancy dues**

## **Division 1 Pilotage fees**

### **192 Application of div 1**

This division applies to a ship to which part 8 of the Act applies under section 176.<sup>148</sup>

### **193 Pilotage fees for pilotage service**

- (1) Pilotage fees are payable when a person navigates a ship in a pilotage area and uses the services of a pilot.<sup>149</sup>
- (2) Schedule 10 states the pilotage fee for an arrival, departure or removal of a ship in a pilotage area, other than a non-prescribed fee area.
- (3) A fee in an amount decided by the general manager, that is not more than the reasonable cost of providing the services of the pilot, is the pilotage fee for pilotage for—
  - (a) a non-prescribed fee area; or

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147 The notices are available for inspection at the offices of the Maritime Safety Agency of Queensland during normal office hours or at <[www.msq.qld.gov.au](http://www.msq.qld.gov.au)>.

148 Section 176 (Application of Act, pt 8)

149 Under section 99 (Pilots required for ship navigation in compulsory pilotage area) of the Act, a person must not navigate a ship in a compulsory pilotage area unless the person uses the services of a pilot.

- (b) a movement of a ship (other than an arrival, departure or removal of the ship) in a pilotage area that is not a non-prescribed fee area.
- (4) In this section—
  - non-prescribed fee area* means—
  - (a) the Daintree River pilotage area; or
  - (b) the Noosa pilotage area; or
  - (c) the Whitsundays pilotage area.

#### **194 No pilotage fee for removal of a ship that is part of arrival or departure**

If a removal of a ship is part of the ship's arrival at, or departure from, a pilotage area, no pilotage fee is payable for the removal.

#### **195 Fee if pilot cannot leave ship**

- (1) This section applies if a ship departs from a pilotage area.
- (2) If a pilot cannot leave the ship after pilotage of the ship ends, an additional fee is payable in the amount of the reasonable costs of returning the pilot to the pilotage area.
- (3) Subsection (2) does not apply if the pilot is not able to leave the ship after the pilotage ends because of something beyond the control of the ship's master.

#### **195A Cancellation fee if pilotage amended or cancelled**

- (1) This section applies if a person who is the owner or master of a ship has arranged pilotage for the ship with a harbour master.
- (2) A cancellation fee stated in schedule 10 is payable if the person amends or cancels the pilotage without giving the harbour master at least 3 hours notice of the amendment or cancellation.
- (3) However, if the general manager considers a time other than the time mentioned in subsection (2) is necessary for the

effective and efficient operation of the pilotage service in a pilotage area, the general manager may, by gazette notice, specify another time (not more than 3 hours) for subsection (2) for the pilotage area.

### **195B Delay fee if pilotage delayed**

- (1) This section applies if a person who is the owner or master of a ship—
  - (a) has arranged pilotage for the ship with a harbour master; and
  - (b) has not given the harbour master notice of an amendment or cancellation of the pilotage under section 195A(2).
- (2) A delay fee stated in schedule 10 is payable if pilotage for the ship is delayed for more than 30 minutes, but not more than 2 hours, after the time arranged for the pilotage with the harbour master.
- (3) The delay fee is payable—
  - (a) if the ship is delayed for more than 30 minutes but not more than 1 hour—for the first hour; or
  - (b) if the ship is delayed for more than 1 hour but not more than 2 hours—for each of the first 2 hours.
- (4) If the ship is delayed for more than 2 hours—
  - (a) the pilotage is taken to have been cancelled; and
  - (b) a cancellation fee stated in schedule 10 is payable.
- (5) However, if the general manager considers times other than the times mentioned in subsection (3) or (4) are necessary for the effective and efficient operation of the pilotage service in a pilotage area, the general manager may, by gazette notice, specify other times (not less than the times mentioned) for subsection (3) or (4) for the pilotage area.
- (6) In this section—

***delay*** does not include delay caused by weather affecting the ship's ability to be safely navigated.

## **Division 2                      Conservancy dues**

### **196      Conservancy dues for ships**

- (1) Conservancy dues are payable for the ships mentioned in section 176(1)(a) to (d).<sup>150</sup>
- (2) A conservancy due is payable on the day the ship completes its first arrival at, removal within or departure from, a compulsory pilotage area.
- (3) The fee payable under subsection (2) includes all the ship's arrivals at, removals within or departures from, any compulsory pilotage area for 30 days after the fee is payable.
- (4) After the 30 days, subsections (2) and (3) again apply.
- (5) However, subsection (1) does not apply to a ship that arrives at a pilotage area for any of the following purposes and does not otherwise discharge or load any cargo or land or take on board any passenger in the pilotage area—
  - (a) discharging residue or slops;
  - (b) relieving stress of weather or distress to the ship from anything else;
  - (c) taking off a sick or injured passenger or any of the ship's crew;
  - (d) effecting repairs;
  - (e) refitting or docking;
  - (f) obtaining fuel or provisions for the ship.

## **Division 3                      General**

### **197      Definition for div 3**

In this division—

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150 Section 176 (Application of Act, pt 8)

*fees* means pilotage fees for compulsory pilotage areas or conservancy dues payable for a ship under this part.

**198 Who is liable to pay fees**

The owner of a ship must pay—

- (a) the fees payable for the ship; and
- (b) interest on unpaid fees under section 200.

**199 Time for paying fees**

The owner of a ship must pay fees for the ship within 30 days after the day the invoice for the fees is issued.

**200 Interest on unpaid fees**

Interest calculated daily at the rate stated in schedule 10 is payable on fees that are not paid within the required time under section 199.

**201 Recovery of fees and interest**

Unpaid fees for a ship and interest on them may be recovered by the State from the ship's owner as a debt.

**Part 9 Other matters about marine safety**

**Division 1 Approval of harbour masters for pt 9**

**202 Definition for pt 9**

In this part—



*harbour master* means a harbour master approved by the chief executive under section 203(1) to exercise powers under this part.

**203 Chief executive may approve harbour master and general manager may give directions**

- (1) The chief executive may approve a harbour master to exercise powers under this part.
- (2) The powers may be limited by the approval or by a later notice of the chief executive to the harbour master.
- (3) The general manager may give a harbour master any directions about the exercise of the harbour master's powers the general manager considers necessary for marine safety.

**204 Limitation on exercise of power under this part**

- (1) A harbour master may exercise a power under this part only if the harbour master considers it necessary to ensure safety.
- (2) The powers under sections 205 and 206 for a marine incident may not be exercised by a harbour master after the first of the following—
  - (a) the end of the marine incident;
  - (b) the end of 14 days after the harbour master first exercises a power under this part for the marine incident.
- (3) A harbour master must comply with a direction of the general manager under section 203(3).

**Division 2 Marine incidents outside pilotage area**

**205 Harbour master's powers for marine incident outside pilotage area**

- (1) This section applies if a harbour master believes a marine incident has happened, or is likely to happen, in an area (the *relevant area*) of waters outside a pilotage area.

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- (2) The harbour master may direct the master of a ship in or adjacent to the relevant area to navigate or otherwise operate the ship in a specified way, including, for example, in any of the following ways—
- (a) not to cause the ship to enter the relevant area;
  - (b) to cause the ship to enter the relevant area in a specified way;
  - (c) to navigate the ship in the relevant area in a specified way;
  - (d) to anchor, berth or moor the ship at a specified place in the relevant area;
  - (e) to move the ship from an anchorage, berth or mooring in the relevant area;
  - (f) to cause the ship to leave the relevant area or to leave the relevant area in a specified way.
- (3) The harbour master may direct the person in charge of a place in, or adjacent to, the relevant area—
- (a) to allow a ship to be berthed at the place or moved from the place; or
  - (b) to allow access through the place to and from the ship.
- (4) A person must comply with a direction under subsection (2) or (3) unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

- (5) A direction under subsection (2) may be given to any of the ship's crew if it is not possible to give the direction to the master of the ship.
- (6) A direction given to any of the ship's crew is taken to have been given to the master of the ship.

## **Division 3                      Removal of obstruction to navigation outside pilotage area**

### **206      Direction to person about obstruction**

- (1) A harbour master may direct a person who is responsible for something that is obstructing, or may obstruct, navigation outside a pilotage area, to remove it.
- (2) A person must comply with the direction unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—200 penalty units.

## **Division 4                      Buoy moorings**

### **207      Buoy mooring category areas**

- (1) The general manager may, by gazette notice, define areas of Queensland waters as category areas for buoy moorings.
- (2) The general manager may define a category area as—
  - (a) a category 1 area; or
  - (b) a category 2 area.
- (3) A category area that is not defined as a category 1 or 2 area is a category 3 area.
- (4) The general manager may, by written agreement with a person (a *mooring manager*), vest in the person the management and control of buoy moorings within a category 1 area.

*Examples of management and control of buoy moorings within a category 1 area—*

1. The capacity to charge fees for the use of a buoy mooring.
2. The capacity to set conditions on the placement of a buoy mooring.
3. The capacity to set conditions on the use of a buoy mooring.

## **208 Establishment of unauthorised buoy mooring**

- (1) A person must not establish a buoy mooring—
  - (a) in a category 1 area, unless the mooring manager for the area consents to the establishment of the buoy mooring; or
  - (b) in a category 2 or 3 area, unless the general manager approves the establishment of the buoy mooring under section 209.

Maximum penalty—50 penalty units.

- (2) If a person establishes a buoy mooring in a pilotage area in contravention of subsection (1), a harbour master may direct the person to remove the buoy mooring.
- (3) If a person establishes a buoy mooring outside a pilotage area in contravention of subsection (1), the general manager may direct the person to remove the buoy mooring.
- (4) A person given a direction under subsection (2) or (3) must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—50 penalty units.

- (5) A person must not use a buoy mooring—
  - (a) in a category 1 area, unless the mooring manager for the area has consented to the establishment of the buoy mooring; or
  - (b) in a category 2 or 3 area, unless the general manager has approved the establishment of the buoy mooring under section 209.

Maximum penalty—50 penalty units.

## **209 Approval of establishment of buoy mooring by general manager**

- (1) The general manager may approve the establishment of a buoy mooring for a category 2 or 3 area.
- (2) The approval may be for the establishment of—
  - (a) a restricted use buoy mooring; or

- (b) an unrestricted use buoy mooring.
- (3) The procedure for obtaining the approval is in part 6.<sup>151</sup>

## **210 Limitations on buoy mooring approvals**

- (1) The general manager may approve the establishment of a buoy mooring only if the general manager is satisfied the mooring does not significantly interfere with—
  - (a) marine safety; or
  - (b) the effectiveness or efficiency of the Queensland maritime industry.
- (2) If a buoy mooring is to be established within a port, the general manager may approve the establishment of the buoy mooring only if the general manager is satisfied the port authority for the port has consented to the establishment.

## **211 Conditions of buoy mooring approvals**

- (1) The conditions the general manager may impose on an approval to establish a buoy mooring may include conditions about the colour, shape and size of the buoy.
- (2) Subsection (1) does not limit section 155.<sup>152</sup>

## **212 Notice of establishment of buoy mooring**

- (1) A person who establishes a buoy mooring under an approval to establish it must give written notice under this section.  
Maximum penalty—20 penalty units.
- (2) The notice must contain the details required by the general manager when issuing the approval.
- (3) The details required by the general manager may include the following—
  - (a) the date the buoy mooring was placed;

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151 Part 6 (Authorities)

152 Section 155 (Grant of authority on conditions)

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- (b) the precise location of the buoy mooring;
- (c) the type and size of the mooring apparatus.

*Examples of details required for paragraph (c)—*

1. The shape, construction and dimensions of the mooring block.
  2. The length and diameter of the chain or rope connecting the buoy to the mooring block.
- (4) The notice must be given to—
    - (a) for a buoy mooring established in a pilotage area—the harbour master; or
    - (b) for a buoy mooring established outside a pilotage area—the general manager.
  - (5) The notice must be given within 14 days after the buoy mooring is established.

### **213 Buoy mooring to display identifying number**

The holder of an approval to establish a buoy mooring must ensure—

- (a) the identifying number issued by the general manager for the buoy mooring is permanently and legibly displayed on the buoy; and
- (b) the buoy and its identifying number are not obscured from view.

Maximum penalty—20 penalty units.

### **214 Unlawful use of buoy mooring**

- (1) A person must not moor a ship to a restricted use buoy mooring unless the ship is the ship stated in the approval to establish the buoy mooring.

Maximum penalty—50 penalty units.

- (2) A person must not moor a ship to an unrestricted use buoy mooring unless the person has the consent of the holder of the

approval to establish the buoy mooring.

Maximum penalty—50 penalty units.

**215 Removal of buoy mooring on expiry, cancellation or surrender of approval**

- (1) This section applies if an approval to establish a buoy mooring has expired, or has been cancelled or surrendered under part 6.<sup>153</sup>
- (2) The person to whom the approval was granted must remove all of the following within the time stated in subsection (3), unless the person has a reasonable excuse—
  - (a) the buoy whose mooring is authorised under the authority;
  - (b) the mooring apparatus for the buoy;
  - (c) the mooring block for the buoy.

Maximum penalty—20 penalty units.

- (3) The buoy, its mooring apparatus and its mooring block must be removed—
  - (a) if the approval has expired or been surrendered—within 14 days after the expiry or surrender; or
  - (b) if the approval has been cancelled and no appeal is made against the cancellation under part 16<sup>154</sup> of the Act—within 14 days after the time for making an appeal ends; or
  - (c) if the approval has been cancelled and an appeal is made against the cancellation and the court confirms the cancellation—within 14 days after the confirmation of the cancellation.
- (4) If the person does not remove the buoy mooring, mooring apparatus or mooring block within the time stated in subsection (3)—

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153 Part 6 (Authorities)

154 Part 16 (Review of and appeals against particular decisions) of the Act

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- (a) if the buoy mooring is established in a pilotage area—the harbour master may direct the person to remove the mooring, apparatus or block; or
  - (b) if the buoy mooring is established outside a pilotage area—the general manager may direct the person to remove the mooring, apparatus or block.
- (5) The person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (5)—50 penalty units.

## **Division 5                      Directions of harbour master or general manager**

### **216 Harbour master or general manager may carry out direction**

- (1) This section applies if a person has not complied with a direction given to the person by—
- (a) a harbour master under section 205, 206, 208 or 215;<sup>155</sup> or
  - (b) the general manager under section 208 or 215.
- (2) Also, this section applies if—
- (a) it appears to a harbour master or general manager there is no-one to whom a direction under section 205, 206, 208 or 215 may be given; and
  - (b) the harbour master or general manager is satisfied on reasonable grounds that the harbour master or general manager must act urgently without giving a direction.
- (3) The harbour master or general manager may carry out the direction or proposed direction, including by asking a person

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<sup>155</sup> Section 205 (Harbour master’s powers for marine incident outside pilotage area), 206 (Direction to person about obstruction), 208 (Establishment of unauthorised buoy mooring) or 215 (Removal of buoy mooring on expiry, cancellation or surrender of approval)



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who is a suitably qualified person to carry out the direction or proposed direction.

- (4) Without limiting subsection (3), the harbour master or general manager may—
- (a) board a ship and operate it, including, for example, by moving or navigating it; or
  - (b) enter or remain in a place in, or adjacent to, an area to board a ship and anchor, berth, moor or move it.

- (5) In this section—

*suitably qualified person* means a person who—

- (a) is a shipping inspector or may be appointed as a shipping inspector under section 157(1)<sup>156</sup> of the Act; and
- (b) the harbour master or general manager reasonably believes has qualifications, skills or experience necessary to safely carry out the direction or proposed direction.

## **217 Recovery by State of expenses of carrying out direction**

- (1) This section applies if a harbour master or the general manager incurs expense, whether the expense is the harbour master's expense or the State's expense, in exercising a power under section 216.
- (2) The amount of the expense may be recovered by the State as a debt.
- (3) The following persons are liable for the expense—
  - (a) if a direction under section 205(2) or 206(1) was given to the master of a ship and the master did not comply with the direction—the master and the owner of the ship;
  - (b) if a direction under section 205(2) or 206(1) could have been given to the master of a ship but was not given for

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156 Section 157 (Appointment of shipping inspectors) of the Act

- the reasons mentioned in section 216(2)—the master and the owner of the ship;
- (c) if a direction was given to a person under section 205(3) or 206(1) and the person did not comply with the direction—the person;
  - (d) if a direction under section 205(3) or 206(1) could have been given to a person but was not given for the reasons mentioned in section 216(2)—the person.
- (4) If, under subsection (3), more than 1 person is liable for the same expense, the persons who are liable for the expense are jointly and severally liable.

## **Division 6                      Aquatic events**

### **218      Aquatic events**

- (1) This section applies if the holding of an aquatic event is likely to affect the normal operation of ships in the area of the event.

*Examples—*

1. An aquatic event involving people swimming in an area well used by ships.
  2. An aquatic event being held in a river where commercial ships will continue to operate.
- (2) The person holding the aquatic event must obtain consent for the holding of the event from—
- (a) if the event is to be held wholly within a pilotage area—the harbour master for the pilotage area; or
  - (b) otherwise—the general manager.

Maximum penalty—50 penalty units.

- (3) A person must comply with any conditions applying to the person that are imposed on the consent by the general manager under section 155.<sup>157</sup>

Maximum penalty—50 penalty units.

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<sup>157</sup> Section 155 (Grant of authority on conditions)

- (4) The consent can not authorise noncompliance with this regulation.
- (5) The procedure for obtaining consent for an aquatic event is in part 6.<sup>158</sup>

## **Division 7                      Ships not to be anchored or    otherwise operated in particular    places**

### **219      Prohibition on anchoring in particular places**

- (1) A person who is the owner or master of a ship must not anchor the ship—
  - (a) within 10m of a boat ramp or jetty; or
  - (b) within 50m of an underwater cable or pipeline if a sign indicates the presence of the cable or pipeline; or
  - (c) in waters where the presence of an anchored ship involves danger to aircraft or other ships.

Maximum penalty—100 penalty units.

- (2) For subsection (1)(c), the general manager, by gazette notice, may state the waters where the presence of anchored ships involves danger to aircraft or other ships.

### **220      Prohibition on ship operations near particular structures**

- (1) A person who is the owner or master of a ship must not anchor, berth, moor or operate the ship within 100m of a dam wall, spillway or weir.

Maximum penalty—100 penalty units.

- (2) However, subsection (1) does not apply to the owner or master of a ship engaged in genuine repairs to, or maintenance work on, the dam wall, spillway or weir.

## **221 Unlawful operations if endangering marine safety**

- (1) A person who is the owner or master of a ship must not anchor, berth, moor or operate the ship in waters if doing so endangers marine safety.

Maximum penalty—100 penalty units.

- (2) For subsection (1), the general manager, by gazette notice, may state the waters where the anchoring, berthing, mooring or operating of a ship, or type of ship, endangers marine safety.

*Example—*

The general manager may publish a gazette notice stating that the operating of a ship within 60m either side of the boundaries of a flagged swimming area endangers marine safety.

- (3) A person must not conduct an activity in waters if doing so in the waters endangers marine safety.

Maximum penalty—100 penalty units.

*Examples of an activity—*

water skiing or tobogganing

- (4) For subsection (3), the general manager, by gazette notice, may state the waters where the conducting of a stated activity endangers marine safety.

- (5) A person who is the owner or master of a ship must not operate the ship within 30m of a diver in the water if a code A flag is displayed in the vicinity of the diver.

Maximum penalty—100 penalty units.

- (6) However, subsection (5) does not apply to the ship attending the diver.

## **Division 8 Other safety matters**

### **222 Water skiing**

- (1) A skier must wear a PFD type 2 or 3.

Maximum penalty—100 penalty units.

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- (2) A skier does not commit an offence against subsection (1) if—
- (a) the skier is participating in a skiing event; and
  - (b) it is impractical or unsafe for the skier to wear a personal flotation device.
- (3) A person (an **operator**) must not operate a ship towing a skier unless—
- (a) if the skier is required to wear a PFD type 2 or 3 under subsection (1)—the skier is wearing the PFD; and
  - (b) there is another person (an **observer**) on the ship, who is more than 12 years, and is competent to act under subsection (5), watching the skier at all times.

Maximum penalty—100 penalty units.

- (4) Subsection (3)(a) does not apply if—
- (a) the operator is towing a skier; and
  - (b) the skier is participating in a skiing event; and
  - (c) it is impractical or unsafe for the skier to wear a personal flotation device.
- (5) The observer must immediately tell the operator if—
- (a) there is a danger, or potential for danger, to the skier; or
  - (b) the skier signals the observer; or
  - (c) the skier has a mishap.
- (6) In this section—

**skier** means a person who is water skiing.

**skiing event** means any of the following—

- (a) a commercial display;
- (b) a trick or novelty skiing event in a program of events organised by a genuine water sports entity;
- (c) a genuine practice session for a display or event mentioned in paragraph (a) or (b).

## Part 9A Marine zones

### 222A Marine zones

- (1) An area listed in schedule 14A, column 1 is a marine zone.
- (2) A person who is the owner or master of a ship must not operate the ship in a marine zone in contravention of a requirement listed in schedule 14A, column 2 for the marine zone.

Maximum penalty—200 penalty units.

### 222B Proposal for marine zone

- (1) A government entity or a local government (a *proposing entity*) may give the general manager a proposal for an area (a *proposed area*) to be a marine zone under section 222A.
- (2) The proposal must be in the approved form.
- (3) The approved form may require the proposing entity to include any of the following information in the proposal—
  - (a) a description of the proposed area, including details of the boundaries of the proposed area and a map or chart showing its locality;
  - (b) the requirements to be placed on the operation of a ship in the proposed area;
  - (c) why the proposed marine area should be a marine zone;
  - (d) who the proposing entity has consulted, the nature of the consultation and the results of the consultation.

### 222C Consultation for marine zone

- (1) Before a proposing entity gives the general manager a proposal under section 222B in relation to a proposed area, the proposing entity must—
  - (a) consult about the proposal with—
    - (i) the harbour master for the proposed area; and

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- (ii) each person carrying on an established business in the proposed area; and
    - (iii) if the proposing entity is a government entity—the local government for the proposed area; and
  - (b) publish, at least once in a newspaper circulating generally in the proposed area, a notice stating—
    - (i) a description of the proposed area, including details of the boundaries of the area and a map or chart showing its locality; and
    - (ii) the requirements to be placed on the operation of a ship in the proposed area; and
    - (iii) why the proposed area should be a marine zone; and
    - (iv) that any person may make written submissions about the proposal; and
    - (v) the period during which submissions may be made; and
    - (vi) the requirements for properly making a submission; and
    - (vii) a contact telephone number for information about the proposal or making a submission.
- (2) The consultation period must be for at least 28 days after notice is first published under subsection (1)(b).

## **Part 10                      Miscellaneous**

### **Division 1                      Fees and charges**

#### **223      Fees and charges**

The fees and charges payable under this regulation are stated in schedule 10.<sup>159</sup>

#### **224      Refund of fees if application is refused**

- (1) Subsection (2) applies if the chief executive refuses an application for any of the following—
  - (a) the registration of a recreational ship;
  - (b) a recreational marine driver licence;
  - (c) the renewal or amendment of the registration or of a licence mentioned in paragraph (a) or (b);
  - (d) the transfer of the registration of a recreational ship.
- (2) The chief executive must refund the fees paid by the applicant in relation to the application, other than the chief executive's reasonable costs of assessing the application.
- (3) Subsection (4) applies if the general manager refuses an application for any of the following—
  - (a) an authority in relation to a commercial or fishing ship;
  - (b) the renewal or amendment of an authority in relation to a commercial or fishing ship;
  - (c) the transfer of the registration of a commercial or fishing ship.
- (4) The general manager must refund the fees paid by the applicant in relation to the application, other than the general manager's reasonable costs of assessing the application.

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<sup>159</sup> Schedule 10 (Fees, charges and related matters)



## **225 Refund of fees if ship's registration is surrendered**

- (1) This section applies if, under section 172<sup>160</sup>—
  - (a) the chief executive receives a surrender of a recreational ship's registration; or
  - (b) the general manager receives a surrender of a commercial or fishing ship's registration.
- (2) The chief executive or general manager must refund to the person in whose name the ship was registered the unexpired part (the *refund*) of the registration fee.
- (3) The refund is to be worked out on a proportional basis according to the number of whole days from the end of the day when the registration was surrendered to the beginning of the day when the ship's registration would have otherwise expired.
- (4) The chief executive or general manager may deduct from the refund the administration fee prescribed for this section in schedule 10.

## **Division 2                      Production of authorities or documents**

### **226 Shipping inspector may allow authority or document to be produced elsewhere**

- (1) This section applies if a shipping inspector—
  - (a) boards a ship under section 165(1)<sup>161</sup> of the Act, to find out whether the Act is being complied with; and
  - (b) requires, under section 175(1)<sup>162</sup> of the Act, a person to produce an issued authority that is a licence, or a document, that is required to be kept by the person under section 170<sup>163</sup> of this regulation; and

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160 Section 172 (Surrender of authority)

161 Section 165 (Boarding of ships and entry of vehicles) of the Act

162 Section 175 (Power to require production of documents) of the Act

163 Section 170 (Keeping of authority)

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- (c) the person is unable to produce the licence or document.
- (2) The shipping inspector may allow the person to produce the licence or document within a stated time, not being more than 48 hours after the requirement is made, to the officer in charge of an office stated by the inspector.
- (3) In this section—
  - office* means—
    - (a) an office of the Maritime Safety Agency of Queensland; or
    - (b) an office of the Queensland Boating and Fisheries Patrol; or
    - (c) a police station.

## **Division 3                      Signs**

### **226A Interfering with sign**

- (1) This section applies if a government entity or a local government erects a sign in or near—
  - (a) waters to which section 221 applies; or
  - (b) a marine zone listed in schedule 14A.
- (2) A person must not interfere with the sign unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

## Part 11 Transitional provisions

### Division 1 Matters relevant to former Act

#### 227 Safety equipment for ships under a standard practice instruction

- (1) This section applies if—
- (a) a commercial ship or fishing ship to which part 2, division 3 or 4<sup>164</sup> (the *applicable division*) applies—
    - (i) was the subject of an application mentioned in the expired section 196<sup>165</sup> of the 1995 regulation for the survey and registration of the ship under the 1987 regulation; or
    - (ii) was built and operating immediately before 1 January 1996; and
  - (b) a standard practice instruction given by the former board under the former Act that stated safety equipment for ships and how the equipment should be marked, stowed, replaced or serviced applied to the ship; and
  - (c) there is an inconsistency between the instruction and the requirements of the applicable division for the ship; and
  - (d) the ship is equipped with the safety equipment required under the applicable division if read subject to the instruction; and
  - (e) the equipment is marked, stowed, replaced or serviced in the way required under the instruction.
- (2) The ship is taken to comply with the requirements of the applicable division.

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164 Part 2 (Safety equipment), division 3 (Other safety equipment for commercial ships) or 4 (Other safety equipment for fishing ships)

165 Section 196 (Applications under existing regulations) of the 1995 regulation expired on 1 January 1997.

**228 Design and construction of ships under a standard practice instruction**

- (1) This section applies if—
  - (a) a commercial ship or fishing ship—
    - (i) was the subject of an application mentioned in the expired section 196 of the 1995 regulation for the survey and registration of the ship under the 1987 regulation; or
    - (ii) was built and operating immediately before 1 January 1996; and
  - (b) a standard practice instruction given by the former board under the former Act about the design or construction of ships applied to the ship; and
  - (c) there is an inconsistency between the instruction and a standard about the design or construction of ships that applies to the ship under this regulation; and
  - (d) the ship is designed or constructed as required under the standard if read subject to the instruction.
- (2) The ship is taken to comply with the standard.

**229 Licensing exceptions—particular commercial ships less than 35m**

- (1) This section applies to a commercial ship that—
  - (a) is less than 35m; and
  - (b) was registered under the former Act immediately before its repeal;<sup>166</sup> and
  - (c) was operated without an engineer before the repeal.
- (2) Despite section 88,<sup>167</sup> the ship may continue to be operated without an engineer or other person holding a marine engine driver licence if—

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<sup>166</sup> The former Act was repealed on 3 June 1994.

<sup>167</sup> Section 88 (Required licences for commercial ships)

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- (a) the ship is designed to operate with an unattended machinery space; and
  - (b) the ship's propulsion machinery may be operated from the bridge or wheelhouse; and
  - (c) the ship is on a voyage that—
    - (ii) is intended to be less than 15 hours; and
    - (ii) starts and ends at a place where maintenance and service facilities are available; and
  - (d) a nominated safety hand is on board; and
  - (e) after considering the operational requirements and the fatigue factor of the crew, the owner or master of the ship reasonably believes the ship's operations will not be endangered by operating the ship without an engineer or other person holding a marine engine driver licence.
- (3) In this section—
- nominated safety hand*** means a person who has—
- (a) successfully completed the course 'Occupational Health and Safety at Sea' provided by a training provider approved by the general manager to provide the course or a course equivalent to that course; and
  - (b) demonstrated, to the reasonable satisfaction of the owner or master of the ship, the person's—
    - (i) knowledge and proficiency in the operation of the ship's fire fighting appliances, machinery and pumping systems; and
    - (ii) ability to satisfactorily complete the records required by section 134<sup>168</sup> for the things mentioned in subparagraph (i).
- (4) This section expires 5 years after it commences.

## **Division 2                      Transition to particular provisions**

### **230      Insurance by accredited persons**

- (1) This section applies if, at the commencement of this section, an accredited person holds a product liability policy that complies with section 31 of the 1995 regulation.
- (2) While the policy remains in force, the accredited person is taken to comply with section 51.
- (3) However, if the accredited person has not complied with section 31(1)(b) of the 1995 regulation, the person must give the general manager a copy of the certificate of insurance or renewal of the policy.
- (4) Also, subsection (2) only applies until the next renewal of the policy is due.

### **231      Capacity labels**

Section 77<sup>169</sup> does not apply to a person who is the owner or master of a registrable recreational ship until 1 September 2005.

### **232      Application of Act, pt 5, div 3**

- (1) This section applies despite anything in section 84(2)(f).<sup>170</sup>
- (2) Part 5, division 3 of the Act does not apply until 1 September 2005 to a recreational ship that—
  - (a) is powered by an engine of 4.5kW or less; or
  - (b) is not capable of a speed greater than 10kn; or
  - (c) does not have a planing or non-displacement hull.

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169 Section 77 (Capacity label of registrable recreational ship to be attached)

170 Section 84 (Application of Act, pt 5, div 3)

### **233 Crew to complete safety course**

Section 110<sup>171</sup> does not apply to a person who is part of the crew of a commercial or fishing ship, or to a person who is the owner or master of a commercial or fishing ship, until 1 September 2006.

## **Division 3 Transition from 1995 regulation generally**

### **234 Continuation of authorities under 1995 regulation**

- (1) This section applies to an authority that—
  - (a) was issued by the chief executive under the 1995 regulation; and
  - (b) is in force immediately before the commencement of this section.
- (2) The authority continues to have effect as an authority under this regulation.

### **235 Applications for authorities under 1995 regulation**

- (1) This section applies if—
  - (a) an application was made to the chief executive for an authority under the 1995 regulation; and
  - (b) the application was not finally decided by the chief executive before the commencement of this section.
- (2) The application continues to have effect as an application under this regulation.

### **236 References to 1995 regulation**

In an Act or document, a reference to the 1995 regulation may, if the context permits, be taken to be a reference to this regulation.

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171 Section 110 (Crew to complete safety course)

## **Division 4                      Other transitional provisions**

### **236A Transitional provision for the Transport Operations (Marine Safety) and Other Legislation Amendment Regulation (No. 1) 2005—pilotage fees**

- (1) This section applies to a ship if—
  - (a) the ship is 50m or more but less than 160m; and
  - (b) the ship may carry more than 12 passengers under the ship's registration certificate; and
  - (c) the ship's port visit program and fares for carrying individual passengers, for a period after the commencement of this section, was made publicly available before 2 October 2004; and
  - (d) the ship's port visit program includes more than 6 movements of the ship in any pilotage area in a year.
- (2) The general manager may, on written application by the owner or master of the ship, give an exemption from the payment of pilotage fees for the ship to the extent that the pilotage fees are calculated or decided under section 193 or schedule 10.
- (3) The general manager may only give the exemption for the ship if the general manager is satisfied about the matters mentioned in subsection (1) in relation to the ship.
- (4) The exemption must not be for a period that is more than for the period of the advertised fares for the advertised port visit program.
- (5) The pilotage fee for the services of a pilot, for a movement of the ship in a pilotage area during the period of the exemption, is the amount decided by the general manager that is not more than the reasonable cost of providing the service.
- (6) Also, the amount that may be decided under subsection (5) for the movement of the ship in the pilotage area must not be more than the pilotage fee that would have been payable for



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the movement had it occurred immediately before the commencement of this section.

- (7) This section expires on 30 June 2007.

**236B Transitional provision for the Transport Operations (Marine Safety—Examining and Training Approvals (Recreational Ships and Personal Watercraft)) Standard 2005**

- (1) Despite the 2005 standard, the *Transport Operations (Marine Safety—Marine Driver Licence Approvals) Interim Standard (No. 2) 2005* as in force immediately before its repeal continues to apply to the following entities after its repeal—
- (a) an entity that, before 1 January 2006, has an approval;
  - (b) an entity that, before 1 January 2006, has applied for an approval or renewal of an approval under section 156.
- (2) However, an entity under subsection (1) applying for renewal of an approval under section 156 on or after 1 January 2006 must satisfy the general manager that the entity qualifies for renewal under the 2005 standard.
- (3) In this section—

**2005 standard** means the *Transport Operations (Marine Safety—Examining and Training Program Approvals (Recreational Ships and Personal Watercraft)) Standard 2005*.

**approval** means—

- (a) an approval of an entity to conduct examinations for issuing licences to operate recreational ships as its master under section 103;<sup>172</sup> or
- (b) an approval of an entity to provide training programs in the operation of recreational ships under section 104.<sup>173</sup>

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172 Section 103 (Approval of entity to conduct examinations)

173 Section 104 (Approval of entity to provide training programs for the operation of ships)

**237 Transitional provision for the Transport Operations (Marine Safety—Accreditation as Ship Designer, Ship Builder or Marine Surveyor) Standard 2006**

- (1) The interim standard as in force immediately before its repeal continues to apply to the following—
  - (a) a person who, immediately before 1 March 2006, was accredited as a ship designer, ship builder or marine surveyor and the person's accreditation;
  - (b) a person whose accreditation application or renewal application, made before 1 March 2006, had not been finally dealt with before that day and the person's accreditation application or renewal application;
  - (c) a person who, before 1 March 2006, started a course of study at an educational institution for a qualification, or an apprenticeship to qualify, for accreditation as a ship designer, ship builder or marine surveyor and an accreditation application made by the person after that day.
- (2) If, on or after 1 March 2006, a person mentioned in subsection (1) makes a renewal application—
  - (a) the 2006 standard, other than sections 7, 8 and 9,<sup>174</sup> applies in relation to the renewal application; and
  - (b) the person must satisfy the general manager that the person qualifies for renewal under the remaining provisions of the 2006 standard.
- (3) Subsections (1) and (2) apply despite the 2006 standard.
- (4) In this section—

**2006 standard** means the *Transport Operations (Marine Safety—Accreditation as Ship Designer, Ship Builder or Marine Surveyor) Standard 2006*.

**accreditation application** means an application for accreditation under section 44 as a ship designer, ship builder or marine surveyor.

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<sup>174</sup> Sections 7 (Specific requirements for ship designers), 8 (Specific requirements for ship builders) and 9 (Specific requirements for marine surveyors)

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***interim standard*** means the *Transport Operations (Marine Safety—Qualifications for Accreditation for Ship Designers, Ship Builders and Marine Surveyors) Interim Standard (No. 2) 2005*.

***renewal application*** means an application under section 156 for renewal of accreditation as a ship designer, ship builder or marine surveyor.

## **Schedule 1      Standards**

### section 7

- 1 AS 1499—1996 (Personal flotation devices—Type 2)
- 2 AS 1512—1996 (Personal flotation devices—Type 1)
- 3 AS 1799 (Small Pleasure Boats Code)
  - AS 1799.1—1992 (General requirements for power boats)
- 4 AS/NZS 1850—1997 Portable fire extinguishers—Classification, rating and performance testing)
- 5 AS 1851 (Maintenance of fire protection equipment)
  - AS 1851.1—1995 (Portable fire extinguishers and fire blankets)
- 6 AS 2092—2004 (Pyrotechnic, marine distress flares and signals for pleasure craft)
- 7 AS 2260—1996 (Personal flotation devices—Type 3)
- 8 AS 2444—1995 (Portable fire extinguishers and fire blankets—Selection and location)
- 9 AS 3846—1998 (The handling and transport of dangerous cargoes in port areas)
- 10 AS/NZS 4280—1995 406 (MHz satellite distress beacons)
- 11 AS/NZS 4330—1995 (121.5 and 243.0 MHz emergency position indicating radio beacons (EPIRBs) including personal EPIRBs)
- 12 BS EN 12628:1999 (Diving accessories. Combined buoyancy and rescue devices. Functional and safety requirements, test methods)
- 13 ISO 6185:1982 (Ship building and marine structures—Inflatable boats—Boats made of reinforced elastomers or plastomers)

## **Schedule 2      Classes of ships**

section 63

### **Part 1                      Commercial ships**

#### **Class 1 passenger ships**

- class 1A—seagoing passenger ship for use in all operational areas up to, and including, unlimited operations
- class 1B—seagoing passenger ship for use in all operational areas up to, and including, offshore operations
- class 1C—seagoing passenger ship for use in all operational areas up to, and including, restricted offshore operations
- class 1D—sheltered waters passenger ship for operations in partially smooth waters and smooth waters only
- class 1E—sheltered waters passenger ship for use in smooth waters only
- class 1F—hire and drive ship

#### **Class 2 non-passenger ships**

- class 2A—seagoing non-passenger ship for use in all operational areas up to, and including, unlimited operations
- class 2B—seagoing non-passenger ship for use in all operational areas up to, and including, offshore operations
- class 2C—seagoing non-passenger ship for use in all operational areas up to, and including, restricted offshore operations

**Schedule 2 (continued)**

- class 2D—sheltered waters non-passenger ship for operations in partially smooth waters and smooth waters only
- class 2E—sheltered waters non-passenger ship for use in smooth waters only

**Part 2                      Fishing ships****Class 3 fishing ships**

- class 3A—seagoing fishing ship for use in all operational areas up to, and including, unlimited operations but does not include a ship on a voyage to or from a country other than Australia
- class 3B—seagoing fishing ship for use in all operational areas up to, and including, offshore operations
- class 3C—seagoing fishing ship for use in all operational areas up to, and including, restricted offshore operations
- class 3D—sheltered waters fishing ship for operations in partially smooth waters and smooth waters only
- class 3E—sheltered waters fishing ship for use in smooth waters only

## Schedule 3      Classes of licences

sections 97 and 98

<b>Column 1 Licences</b>	<b>Column 2 Certificates under USL code</b>
<p>1    Licences (commercial ships)</p> <ul style="list-style-type: none"> <li>• master class 3</li> <li>• master class 4</li> <li>• mate class 4</li> <li>• master class 5</li> </ul>	<p>Certificates (commercial ships)</p> <ul style="list-style-type: none"> <li>• master class 3</li> <li>• master class 4</li> <li>• mate class 4</li> <li>• master class 5</li> </ul>
<p>2    Licences (fishing ships)</p> <ul style="list-style-type: none"> <li>• skipper grade 1</li> <li>• skipper grade 2</li> <li>• skipper grade 3</li> </ul>	<p>Certificates (fishing ships)</p> <ul style="list-style-type: none"> <li>• skipper grade 1</li> <li>• skipper grade 2</li> <li>• skipper grade 3</li> </ul>
<p>3    Licences (commercial or fishing ships)</p> <ul style="list-style-type: none"> <li>• coxswain</li> <li>• engineer class 3</li> <li>• marine engine driver grade 1 (MED grade 1)</li> <li>• marine engine driver grade 2 (MED grade 2)</li> <li>• marine engine driver grade 3 (MED grade 3)</li> </ul>	<p>Certificates (commercial or fishing ships)</p> <ul style="list-style-type: none"> <li>• coxswain</li> <li>• engineer class 3</li> <li>• marine engine driver grade 1 (MED grade 1)</li> <li>• marine engine driver grade 2 (MED grade 2)</li> <li>• marine engine driver grade 3 (MED grade 3)</li> </ul>
<p>4    Licence (recreational ships)</p> <ul style="list-style-type: none"> <li>• recreational marine driver</li> </ul>	

## Schedule 3 (continued)

**Column 1  
Licences****Column 2  
Certificates under USL code**

- 5 Pilot licences
- pilot
  - probationary pilot
- 6 Licence (wing in ground effect craft)
- wing in ground effect craft operator licence
- 7 Licence (personal watercraft)
- personal watercraft licence



## **Schedule 4      Matters about which records to be kept**

section 134

### **Part 1                      Matters about which records for relevant commercial ships to be kept**

#### **1            General**

- bunkering or refuelling operations
- crew training in emergency procedures
- departure and arrival times
- licences held by crew members
- names of master and crew and the duties performed onboard by each of them
- passenger safety briefings
- radio communication with shore stations or other ships
- recreational use of the ship
- safety equipment tests, servicing, repairs and replacements, accidents, incidents and discharges of oily bilges
- stability information for loading of ships
- testing of machinery, steering gear, navigation and communication equipment
- verification of passenger numbers.

#### **2            Maintenance**

- machinery service checks
- practical tests of repaired equipment

#### Schedule 4 (continued)

- propulsion, steering, pumping, cargo, equipment repairs and modifications
- slipping periods and repair work carried out.

## **Part 2**

### **Certificates and other documents for relevant commercial ships to be kept**

- accredited ship builder, ship designer or marine surveyor certificate of compliance
- electrical inspection statement
- fire extinguishing equipment service certificate
- gas examiner's certificate
- inflatable life raft certificate
- load line certificate
- machinery space fixed fire smothering inspection statement
- positive flotation statement for tenders
- rigging certificate for sailing ships
- shipping inspector's record of inspection
- ship survey checklist
- survey report.

## Schedule 4 (continued)

**Part 3****Matters about which records  
for relevant fishing ships to be  
kept****1 General**

- bunkering or refuelling operations
- crew training in emergency procedures
- departure and arrival times
- radio communication with shore stations or other ships
- recreational use of the ship
- safety equipment tests, servicing, repairs and replacements, accidents, incidents and discharge of oily bilges
- testing of machinery, steering gear, navigation and communication equipment.

**2 Maintenance**

- machinery service checks
- practical tests of repaired equipment
- propulsion, steering, pumping, equipment repairs and modifications
- slipping periods and repair work carried out
- trawl equipment, test, repairs and replacements.

## Schedule 4 (continued)

**Part 4****Certificates and other documents for relevant fishing ships to be kept**

- accredited ship builder, ship designer or marine surveyor certificate of compliance
- electrical inspection statement
- fire extinguishing equipment service certificate
- gas examiner's certificate
- inflatable life raft certificate
- machinery space fixed fire smothering inspection statement
- shipping inspector's record of inspection
- ship survey checklist
- survey report.

## **Schedule 5      Pilotage areas**

section 175(1)

### **Southport pilotage area**

The Southport pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark at the point where latitude 27°39.90' south intersects with the eastern shoreline of the mainland
  - then due east to the high water mark on the western shoreline of North Stradbroke Island at latitude 27°39.90' south
  - then by the high water mark in a southerly direction along the western shoreline and in an easterly direction along the southern shoreline of North Stradbroke Island to the south-eastern tip of the island at approximate latitude 27°43.64' south, longitude 153°27.10' east
  - then to the high water mark on the northern tip of South Stradbroke Island at approximate latitude 27°45.29' south, longitude 153°26.69' east
  - then in a southerly direction along the western shoreline and in an easterly direction along the southern shoreline of South Stradbroke Island to the seaward tip of the northern breakwater at the entrance to the Gold Coast Seaway
  - then in an easterly direction to latitude 27°55.90' south, longitude 153°27.06' east
  - then due south to latitude 27°56.10' south, longitude 153°27.06' east
  - then in a westerly direction to the seaward tip of the southern breakwater at the entrance to the Gold Coast Seaway

**Schedule 5 (continued)**

- then by the high water mark in a westerly direction along the northern shoreline, in a southerly direction along the western shoreline of The Spit and in a northerly direction along the eastern shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Brisbane pilotage area**

The Brisbane pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
  - starting at the high water mark at the north head of the Maroochy River entrance
  - then due east to longitude 153°10.06' east
  - then in a south-south-easterly direction to latitude 26°49.90' south, longitude 153°15.06' east
  - then in a south-easterly direction to the high water mark on the north-eastern tip of Cape Moreton on Moreton Island
  - then by the high water mark in a westerly direction along the northern shoreline and in a southerly direction along the western shoreline of Moreton Island to the southern tip of the island
  - then to the high water mark on the northern tip of North Stradbroke Island
  - then by the high water mark in a southerly direction along the western shoreline of North Stradbroke Island to latitude 27°39.90' south
  - then due west to the high water mark on the mainland at latitude 27°39.90' south
  - then by the high water mark in a northerly direction along the eastern shoreline of the mainland to the starting point; and

**Schedule 5 (continued)**

- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Noosa pilotage area**

The Noosa pilotage area is the area of—

- (a) waters at the high water mark consisting of the following—
- the Noosa River and connected waterways systems from the head of navigation to the river mouth
  - the waters within a 1n mile radius of the south head of the Noosa River entrance; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Maryborough pilotage area**

The Maryborough pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark at the point where latitude 25°06.90' south intersects with the eastern shoreline of the mainland
  - then in a north-easterly direction to latitude 24°44.90' south, longitude 152°45.06' east
  - then due east to the high water mark on the western shoreline of Fraser Island at latitude 24°44.90' south
  - then by the high water mark in a southerly direction along the western shoreline, in an easterly direction along the southern shoreline and in a northerly direction along the eastern shoreline of Fraser Island to the point where latitude 25°44.90' south intersects with the eastern shoreline of the island

**Schedule 5 (continued)**

- then due east for 2n miles to latitude 25°44.90' south, longitude 153°08.06' east
  - then in a south-south-easterly direction to the high water mark on the northern tip of Double Island Point
  - then by the high water mark from Double Island Point in a northerly direction along the eastern shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Bundaberg pilotage area**

The Bundaberg pilotage area is the area of—

- (a) waters at the high water mark consisting of—
- the Burnett River and connected waterways systems from the head of navigation to the river mouth
  - the waters within a 4n mile radius of Burnett Heads lighthouse; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Gladstone pilotage area**

The Gladstone pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark at Connor Bluff, Curtis Island at approximate latitude 23°42.91' south, longitude 151°17.66' east
  - then to latitude 23°49.51' south, longitude 151°34.66' east
  - then to latitude 23°56.51' south, longitude 151°34.66' east



**Schedule 5 (continued)**

- then to the high water mark at the northern tip of Tiber Point on Hummock Hill Island
  - then due west to the high water mark on Wild Cattle Island
  - then by the high water mark in a northerly direction along the eastern shoreline of Wild Cattle Island to the northern tip of the island
  - then due west to the high water mark on the eastern shoreline of the mainland
  - then by the high water mark in a northerly direction along the eastern shoreline of the mainland to latitude 23°38.41' south
  - then due east to the high water mark of the western shoreline of Curtis Island at latitude 23°38.41' south
  - then by the high water mark in a southerly direction along the western shoreline, in an easterly direction along the southern shoreline and in a northerly direction along the eastern shoreline of Curtis Island to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Rockhampton pilotage area**

The Rockhampton pilotage area is the area of—

- (a) waters at the high water mark consisting of—
- the Fitzroy River and connected waterways systems from the head of navigation to the river mouth
  - the waters bounded by an imaginary line drawn from—
    - the high water mark at Cattle Point on the mainland to Arch Rock

### Schedule 5 (continued)

- then to the high water mark on the northern tip of Cape Keppel
  - then by the high water mark in a westerly direction along the northern shoreline and in a southerly direction along the western shoreline of Curtis Island to latitude 23°38.41' south
  - then due west to the high water mark on the mainland at latitude 23°38.41' south
  - then by the high water mark in a northerly direction along the shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

### Hay Point pilotage area

The Hay Point pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark at the north head of the Bakers Creek entrance
  - then in an east-north-easterly direction to latitude 21°09.91' south, longitude 149°20.06' east
  - then due east to latitude 21°09.91' south, longitude 149°30.06' east
  - then due south to latitude 21°17.91' south, longitude 149°30.06' east
  - then due west to the high water mark on the mainland at latitude 21°17.91' south
  - then by the high water mark in a north-westerly direction along the shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Schedule 5 (continued)****Mackay pilotage area**

The Mackay pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark at the northern tip of Slade Point
  - then due east to longitude 149°22.06' east
  - then due south to latitude 21°09.91' south, longitude 149°22.06' east
  - then due west to latitude 21°09.91' south, longitude 149°20.06' east
  - then in a west-south-westerly direction to the high water mark at the north head of the Bakers Creek entrance
  - then by the high water mark in a northerly direction along the shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Whitsundays pilotage area**

The Whitsundays pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark at the northern tip of George Point on the mainland
  - then to latitude 20°01.19' south, longitude 148°52.84' east
  - then to latitude 20°02.94' south, longitude 148°58.63' east
  - then to the high water mark at the north-eastern tip of Deloraine Island

**Schedule 5 (continued)**

- then along the high water mark of the eastern shoreline of Deloraine Island to its south-eastern tip
  - then to the high water mark at the northern tip of Harold Island
  - then along the high water mark of the eastern shoreline of Harold Island to its southern tip
  - then to the high water mark at the northern tip of Jesuit Point on Maher Island
  - then along the high water mark of the western shoreline of Maher Island to its southern tip
  - then to the high water mark at the northern tip of Shaw Island
  - then along the high water mark of the western shoreline of Shaw Island to its south-western tip
  - then to the southern tip of Cape Conway on the mainland
  - then by the high water mark, initially in a general north-westerly direction, to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Bowen pilotage area**

The Bowen pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark on the southern tip of Dalrymple Point
  - then 286°(T) by a straight line to the port entrance beacon to Bowen Boat Harbour (latitude 20°01.34' south, longitude 148°15.39' east)
  - then 303°(T) by a straight line to the intersection of the high water mark and the northern edge of the

### Schedule 5 (continued)

wharf at Bowen (latitude 20°01.05' south, longitude 148°14.91' east)

- then by the high water mark in an easterly direction along the shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

### **Abbot Point pilotage area**

The Abbot Point pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark on the eastern shoreline of the mainland at longitude 147°59.07' east
  - then due north to latitude 19°47.91' south, longitude 147°59.07' east
  - then due east to latitude 19°47.91' south, longitude 148°08.07' east
  - then in a south-easterly direction to the high water mark at the northern tip of Gloucester Head on Gloucester Island
  - then in a southerly direction by the high water mark along the western shoreline of Gloucester Island to the southern tip of the island
  - then to the high water mark on the northern tip of Cape Gloucester on the mainland
  - then by the high water mark along the shoreline of the mainland to the intersection of the high water mark and the northern edge of the wharf at Bowen (latitude 20°01.05' south, longitude 148°14.91' east)

### Schedule 5 (continued)

- then 123°(T) by a straight line to the port entrance beacon to Bowen Boat Harbour (latitude 20°01.34' south, longitude 148°15.39' east)
  - then 106°(T) by a straight line to the high water mark at the southern tip of Dalrymple Point
  - then along the shoreline of the mainland at the high water mark to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

### Townsville pilotage area

The Townsville pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark on the northern tip of Cape Cleveland
  - then to latitude 19°04.91' south, longitude 146°52.07' east
  - then due west to latitude 19°04.91' south, longitude 146°45.07' east
  - then due south to the high water mark on the mainland at longitude 146°45.07' east
  - then by the high water mark along the shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

### Lucinda pilotage area

The Lucinda pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—

### Schedule 5 (continued)

- starting at the high water mark at George Point on Hinchinbrook Island at approximate latitude 18°29.11' south, longitude 146°19.50' east
  - then east to latitude 18°29.11' south, longitude 146°26.07' east
  - then due south to latitude 18°34.91' south, longitude 146°26.07' east
  - then due west to the high water mark on the mainland at latitude 18°34.91' south
  - then by the high water mark in a northerly direction along the eastern shoreline of the mainland to approximate latitude 18°31.41' south, longitude 146°19.87' east
  - then 352°(T) by a straight line to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

### **Mourilyan pilotage area**

The Mourilyan pilotage area is the area of—

- (a) waters at the high water mark consisting of—
- the Moresby River and connected waterways systems from the head of navigation to the river mouth
  - the waters within a 2n mile radius of the south-eastern tip of Goodman Point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

### **Cairns pilotage area**

The Cairns pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—

**Schedule 5 (continued)**

- starting at the high water mark on the north-western tip of Cape Grafton
  - then due north for 2n miles
  - then to the high water mark on the northern tip of Taylor Point
  - then by the high water mark in a southerly direction along the shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Port Douglas pilotage area**

The Port Douglas pilotage area is the area of—

- (a) waters at the high water mark consisting of—
- Dicksons Inlet and connected waterways systems from the head of navigation to the inlet mouth
  - the waters within a 1n mile radius of the northern tip of Island Point on the mainland; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Daintree River pilotage area**

The Daintree River pilotage area is the area of—

- (a) waters at the high water mark consisting of—
- the Daintree River and connected waterways systems from the head of navigation to the river mouth
  - the waters within a 2n mile radius of the south head of the Daintree River entrance; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).



**Schedule 5 (continued)****Cooktown pilotage area**

The Cooktown pilotage area is the area of—

- (a) waters at the high water mark consisting of—
  - the Endeavour River and connected waterways systems from the head of navigation to the river mouth
  - the waters bounded by an imaginary line drawn from the high water mark on Monkhouse Point due north to the high water mark on the mainland at the southern tip of Indian Head; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Cape Flattery pilotage area**

The Cape Flattery pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
  - starting at the high water mark on the north-eastern tip of Point Lookout
  - then due east to longitude 145°15.87' east
  - then in a south-easterly direction to latitude 14°55.11' south, longitude 145°22.17' east
  - then south to latitude 14°59.91' south, longitude 145°23.07' east
  - then due west to the high water mark on the mainland at latitude 14°59.91' south
  - then by the high water mark in a northerly direction along the shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Schedule 5 (continued)****Thursday Island pilotage area**

The Thursday Island pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark on the western tip of Smith Point on Horn Island
  - then to the high water mark at the northern tip of Heath (Kiwain) Point on Prince of Wales Island
  - then to the high water mark at the eastern tip of Webb Point on Friday Island
  - then along the high water mark of Friday Island, initially in a westerly direction, to the western tip of Friday Island
  - then to the high water mark at the western tip of Tucker Point on Goods Island
  - then along the high water mark of Goods Island, initially in a south-easterly direction, to the eastern tip of Tessy Head on Goods Island
  - then to the high water mark at the western tip of Hammond Island (commonly known as Diamond Point)
  - then along the high water mark of Hammond Island, initially in a south-easterly direction, to the eastern tip of Menmuir (Gobau) Point on Hammond Island
  - then to the high water mark at the northern tip of King Point on Horn Island
  - then along the high water mark of Horn Island, initially in a westerly direction, to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Schedule 5 (continued)****Skardon River pilotage area**

The Skardon River pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
  - starting at the high water mark at approximate latitude 11°47.00' south, longitude 141°58.54' east on the mainland, south of the entrance of the Skardon River
  - then west to latitude 11°47.00' south, longitude 141°57.00' east
  - then north to latitude 11°44.50' south, longitude 141°57.00' east
  - then east to the high water mark on the mainland at approximate latitude 11°44.50' south, longitude 142°00.12' east
  - then by the high water mark, initially in a southerly direction, to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Weipa pilotage area**

The Weipa pilotage area is the area of—

- (a) waters bounded by an imaginary line drawn—
  - starting at the high water mark on the western tip of Jantz Point (west of Duyfken Point)
  - then in a southerly direction to the high water mark at the western tip of Boyd Point
  - then by the high water mark in a northerly direction along the shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

## Schedule 5 (continued)

**Karumba pilotage area**

The Karumba pilotage area is the area of—

- (a) waters at the high water mark consisting of—
  - the Norman River and connected waterways system from the head of navigation to the river mouth
  - the waters within a 10n mile radius of the north head of the Norman River entrance; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

## **Schedule 6      Compulsory pilotage areas**

section 175(2)

### **Southport pilotage area**

### **Brisbane pilotage area**

### **Maryborough pilotage area**

### **Bundaberg pilotage area**

### **Gladstone pilotage area**

### **Rockhampton pilotage area**

### **Hay Point pilotage area**

The part of the Hay Point pilotage area that is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark at the north head of the Bakers Creek entrance
  - then to latitude 21°10.76' south, longitude 149°17.73' east
  - then to latitude 21°13.50' south, longitude 149°19.00' east
  - then to latitude 21°14.00' south, longitude 149°20.50' east
  - then due west to the high water mark on the mainland at latitude 21°17.91'

**Schedule 6 (continued)**

- then by the high water mark in a northerly direction along the shoreline of the mainland to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Mackay pilotage area**

The part of the Mackay pilotage area that is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark on the northern tip of Slade Point
  - then due east to longitude 149°16.00' east
  - then to latitude 21°07.00' south, longitude 149°16.00' east
  - then to latitude 21°10.76' south, longitude 149°17.73' east
  - then in a west-south-westerly direction to the high water mark at the north head of the Bakers Creek entrance
  - then by the high water mark of the mainland in a northerly direction to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Bowen pilotage area****Abbot Point pilotage area****Townsville pilotage area****Lucinda pilotage area**

## Schedule 6 (continued)

**Mourilyan pilotage area****Cairns pilotage area****Port Douglas pilotage area****Cooktown pilotage area****Cape Flattery pilotage area**

The part of the Cape Flattery pilotage area that is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at the high water mark on the northern tip of Point Lookout
  - then due east to longitude 145°15.23' east
  - then to latitude 14°54.71' south, longitude 145°21.65' east
  - then to latitude 14°59.91' south, longitude 145°22.51' east
  - then due west to the high water mark on the mainland at latitude 14°59.91' south
  - then by the high water mark of the mainland in a northerly direction to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Skardon River pilotage area**

The part of the Skardon River pilotage area that is the area of—

- (a) waters bounded by an imaginary line drawn—

**Schedule 6 (continued)**

- starting at the high water mark at approximate latitude 11°46.73' south, longitude 141°58.63' east on the mainland, south of the entrance of the Skardon River
  - then west to latitude 11°46.73' south, longitude 141°57.28' east
  - then north to latitude 11°44.77' south, longitude 141°57.28' east
  - then east to the high water mark on the mainland at latitude 11°44.77' south, longitude 142°00.12' east
  - then by the high water mark, initially in a southerly direction, to the starting point; and
- (b) the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).

**Thursday Island pilotage area****Weipa pilotage area****Karumba pilotage area**



**Schedule 7      Pilotage areas for which  
                         exemption certificate may be  
                         issued**

section 179

**Karumba pilotage area**

**Schedule 8      Pilotage area, or parts of  
pilotage area, for particular  
fishing ships for vessel traffic  
services**

section 183(g)

**Gladstone pilotage area**

The following parts of the Gladstone pilotage area—

- South channel
- Gatcombe channel
- Auckland channel
- Auckland bypass channel
- Clinton channel
- Clinton bypass channel
- Targinnie channel.

**Schedule 9      Pilotage area, or parts of  
pilotage area, for particular  
small ships for vessel traffic  
services**

section 183(h)

**Karumba pilotage area**

The following parts of the Karumba pilotage area—

- Karumba entrance channel
- Elbow Bank reach
- Karumba Point reach.

## **Schedule 10      Fees, charges and related matters**

sections 200, 223 and 225

### **1      Accreditation of ship designer, ship builder and marine surveyor**

- (1) This section sets the fees for accreditation of ship designers, ship builders and marine surveyors.
- (2) The fee for initial accreditation is the total of the following fees—
  - (a) application fee—\$197.55;
  - (b) approval fee—\$469.30.
- (3) The fee for an application for renewal of accreditation is \$197.55.
- (4) The fee for an application for a replacement certificate of accreditation is \$25.65.

### **2      Registration of recreational ship**

- (1) This section sets the fees for registration of recreational ships.
- (2) The fee is the total of the registration and recreational use components.
- (3) The registration component for a recreational ship is as follows—
  - (a) for a ship 4.5m or less—\$48.95;
  - (b) for a ship more than 4.5m but not more than 6m—\$85.65;
  - (c) for a ship more than 6m but not more than 10m—\$122.40;
  - (d) for a ship more than 10m but not more than 15m—\$146.85;

### Schedule 10 (continued)

- (e) for a ship more than 15m but not more than 20m—\$183.55;
  - (f) for a ship more than 20m—\$232.60.
- (4) The recreational use component for a recreational ship is \$15.00.

### 3 Pensioner concession

- (1) This section applies to the owner of a recreational ship.
- (2) The owner is exempt from paying the registration fee for 1 recreational ship if the owner receives a totally and permanently incapacitated war pension.
- (3) The owner is exempt from paying 50% of the registration component for 1 recreational ship if the owner holds a pensioner concession card or receives—
  - (a) a full rate age pension; or
  - (b) a disability support pension; or
  - (c) an Australian/United Kingdom reciprocal pension; or
  - (d) a service or general rate disability pension.
- (4) The owner is exempt from paying 50% of the registration component for 1 recreational ship if the owner holds a seniors card.
- (5) In this section—

*pensioner concession card* means a card known as a pensioner concession card issued under a Commonwealth law.

*seniors card* means a Queensland Government seniors card.

### 4 Registration of commercial ship other than a sail training ship

- (1) This section sets the fees for registration, or renewal of registration, of a commercial ship other than a sail training ship.

**Schedule 10 (continued)**

- (2) The fee is the total of the registration, boating facilities and compliance monitoring components.
- (3) The registration component for the ship is—
  - (a) for a ship 4.5m or less—\$49.55; or
  - (b) for a ship more than 4.5m—\$85.30.
- (4) The boating facilities component for the ship is as follows—
  - (a) for a ship 10m or less—\$8.75 for each metre or part of a metre;
  - (b) for a ship more than 10m but not more than 35m—\$87.85 for the first 10m, plus \$14.45 for each additional metre or part of a metre;
  - (c) for a ship more than 35m—\$451.75.
- (5) The compliance monitoring component for a class 1A, 1B, 1C, 1D, 1E, 2A, 2B, 2C, 2D or 2E ship is as follows—
  - (a) for a ship 7m or less—\$125.50;
  - (b) for a ship more than 7m but not more than 10m—\$307.40;
  - (c) for a ship more than 10m but not more than 15m—\$382.75;
  - (d) for a ship more than 15m but not more than 20m—\$470.55;
  - (e) for a ship more than 20m but not more than 25m—\$539.55;
  - (f) for a ship more than 25m but not more than 35m—\$608.55;
  - (g) for a ship more than 35m but not more than 50m—\$721.50;
  - (h) for a ship more than 50m but not more than 75m—\$777.90;
  - (i) for a ship more than 75m but not more than 100m—\$890.90;

## Schedule 10 (continued)

- (j) for a ship more than 100m—\$1 110.45.
- (6) The compliance monitoring component for a class 1F ship is as follows—
- (a) for a ship 7m or less—\$48.30;
  - (b) for a ship more than 7m but not more than 10m—\$81.55;
  - (c) for a ship more than 10m but not more than 15m—\$120.45;
  - (d) for a ship more than 15m but not more than 20m—\$163.10;
  - (e) for a ship more than 20m but not more than 25m—\$238.35;
  - (f) for a ship more than 25m but not more than 35m—\$282.30;
  - (g) for a ship more than 35m—\$319.95.
- (7) The compliance monitoring component for a commercial ship that is a hovercraft or a wing in ground effect craft is as follows—
- (a) for a ship 5m or less—\$120.45;
  - (b) for a ship more than 5m but not more than 7.5m—\$163.10;
  - (c) for a ship more than 7.5m but not more than 10m—\$250.95;
  - (d) for a ship more than 10m but not more than 15m—\$326.25;
  - (e) for a ship more than 15m but not more than 20m—\$495.60;
  - (f) for a ship more than 20m but not more than 30m—\$658.70;
  - (g) for a ship more than 30m—\$821.85.

## Schedule 10 (continued)

**5 Registration of commercial ship that is a sail training ship**

- (1) This section sets the fee for registration, or renewal of registration, of a commercial ship that is a sail training ship.
- (2) The fee is as follows—
  - (a) for a ship 6m or more but not more than 7m—\$146.65;
  - (b) for a ship more than 7m but not more than 8m—\$155.45;
  - (c) for a ship more than 8m but not more than 9m—\$164.20;
  - (d) for a ship more than 9m but not more than 10m—\$172.90;
  - (e) for a ship more than 10m but not more than 11m—\$187.60;
  - (f) for a ship more than 11m but not more than 12m—\$202.10;
  - (g) for a ship more than 12m but not more than 13m—\$216.55;
  - (h) for a ship more than 13m but not more than 14m—\$231.00;
  - (i) for a ship more than 14m but not more than 15m—\$245.45;
  - (j) for a ship more than 15m but not more than 16m—\$259.95.

**6 Exemption from payment of registration fees of particular commercial ship**

- (1) A ship owned by any of the following and used for rescue purposes is exempt from registration fees—
  - (a) the emergency services department;
  - (b) a volunteer marine rescue association or a surf lifesaving association accredited by that department.



**Schedule 10 (continued)**

- (2) A ship used exclusively in a marine education course that forms part of an educational program provided at a primary school or secondary school is exempt from registration fees.

**7 Registration of fishing ship**

- (1) This section sets the fee for registration, or renewal of registration, of a fishing ship.
- (2) The fee consists of the following amount for compliance monitoring—
- (a) for a ship more than 10m but not more than 15m—\$138.05;
  - (b) for a ship more than 15m but not more than 20m—\$376.40;
  - (c) for a ship more than 20m but not more than 25m—\$464.30;
  - (d) for a ship more than 25m but not more than 35m—\$583.45;
  - (e) for a ship more than 35m but not more than 50m—\$721.50;
  - (f) for a ship more than 50m but not more than 75m—\$777.90;
  - (g) for a ship more than 75m but not more than 100m—\$890.90;
  - (h) for a ship more than 100m—\$1 110.45.

**8 Other registration fees**

- (1) This section sets the fees for other aspects relating to the registration of ships.
- (2) The fees are as follows—
- (a) for an application for transfer of registration of a recreational ship—\$18.95;

**Schedule 10 (continued)**

- (b) for an application for a replacement certificate of registration for a commercial ship or fishing ship—\$41.40;
- (c) for a replacement registration label for a recreational ship—\$11.20;
- (d) administration fee payable for renewal of registration of a recreational ship if paid after the expiry date—\$10.80;
- (e) for an extract from a register under section 72(5) or 73(5) from information in the register—
  - (i) when the application is made—\$12.55; or
  - (ii) on another day, if a search of departmental records is not required—\$20.05.
- (3) A fee is not payable under subsection (2)(a) if the ship is being transferred to a person whose business is the sale of new or used ships.

**9 Restricted use flag**

- (1) This section sets the fees in relation to restricted use flags for ships.
- (2) The fees are as follows—
  - (a) for a consent to the use of an initial flag, other than a flag mentioned in paragraph (c)—\$182.00;
  - (b) for a consent to the use of a second or subsequent flag—\$74.00;
  - (c) for a consent to the use of a flag for 1 month or less—
    - (i) for a ship 50m or less—\$65.25; or
    - (ii) for a ship more than 50m but not more than 80m—\$139.40; or
    - (iii) for a ship more than 80m but not more than 150m—\$295.65; or
    - (iv) for a ship more than 150m but not more than 200m—\$464.55; or

**Schedule 10 (continued)**

- (v) for a ship more than 200m—\$633.45;
- (d) for a replacement flag—\$38.90.

**10 Design approval certificate**

- (1) This section sets the fees for issuing a design approval certificate.
- (2) The fees are as follows—
  - (a) application fee for the issue of the certificate and, if requested by the applicant, the giving of a quotation for the design examination fee—\$103.75;
  - (b) design examination fee—
    - (i) if an appropriately accredited ship designer has issued a certificate of compliance for the design and the certificate, or a copy of it, is given to the general manager with the application—\$92.65 for each hour of examination time, to the nearest 15 minutes; or
    - (ii) otherwise—\$123.55 for each hour of examination time, to the nearest 15 minutes.
- (3) Despite subsection (2)(b), if the general manager has given a written quotation for the design examination fee and the applicant has accepted the quotation, the design examination fee is the lesser of the following—
  - (a) the quoted fee;
  - (b) the fee that would otherwise be payable under subsection (2)(b) for the time taken to examine the design.

**11 Certificate of survey**

- (1) This section sets the fees for a certificate of survey.
- (2) The fees are as follows—

**Schedule 10 (continued)**

- (a) application fee for the issue of a certificate of survey and examining the documents required to be given with the application, whether or not an inspection of the ship is necessary—\$274.50;
- (b) a fee for inspecting the ship, if an inspection of the ship is necessary, consisting of—
  - (i) \$92.65 for each hour of inspection time (excluding travelling time), to the nearest 15 minutes; and
  - (ii) the reasonable travelling expenses for inspecting the ship;
- (c) a fee for verification of a certificate of survey issued by the Commonwealth, another State or a classification society—\$45.15;
- (d) a fee for issuing a certificate of survey—\$8.00.

**12 Licence to operate commercial ship or fishing ship**

- (1) Subsection (2) sets the fees for a licence to operate a commercial ship or fishing ship as its master or to act as a crew member of a commercial ship or fishing ship, other than a commercial ship that is a wing in ground effect craft.
- (2) The fees are as follows—
  - (a) for a master class 3 or skipper grade 1—\$194.50;
  - (b) for a master class 4, mate class 4 or skipper grade 2—\$194.50;
  - (c) for a master class 5 or skipper grade 3—\$138.05;
  - (d) for a coxswain—\$62.75;
  - (e) for an engineer class 3—\$244.70;
  - (f) for a marine engine driver grade 1—\$156.80;
  - (g) for a marine engine driver grade 2—\$115.45;
  - (h) for a marine engine driver grade 3—\$115.45.

**Schedule 10 (continued)**

- (3) The fee for a licence to operate a commercial ship that is a wing in ground effect craft is \$194.50.

**13 Recreational marine driver licence**

The fee for a recreational marine driver licence is \$35.85.

**14 Personal watercraft licence**

The fee for a personal watercraft licence is \$35.85.

**15 Pilot licence and pilotage exemption certificate**

- (1) This section sets the fees for the following—
- (a) a licence to have the conduct of a ship as its pilot;
  - (b) a pilotage exemption certificate.
- (2) The fee for an application for any of the following is \$175.70—
- (a) an assessment for a pilot licence for section 101;
  - (b) an amendment of a pilot licence;
  - (c) a pilotage exemption test for section 179(2)(b);
  - (d) an amendment of a pilotage exemption certificate.
- (3) The fee for the issue of any of the following is \$175.70—
- (a) a pilot licence;
  - (b) an amended pilot licence;
  - (c) a pilotage exemption certificate.

**16 Other licence fees or other authority fees**

- (1) This section sets the fees for other aspects relating to a licence or other authority.
- (2) The fees are as follows—

**Schedule 10 (continued)**

- (a) for an assessment under section 90 in relation to a licence to operate a commercial ship that is a hovercraft—\$219.60;
- (b) for an application for—
  - (i) an eyesight or colour vision test for a licence, other than a recreational marine driver licence—\$18.20; or
  - (ii) an additional condition on a licence—\$35.80;
- (c) for an assessment of sea service for section 98(2)—\$36.40;
- (d) for the issue of a book called ‘Record of Service’ for section 98(3)—\$5.90;
- (e) for an application for a temporary permit to operate a commercial or fishing ship as its master or to act as a crew member of the ship—\$101.60;
- (f) for replacement of a recreational marine driver licence—\$15.55;
- (g) for replacement of a commercial ship licence, fishing ship licence, pilot licence or pilotage exemption certificate—\$26.95;
- (h) for an application for renewal of a commercial ship licence or fishing ship licence—\$35.80;
- (i) for an application for renewal of a pilot licence or pilotage exemption—\$86.60.

**17 Training approval**

The fee for approval of an entity to provide training programs is \$357.35.

**18 Load line certificate**

The fee for an application for a load line certificate for a ship is \$112.95.

Schedule 10 (continued)

**19 Pilotage fees for arrival and departure of a ship**

- (1) This section sets the pilotage fees for a ship's arrival at, or departure from, a pilotage area.
- (2) The fees are set out in the following table—

<b>Pilotage area</b>	<b>Minimum fee</b>	<b>&gt; 80 to 150m</b>	<b>&gt; 150 to 200m</b>	<b>&gt; 200 to 250m</b>	<b>&gt; 250m</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Abbot Point</b>	665.70	14.24	12.95	10.36	9.06
<b>Brisbane</b>	1 149.27	25.30	23.00	18.40	16.10
<b>Bundaberg</b>	668.73	14.52	13.20	10.56	9.24
<b>Cairns</b>	669.24	14.56	13.24	10.59	9.27
<b>Cape Flattery</b>	678.99	15.46	14.05	11.24	9.84
<b>Cooktown</b>	595.33	12.99	11.81	9.45	8.26
<b>Gladstone</b>	969.71	21.32	19.38	15.50	13.56
<b>Hay Point</b>	664.18	14.10	12.82	10.25	8.97
<b>Karumba</b>	599.47	13.37	12.15	9.72	8.51
<b>Lucinda</b>	663.67	14.05	12.78	10.22	8.94
<b>Mackay</b>	664.18	14.10	12.82	10.25	8.97
<b>Maryborough</b>	595.33	12.99	11.81	9.45	8.26
<b>Mourilyan</b>	664.69	14.15	12.86	10.29	9.00
<b>Port Douglas</b>	595.33	12.99	11.81	9.45	8.26
<b>Rockhampton</b>	660.32	13.75	12.50	10.00	8.75
<b>Skardon River</b>	595.33	12.99	11.81	9.45	8.26
<b>Southport</b>	595.33	12.99	11.81	9.45	8.26
<b>Thursday Island</b>	595.33	12.99	11.81	9.45	8.26
<b>Townsville</b>	670.76	14.70	13.37	10.69	9.36
<b>Weipa</b>	1 050.69	23.54	21.40	17.12	14.98

- (3) The column headed 'Pilotage area' specifies the pilotage areas where a pilotage fee is payable.
- (4) The column headed 'Minimum fee' specifies the minimum fee payable for the pilotage of a ship, including for a ship that is 80m or less.

**Schedule 10 (continued)**

- (5) The column headed '> 80 to 150m' specifies an additional fee payable for each metre of a ship more than 80m, to a maximum of 150m, for the corresponding pilotage area.
- (6) The column headed '> 150 to 200m' specifies an additional fee payable for each metre of a ship more than 150m, to a maximum of 200m, for the corresponding pilotage area.
- (7) The column headed '> 200 to 250m' specifies an additional fee payable for each metre of a ship more than 200m, to a maximum of 250m, for the corresponding pilotage area.
- (8) The column headed '> 250m' specifies an additional fee payable for each metre of a ship more than 250m, for the corresponding pilotage area.

**20 Pilotage fees for removal of a ship**

- (1) This section sets the pilotage fees for removal of a ship to another berth or anchorage for a pilotage area.
- (2) The fees are set out in the following table—

<b>Pilotage area</b>	<b>Minimum fee</b>	<b>&gt; 80 to 150m</b>	<b>&gt; 150 to 200m</b>	<b>&gt; 200 to 250m</b>	<b>&gt; 250m</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Abbot Point</b>	325.26	6.96	6.33	5.06	4.43
<b>Brisbane</b>	430.98	9.49	8.62	6.90	6.04
<b>Bundaberg</b>	320.48	6.96	6.33	5.06	4.43
<b>Cairns</b>	319.70	6.96	6.33	5.06	4.43
<b>Cape Flattery</b>	333.38	7.59	6.90	5.52	4.83
<b>Cooktown</b>	289.93	6.32	5.75	4.60	4.02
<b>Gladstone</b>	431.62	9.49	8.62	6.90	6.04
<b>Hay Point</b>	327.72	6.96	6.33	5.06	4.43
<b>Karumba</b>	283.66	6.33	5.75	4.60	4.03
<b>Lucinda</b>	328.55	6.96	6.33	5.06	4.43
<b>Mackay</b>	327.72	6.96	6.33	5.06	4.43
<b>Maryborough</b>	289.93	6.32	5.75	4.60	4.02
<b>Mourilyan</b>	326.89	6.96	6.33	5.06	4.43



Schedule 10 (continued)

<b>Pilotage area</b>	<b>Minimum fee</b>	<b>&gt; 80 to 150m</b>	<b>&gt; 150 to 200m</b>	<b>&gt; 200 to 250m</b>	<b>&gt; 250m</b>
	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>
<b>Port Douglas</b>	289.93	6.32	5.75	4.60	4.02
<b>Rockhampton</b>	303.83	6.32	5.75	4.60	4.02
<b>Skardon River</b>	289.93	6.32	5.75	4.60	4.02
<b>Southport</b>	289.93	6.32	5.75	4.60	4.02
<b>Thursday Island</b>	289.93	6.32	5.75	4.60	4.02
<b>Townsville</b>	317.39	6.96	6.33	5.06	4.43
<b>Weipa</b>	487.18	10.92	9.92	7.94	6.95

- (3) The column headed 'Pilotage area' specifies the pilotage areas where a pilotage fee is payable.
- (4) The column headed 'Minimum fee' specifies the minimum fee payable for pilotage of a ship, including for a ship that is 80m or less.
- (5) The column headed '> 80 to 150m' specifies an additional fee payable for each metre of a ship more than 80m, to a maximum of 150m, for the corresponding pilotage area.
- (6) The column headed '> 150 to 200m' specifies an additional fee payable for each metre of a ship more than 150m, to a maximum of 200m, for the corresponding pilotage area.
- (7) The column headed '> 200 to 250m' specifies an additional fee payable for each metre of a ship more than 200m, to a maximum of 250m, for the corresponding pilotage area.
- (8) The column headed '> 250m' specifies an additional fee payable for each metre of a ship more than 250m, for the corresponding pilotage area.

## **21 Pilotage cancellation fees**

- (1) This section sets the fees for cancellation of pilotage for a pilotage area.

**Schedule 10 (continued)**

(2) The fees are set out in the following table—

<b>Pilotage area</b>	<b>Cancellation fee</b>
	<b>\$</b>
<b>Abbot Point</b>	506.00
<b>Brisbane</b>	572.00
<b>Bundaberg</b>	484.00
<b>Cairns</b>	484.00
<b>Cape Flattery</b>	528.00
<b>Cooktown</b>	440.00
<b>Gladstone</b>	572.00
<b>Hay Point</b>	506.00
<b>Karumba</b>	440.00
<b>Lucinda</b>	506.00
<b>Mackay</b>	484.00
<b>Maryborough</b>	440.00
<b>Mourilyan</b>	484.00
<b>Port Douglas</b>	440.00
<b>Rockhampton</b>	440.00
<b>Skardon River</b>	440.00
<b>Southport</b>	440.00
<b>Thursday Island</b>	440.00
<b>Townsville</b>	484.00
<b>Weipa</b>	572.00

(3) The column headed ‘Pilotage area’ specifies the pilotage areas where a fee for cancellation of pilotage is payable.

(4) The column headed ‘Cancellation fee’ specifies the fee payable for cancellation of pilotage for the corresponding pilotage area.

## **22 Pilotage delay fees**

(1) This section sets the fees for delay of pilotage for a pilotage area.

**Schedule 10 (continued)**

(2) The fees are set out in the following table—

<b>Pilotage area</b>	<b>Delay fee</b>
	<b>\$</b>
<b>Abbot Point</b>	253.00
<b>Brisbane</b>	286.00
<b>Bundaberg</b>	242.00
<b>Cairns</b>	242.00
<b>Cape Flattery</b>	264.00
<b>Cooktown</b>	220.00
<b>Gladstone</b>	286.00
<b>Hay Point</b>	253.00
<b>Karumba</b>	220.00
<b>Lucinda</b>	253.00
<b>Mackay</b>	242.00
<b>Maryborough</b>	220.00
<b>Mourilyan</b>	242.00
<b>Port Douglas</b>	220.00
<b>Rockhampton</b>	220.00
<b>Skardon River</b>	220.00
<b>Southport</b>	220.00
<b>Thursday Island</b>	220.00
<b>Townsville</b>	242.00
<b>Weipa</b>	286.00

- (3) The column headed ‘Pilotage area’ specifies the pilotage areas where a fee for delay of pilotage is payable.
- (4) The column headed ‘Delay fee’ specifies the hourly fee payable for delay of pilotage for the corresponding pilotage area.

### **23 Conservancy dues**

- (1) This section sets the dues for conservancy.

### Schedule 10 (continued)

- (2) The dues are as follows—
- (a) for a ship on an interstate voyage, for each gross ton or part of a gross ton—
    - (i) 500gt or less . . . . . 9.9c
    - (ii) more than 500gt. . . . . 16.1c
  - (b) for any other ship, for each gross ton or part of a gross ton . . . . . 16.1c.

## 24 Gross tonnage for particular ships

For section 23 of this schedule, the gross tonnage of a ship stated in column 1 of the following table with the Lloyds register number stated in column 2 is the gross tonnage stated in column 3—

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Ship</b>	<b>Lloyds No.</b>	<b>Tonnage</b>
Texas	8204963	26790
Toba	7705972	20623
Taiko	8204975	27902
Tourcoing	7705946	21054
Tapiola	7705934	21049
Tampa	8204951	26790
Tampere	7718577	21318
Nedlloyd Rochester	7704605	19072
CGM Renoir	7702877	15632
CGM Ronsard	7702889	15632.

## 25 Interest rate for unpaid fees

The interest rate for section 200 is 10% a year.

**Schedule 10 (continued)****26 Buoy mooring**

- (1) This section sets the fees for a buoy mooring.
- (2) The application fee is the total of the assessment and occupation components.
- (3) The assessment component is \$61.15.
- (4) The occupation component is—
  - (a) for a mooring for restricted use—
    - (i) in a category 2 area—\$61.15; or
    - (ii) in a category 3 area—\$36.75; or
  - (b) for a mooring for unrestricted use—
    - (i) in a category 2 area—\$122.40; or
    - (ii) in a category 3 area—\$61.15.
- (5) The renewal fee is—
  - (a) for a mooring for restricted use—
    - (i) in a category 2 area—\$61.15; or
    - (ii) in a category 3 area—\$36.75; or
  - (b) for a mooring for unrestricted use—
    - (i) in a category 2 area—\$122.40; or
    - (ii) in a category 3 area—\$61.15.

**27 Concession for particular unrestricted use buoy mooring**

- (1) This section applies if the holder of an approval to establish an unrestricted use buoy mooring who carries on a business allows business clients to use the mooring free of charge.
- (2) The application or renewal fee for the approval, for each mooring after the first 5 moorings, is—
  - (a) for a mooring in a category 2 area—\$48.95; or
  - (b) for a mooring in a category 3 area—\$36.75.

**Schedule 10 (continued)****28 Aquatic event**

- (1) This section sets the fees for an aquatic event.
- (2) The fees are as follows—
  - (a) \$24.70 for a consent to the holding of a single aquatic event;
  - (b) \$24.70 for a consent to the holding of an aquatic event by a genuine boating or sporting club if—
    - (i) the event is held over a period that is not longer than 3 months; and
    - (ii) the event is held at a single venue; and
    - (iii) the consent imposes conditions that are substantially the same for each part of the event.

**29 Administration fee on registration refund**

- (1) This section sets the administration fee under section 225 for a refund on surrender of a ship's registration.
- (2) The fee is \$11.70.

## **Schedule 11      Fishing ship operational area**

schedule 15, definition *fishing ship operational area*

The fishing ship operational area is the area of—

- (a) waters bounded by an imaginary line drawn—
- starting at a point that is the intersection of the coastline at the mean high water mark at the boundary of the Northern Territory of Australia and the State of Queensland
  - then in a north-easterly direction to latitude 15°54.91' south, longitude 138°30.07' east
  - then due north to latitude 14°29.91' south, longitude 138°30.07' east
  - then due east to latitude 14°29.91' south, longitude 139°15.07' east
  - then due north to latitude 11°10.91' south, longitude 139°15.07' east
  - then in a north-easterly direction along the fisheries jurisdiction line to latitude 10°58.91' south, longitude 140°00.07' east
  - then in a north-easterly direction along the fisheries jurisdiction line to latitude 10°10.31' south, longitude 141°20.07' east (where the fisheries jurisdiction line intersects the western boundary of the protected zone)
  - then in a general easterly direction along the boundary of the fisheries jurisdiction line to latitude 10°13.31' south, longitude 145°00.06' east
  - then due south to latitude 12°59.91' south, longitude 145°00.07' east
  - then in a south-easterly direction to latitude 14°59.91' south, longitude 146°00.07' east

## Schedule 11 (continued)

- then in a south-easterly direction to latitude 18°19.91' south, longitude 148°20.06' east
  - then in an easterly direction to latitude 18°44.91' south, longitude 152°35.06' east
  - then in a south-easterly direction to latitude 22°14.90' south, longitude 154°40.06' east
  - then due south to latitude 27°47.32' south, longitude 154°40.06' east
  - then in a westerly direction to latitude 27°47.90' south, longitude 154°22.06' east
  - then in a south-westerly direction to latitude 27°57.90' south, longitude 154°00.06' east
  - then in a south-westerly direction to the intersection of the eastern shore of Australia with latitude 28°09.90' south
  - then along the shoreline of the mainland at the mean high water mark to the starting point; and
- (b) including the navigable waters of rivers and creeks flowing, directly or indirectly, into the waters in paragraph (a).



## **Schedule 12      Partially smooth waters**

schedule 15, definition *partially smooth waters*

### **Brisbane**

The waters bounded by an imaginary line drawn—

- from latitude 27°05.90' south on the mainland
- to South Point, Bribie Island
- along the southern shore of Bribie Island to Skirmish Point
- to Comboyuro Point, Moreton Island
- along the western shore of Moreton Island to Reeders Point
- to Amity Point, North Stradbroke Island
- to Cleveland Point on the mainland.

### **Maryborough**

The waters bounded by an imaginary line drawn—

- from Burrum Point on the mainland
- to the Fairway Beacon, Hervey Bay
- to Rooney Point, Fraser Island
- along the western shore of Fraser Island to latitude 25°22.90' south
- to latitude 25°24.90', longitude 152°58.06' east
- due west to the mainland at latitude 25°24.90' south.

### **Gladstone**

The waters bounded by an imaginary line drawn—

- from Clews Point on the mainland

**Schedule 12 (continued)**

- to East Point, Facing Island
- along the southern shore of Facing Island to latitude 23°51.91' south
- due west to South Trees Island at latitude 23°51.91' south
- along the northernmost shore of South Trees Island to latitude 23°51.91' south at its western shore
- due west to the mainland at latitude 23°51.91' south.

**Keppel Bay**

The waters bounded by an imaginary line drawn—

- from Cattle Point on the mainland
- to Sea Hill Point, Curtis Island
- along the northern shore of Curtis Island to Cape Keppel
- to a point situated 0.5n mile east of Egg Rock
- to a point situated 0.5n mile east of The Child
- to a point situated 0.5n mile east of Outer Rocks
- to Water Park Point on the mainland.

**Llewellyn Bay**

The waters bounded by an imaginary line drawn—

- from the high water mark on the northern tip of Cape Palmerston
- to latitude 21°18.00' south, longitude 149°20.00' east
- to the high water mark on the mainland at latitude 21°18.00' south.

**Mackay and Hay Point**

The waters bounded by an imaginary line drawn—

**Schedule 12 (continued)**

- from the high water mark on the mainland at latitude 21°18.00' south
- to latitude 21°18.00' south, longitude 149°30.00' east
- to latitude 21°10.00' south, longitude 149°30.00' east
- to latitude 21°07.00' south, longitude 149°18.50' east
- to latitude 21°02.50' south, longitude 149°15.00' east
- to the high water mark on the mainland at the northern tip of Slade Point.

**Sand Bay**

The waters bounded by an imaginary line drawn—

- from the high water mark on the mainland at the northern tip of Slade Point
- to latitude 21°02.50' south, longitude 149°15.00' east
- to latitude 20°57.00' south, longitude 149°11.00' east
- to latitude 20°52.90' south, longitude 149°04.40' east
- to the high water mark on the mainland at the north-eastern tip of Cape Hillsborough.

**St Helens Bay**

The waters bounded by an imaginary line drawn—

- from the high water mark on the mainland at the north-eastern tip of Cape Hillsborough
- to latitude 20°52.90' south, longitude 149°04.40' east
- to latitude 20°45.00' south, longitude 148°53.00' east
- to latitude 20°36.00' south, longitude 148°55.00' east
- to the high water mark at the eastern tip of the southern bank of the mouth of Hervey Creek on the mainland.

## Schedule 12 (continued)

**Bowen, Whitsunday Passage and Edgecumbe Bay**

The waters bounded by an imaginary line drawn—

- from the high water mark at the eastern tip of the southern bank of the mouth of Hervey Creek on the mainland
- to the south-western tip of Shaw Island
- along the western shore of Shaw Island and Gaibirra Island to the northern tip of Gaibirra Island
- to the southern tip of Maher Island
- along the western shore of Maher Island to Jesuit Point
- to the southern tip of Harold Island
- along the eastern shore to the northern tip of Harold Island
- to the south eastern tip of Deloraine Island
- along the eastern shore to the north eastern tip of Deloraine Island
- to a point situated 1n mile north-east of Pinnacle Point, Hook Island
- to a point situated 1n mile north of Dolphin Point, Hayman Island
- to a point situated 1n mile north of the northern tip of Eshelby Island
- to a point situated 1n mile north of the northern tip of Rattray Island
- to a point situated 1n mile north of Gloucester Head, Gloucester Island
- to the north headland at the mouth of the Don River on the mainland.

**Schedule 12 (continued)****Upstart Bay**

The waters of Upstart Bay south of a line between the north-western tip of Cape Upstart to the high water mark at approximate latitude 19°40.02' south, longitude 147°36.44' east in the vicinity of Rita Island.

**Townsville**

The waters bounded by an imaginary line drawn—

- from Cape Pallarenda on the mainland
- to Bay Rock
- to a point situated 0.5n mile north of White Rock
- to a point situated 0.5n mile north of The Point, Magnetic Island
- to a point situated 0.5n mile north of Orchard Rocks
- to Cape Cleveland on the mainland.

**Palm Islands**

The waters bounded by an imaginary line drawn—

- from Lucinda Point on the mainland
- to George Point, Hinchinbrook Island
- to the northern tip of Pelorus Island
- along the western shore of Pelorus Island to its south-western tip
- to Iris Point, Orpheus Island
- along the western and southern shores of Orpheus Island to latitude 18°39.31' south on the eastern side of the island
- to the western tip of Curacoa Island
- along the northern and eastern shores of Curacoa Island to its eastern tip

**Schedule 12 (continued)**

- to the northern tip of Great Palm Island
- along the western shore of Great Palm Island to latitude 18°44.91' south
- due west to the mainland.

**Rockingham Bay**

The waters bounded by an imaginary line drawn—

- from Ninney Point on the mainland
- to a point situated 0.5n mile east of Clump Point on the mainland
- to a point situated 0.5n mile east of South Island in the Brook Islands Group
- to Cape Sandwich, Hinchinbrook Island
- along the northern shore of Hinchinbrook Island to Hecate Point
- to latitude 18°14.91' south on the mainland.

**Cairns**

The waters bounded by an imaginary line drawn—

- from Buchan Point on the mainland
- to a point situated 0.5n mile north of the northern tip of Double Island
- to a point situated 0.5n mile north of Upolu Reef Cay
- then following the northern and eastern edges of Upolu Reef at a distance of 0.5n mile from the reef
- to a point situated 0.5n mile from the eastern tip of Upolu Reef
- to the eastern tip of Green Island
- to the eastern tip of Little Fitzroy Island

**Schedule 12 (continued)**

- along the south-eastern shore to the southern tip of Little Fitzroy Island
- to the north-eastern tip of Fitzroy Island
- along the western shore of Fitzroy Island to its south-western tip
- to the southern headland of Little Turtle Bay on the mainland.

**Port Douglas**

The waters bounded by an imaginary line drawn—

- from Island Point on the mainland
- to a point situated 0.5n mile east of the Low Islets
- to Cape Tribulation on the mainland.

**Thursday Island**

The waters bounded by an imaginary line drawn—

- from Van Speult Point on the mainland
- to a point situated 0.5n mile south-west of Barn (Parau) Island
- to latitude 10°43.51' south, longitude 142°15.87' east on Prince of Wales Island (Rattlesnake Point)
- along the eastern and northern shores of Prince of Wales Island to Hochepped Head
- to the western tip of Friday Island
- to Harrison Rock
- to Hammond Rock
- to a point situated 0.5n mile north of Ince Point, Wednesday Island
- to Strait Rock

**Schedule 12 (continued)**

- to King Point, Horn Island
- along the eastern and southern shores of Horn Island to Garagar Point
- to Peak Point on the mainland
- along the shore to Van Speult Point.

**Weipa**

The waters bounded by an imaginary line drawn—

- from Duyfken Point on the mainland
- to Thud Point on the mainland
- along the shore to Duyfken Point.

**Karumba**

The waters within a 7.5n mile radius of the north head of the Norman River entrance.



## Schedule 13 Smooth waters

schedule 15, definition *smooth waters*

### Brisbane

- (1) The waters bounded by an imaginary line drawn—
  - from Cleveland Point on the mainland
  - to Amity Point, North Stradbroke Island
  - along the western shore of North Stradbroke Island to longitude 153°26.56' east
  - due south to South Stradbroke Island
  - along the western shore of South Stradbroke Island to the outer northern breakwater of the Gold Coast Seaway
  - to the outer southern breakwater of the Gold Coast Seaway at The Spit on the mainland.
- (2) The waters bounded by an imaginary line drawn—
  - from latitude 27°05.90' south on the mainland
  - to South Point, Bribie Island
  - along the western shore of Bribie Island to its northern tip
  - to the high water mark at longitude 153°07.81' east on the mainland.

### Maryborough

The waters bounded by an imaginary line drawn—

- from latitude 25°24.90' south on the mainland
- due east to longitude 152°58.06' east
- in a north-easterly direction to the intersection of latitude 25°22.90' south and Fraser Island

**Schedule 13 (continued)**

- along the western shore of Fraser Island to longitude 153°04.06' east
- to Inskip Point on the mainland.

**Gladstone**

The waters bounded by an imaginary line drawn—

- from latitude 23°51.91' south on the mainland
- due east to Facing Island
- along the western shore of Facing Island to North Point
- to Connor Bluff, Curtis Island
- along the southern and western shores of Curtis Island to latitude 23°33.91' south
- due west to Division Point on the mainland.

**Port Alma**

The waters bounded by an imaginary line drawn—

- from Cattle Point on the mainland
- to Sea Hill Point, Curtis Island
- along the western shore of Curtis Island to latitude 23°33.91' south
- due west to Division Point on the mainland.

**Bowen**

The waters bounded by an imaginary line drawn—

- from Dalrymple Point on the mainland
- to Adelaide Point on the mainland
- along the shore to Dalrymple Point.

**Schedule 13 (continued)****Lucinda**

The waters bounded by an imaginary line drawn—

- from Lucinda Point on the mainland
- to George Point, Hinchinbrook Island
- along the southern and western shores of Hinchinbrook Island to Hecate Point
- to the high water mark at latitude 18°14.91' south on the mainland.

**Mourilyan**

The waters bounded by an imaginary line drawn—

- from Goodman Point on the mainland
- to Camp Point on the mainland
- along the high water mark to Goodman Point.

**Cairns**

The waters bounded by an imaginary line drawn—

- from Bessie Point on the mainland
- to Ellie Point on the mainland
- along the shore to Bessie Point.

**Port Douglas**

The waters bounded by an imaginary line drawn—

- from Island Point on the mainland
- due north to latitude 16°28.41' south
- due west to the mainland.

**Schedule 13 (continued)****Cooktown**

The waters bounded by an imaginary line drawn—

- from the vicinity of Queens Chair at longitude  $145^{\circ}15.39'$  east on the mainland
- to latitude  $15^{\circ}27.01'$  south, longitude  $145^{\circ}15.67'$  east
- due west to the mainland.

**Thursday Island**

The waters bounded by an imaginary line drawn—

- from longitude  $142^{\circ}15.37'$  east on Horn Island
- due north to latitude  $10^{\circ}33.01'$  south (near Channel Rock)
- due west to Hammond Island at latitude  $10^{\circ}33.01'$  south
- along the southern shore of Hammond Island to Kate Point
- to Heath (Kiwain) Point, Prince of Wales Island
- along the eastern shore of Prince of Wales Island to Red Point
- to Garagar Point, Horn Island
- along the western shore to longitude  $142^{\circ}15.37'$  east on Horn Island.

**Weipa**

The waters bounded by an imaginary line drawn—

- from Wooldrum Point on the mainland
- to latitude  $12^{\circ}35.01'$  south, longitude  $141^{\circ}47.67'$  east on the mainland
- along the shore to Wooldrum Point.

Schedule 13 (continued)

**Karumba**

The waters within a 4n mile radius of the north head of the Norman River entrance.

## **Schedule 14    Torres Strait zone**

schedule 15, definition *Torres Strait zone*

The Torres Strait zone is the area of waters enclosed by an imaginary line drawn—

- starting at latitude 10°40.91' south, longitude 145°00.06' east
- then due west to the high water mark on the eastern shoreline of Eborac Island at latitude 10°40.91' south
- then by the high water mark in a south-westerly direction along the shoreline of Eborac Island to the south-western tip of the island
- then to the high water mark on the northern tip of Cape York
- then by the high water mark in a westerly direction along the northern shoreline and in a south-westerly direction along the western shoreline of Cape York Peninsula to the western tip of Vrilya Point at approximate latitude 11°13.41' south, longitude 142°07.07' east
- then in a north-westerly direction to the south-western tip of the protected zone at latitude 10°27.91' south, longitude 141°20.07' east
- then due north to latitude 10°10.31' south, longitude 141°20.07' east (where the boundary of the protected zone intersects the boundary of the fisheries jurisdiction line)
- then in an easterly direction along the boundary of the fisheries jurisdiction line to latitude 10°13.31' south, longitude 145°00.06' east
- then due south to the starting point.

## **Schedule 14A Marine zones**

section 222A

<b>Marine zone</b>	<b>Requirement</b>
The waters of Tallebudgera Creek	A personal watercraft must not be operated in the marine zone.

## Schedule 14B Coastal bars

schedule 15, definition *coastal bar*

<b>Column 1 Coastal Bar</b>	<b>Column 2 Location</b>
Currumbin Bar	Located near the town of Currumbin in the vicinity of where the Currumbin Creek and the Coral Sea meet
Tallebudgera Bar	Located near the town of Burleigh Heads in the vicinity of where the Tallebudgera Creek and the Coral Sea meet
Jumpinpin Bar	The passage of water between North Stradbroke Island and South Stradbroke Island
South Passage Bar	The passage of water between North Stradbroke Island and Moreton Island
Caloundra Bar	Located near the town of Caloundra in the vicinity of where the northern end of Pumicestone Channel (commonly known as Pumicestone Passage) and the Coral Sea meet
Maroochy Bar	Located near the town of Maroochydore in the vicinity of where the Maroochy River and the Coral Sea meet
Noosa Bar	Located near the town of Noosa Heads in the vicinity of where the Noosa River and the Coral Sea meet
Wide Bay Bar	Located between the southern end of Fraser Island and Inskip Point in the vicinity of where the southern end of Great Sandy Strait and the Coral Sea meet



## Schedule 15      Dictionary

### section 4

**1987 regulation** means the *Queensland Marine (Registration, Survey, Equipment and Load Line) Regulation 1987*.

**1995 regulation** means the *Transport Operations (Marine Safety) Regulation 1995*.

**accredited person** see section 42(1)(b)(i).

**administering agency** for part 6, see section 147.

**all-round light** see the collision regulations, rule 21(e).<sup>175</sup>

**aquatic event** means an event or activity described in section 217(a) to (e) of the Act.

**area VTS**, for part 7, division 5, see section 182.

**AS/NZS** means a standard published jointly by Standards Australia and Standards New Zealand.

**Australian registered ship** means a ship registered under—

- (a) the Act; or
- (b) the *Shipping Registration Act 1981 (Cwlth)*; or
- (c) a law of another State about the registration of ships.

**authority** see section 148.

**BC code** means the Code of Safe Practice for Solid Bulk Cargoes issued by IMO.

**beyond**, in relation to smooth waters or partially smooth waters, means seawards from the smooth waters or the partially smooth waters.

**BS** means a standard published by the British Standards Institute.

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<sup>175</sup> Collision regulations, rule 21(e) (Definitions)—

**All-round light** means a light showing an unbroken light over an arc of the horizon of 360 degrees.

Schedule 15 (continued)

***cable operated ship*** means a ship that is transferred from 1 side of a river to the other side by means of a cable that—

- (a) is secured on opposite sides of the river; and
- (b) is the ship's only means of propulsion.

***capacity label*** means a label issued by the general manager, or a plate attached to the ship by the builder of the ship, showing any of the following as the maximum number of persons the ship may carry in smooth waters—

- (a) a number representing the maximum persons capacity for the ship worked out under AS 1799.1—1992;
- (b) the manufacturer's maximum persons capacity rating for the ship;
- (c) if the ship is more than 15m, a number worked out in a way approved by the general manager.

***category 1 area***, for a buoy mooring, see section 207(2).

***category 2 area***, for a buoy mooring, see section 207(2).

***category 3 area***, for a buoy mooring, see section 207(3).

***class***, of a ship, means the class of the ship under the USL code.

***classification society*** means an entity approved by the Australian Maritime Safety Authority as a classification society.

***coast*** means the high water mark on the mainland shoreline of Queensland.

***coastal bar*** means a bar—

- (a) named in column 1 of schedule 14B; and
- (b) described in column 2 of the schedule opposite the name of the bar mentioned in column 1.

***collision regulations*** means the International Regulations for the Prevention of Collisions at Sea published by the IMO.

***combination carrier*** means a ship designed to carry either oil or solid cargos in bulk.

Schedule 15 (continued)

***commercial ship*** means—

- (a) a ship other than a fishing or recreational ship; or
- (b) a tender to a ship other than a fishing or recreational ship.

***convicted***, of an offence, means being found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction is recorded.

***crew***, of a commercial or fishing ship, means the ship's crew members and any other persons employed or engaged in any capacity on board, but does not include the master or pilot of the ship.

***crew member***—

- (a) of a commercial ship, means a person who is the chief mate, deck watchkeeper, chief engineer, second engineer or engine room watchkeeper under the USL code, section 2, part 4, clause 34;<sup>176</sup> or
- (b) of a fishing ship, means a person who is the chief mate, deck watchkeeper, chief engineer or engine room watchkeeper under the USL code, section 3, part 4, clause 21.<sup>177</sup>

***dangerous cargo*** see AS 3846—1998.

***dangerous cargo code*** means any of the following—

- (a) the BC code as it applies to materials mentioned in the BC code, appendix B;
- (b) the IMDG code;
- (c) ISGOTT;

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<sup>176</sup> USL code, section 2 (Qualifications and manning, trading vessels), part 4 (Minimum safety manning of trading vessels), clause 34 (Interpretation)

<sup>177</sup> USL code, section 3 (Qualifications and manning, fishing vessels), part 4 (Minimum safety manning of fishing vessels), clause 21 (Interpretation)

Schedule 15 (continued)

- (d) the Ship to Ship Transfer Guide (Liquefied Gases) issued by the International Chamber of Shipping and the Oil Companies International Marine Forum;
- (e) the Ship to Ship Transfer Guide (Petroleum) issued by the International Chamber of Shipping and the Oil Companies International Marine Forum;
- (f) the Tanker Safety Guide (Chemicals) issued by the International Chamber of Shipping;
- (g) the Tanker Safety Guide (Liquefied Gas) issued by the International Chamber of Shipping.

***dangerous goods*** means the goods mentioned in the IMDG code.<sup>178</sup>

***design approval certificate*** means a certificate issued by the general manager certifying that the general manager has approved the design for a ship, or part of a ship, under section 70A of the Act.

***educational program*** see the *Education (General Provisions) Act 1989*, section 2.

***emergency services department*** means the department within which the *Disaster Management Act 2003* is administered.

***employee***, of an entity, includes an agent of the entity, if the agent is an individual.

***engineer***—

- (a) for a commercial ship, means a chief engineer, second engineer or engine room watchkeeper under the USL code, section 2, part 4, clause 34; or
- (b) for a fishing ship, means a chief engineer or engine room watchkeeper under the USL code, section 3, part 4, clause 21.

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<sup>178</sup> The dangerous goods mentioned are the dangerous goods to which chapter 7, part A of the International Convention for the Safety of Life at Sea, 1974, and its Protocols of 1978 (SOLAS) apply.

Schedule 15 (continued)

**EPIRB** means an emergency position indicating radio beacon.

**fisheries jurisdiction line** means the line stated in annex 8 to the Torres Strait Treaty.

**fishing ship** means—

- (a) a ship authorised for fishing purposes, under an authority under the *Fisheries Act 1994*; or
- (b) a ship authorised for aquaculture purposes, under a development permit under the *Integrated Planning Act 1997*; or
- (c) a ship that is a boat for which a licence has been granted under the *Fisheries Management Act 1991* (Cwlth) or the *Torres Strait Fisheries Act 1984* (Cwlth); or
- (d) a tender to a ship mentioned in paragraph (a), (b) or (c).

**fishing ship operational area** means the area described in schedule 11.

**former Act** means the repealed *Queensland Marine Act 1958*.

**former board** means the Marine Board established under the former Act.

**freestyle**, in relation to a personal watercraft, means drive the personal watercraft in a way that its course or speed is insufficiently predictable to allow masters of other ships to readily decide what course and speed to take to avoid a collision with the personal watercraft.

**further building**, in relation to a ship, means an alteration of the ship or a replacement of part of the ship if, under section 43(2), the alteration or replacement may affect marine safety.

**gas free** see AS 3846—1998.

**Great Barrier Reef Region** see the *Great Barrier Reef Marine Park Act 1975* (Cwlth).

**gross tonnage** of a ship means the gross tonnage of the ship calculated in the way authorised in the International Convention on the Tonnage Measurement of Ships 1969.

Schedule 15 (continued)

**gt** means gross tonnage.

**high speed ship** means a ship that—

- (a) is more than 20m; and
- (b) is capable of a speed of more than 20kn.

**holder**, of an authority, means—

- (a) if the authority is the registration of a ship—the person in whose name the ship is registered; or
- (b) otherwise—the person to whom the authority is granted.

**IMDG code** means the International Maritime Dangerous Goods Code published by IMO.

**IMO** means the International Maritime Organisation.

**inert condition** means an inert condition under ISGOTT.

**inflatable ship** means a ship to which ISO 6185:1982, parts 1 to 3 apply.

**insolvent under administration**, for part 3, division 6, see section 71.

**interested person**, for part 3, division 6, see section 71.

**ISGOTT** means the International Safety Guide for Oil Tankers and Terminals issued by the International Chamber of Shipping, the Oil Companies International Marine Forum and the International Association of Ports and Harbours.

**ISO** means a standard published by the International Organisation for Standardisation.

**land** means a part of the earth's surface (other than a reef) above ordinary high water mark at spring tides.

**load line certificate** means a certificate certifying that the chief executive has approved the load line for a ship.

**Marine Orders** means the Marine Orders made under the Commonwealth Navigation Act, section 425(1AA).<sup>179</sup>

Schedule 15 (continued)

**marine safety legislation** means any of the following—

- (a) the Act;
- (b) the former Act;
- (c) a law of the Commonwealth, a State or a foreign country about marine safety.

**MARPOL** means the International Convention for the Prevention of Pollution from Ships, 1973 as the convention applies under the *Transport Operations (Marine Pollution) Act 1995*.

**mooring manager** see section 207(4).

**partially smooth waters** means the waters described in schedule 12, other than waters within 0.5n mile from land.

**passenger**, in relation to a ship, means any person on the ship other than—

- (a) the master of the ship; or
- (b) any of the crew; or
- (c) the pilot of the ship; or
- (d) a child under 1 year.

**personal flotation device** means a buoyancy aid worn by a person to keep the person afloat in water.

**personal watercraft** means a powered ship that—

- (a) has a fully enclosed hull that does not take on water if capsized; and
- (b) is designed to be operated by a person standing, crouching or kneeling on it or sitting astride it.

**PFD type 1** means any of the following—

- (a) a personal flotation device complying with AS 1512—1996;
- (b) a life jacket conforming with SOLAS, chapter III, regulation 32;

Schedule 15 (continued)

- (c) a coastal life jacket approved under the USL code, section 10, appendix R.

***PFD type 2*** means a personal flotation device complying with AS 1499—1996.

***PFD type 3*** means a personal flotation device complying with AS 2260—1996.

***pilotage exemption certificate*** means a certificate exempting the master of a ship from pilotage in a pilotage area.

***positive flotation***, as an attribute of a ship, means that the ship, because of the way it is built or the materials from which it is constructed or both, is able, when filled with water, to remain afloat in an upright position while carrying its normal operational equipment and the total number of persons stated in its registration certificate.

***primary school*** see the *Education (General Provisions) Act 1989*, section 2.

***proposed area***, for part 9A, see section 222B.

***proposing entity***, for part 9A, see section 222B.

***propulsion power***, of a ship, means the maximum continuous rated power in kilowatts of the largest engine on the ship for the propulsion of the ship.

***protected zone*** means the area described in the Torres Strait Treaty, annex 9.

***qualifications*** includes experience.

***radio***, for part 7, division 5, see section 182.

***recreational ship*** means—

- (a) a ship being used only for private recreation; or
- (b) a tender to a ship being used only for private recreation.

***register*** means—

- (a) the register of registered recreational ships kept by the chief executive under section 72; or



Schedule 15 (continued)

- (b) the register of registered commercial and fishing ships kept by the general manager under section 73.

**registered** means registered under this regulation.

**registered owner**, of a ship, means the owner in whose name the ship is registered.

**registrable**, for a ship, means a ship that, under this regulation, is required to be registered, whether or not the ship is registered.

**restricted use buoy mooring** means a buoy mooring to which only a particular ship, owned by the holder of the approval for the buoy mooring and stated in the approval, may be moored.

**restricted use flag** means a flag authorising the operation of a ship for 1 or more of the purposes mentioned in section 80(3).

**sail training ship** means a sailing ship used by a sailing school for teaching persons sailing, if the ship—

- (a) is 6m or more but less than 16m; and  
(b) does not carry anyone on board other than its master and crew and the persons learning to sail.

**secondary school** see the *Education (General Provisions) Act 1989*, section 2.

**small ship**, for part 7, division 5, see section 182.

**smooth waters** means the waters—

- (a) of rivers, creeks, streams and lakes; or  
(b) within breakwaters or revetments; or  
(c) described in schedule 12 that are within .5n mile from land; or  
(d) described in schedule 13.

**SOLAS** means the International Convention for the Safety of Life at Sea, 1974, and its Protocols of 1978.

**speed** means speed over the ground.

Schedule 15 (continued)

**surf**, in relation to a personal watercraft, means drive the personal watercraft down a breaking wave, wake or swell.

**tender** means an auxiliary ship, other than a lifeboat, that—

- (a) is not more than 6m; and
- (b) is employed to attend another ship; and
- (c) is smaller than the other ship; and
- (d) is operated only in the proximity of the other ship.

**Torres Strait Treaty** see the *Torres Strait Fisheries Act 1984*.

**Torres Strait zone** means the area of waters described in schedule 14.

**training provider** means—

- (a) a secondary school under the *Education (General Provisions) Act 1989* that provides training in the operation of ships; or
- (b) an entity carrying on the business of providing training in the operation of ships.

**underway** means not at anchor, made fast to the shore or aground.

**unrestricted use buoy mooring** means a buoy mooring to which any ship, with the consent of the holder of the approval for the buoy mooring, may be moored.

**USL code** means the Uniform Shipping Laws Code adopted by Commonwealth, State and Territory Ministers.

**V sheet** means a rectangular sheet of water resistant material that—

- (a) is fluorescent orange or red; and
- (b) has the letter ‘V’ displayed prominently on it in black; and
- (c) is at least 1.8m x 1.2m.

**water ski** means tow a person by a line attached to a ship including, for example, a person riding on a toboggan or tube.

**Schedule 15 (continued)**

***wave jump***, in relation to a personal watercraft, means drive the personal watercraft over a breaking wave, wake or swell for the purpose of making the personal watercraft airborne, other than in the ordinary course of navigation.

***whole ship*** means, in relation to a ship or part of a ship, all the aspects of stability, design, building or survey of the ship or part of the ship that, when combined, ensure the ship is seaworthy and appropriately equipped to meet the ordinary perils of voyages in its intended operational area.

***wing in ground effect craft*** means a commercial ship constructed to move above the surface of the water using ground effect to lift off, land and maintain a limited altitude.

## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 7 July 2006. Future amendments of the Transport Operations (Marine Safety) Regulation 2004 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	16 August 2004	
1A rv	2005 SL No. 50	1 April 2005	
1B rv	2005 SL No. 91	1 July 2005	
	2005 SL No. 121		
1C	2005 SL No. 121	1 January 2006	
	2005 SL No. 328		
1D	2006 SL No. 20	1 March 2006	
1E	2006 SL No. 37	1 April 2006	
1F	2006 SL No. 26 (amd 2006 SL No. 90) 2006 SL No. 90	1 July 2006	
1G	2006 SL No. 173	7 July 2006	

## 5 List of legislation

### **Transport Operations (Marine Safety) Regulation 2004 SL No. 159**

made by the Governor in Council on 12 August 2004

notfd gaz 13 August 2004 pp 1165–7

ss 1–2 commenced on date of notification

remaining provisions commenced 16 August 2004 (see s 2)

exp 1 September 2014 (see SIA s 54)

Note—(1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

(2) A regulatory impact statement and explanatory note were prepared.

amending legislation—

### **Transport Operations (Marine Safety) and Other Legislation Amendment Regulation (No. 1) 2005 SL No. 50 pts 1–2**

notfd gaz 1 April 2005 pp 1066–9

ss 1–2 commenced on date of notification

remaining provisions commenced 1 April 2005 (see s 2)

Note—A regulatory impact statement and explanatory note were prepared

### **Transport Legislation Amendment Regulation (No. 1) 2005 SL No. 91 pts 1, 9**

notfd gaz 20 May 2005 pp 224–6

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2005 (see s 2)

**Transport Operations (Marine Safety) and Other Legislation Amendment Regulation (No. 2) 2005 SL No. 121 pts 1, 3–4**

notfd gaz 17 June 2005 pp 569–71

ss 1–2 commenced on date of notification

pt 4 commenced 1 January 2006 (see s 2(2))

remaining provisions commenced 1 July 2005 immediately after s 18 of the Transport Legislation Amendment Regulation (No. 1) 2005 SL No. 91 commenced (see s 2(1))

Note—An explanatory note was prepared

**Transport Operations (Marine Safety) Amendment Regulation (No. 1) 2005 SL No. 328**

notfd gaz 16 December 2005 pp 1490–6

ss 1–2 commenced on date of notification

remaining provisions commenced 1 January 2006 (see s 2)

Note—An explanatory note was prepared

**Transport Operations (Marine Safety) Amendment Regulation (No. 1) 2006 SL No. 20**

notfd gaz 24 February 2006 pp 798–801

ss 1–2 commenced on date of notification

remaining provisions commenced 1 March 2006 (see s 2)

Note—An explanatory note was prepared

**Fisheries and Other Legislation Amendment Regulation (No. 1) 2006 SL No. 26 pts 1, 4 (this SL is amended see amending legislation below)**

notfd gaz 24 February 2006 pp 798–801

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2006 (see s 2)

Note—A regulatory impact statement and explanatory note were prepared

amending legislation—

**Transport Legislation and Another Regulation Amendment Regulation (No. 1) 2006 SL No. 90 ss 1, 2(1), pt 2 (amends 2006 SL No. 26 above)**

notfd gaz 19 May 2006 pp 252–4

ss 1–2 commenced on date of notification

remaining provisions commenced 30 June 2006 (see s 2(2))

**Transport Operations (Marine Safety) Amendment Regulation (No. 2) 2006 SL No. 37**

notfd gaz 10 March 2006 pp 981–2

ss 1–2 commenced on date of notification

remaining provisions commenced 1 April 2006 (see s 2)

**Transport Legislation and Another Regulation Amendment Regulation (No. 1) 2006 SL No. 90 ss 1, 2(1), pt 10**

notfd gaz 19 May 2006 pp 252–4

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2006 (see s 2(1))

**Transport Legislation and Another Regulation Amendment Regulation (No. 2) 2006**

**SL No. 173 pts 1, 5**

notfd gaz 7 July 2006 pp 1167–9

commenced on date of notification

## **6 List of annotations**

### **References to length of ship**

**s 6** sub 2005 SL No. 50 s 4  
amd 2006 SL No. 37 s 4; 2006 SL No. 90 s 20

### **Lifesaving appliances—commercial ships to comply with USL code with changes**

**s 13** amd 2006 SL No. 20 s 4

### **Application of div 4**

**s 20** amd 2006 SL No. 26 s 65

### **Fishing ship less than 10m or tender boat under Fisheries Act 1994**

**prov hdg** sub 2006 SL No. 26 s 66(1)  
**s 24** amd 2006 SL No. 26 s 66(2)

### **Safety equipment for recreational ship operating in partially smooth waters and beyond**

**s 31** amd 2006 SL No. 20 s 5

### **Exception for person on recreational ship wearing diver's jacket**

**prov hdg** sub 2006 SL No. 20 s 6(1)  
**s 32** amd 2006 SL No. 20 s 6(2)

### **Safety equipment for tender operating in partially smooth waters and beyond**

**s 38** amd 2006 SL No. 20 s 7

### **Exception for person on tender wearing diver's jacket**

**prov hdg** amd 2006 SL No. 20 s 8(1)  
**s 39** amd 2006 SL No. 20 s 8(2)

### **Life jackets and personal flotation devices**

**s 40** sub 2006 SL No. 37 s 5

### **Application of Act, pt 5, div 4**

**s 42** amd 2005 SL No. 121 s 6

### **Accreditation as a ship designer, ship builder or marine surveyor**

**s 44** amd 2006 SL No. 20 s 9

### **Application of Act, pt 5, div 2**

**s 60** amd 2005 SL No. 121 s 7; 2006 SL No. 26 s 67

### **Exception for particular ships**

**s 66** amd 2005 SL No. 121 s 8

### **Definitions for div 6**

**s 71 prov hdg** amd 2005 SL No. 50 s 5

**Registration number of commercial ship or recreational ship to be displayed**

s 74            amd 2005 SL No. 121 s 9

**Markings for particular tenders**

s 79            amd 2006 SL No. 26 s 68

**Application of Act, pt 5, div 3**

s 84            amd 2005 SL No. 121 s 10

**Definitions for div 2**s 85            def “**commercial ship**” amd 2005 SL No. 121 s 38(1)                  def “**fishing ship**” amd 2005 SL No. 121 s 38(2)**Owner or master to ensure master and crew members appropriately licensed**

s 86            amd 2005 SL No. 121 ss 11, 39

**Operation of ship by unlicensed person**

s 87            amd 2005 SL No. 121 s 12

**Required licences for commercial ships**

s 88            amd 2005 SL No. 121 s 40

**Required licences for fishing ships**

s 92            amd 2005 SL No. 121 s 41

**Required licences for recreational ships**

s 95            amd 2005 SL No. 121 s 42

**Chief executive or general manager may issue licences**

s 97            sub 2005 SL No. 121 s 13

**Qualifications for recreational marine driver licence**

s 99            amd 2005 SL No. 121 s 14

**Qualifications for personal watercraft licence**

s 99A          ins 2005 SL No. 121 s 15

**Chief executive or general manager may recognise other qualifications**

s 100          sub 2005 SL No. 121 s 16

**Examinations of applicants for licences**

s 102          amd 2005 SL No. 121 s 17

**Approval of entity to provide training programs for the operation of ships**

s 104 prov hdg amd 2005 SL No. 328 s 4

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**PART 5—SHIP OPERATIONS****Division 9—Speed limits and other restrictions**

div hdg      amd 2005 SL No. 121 s 19

**Speed limit for ship, other than personal watercraft, operating in particular places**

s 127          sub 2005 SL No. 121 s 20



**Speed limit for personal watercraft operating in particular places**

s 127A ins 2005 SL No. 121 s 20

**Other restrictions for personal watercraft operating in particular places**

s 127B ins 2005 SL No. 121 s 20

**Application of particular provisions to enforcement officers**

s 131 amd 2005 SL No. 121 s 21

**Definition for pt 6**

s 147 def “administering agency” amd 2005 SL No. 121 s 22

**What is an authority**

s 148 amd 2005 SL No. 328 s 5

**Issuing of authority if application granted**

s 151 amd 2005 SL No. 121 s 23

**Term of authority**

s 152 amd 2005 SL No. 121 s 24

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s 153 amd 2005 SL No. 121 s 25

**Keeping of authority**

s 170 sub 2005 SL No. 121 s 26

**Defacing or changing authority**

s 170A ins 2005 SL No. 121 s 26

**Copy of authority may be given to person with interest in ship**

s 171A ins 2005 SL No. 121 s 27

**Application of Act, pt 8**

s 176 amd 2005 SL No. 50 s 6

**Transfer of pilot to ship**

s 177 amd 2006 SL No. 173 s 12

**Reporting movement of ship mentioned in s 176(1)**

prov hdg sub 2005 SL No. 50 s 7(1)

s 181 amd 2005 SL No. 50 s 7(2)–(3)

**Reporting movement of ship 35m or more but less than 50m**

s 181A ins 2005 SL No. 50 s 8

**Report requested by harbour master**

s 190 amd 2005 SL No. 50 s 9

**Pilotage fees for pilotage service**

s 193 sub 2005 SL No. 50 s 10

**No pilotage fee for removal of a ship that is part of arrival or departure**

s 194 sub 2005 SL No. 50 s 10

**Fee if pilot cannot leave ship**

s 195 sub 2005 SL No. 50 s 10

**Cancellation fee if pilotage amended or cancelled**

s 195A ins 2005 SL No. 50 s 10

**Delay fee if pilotage delayed**

s 195B ins 2005 SL No. 50 s 10

**Conservancy dues for ships**

s 196 amd 2005 SL No. 50 s 11

**Harbour master or general manager may carry out direction**

s 216 amd 2005 SL No. 121 s 28

**Water skiing**

prov hdg amd 2005 SL No. 121 s 29(1)

s 222 amd 2005 SL No. 121 s 29(2)–(3)

**PART 9A—MARINE ZONES**

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**PART 10—MISCELLANEOUS****Division 3—Signs**

div 3 (s 226A) ins 2005 SL No. 121 s 31

**Licensing exceptions—particular commercial ships less than 35m**

s 229 exp 16 August 2009 (see s 229(4))

**Crew to complete safety course**

s 233 amd 2005 SL No. 121 s 32

**Division 4—Other transitional provisions**

div hdg ins 2005 SL No. 50 s 12

**Transitional provision for the Transport Operations (Marine Safety) and Other  
Legislation Amendment Regulation (No. 1) 2005—pilotage fees**

s 236A ins 2005 SL No. 50 s 12

exp 30 June 2007 (see s 236A(7))

**Transitional provision for the Transport Operations (Marine Safety—Examining  
and Training Approvals (Recreational Ships and Personal Watercraft))  
Standard 2005**

s 236B ins 2005 SL No. 328 s 6

**PART 12—REPEAL**

pt hdg om 2006 SL No. 20 s 10

**Transitional provision for the Transport Operations (Marine Safety—Accreditation  
as Ship Designer, Ship Builder or Marine Surveyor) Standard 2006**

s 237 prev s 237 om 2006 SL No. 20 s 10

pres s 237 ins 2006 SL No. 20 s 11

**PART 13—AMENDMENT OF STATE PENALTIES ENFORCEMENT  
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pt 13 (ss 238–239) om R1 (see RA ss 7(1)(k) and 40)

**SCHEDULE 1—STANDARDS**

amd 2006 SL No. 20 s 12

**SCHEDULE 3—CLASSES OF LICENCES**

amd 2005 SL No. 121 s 33

**SCHEDULE 6—COMPULSORY PILOTAGE AREAS**

amd 2005 SL No. 50 s 13

**SCHEDULE 10—FEES AND CHARGES**

**sch 10**     sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Accreditation of ship designer, ship builder and marine surveyor**

**s 1**           sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Registration of recreational ship**

**s 2**           sub 2005 SL No. 91 s 18  
              amd 2006 SL No. 26 s 69 (om 2006 SL No. 90 s 4)  
              sub 2006 SL No. 90 s 21

**Pensioner concession**

**s 3**           sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Registration of commercial ship other than a sail training ship**

**s 4**           sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Registration of commercial ship that is a sail training ship**

**s 5**           sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Exemption from payment of registration fees of particular commercial ship**

**s 6**           sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Registration of fishing ship**

**s 7**           sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Other registration fees**

**s 8**           amd 2005 SL No. 50 s 14(1)  
              sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Restricted use flag**

**s 9**           amd 2005 SL No. 50 s 14(2)  
              sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Design approval certificate**

**s 10**          amd 2005 SL No. 50 s 14(3)  
              sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Certificate of survey**

**s 11**          sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Licence to operate commercial ship or fishing ship**

**s 12**          sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Recreational marine driver licence**

**s 13**          sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Personal watercraft licence**

**s 13A**       ins 2005 SL No. 121 s 34  
              om 2006 SL No. 90 s 21

**Personal watercraft licence**

s 14 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Pilot licence and pilotage exemption certificate**

s 15 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Other licence fees or other authority fees**

s 16 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Training approval**

s 17 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Load line certificate**

s 18 sub 2005 SL No. 50 s 14(4); 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Pilotage fees for removal of a ship**

s 18A ins 2005 SL No. 50 s 14(4)  
sub 2005 SL No. 91 s 18  
om 2006 SL No. 90 s 21

**Pilotage fees for arrival and departure of a ship**

s 19 sub 2005 SL No. 50 s 14(4); 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Pilotage delay fees**

s 19A ins 2005 SL No. 50 s 14(4)  
sub 2005 SL No. 91 s 18  
om 2006 SL No. 90 s 21

**Pilotage fees for removal of a ship**

s 20 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Pilotage cancellation fees**

s 21 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Pilotage delay fees**

s 22 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Conservancy dues**

s 23 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Gross tonnage for particular ships**

s 24 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Interest rate for unpaid fees**

s 25 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Buoy mooring**

s 26 sub 2005 SL No. 91 s 18; 2006 SL No. 90 s 21

**Concession for particular unrestricted use buoy mooring**

s 27 ins 2006 SL No. 90 s 21

**Aquatic event**

s 28 ins 2006 SL No. 90 s 21

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**SCHEDULE 14A—MARINE ZONES**

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ins 2006 SL No. 37 s 6

**SCHEDULE 15—DICTIONARY**

def “**area VTS**” amd 2005 SL No. 50 s 15(1)

def “**category 1 area**” amd 2005 SL No. 50 s 15(2)

def “**category 2 area**” amd 2005 SL No. 50 s 15(3)

def “**category 3 area**” amd 2005 SL No. 50 s 15(4)

def “**coastal bar**” ins 2006 SL No. 37 s 7

def “**educational program**” ins 2006 SL No. 90 s 22

def “**fishing ship**” amd 2006 SL No. 26 s 70

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def “**proposing entity**” ins 2005 SL No. 121 s 36

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def “**surf**” ins 2005 SL No. 121 s 36

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def “**water ski**” ins 2005 SL No. 121 s 36

def “**wave jump**” ins 2005 SL No. 121 s 36