



Queensland

Transport Operations (Marine Safety—Recreational Marine Driver Licence Approvals) Interim Standard (No. 2) 2005

Subordinate Legislation 2005 No. 182

made under the

Transport Operations (Marine Safety) Act 1994

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1 Short title

This standard may be cited as the *Transport Operations (Marine Safety—Recreational Marine Driver Licence Approvals) Interim Standard (No. 2) 2005*.

2 Commencement

This standard commences on 1 September 2005.

3 Definitions

In this standard—

collision regulations see schedule 15¹ of the regulation.

infringement notice fine, for an infringement notice offence, means an infringement notice fine under the *State Penalties Enforcement Act 1999*.²

infringement notice offence means an offence prescribed under the *State Penalties Enforcement Act 1999* to be an infringement notice offence.

insolvent under administration has the meaning given by section 71³ of the regulation.

recreational ship see schedule 15 of the regulation.

regulation means the *Transport Operations (Marine Safety) Regulation 2004*.

4 Qualification to conduct examinations—regulation, s 103(1)

- (1) To qualify to conduct examinations for issuing licences to operate a recreational ship⁴ as its master, the general manager must be satisfied an entity—

1 Schedule 15 (Dictionary) of the regulation

2 See the *State Penalties Enforcement Act 1999*, schedule 2 (Dictionary).

3 Section 71 (Definitions for div 6) of the regulation

4 See section 103 (Approval of entity to conduct examinations) of the regulation.

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- (a) holds a current appropriate licence⁵ to operate a recreational ship as its master; and
 - (b) has a reasonable knowledge of—
 - (i) the Act, the regulation and standards made under the Act; and
 - (ii) the collision regulations; and
 - (c) is reasonably competent in seafaring skills and safe operating practices for recreational ships; and
 - (d) has—
 - (i) at least 3 years practical experience in operating a recreational ship as its master; or
 - (ii) other appropriate expertise acceptable to the general manager; and
 - (e) is competent to conduct the examinations; and
 - (f) is suitable for approval to conduct examinations for issuing licences.
- (2) If the entity is a corporation or unincorporated body, the general manager must discharge the responsibility under subsection (1) by applying—
- (a) subsection (1)(e) and (f) to the entity; and
 - (b) subsection (1)(a) to (f) to an individual nominated by the entity, as if the individual were the entity.

5 Qualification to provide training—regulation, s 104(1)

- (1) To qualify to conduct training programs in the operation of recreational ships,⁶ the general manager must be satisfied an entity—

5 As to what is the appropriate licence, see section 95 (Required licences for recreational ships) of the regulation.

6 See section 104 (Approval of entity to provide training) of the regulation.

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- (a) holds a current appropriate licence⁷ to operate a commercial ship as its master; and
 - (b) has a reasonable knowledge of—
 - (i) the Act, the regulation and standards made under the Act; and
 - (ii) the collision regulations; and
 - (c) is reasonably competent in seafaring skills and safe operating practices for recreational ships; and
 - (d) has—
 - (i) at least 3 years practical experience in operating a recreational ship; or
 - (ii) other appropriate expertise acceptable to the general manager; and
 - (e) is competent to conduct the training programs; and
 - (f) is suitable for approval to conduct the training programs.
- (2) If the entity is a corporation or unincorporated body, the general manager must discharge the responsibility under subsection (1) by applying—
- (a) subsection (1)(e) and (f) to the entity; and
 - (b) subsection (1)(a) to (f) to an individual nominated by the entity, as if the individual were the entity.
- (3) In this section—
- commercial ship*** see schedule 15 of the regulation.

6 Suitability for approval of individual

- (1) For section 4(1)(f) or 5(1)(f), an individual is not suitable for approval if the individual—
- (a) in the last 5 years, has been convicted of an indictable offence; or

⁷ As to what is the appropriate licence, see section 88 (Required licences for commercial ships) of the regulation.

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- (b) in the last 5 years, has had a licence to operate a ship suspended or cancelled; or
 - (c) for an approval under section 104 of the regulation—is an insolvent under administration.
- (2) In deciding whether an individual is suitable for approval, the general manager must consider whether the individual—
- (a) in the last 5 years, has been convicted of an offence against the Act; or
 - (b) in the last 2 years, has paid an infringement notice fine for an offence against the Act that is an infringement notice offence.

7 Suitability for approval of corporation

- (1) For section 4(1)(f) or 5(1)(f), a corporation is not suitable for approval if—
- (a) the corporation—
 - (i) in the last 5 years, has been convicted of an indictable offence; or
 - (ii) for an approval under section 104 of the regulation—is an externally-administered body corporate; or
 - (b) the individual nominated by the corporation under section 4(2)(b) or 5(2)(b)—
 - (i) in the last 5 years, has been convicted of an indictable offence; or
 - (ii) in the last 5 years, has had a licence to operate a ship suspended or cancelled; or
 - (iii) for an approval under section 104 of the regulation—is an insolvent under administration.
- (2) In deciding whether a corporation is suitable for approval, the general manager must consider whether the corporation or the individual nominated by the corporation under section 4(2)(b) or 5(2)(b)—

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- (a) in the last 5 years, has been convicted of an offence against the Act; or
 - (b) in the last 2 years, has paid an infringement notice fine for an offence against the Act that is an infringement notice offence.
- (3) In this section—
- externally-administered body corporate* has the meaning given by the Corporations Act, section 9.⁸

8 Suitability for approval of unincorporated body

- (1) For section 4(1)(f) or 5(1)(f), an unincorporated body is not suitable for approval if the individual nominated by the body under section 4(2)(b) or 5(2)(b)—
- (a) in the last 5 years, has been convicted of an indictable offence; or
 - (b) in the last 5 years, has had a licence to operate a ship suspended or cancelled; or
 - (c) for an approval under section 104 of the regulation—is an insolvent under administration.
- (2) In deciding whether an unincorporated body is suitable for approval, the general manager must consider whether the individual nominated by the body under section 4(2)(b) or 5(2)(b)—

8 Corporations Act, section 9—

externally-administered body corporate means a body corporate—

- (a) that is being wound up; or
- (b) in respect of property of which a receiver, or a receiver and manager, has been appointed (whether or not by a court) and is acting; or
- (c) that is under administration; or
- (ca) that has executed a deed of company arrangement that has not yet terminated; or
- (d) that has entered into a compromise or arrangement with another person the administration of which has not been concluded.

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- (a) in the last 5 years, has been convicted of an offence against the Act; or
- (b) in the last 2 years, has paid an infringement notice fine for an offence against the Act that is an infringement notice offence.

9 Expiry

This standard expires 6 months after its commencement.

10 Repeal

The Transport Operations (Marine Safety—Recreational Marine Driver Licence Approvals) Interim Standard 2005 SL No. 20 is repealed.

11 References to former standards

- (1) In a document or instrument a reference to the following standards may, if the context permits, be taken to be a reference to this standard—
 - *Transport Operations (Marine Safety—Recreational Ship Masters Licence Approvals) Standard 1998*
 - *Transport Operations (Marine Safety—Recreational Marine Driver Licence Approvals) Interim Standard 2005.*
- (2) Subsection (1) does not limit the application of the *Acts Interpretation Act 1954*, section 14H.⁹

⁹ *Acts Interpretation Act 1954*, section 14H (References taken to be included in reference to law)

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ENDNOTES

- 1 Made by the general manager on 13 July 2005.
- 2 Approved by the Governor in Council on 11 August 2005.
- 3 Notified in the gazette on 12 August 2005.
- 4 Laid before the Legislative Assembly on . . .
- 5 The administering agency is the Department of Transport.