



Queensland

# Transport Operations (Marine Safety—Bareboat Ships) Standard 2007

## Subordinate Legislation 2007 No. 113

made under the

*Transport Operations (Marine Safety) Act 1994*

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## **Part 1 Preliminary**

### **1 Short title**

This standard may be cited as the *Transport Operations (Marine Safety—Bareboat Ships) Standard 2007*.

### **2 Commencement**

This standard commences on 15 June 2007.

### **3 Purposes of standard**

The purposes of this standard are—

- (a) to help providers and users of bareboat ships to understand their general safety obligations under part 4, division 1<sup>1</sup> of the Act; and
- (b) to provide other measures for marine safety in relation to bareboat ships.

### **4 Definitions**

The dictionary in the schedule defines particular words used in this standard.

### **5 Meaning of *bareboat ship***

- (1) A ship is a *bareboat ship* if the ship is—
  - (a) a commercial ship registered under the Marine Safety Regulation as a class 1F ship; and
  - (b) more than 6m in length; and
  - (c) when hired, made available—
    - (i) for the recreational use of the user of the ship; and

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<sup>1</sup> Part 4 (General safety obligations and standards), division 1 (General safety obligations) of the Act

- (ii) without master or crew, other than a guide under section 14.

*Example of ships that may be a bareboat ship—*

a cruiser, houseboat or yacht

- (2) Subsection (1) applies even if the ship is part of a group of not more than 6 ships under the supervision of a mother ship.

## **Part 2**                      **Obligations of intending providers and providers**

### **6**            **Inspection of ship before each hiring**

A person who proposes to hire out a bareboat ship must, before each hiring of the ship, ensure that the ship and its equipment are inspected to ensure the ship is seaworthy, and is appropriately equipped, to meet the ordinary perils of the voyage on which the ship is about to proceed.

### **7**            **Ship must have boarding ladder**

The provider of a bareboat ship must ensure the ship has a boarding ladder that extends from the weather deck or transom access point to at least 600mm below the ship's operational waterline.

### **8**            **Safety management plan**

- (1) The provider of a bareboat ship must have a written safety management plan for the ship that is appropriate to ensure the safe operation of the ship having regard to the ship's—
- (a) type; and
  - (b) type of intended operation; and
  - (c) intended area of operation.
- (2) The plan must deal with the following matters—

- (a) safety precautions for the safe operation of the ship's motor and systems;
- (b) the procedure to initiate a rescue;
- (c) the procedure for making voice contacts;
- (d) action to be taken in the following emergencies—
  - (i) fire;
  - (ii) person overboard;
  - (iii) collision;
  - (iv) loss of propulsion;
  - (v) grounding or stranding;
  - (vi) severe weather;
  - (vii) medical emergency.

**9 Provider not to allow user to operate ship if user has insufficient skills or abilities**

- (1) The provider of a bareboat ship must not allow the user of the ship to operate it unless—
  - (a) the provider has reasonable grounds to believe that the user has the skills and abilities necessary for the user to operate the ship safely, while it is hired, having regard to the ship's size, type, propulsion power and intended area of operation; and
  - (b) the provider has a declaration mentioned in section 22(a) about the user.
- (2) However, subsection (1)(a) does not apply if, under section 14, a person performing the role of a guide accompanies the ship while the user operates the ship.
- (3) The provider must make a written record of the provider's reasons for deciding that the user has the skills and abilities mentioned in subsection (1)(a).

*Example of the reasons—*

licences, interstate or overseas licences or other marine qualifications held, relevant boating experience, observation of the user's skills, or the user's medical conditions as advised by the user

## **10 Documents to be given to user**

Before the user of a bareboat ship operates the ship, the provider of the ship must give the user the following documents—

- (a) official tide tables for the ship's intended area of operation and notes on boating, or documents equivalent to them;<sup>2</sup>
- (b) a marine guide book for the ship's intended area of operation;
- (c) large scale Admiralty charts, or Queensland boating safety charts published by MSQ, for the ship's intended area of operation that clearly show safe anchorages and navigable waters;
- (d) a basic operations manual for the ship, including instructions on the operation of safety equipment carried aboard the ship;
- (e) a first aid book;
- (f) a summary of the action to be taken under the ship's safety management plan, including—
  - (i) the procedure for making voice contacts; and
  - (ii) the action to be taken in an emergency.

## **11 Briefing before user operates ship**

- (1) Before the user of a bareboat ship operates the ship, the provider of the ship must ensure the user is briefed on the following matters—

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<sup>2</sup> MSQ publishes official tide tables for Queensland with notes on boating safety.

- (a) the action to be taken under the ship's safety management plan in an emergency;
- (b) weather conditions forecast by the Bureau of Meteorology for the period for which the ship is hired for the ship's intended area of operation, but only if the forecast is reasonably available;
- (c) the likely effect of the weather expected in the ship's intended area of operation;
- (d) tides and currents and their likely effect on the movement of the ship in the ship's intended area of operation;
- (e) the location of reefs and anchorages in the ship's intended area of operation;
- (f) specific hazards and dangers to navigation in the ship's intended area of operation;
- (g) the risks to the health or safety of each person who will be aboard the ship while the ship is being operated and hired that may arise from the unsafe operation of the ship;

*Example—*

risk of head injury from the unsafe operation of a yacht

- (h) if there is coral in the ship's intended area of operation, visibility of coral under various conditions of tide, weather and sunlight;
- (i) dinghy handling, if a dinghy is carried on the ship;
- (j) handling of the ship while underway, including techniques of stopping or turning;
- (k) anchoring, if the ship has provision for anchoring;
- (l) operation of the ship's radio, if the ship is fitted with a radio;
- (m) navigation in the ship's intended area of operation;
- (n) operation and stowage of lifesaving appliances;
- (o) all the ship's systems;

- (p) the expected date and times of leaving and return of the ship;
  - (q) the Marine Safety Regulation, part 5, division 9;<sup>3</sup>
  - (r) the obligations under the collision regulations having effect under the Marine Safety Regulation likely to be relevant to the operation of the ship while it is hired;
 

*Example—*

obligations about steering or sailing
  - (s) the obligation of the master of a ship—
    - (i) under section 43<sup>4</sup> of the Act, not to cause the ship to be operated unsafely, for example, not to cause the ship to be operated unpredictably; and
    - (ii) under section 44<sup>5</sup> of the Act, not to operate the ship unless it is equipped with the safety equipment required by the Marine Safety Regulation; and
    - (iii) under section 125<sup>6</sup> of the Act, to report a marine incident as defined in section 123<sup>7</sup> of the Act;
  - (t) any obligation under the hiring agreement for the ship allowing the provider to end the agreement if the ship is operated unsafely while it is hired.
- (2) The briefing must include a practical demonstration of the following—
- (a) the ship's safety equipment;
  - (b) the ship's steering and emergency steering;
  - (c) bilge pumping;
  - (d) starting and operating the motor and what to do if the motor does not start;

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3 Marine Safety Regulation, part 5 (Ship operations), division 9 (Speed limits and other restrictions)

4 Section 43 (General obligation on persons involved with operation of ship to operate it safely) of the Act

5 Section 44 (Safety equipment obligation) of the Act

6 Section 125 (Marine incidents must be reported) of the Act

7 Section 123 (What is a marine incident) of the Act



- (e) if the ship is a sailing ship, sail handling, reefing and furling.
- (3) The briefing must also include a practical demonstration of the handling of the ship while it is underway, unless the provider considers on reasonable grounds that the practical demonstration is unnecessary having regard to the user's skills and ability to operate the ship safely.

## **12 Who must give briefing**

A briefing under section 11 must be given by a person who—

- (a) has sufficient experience and knowledge in the matters mentioned in section 11 to give an adequate briefing; and
- (b) holds at least—
  - (i) if the ship's length is under 15m—a restricted coxswain licence; or
  - (ii) if the ship's length is at least 15m—a restricted master class 5 licence.

## **13 Records to be kept**

- (1) Before the user of a bareboat ship operates the ship, the provider of the ship must ensure—
  - (a) a written record is made containing the following information—
    - (i) the date and time the ship was hired;
    - (ii) the period for which the ship is hired;
    - (iii) the date and time of the briefing of the user of the ship under section 11;
    - (iv) the full name and address of the user;
    - (v) the full name of, and licences held by, the person who gave the briefing;
    - (vi) the number of persons intended to be on board the ship while the ship is hired, as advised by the

person who is to be the first or only user of the ship to operate it as master while it is hired; and

- (b) the record is signed—
  - (i) by or for the provider; and
  - (ii) by the user and the person who gave the briefing.
- (2) The provider of a bareboat ship must ensure—
  - (a) a written record is made of the date and time the ship is returned to the provider at the end of the period for which the ship is being operated by the user; and
  - (b) that the record is signed by or for the provider.
- (3) The provider must keep a record made under subsection (1) or (2) for at least 1 year after it is made.

## 14 Ship's guide

- (1) This section applies if the person who has given the user of a bareboat ship a briefing under section 11 considers the user has insufficient skills or abilities to operate the ship safely.
- (2) The provider of the ship may allow the user to operate the ship only if a person who has the following (*guide*) accompanies the ship while the user operates it—
  - (a) demonstrated competence in the safe operation of the ship;
  - (b) at least the licence required under section 12(b)(i) or (ii).
- (3) The role of the guide is to advise and guide the user in the safe operation of the ship without becoming responsible for the ship's operation.
- (4) The provider of the ship must ensure the guide continues to perform that role until the guide considers the user has sufficient skills to operate the ship safely.
- (5) Subsections (3) and (4) do not prevent a guide assuming the role of master of a ship.

## **15 Minimum age to operate ship**

- (1) The provider of a bareboat ship must not allow a person who is under 16 years to operate the ship unless—
  - (a) the person is under the direct supervision of a user who is at least 18 years; and
  - (b) the user can immediately resume operating the ship.
- (2) The provider of a bareboat ship may rely for subsection (1) on a statement by a person of the person's age unless it is unreasonable to do so.

## **16 Delivery of ship to, or collection from, user**

- (1) This section applies if the provider of a bareboat ship needs to deliver the ship to, or collect it from, the user of the ship at a particular place.
- (2) The provider must ensure the ship is operated for the delivery or collection by a person who holds at least the licence required under section 12(b)(i) or (ii).

## **17 Provider to require user to operate ship within ship's intended area of operation**

- (1) The provider of a bareboat ship must require the user of the ship to operate it within the ship's intended area of operation.
- (2) The ship's intended area of operation must be within the area of operation stated in the ship's registration certificate.

## **18 When provider must ensure user is appropriately licensed**

- (1) This section applies if the user of a bareboat ship intends the ship to be operated under power at more than 10kn.
- (2) The provider must ensure that the user is appropriately licensed.

## **19 Provider to arrange twice daily voice contact**

- (1) The provider of a bareboat ship must arrange with the user of the ship for the user to make 2 separate voice contacts on each day of the user's voyage.
- (2) The arrangement must specify the time for making each voice contact.
- (3) The voice contacts must be made with a person specified by the provider, in accordance with the procedure for making voice contacts set out in the summary of the safety management plan for the ship.
- (4) The person to be contacted under the arrangement must—
  - (a) be competent to advise on the following matters—
    - (i) requirements under the ship's safety management plan;
    - (ii) safe anchorages;
    - (iii) weather conditions;
    - (iv) the ship's features;
    - (v) any other matter relevant to the safe operation of the ship; and
  - (b) if a radio is used to make voice contact, hold any licence needed to operate the radio.
- (5) The purpose of the first voice contact of the day is to advise the ship's itinerary for the day.
- (6) The purpose of the second voice contact of the day is to advise where the ship will anchor overnight.
- (7) Advice before a voyage by the user to the provider of the ship's itinerary for the day may take the place of the first voice contact of the day for subsection (5).
- (8) The provider must also arrange with the user that, if the user fails to make 3 voice contacts as arranged with the provider, the provider will initiate a search for, and rescue of, the persons aboard the ship.

## **20 Search and rescue**

- (1) This section applies if the user of a bareboat ship fails to make 3 voice contacts as arranged with the provider of the ship.
- (2) The provider of the ship must initiate a search for, and rescue of, the persons on board the ship in accordance with the ship's safety management plan.

## **Part 3 Obligations of users**

### **21 When user must be appropriately licensed**

The user of a bareboat ship must not operate the ship under power at more than 10kn, unless the user is appropriately licensed.

### **22 User to give provider information**

Before the user of a bareboat ship operates the ship, the user of the ship must—

- (a) give the provider of the ship a written declaration stating that to the best of the user's knowledge, the user has no medical condition that makes the user unable to operate the ship safely; and
- (b) if the user is to be the first or only user of the ship to operate it as master while it is hired—advise the provider of the ship the number of persons intended to be on board the ship while the ship is hired; and
- (c) give the provider of the ship the other information the provider reasonably requires to enable the provider to decide whether—
  - (i) the provider of the ship has the reasonable grounds mentioned in section 9(1)(a); or
  - (ii) a person is under 16 years for section 15; and

- (d) tell the provider the user's full name and address; and
- (e) sign any record for the hiring made under section 13(1).

**23 User not to operate ship outside its intended area of operation**

The user of a bareboat ship must not operate the ship outside the ship's intended area of operation.

**24 User not to operate ship in a particular way**

The user of a bareboat ship must not operate the ship in a way that is contrary to an express direction of the provider of the ship for the safe operation of the ship.

**25 User not to allow non-user to be master of ship**

The user of a bareboat ship must not allow a person other than another user of the ship to be the master of the ship.

**26 User to make twice daily voice contact**

- (1) The user of a bareboat ship must arrange with the provider of the ship for the user to make 2 separate voice contacts on each day of the user's voyage.
- (2) The arrangement must specify the time for making each voice contact.
- (3) The user must make the voice contacts in accordance with the arrangement.
- (4) The contacts must be made with a person specified by the provider, in accordance with the procedure for making voice contacts set out in the summary of the safety management plan for the ship.
- (5) In the first voice contact of the day, the user must advise the ship's itinerary for the day.
- (6) In the second voice contact of the day, the user must advise where the ship will anchor overnight.

- (7) Advice before a voyage by the user to the provider of the ship's itinerary for the day may take the place of the first voice contact of the day for subsection (5).
- (8) The user must also arrange with the provider that, if the user fails to make 3 voice contacts as arranged with the provider, the provider will initiate a search for, and rescue of, the persons aboard the ship.

## **27 Hours of operation and night anchorage**

- (1) The user of a bareboat ship must ensure the ship is not underway between sunset and sunrise.
- (2) The user of a bareboat ship must anchor the ship at night in a commonly recognised safe anchorage approved by the provider of the ship.

## **Part 4 Repeal**

### **28 Repeal**

The Transport Operations (Marine Safety—Bareboat Ships) Standard 2000 SL No. 118 is repealed.

## Schedule Dictionary

### section 4

***appropriately licensed***, in relation to a user of a bareboat ship, means the user holds—

- (a) the licence that the user would be required to hold under the Marine Safety Regulation, section 95 if the ship were a recreational ship; or
- (b) a current licence issued under the law of another country that entitles the user to operate the ship in an area of operation in the other country equivalent to the area of operation for the ship, stated in the ship's certificate of registration.

***bareboat ship*** see section 5.

***hire*** a ship includes—

- (a) make the ship available under a commercial arrangement; and
- (b) provide for the ship to be made available under a commercial arrangement.

***intended area of operation***, in relation to a bareboat ship, means the area in which the provider of the ship intends that the ship will be used while it is hired.

***large scale***, for a chart, means of a scale large enough to clearly show in detail the location of reefs and other hazards to navigation.

***length*** see the Marine Safety Regulation, section 6(b).

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

***provider***, of a bareboat ship, means a person who hires out the ship.

***underway*** see the Marine Safety Regulation, schedule 15.

***user***, of a bareboat ship, means—



### Schedule (continued)

- (a) an individual to whom the ship is hired; or
- (b) an individual who may have command or charge of the ship under a hiring of the ship.

***voice contact*** means voice contact by radio, telephone, in person or by another way.

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### ENDNOTES

- 1 Made by the general manager on 24 April 2007.
- 2 Approved by the Governor in Council on 14 June 2007.
- 3 Notified in the gazette on 15 June 2007.
- 4 Laid before the Legislative Assembly on . . .
- 5 The administering agency is the Department of Transport.