



Queensland

Transport Operations (Marine Safety) Amendment Regulation (No. 2) 2009

Subordinate Legislation 2009 No. 57

made under the

Transport Operations (Marine Safety) Act 1994

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1 Short title

This regulation may be cited as the *Transport Operations (Marine Safety) Amendment Regulation (No. 2) 2009*.

2 Commencement

This regulation commences on 1 June 2009.

3 Regulation amended

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

4 Replacement of pt 2, div 1, hdg (Introduction)

Part 2, division 1, heading—

omit, insert—

‘Division 1 Preliminary’.

5 Amendment of s 8 (Purpose of pt 2)

Section 8(2)—

omit.

6 Insertion of new s 8A

Part 2, division 1, after section 8—

insert—

‘8A NSCV, pt B to be read and applied with NSCV C7A

‘For this part, the NSCV, part B must be read and applied with the NSCV C7A.’.

[s 7]

7 Amendment of s 12 (Fire appliances—commercial ships to comply with USL code with changes)

Section 12(3)(c)(ii), ‘AS/NZS 1850—199’—

omit, insert—

‘AS/NZS 1850—1997’.

8 Replacement of ss 13 and 14

Sections 13 and 14—

omit, insert—

‘13 Safety equipment—commercial ships to comply with NSCV C7A, ch 4 with changes

‘(1) This section applies to a commercial ship if the ship is mentioned in the NSCV C7A, chapter 4.

‘(2) The ship must be equipped with the safety equipment required for the class of ship under that chapter.

Note—

Under section 8A, for this part, the NSCV, part B must be read and applied with the NSCV C7A.

‘(3) Subsection (2) has effect with the following changes—

(a) a reference in that chapter to complement or to the total capacity of passengers is taken to be a reference to the number of persons on board;

(b) if the ship is involved in diving operations, the requirement under that chapter to be equipped with life jackets is taken to be complied with for a particular person if the person is wearing an inflatable diver’s jacket complying with BS EN 12628:1999;

(c) if the ship is registered in more than 1 class, the ship need only be equipped with the safety equipment required for the class in which it is then operating;

Example for paragraph (c)—

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 safety equipment for a class 1D ship.

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- (d) if the ship is operating in smooth waters, the requirement under that chapter 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 required under that chapter to be equipped with rescue boats, life rafts or buoyant appliances, the requirement does not apply if—
 - (i) 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
 - (ii) 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;
 - (f) if life jackets required under that chapter are not available for persons under 32kg, the ship may be equipped with a PFD type 1 for each person under 32kg on board;
 - (g) the change, under section 26B, to what must be shown for an equivalent solution to a required outcome under the NSCV.
- ‘(4) 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 underway.
- ‘(5) In this section—
- commercial ship* does not include a personal watercraft.

‘14 Lifesaving appliances for class 1F commercial ship

- ‘(1) This section applies to a ship registered as a class 1F ship.
- ‘(2) If the ship is less than 6m, it must be equipped with the safety equipment that would be required for it under section 29(2), 30(1), 31 or 33 if it were a recreational ship.

- ‘(3) If the ship is 6m or more, it must be equipped as follows—
- (a) when operating in smooth waters—with the lifesaving appliances required under the USL code, section 10, part 3 for a class 2E ship, but the ship need not be fitted with life jackets if the ship is equipped with a PFD type 1 for each person on board;
 - (b) when operating in partially smooth waters—with the lifesaving appliances required under the USL code, section 10, part 3 for a class 2D ship;
 - (c) when operating beyond partially smooth waters—with the lifesaving appliances required under the USL code, section 10, part 3 for a class 2C ship.
- ‘(4) Subsection (3) has effect with the following changes—
- (a) 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 complement or number of persons the ship is certified to carry, the reference to the complement or number is taken to be a reference to the number of persons on board;
 - (b) the ship must be equipped with an emergency portable lighting device, capable of giving off reasonable light in an emergency, for each person engaged in the operation of the ship;
 - (c) 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;
 - (d) 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 a particular person if the person is wearing an inflatable diver’s jacket complying with BS EN 12628:1999;
 - (e) if the ship is less than 7m, the ship may be operated without lifebuoys;

-
- (f) the ship need not be fitted with the lifeboats, life rafts or buoyant appliances required under the USL code, section 10, part 3 if—
 - (i) 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; or
 - (ii) 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;
 - (g) the ship need not be fitted with any life raft required under the USL code, section 10, part 3 if—
 - (i) the ship has with it a tender capable of carrying everyone on board; and
 - (ii) the tender is marked or coloured in a way that helps to make the tender visible in the water; and
 - (iii) there is a statement in the approved form for the tender that the tender has positive flotation;
 - (h) if the ship operates only in daylight hours, any life jacket required under the USL code, section 10, part 3 need not be fitted with a light;
 - (i) 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.’.

9 Amendment of s 15 (Lifesaving appliances for class 2E commercial ship owned and operated by particular entity and operating in river etc.)

- (1) Section 15, heading, ‘Lifesaving appliances’—
omit, insert—
‘Safety equipment’.

[s 10]

- (2) Section 15(2), ‘USL code, section 10, part 3’—
omit, insert—
‘NSCV C7A, chapter 4’.

10 Replacement of s 19 (Safety equipment to comply with particular provisions of USL code)

Section 19—
omit, insert—

‘19 Safety equipment for class 1F ship to comply with particular provisions of USL code

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

‘19A Safety equipment for commercial ship, other than class 1F ship, to comply with particular provisions of NSCV

- ‘(1) The safety equipment with which a commercial ship, other than a class 1F ship, must be equipped under this division must comply with the following provisions of the NSCV C7A—
- (a) chapter 2, other than clauses 2.11 and 2.12.2;
 - (b) chapter 3;
 - (c) chapter 5.

Editor’s note—

The chapters deal with specifications, stowage, marking and maintenance of safety equipment, and other matters.

- ‘(2) Subsection (1) has effect with the following changes—
- (a) a reference in the NSCV C7A, clause 2.10 to ‘Clauses 2.11 to 2.12’ is taken to be a reference to clause 2.12.1;

- (b) a reference in the NSCV C7A, clause 5.8, 5.9, 5.10, 5.12 or 5.15 to ‘such longer intervals as recommended by the manufacturer and approved at the time the product is assessed and verified in accordance with Clause 2.12.2’ is taken to be a reference to ‘any longer interval recommended by the manufacturer in writing’;
 - (c) the change, under section 26B, to what must be shown for an equivalent solution to a required outcome under the NSCV.
- ‘(3) If there is a failure to comply with subsection (1) with the changes under subsection (2), the ship is taken not to be equipped with the safety equipment.’.

11 Replacement of ss 23 and 24

Sections 23 and 24—

omit, insert—

‘23 Safety equipment—fishing ships to comply with NSCV C7A, ch 4 with changes

- ‘(1) This section applies to a fishing ship if the ship is mentioned in the NSCV C7A, chapter 4.
- ‘(2) The ship must be equipped with the safety equipment required for the class of ship under that chapter.

Note—

Under section 8A, for this part, the NSCV, part B must be read and applied with the NSCV C7A.

- ‘(3) Subsection (2)—
 - (a) does not apply to a fishing ship that is a tender boat under the *Fisheries Act 1994* or is under 10m, if it is equipped with—
 - (i) the safety equipment required under section 31 for a recreational ship operating beyond smooth waters; and
 - (ii) an emergency portable lighting device, capable of giving off reasonable light in an emergency, for

[s 12]

each person engaged in the operation of the ship;
and

- (b) has effect with the following changes—
 - (i) a reference in that chapter to complement in relation to a ship or to the total capacity of passengers is taken to be a reference to the number of persons on board; and
 - (ii) the change, under section 26B, to what must be shown for an equivalent solution to a required outcome under the NSCV.’

12 Replacement of s 26 (Safety equipment to comply with particular provisions of USL code) and insertion of new pt 2, div 4A

Section 26—

omit, insert—

‘26 Safety equipment for fishing ship to comply with particular provisions of NSCV

‘(1) The safety equipment with which a fishing ship must be equipped under this division must comply with the following provisions of the NSCV C7A—

- (a) chapter 2, other than clauses 2.11 and 2.12.2;
- (b) chapter 3;
- (c) chapter 5.

Editor’s note—

The chapters deal with specifications, stowage, marking and maintenance of safety equipment, and other matters.

‘(2) Subsection (1) has effect with the following changes—

- (a) a reference in the NSCV C7A, clause 2.10 to ‘Clauses 2.11 to 2.12’ is taken to be a reference to clause 2.12.1;
- (b) a reference in the NSCV C7A, clause 5.8, 5.9, 5.10, 5.12 or 5.15 to ‘such longer intervals as recommended by the manufacturer and approved at the time the product is assessed and verified in accordance with Clause 2.12.2’

is taken to be a reference to ‘any longer interval recommended by the manufacturer in writing’;

- (c) the change, under section 26B, to what must be shown for an equivalent solution to a required outcome under the NSCV.

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

‘Division 4A Commercial and fishing ships—proposed equivalent solution under NSCV to required outcome about safety equipment

‘26A Application of div 4A

‘This division applies if section 13, 19A, 23 or 26 applies to a ship.

‘26B Proposed equivalent solution—change to what must be shown

- ‘(1) A requirement under the NSCV, part B, clause 2.3.6.2 that equivalent solutions must be proven to satisfy the required outcomes to the extent specified within the NSCV is taken to be a requirement that a person who is the owner or master of the ship must satisfy the general manager that the proposed equivalent solution satisfies the required outcomes to the extent specified in the NSCV.
- ‘(2) If the general manager is satisfied as mentioned in subsection (1), the general manager must state the following on the registration certificate of the ship to which the equivalent solution relates—
 - (a) the solution;
 - (b) that the solution is an equivalent solution for the ship;

[s 13]

- (c) the requirement under the NSCV for which the solution in an equivalent solution.
- ‘(3) A ship is taken not to be equipped with safety equipment that the owner or master of the ship seeks to rely on as an equivalent solution for the ship, unless the ship’s registration certificate states the matters mentioned in subsection (2).’.

13 Omission of s 227 (Safety equipment for ships under a standard practice instruction)

Section 227—

omit.

14 Insertion of new ss 241 and 242

After section 240—

insert—

‘241 Transitional provision for the Transport Operations (Marine Safety) Amendment Regulation (No. 2) 2009—lifesaving appliances

- ‘(1) This section applies if, immediately before the commencement—
- (a) a commercial ship was equipped with the lifesaving appliances required under old section 13; or
 - (b) a fishing ship was equipped with the lifesaving appliances required under old section 23.
- ‘(2) This section also applies if—
- (a) before the commencement—
 - (i) a commercial ship had not been operated; and
 - (ii) either—
 - (A) an application for a design approval certificate for the ship had been given to the general manager; or

-
- (B) a certificate of compliance for the design of the ship had been issued by an accredited ship designer; or
 - (b) before the commencement—
 - (i) a fishing ship had not been operated; and
 - (ii) either—
 - (A) an application for a design approval certificate for the ship had been given to the general manager; or
 - (B) a certificate of compliance for the design of the ship had been issued by an accredited ship designer.
 - ‘(3) While a commercial ship to which this section applies is equipped with the lifesaving appliances required under old section 13, a person who is the owner or master of the ship need not comply with section 13 for the ship until 2 years after the commencement.
 - ‘(4) While a fishing ship to which this section applies is equipped with the lifesaving appliances required under old section 23, a person who is the owner or master of the ship need not comply with section 23 for the ship until 2 years after the commencement.
 - ‘(5) However, if within 2 years after the commencement—
 - (a) any of the lifesaving appliances required under old section 13 needs replacing for a reason stated in subsection (6), the replacement lifesaving appliance must comply with section 13; or
 - (b) any of the lifesaving appliances required under old section 23 needs replacing for a reason stated in subsection (6), the replacement lifesaving appliance must comply with section 23.
 - ‘(6) The reasons for the replacement of a lifesaving appliance are—
 - (a) the lifesaving appliance is irreparable; or
 - (b) the lifesaving appliance is unserviceable; or

[s 14]

- (c) the lifesaving appliance is incapable of being restored to its original working condition; or
- (d) the lifesaving appliance has reached the end of its service life as stated by its manufacturer.

‘(7) In this section—

commencement means the commencement of this section.

old section 13 means section 13 as in force immediately before the commencement.

old section 23 means section 23 as in force immediately before the commencement.

‘242 Transitional provision for the Transport Operations (Marine Safety) Amendment Regulation (No. 2) 2009—safety equipment complying with USL code, s 10, pts 1, 2 and 4

‘(1) This section applies if, immediately before the commencement—

- (a) a commercial ship was equipped with safety equipment (*old section 19 compliant safety equipment*) complying with old section 19 to the extent that it required compliance with the USL code, section 10, parts 1, 2 and 4; or
- (b) a fishing ship was equipped with safety equipment (*old section 26 compliant safety equipment*) complying with old section 26 to the extent that it required compliance with the USL code, section 10, parts 1, 2 and 4.

‘(2) This section also applies if—

- (a) before the commencement—
 - (i) a commercial ship had not been operated; and
 - (ii) either—
 - (A) an application for a design approval certificate for the ship had been given to the general manager; or

-
- (B) a certificate of compliance for the design of the ship had been issued by an accredited ship designer; or
 - (b) before the commencement—
 - (i) a fishing ship had not been operated; and
 - (ii) either—
 - (A) an application for a design approval certificate for the ship had been given to the general manager; or
 - (B) a certificate of compliance for the design of the ship had been issued by an accredited ship designer.
 - ‘(3) While a commercial ship to which this section applies is equipped with old section 19 compliant safety equipment, a person who is the owner or master of the ship need not comply with section 19A for the ship until 5 years after the commencement.
 - ‘(4) While a fishing ship to which this section applies is equipped with old section 26 compliant safety equipment, a person who is the owner or master of the ship need not comply with section 26 for the ship until 5 years after the commencement.
 - ‘(5) However, if within 5 years after the commencement—
 - (a) any of the old section 19 compliant safety equipment needs replacing for a reason stated in subsection (6), the replacement safety equipment must comply with section 19A; or
 - (b) any of the old section 26 compliant safety equipment needs replacing for a reason stated in subsection (6), the replacement safety equipment must comply with section 26.
 - ‘(6) The reasons for the replacement of safety equipment are—
 - (a) the safety equipment is irreparable; or
 - (b) the safety equipment is unserviceable; or

[s 15]

- (c) the safety equipment is incapable of being restored to its original working condition; or
- (d) the safety equipment has reached the end of its service life as stated by its manufacturer.

‘(7) In this section—

commencement means the commencement of this section.

old section 19 means section 19 as in force immediately before the commencement.

old section 26 means section 26 as in force immediately before the commencement.’

15 Amendment of sch 15 (Dictionary)

Schedule 15—

insert—

‘*NSCV* means the National Standard for Commercial Vessels endorsed by the Australian Transport Council and published by the National Marine Safety Committee.

Editor’s note—

A copy of the NSCV is available from the National Marine Safety Committee, PO Box R1871, Royal Exchange NSW 1225, or from its website at <www.nmsc.gov.au>.

NSCV C7A means NSCV, part C, section 7, subsection 7A.’

ENDNOTES

- 1 Made by the Governor in Council on 14 May 2009.
- 2 Notified in the gazette on 15 May 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Transport and Main Roads.

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