



Queensland

Transport Operations (Marine Safety) Amendment Regulation (No. 3) 2009

Subordinate Legislation 2009 No. 299

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. 3) 2009*.

2 Regulation amended

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

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

Section 12(3)(b)—

omit, insert—

‘(b) has been serviced and otherwise maintained in accordance with AS 1851—2005; and’.

4 Amendment of s 22 (Fire appliances—fishing ships to comply with USL code with changes)

Section 22(2)(b)—

omit, insert—

‘(b) has been serviced and otherwise maintained in accordance with AS 1851—2005; and’.

5 Insertion of new s 40A

Part 2, division 7—

insert—

‘40A Custom-made PFDs

‘(1) This section applies if—

(a) under this regulation, a ship is required to be equipped with a personal flotation device for each person on board; and

(b) the ship is equipped with a custom-made PFD for a person.

[s 5]

- ‘(2) The ship is taken to be equipped with the required personal flotation device for the person if—
- (a) there is a manufacturer’s declaration for the custom-made PFD; and
 - (b) the ship is required to be equipped with the type of personal flotation device in place of which the manufacturer’s declaration states the custom-made PFD may be used; and
 - (c) the master of the ship—
 - (i) keeps a copy of the manufacturer’s declaration while the person is on board; and
 - (ii) reasonably believes the person is the person stated in the manufacturer’s declaration.

- ‘(3) In this section—

custom-made PFD, for a person, means a personal flotation device that has—

- (a) been constructed using the same materials and methods of construction as—
 - (i) for a custom-made PFD that is used in place of a PFD type 1—a PFD type 1; or
 - (ii) for a custom-made PFD that is used in place of a PFD type 2—a PFD type 2; or
 - (iii) for a custom-made PFD that is used in place of a PFD type 3—a PFD type 3; and
- (b) flotation appropriate to the type and body mass of the person.

manufacturer’s declaration, for a custom-made PFD, means a declaration by the manufacturer of the custom-made PFD that states the following—

- (a) the type of personal flotation device in place of which the custom-made PFD may be used;
- (b) that the custom-made PFD has been constructed using the same materials and methods of construction as the

type of personal flotation device in place of which the custom-made PFD may be used;

- (c) the name of the person for whom the custom-made PFD has been manufactured;
- (d) that the custom-made PFD has flotation appropriate to the type and body mass of the person for whom the custom-made PFD has been manufactured;
- (e) how the custom-made PFD may be identified.’.

6 Amendment of s 42 (Application of Act, pt 5, div 4)

Section 42(1)(b)(i), ‘(each of whom is an accredited person)’—

omit.

7 Amendment of s 50 (Accredited person to keep documents)

Section 50(2)(b)—

insert—

‘(iv) if the accredited person is a corporation—

- (A) the individual mentioned in section 49(3); and
- (B) the ships or parts of ships for which the individual had the supervision and management of the designing, building or surveying.’.

8 Amendment of s 84 (Application of Act, pt 5, div 3)

Section 84(2)(e)—

omit, insert—

- ‘(e) a tender to a commercial ship, other than a tender that is a personal watercraft, if the tender is operated by the holder of a recreational marine driver licence;’.

[s 9]

9 Amendment of s 93 (Licensing exceptions relating to operating fishing ship as master)

Section 93(3)(a) and (b)—

omit, insert—

‘(a) a tender boat under the *Fisheries Regulation 2008*; and

(b) operating as authorised under the *Fisheries Act 1994*.’.

10 Replacement of s 124 (Fishing ship to have speaker on afterdeck)

Section 124—

omit, insert—

‘124 Fishing ship to have speaker on deck

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

Maximum penalty—50 penalty units.’.

11 Amendment of s 191 (Radio frequencies)

Section 191, ‘the Maritime Safety Agency of’—

omit, insert—

‘Maritime Safety’.

12 Amendment of s 204 (Limitation on exercise of power under this part)

Section 204(2), ‘sections 205 and 206’—

omit, insert—

‘section 205’.

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- 13 Omission of pt 9, div 3 (Removal of obstruction to navigation outside pilotage area)**
Part 9, division 3—
omit.
- 14 Amendment of pt 9, divs 1A and 2**
Part 9, divisions 1A and 2—
renumber as part 9, divisions 2 and 3.
- 15 Amendment of s 207 (Buoy mooring category areas)**
(1) Section 207(1) and (2)—
omit, insert—
'(1) The general manager may, by gazette notice, define an area of Queensland waters as 1 of the following category areas for buoy moorings—
(a) a category 1 area;
(b) a category 2 area.'
(2) Section 207(3), 'A category area'—
omit, insert—
'An area of Queensland waters'.
(3) Section 207(3) and (4)—
renumber as section 207(2) and (3).
- 16 Amendment of s 216 (Harbour master or general manager may carry out direction)**
Section 216(1)(a) and (2)(a), '206,'—
omit.

[s 17]

17 Amendment of s 217 (Recovery by State of expenses of carrying out direction)

Section 217(3), ‘or 206(1)’—

omit.

18 Amendment of s 226 (Shipping inspector may allow authority or document to be produced elsewhere)

Section 226(3), definition *office*, paragraph (a), ‘the Maritime Safety Agency of’—

omit, insert—

‘Maritime Safety’.

19 Amendment of s 236B (Transitional provision for the Transport Operations (Marine Safety—Examining and Training Approvals (Recreational Ships and Personal Watercraft)) Standard 2005)

(1) Section 236B, heading, after ‘Training’—

insert—

‘**Program**’.

(2) Section 236B(1), before ‘*Marine Driver*’—

insert—

‘*Recreational*’.

20 Amendment of sch 1 (Standards)

(1) Schedule 1, item 5—

omit, insert—

‘5 AS 1851—2005 (Maintenance of fire protection systems and equipment)’.

(2) Schedule 1, item 13, from ‘(Ship’—

omit, insert—

‘(Inflatable boats)’.

(3) Schedule 1—

insert—

‘Editor’s note—

For information about the availability of these standards see the MSQ website <www.msq.qld.gov.au>.’.

21 Amendment of sch 4 (Matters about which records to be kept)

(1) Schedule 4, part 2—

insert—

‘• copy of a notice giving an exemption under section 18A of the Act’.

(2) Schedule 4, part 4—

insert—

‘• copy of a notice giving an exemption under section 18A of the Act’.

22 Amendment of sch 12 (Partially smooth waters)

(1) Schedule 12, entry for Brisbane, ‘Reeders’—

omit, insert—

‘Short’.

(2) Schedule 12, entry for Bowen, Whitsunday Passage and Edgecumbe Bay, ‘Edgecumbe’—

omit, insert—

‘Repulse’.

23 Amendment of sch 13 (Smooth waters)

Schedule 13, after the entry for Maryborough—

insert—

‘Seventeen Seventy

‘The waters bounded by an imaginary line drawn—

- from the north-east point of Eurimbula National Park at latitude 24°10.332' south, longitude 151°52.192' east
- to Monument Point at latitude 24°9.60' south, longitude 151°52.96' east.’.

24 Amendment of sch 15 (Dictionary)

(1) Schedule 15, definition *accredited person*—

omit, insert—

‘**accredited person** means a person accredited as a ship designer, ship builder or marine surveyor under section 44.’.

(2) Schedule 15, definition *BS*, ‘Institute’—

omit, insert—

‘Institution’.

(3) Schedule 15, definitions *category 1 area* and *category 2 area*, ‘207(2)’—

omit, insert—

‘207(1)’.

(4) Schedule 15, definition *category 3 area*, ‘207(3)’—

omit, insert—

‘207(2)’.

(5) Schedule 15, definition *load line certificate*, ‘chief executive’—

omit, insert—

‘general manager’.

(6) Schedule 15, definition *mooring manager*, ‘207(4)’—

omit, insert—

‘207(3)’.

(7) Schedule 15, definition *USL code*—

insert—

‘Editor’s note—

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

ENDNOTES

- 1 Made by the Governor in Council on 9 December 2009.
- 2 Notified in the gazette on 11 December 2009.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Transport and Main Roads.

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