



# **Maritime Safety Queensland Act 2002**

**Reprinted as in force on 17 May 2006**

**Reprint No. 1B**

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the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy**

# Information about this reprint

This Act is reprinted as at 17 May 2006. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

## **Dates shown on reprints**

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, hard copy and electronic, are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If a hard copy reprint is dated earlier than an electronic version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of a hard copy reprint is the same as the date shown for an electronic version previously published, it merely means that the electronic version was published before the hard copy version. Also, any revised edition of the previously published electronic version will have the same date as that version.

**Replacement reprint date** If the date of a hard copy reprint is the same as the date shown on another hard copy reprint it means that one is the replacement of the other.



Queensland

# Maritime Safety Queensland Act 2002

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# Maritime Safety Queensland Act 2002

[as amended by all amendments that commenced on or before 17 May 2006]

## **An Act to provide for the establishment of the Maritime Safety Agency of Queensland, and for other purposes**

### **Part 1 Preliminary**

#### **1 Short title**

This Act may be cited as the *Maritime Safety Queensland Act 2002*.

#### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

#### **3 Dictionary**

The dictionary in schedule 2 defines particular words used in this Act.

#### **4 Purpose of Act**

The purpose of this Act is to create an entity, the Maritime Safety Agency of Queensland, to provide professional, specialist advice to, and undertake particular functions of, the chief executive in relation to marine safety, ship-sourced pollution and related matters.

#### **5 Application of Act**

This Act does not limit the application of the following Acts—

- (a) *Transport Infrastructure Act 1994*;
- (b) *Transport Operations (Marine Pollution) Act 1995*;
- (c) *Transport Operations (Marine Safety) Act 1994*;
- (d) *Transport Planning and Coordination Act 1994*.

## **6 Act binds all persons**

This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

# **Part 2 Maritime Safety Agency of Queensland**

## **Division 1 Establishment, functions and powers of MSQ**

### **7 Establishment of MSQ**

- (1) The Maritime Safety Agency of Queensland (*MSQ*) is established.
- (2) MSQ consists of—
  - (a) the general manager; and
  - (b) employees employed under section 12;<sup>1</sup> and
  - (c) other employees employed under the *Public Service Act 1996*.

### **8 Functions and powers of MSQ**

- (1) MSQ has the following functions—

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<sup>1</sup> Section 12 (Employees)

*Maritime Safety Queensland Act 2002*

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- (a) for the *Transport Operations (Marine Safety) Act 1994*—
- (i) to develop strategies for marine safety, including on advice received from the Marine Board established under that Act; and
- Example—*
- education campaign for the safe use of recreational ships
- (ii) to make standards for designing, building and operating commercial ships for approval by the Governor in Council, and to monitor and audit the implementation of the standards; and
  - (iii) to accredit ship designers, ship builders or marine surveyors; and
  - (iv) to approve an entity to conduct training programs for the operation of ships or to conduct examinations for issuing licences under that Act; and
  - (v) to licence masters, other than recreational masters, crew members and pilots; and
  - (vi) to set up and maintain aids to navigation; and
  - (vii) to handle the investigation process into marine incidents; and
  - (viii) to monitor and manage the movement of ships in Queensland waters; and
  - (ix) to monitor and manage the operation and activities of ships in Queensland waters; and
  - (x) to monitor and manage unseaworthy ships or abandoned, stranded, sunk or wrecked ships;
- (b) for the *Transport Operations (Marine Pollution) Act 1995*—
- (i) to develop strategies to prevent the deliberate, negligent or accidental discharge of ship-sourced pollutants into coastal waters; and
  - (ii) to deal with the discharge of ship-sourced pollutants into coastal waters;

- (c) to provide, or arrange for the provision of, maritime services including pilotage services;
  - (d) any other function conferred on MSQ under this or another Act.
- (2) MSQ has power to do anything necessary or convenient to be done for the performance of MSQ's functions.

## **9 Chief executive's responsibility**

- (1) The chief executive is responsible for the way MSQ performs its functions.
- (2) Without limiting subsection (1), the chief executive is responsible for—
- (a) deciding the objectives, strategies and policies to be followed by MSQ; and
  - (b) ensuring MSQ performs its functions in an appropriate, effective and efficient way.

*Example—*

The chief executive could establish performance measures for MSQ.

- (3) This section does not affect the chief executive's responsibilities for the department under another Act.

## **Division 2 The general manager**

### **10 Appointment of general manager**

- (1) The Governor in Council appoints the general manager for MSQ.
- (2) The general manager is to be employed under the *Public Service Act 1996*.

### **11 Functions and powers of general manager**

- (1) The general manager must, in accordance with the objectives, strategies and policies decided by the chief executive, manage MSQ's operations.



- (2) Without limiting subsection (1), the general manager must—
  - (a) advise the chief executive in relation to employment conditions of employees employed under section 12; and
  - (b) direct employees employed under section 12 in the performance of the employees' duties; and
  - (c) prepare a strategic plan incorporating performance targets approved by the chief executive.
- (3) The general manager has power to do anything necessary or convenient to be done for the performance of the general manager's functions.
- (4) In exercising a power, the general manager is accountable to the chief executive under the *Public Service Act 1996*.

### **11A Delegation of functions of general manager**

- (1) The general manager may delegate to an appropriate person (the *delegate*) a function of the general manager under this or another Act.
- (2) The delegation may permit the delegate to subdelegate the delegated function to an appropriate person.
- (3) This section applies despite a provision to the contrary in an Act.
- (4) In this section—

*appropriate person* means any of the following—

- (a) an employee of MSQ;
- (b) an authorised officer under the *Transport Operations (Marine Pollution) Act 1995*;
- (c) a shipping inspector under the *Transport Operations (Marine Safety) Act 1994*.

*function* includes a power.

## Division 3                      Employees

### 12            Employees

- (1) The chief executive may employ—
  - (a) marine pilots; and
  - (b) the other employees the chief executive considers necessary to perform MSQ's functions.
- (2) However, the chief executive must not employ an individual as a marine pilot unless satisfied the individual has the necessary expertise or experience, prescribed under a regulation, to be a marine pilot.
- (3) Subject to any relevant industrial instrument, the chief executive may decide the employment conditions of employees employed under this section.
- (4) The *Public Service Act 1996* does not apply to the employment of employees employed under this section.
- (5) In this section—

*employment conditions* includes conditions about the length of the employment and ending the employment.

## Part 3                              Financial provisions

### 13            Fund

- (1) The Maritime Safety Queensland Fund is established.
- (2) Accounts for the fund must be kept as part of the departmental accounts of the department.
- (3) Amounts received for the fund must be deposited in a departmental financial-institution account of the department but may be deposited in an account used for depositing other amounts of the department.
- (4) Amounts received for the fund include the following received by the department—

- (a) amounts received for pilotage fees and conservancy dues under the *Transport Operations (Marine Safety) Act 1994*;
  - (b) amounts received by the department from other sources for the fund or amounts that must be paid into the fund;
  - (c) amounts received for the disposal of an asset that the chief executive considers was purchased substantially with amounts paid from the fund;
  - (d) interest from investment of the fund.
- (5) An amount is payable from the fund for the purposes of this Act.
- (6) The *Financial Administration and Audit Act 1977* applies to the fund.
- (7) In this section—

*departmental accounts* of the department means the accounts of the department under the *Financial Administration and Audit Act 1977*, section 12.

*departmental financial-institution account* of the department means an account of the department kept under the *Financial Administration and Audit Act 1977*, section 18.

*other amounts* of the department means amounts received by the department other than amounts received for the fund.

## Part 4                      Miscellaneous provisions

### 14            Regulation-making power

The Governor in Council may make regulations under this Act.

## Part 5 Transitional provisions

### 15 Pilotage service contracts

- (1) This section applies to a contract in force immediately before the commencement of this section if the contract was—
  - (a) a contract for services entered into by the department or a port authority for the supply of a pilotage service; or
  - (b) a written or oral employment contract entered into by a port authority with an employee engaged to perform a pilotage service.
- (2) On the commencement—
  - (a) for a contract for services—
    - (i) MSQ takes the place of the department or port authority as a party to the contract; and
    - (ii) the contract may be enforced by or against MSQ; and
  - (b) for an employment contract—
    - (i) the person becomes an employee of MSQ on the same conditions on which the person was employed by the port authority; and
    - (ii) the person keeps all rights and entitlements accrued or accruing to the person as an employee of the port authority.

*Example of rights and entitlements—*

long service, recreation and sick leave and rights as a member of a superannuation scheme
- (3) Without limiting subsection (2)(b), if an industrial instrument applies to the person immediately before the commencement, the instrument continues to apply to the person after the commencement.
- (4) Subsection (3) has effect subject to the *Industrial Relations Act 1999*.
- (5) Compensation is not recoverable from the chief executive, the State or anyone else in relation to the transfer from a port

authority to MSQ of the rights and obligations under a contract to which this section applies.

(6) This section does not apply to a contract, prescribed under a regulation, that provides for the transfer of a pilot onto or off a ship.

(7) In this section—

***contract***, for a contract that only partly relates to a pilotage service, means that part of the contract that relates to a pilotage service.

## Schedule 2      Dictionary

### section 3

*industrial instrument* has the meaning given by the *Industrial Relations Act 1999*.

*maritime service* means a service provided to the maritime industry, whether or not on payment of a fee.

*MSQ* means the Maritime Safety Agency of Queensland.

*pilotage service* means a maritime service, with an individual or other person, that provides for—

- (a) the piloted movement of ships; or
- (b) the transfer of a pilot onto or off a ship.

## 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 17 May 2006. Future amendments of the Maritime Safety Queensland Act 2002 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	1 October 2002	
1A	2005 Act No. 22	19 May 2005	
1B	2006 Act No. 21	17 May 2006	

## 5 List of legislation

### **Maritime Safety Queensland Act 2002 No. 29**

date of assent 6 August 2002

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 2002 (2002 SL No. 249)

amending legislation—

### **Transport Infrastructure and Other Legislation Amendment Act 2005 No. 22 s 1, pt 2**

date of assent 19 May 2005

commenced on date of assent

### **Maritime and Other Legislation Amendment Act 2006 No. 21 s 1, pt 2**

date of assent 17 May 2006

commenced on date of assent

## 6 List of annotations

### **Purpose of Act**

s 4 amd 2006 No. 21 s 4

### **Functions and powers of MSQ**

s 8 amd 2005 No. 22 s 4; 2006 No. 21 s 5

### **Functions and powers of general manager**

s 11 amd 2006 No. 21 s 6

### **Delegation of functions of general manager**

s 11A ins 2006 No. 21 s 7

### **PART 6—CONSEQUENTIAL AMENDMENTS**

pt 6 (s 16) om R1 (see RA s 40)

### **SCHEDULE 1—CONSEQUENTIAL AMENDMENTS**

om R1 (see RA s 40)



