



Maritime Safety Queensland Act 2002

Current as at 23 May 2010

Information about this reprint

This Act is reprinted as at 23 May 2010. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised 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 an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised 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 23 May 2010]

An Act to provide for the establishment of Maritime Safety 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, Maritime Safety 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.

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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 Queensland

Division 1 Establishment, functions and powers of MSQ

7 Establishment of MSQ

- (1) Maritime Safety Queensland (*MSQ*) is established.
- (2) MSQ consists of—
 - (a) the general manager; and
 - (b) employees employed under section 12; and
 - (c) other employees employed under the *Public Service Act 2008*.

8 Functions and powers of MSQ

- (1) MSQ has the following functions—

-
- (a) for the *Transport Operations (Marine Safety) Act 1994*—
- (i) to develop strategies for marine safety; 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;

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- (c) for the *Transport Infrastructure Act 1994*—to manage public marine facilities and the use of waterways;
 - (d) to provide, or arrange for the provision of, maritime services including pilotage services;
 - (e) 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 (the *general manager*).
- (2) The general manager is to be employed under the *Public Service Act 2008*.

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.
- (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 2008*.

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 2008* 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.

12A Preservation of rights of particular public service officers

- (1) This section applies if—
 - (a) a person is employed under section 12, other than as a marine pilot; and
 - (b) the person was a public service officer immediately before being employed under section 12.
- (2) The person keeps all rights and entitlements accrued or accruing to the person as a public service officer as if service as an employee under section 12 were a continuation of service as a public service officer.

Examples of rights and entitlements—

long service, recreation and sick leave and rights as a member of a superannuation scheme

12B Tenure as public service officer on ending of particular employment contracts

- (1) This section applies if—
 - (a) a person is employed on contract under section 12, other than as a marine pilot; and
 - (b) the contract—
 - (i) is terminated other than by disciplinary action; or
 - (ii) expires and is not renewed or replaced by another contract of employment under section 12; and
 - (c) immediately before the person was first employed under the contract, the person was employed as a public service officer on tenure.
- (2) The person becomes a public service officer employed on tenure.
- (3) The person is to be employed—
 - (a) at the classification level at which the person would have been employed if the person had continued in employment as a public service officer on tenure; and
 - (b) on the remuneration to which the person would have been entitled if the person had continued in employment as a public service officer on tenure.

Part 3 Financial provisions

13 Fund

- (1) The Maritime Safety Queensland Fund is established.

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- (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 Accountability Act 2009* applies to the fund.
- (7) In this section—

departmental accounts of the department means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

departmental financial institution account of the department means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

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

Division 1 Transitional provision for pilotage service contracts

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

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- (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.

Division 2 Transitional provisions for Transport Legislation Amendment Act 2008, part 2

16 Change of name does not affect legal personality etc.

- (1) The change of name of MSQ from ‘Maritime Safety Agency of Queensland’ to ‘Maritime Safety Queensland’ does not—
- (a) affect MSQ’s legal personality or identity; or

- (b) affect a right, entitlement or liability of MSQ or anyone else; or
 - (c) make legal proceedings by or against MSQ defective.
- (2) Without limiting subsection (1), the change of name of MSQ does not affect any right, entitlement, liability or benefit MSQ would have had or enjoyed apart from the change of name.
- (3) In addition, but without limiting subsection (1), a legal proceeding that could have been started or continued by or against MSQ under its former name may be started or continued by or against it under its new name.

17 References to Maritime Safety Agency of Queensland

A reference in an Act or document to the Maritime Safety Agency of Queensland may, if the context permits, be taken as a reference to Maritime Safety Queensland.

18 Recording MSQ's changed name in register

- (1) The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by MSQ in the appropriate form, and on payment of any fee, record in the register, for any property vested in MSQ, the change of name of MSQ from 'Maritime Safety Agency of Queensland' to 'Maritime Safety Queensland'.
- (2) In this section—
- registrar of titles* means a public official or authority responsible for registering title to land and dealings affecting land.

Schedule 2 Dictionary

section 3

general manager see section 10(1).

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 see section 7.

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 23 May 2010. 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
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

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	
1C	2008 Act No. 31	21 May 2008	
1D	2009 Act No. 9	1 July 2009	
1E	2009 Act No. 25	2 November 2009	
1F	2009 Act No. 47	19 November 2009	R1F withdrawn, see R2
2	—	19 November 2009	
2A	2010 Act No. 13	1 April 2010	
2B	2010 Act No. 19	23 May 2010	

5 Tables in earlier reprints

Name of table	Reprint No.
Corrected minor errors	2

6 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

Transport Legislation Amendment Act 2008 No. 31 s 1, pt 2

date of assent 21 May 2008

commenced on date of assent

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1

date of assent 28 May 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2009 (2009 SL No. 80)

Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch

date of assent 11 August 2009

ss 1–2 commenced on date of assent

remaining provisions commenced 2 November 2009 (2009 SL No. 241)

Transport and Other Legislation Amendment Act 2009 No. 47 s 1, pt 2

date of assent 19 November 2009

commenced on date of assent

Transport and Other Legislation Amendment Act 2010 No. 13 ss 1, 2(2)(d), 138 sch pt 1

date of assent 1 April 2010

ss 1–2 commenced on date of assent

remaining provisions commenced on date of assent (see s 2(2)(d))

Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 s 1, ch 4 pt 2

date of assent 23 May 2010

commenced on date of assent

7 List of annotations

Title amd 2008 No. 31 s 4

Purpose of Act

s 4 amd 2006 No. 21 s 4; 2008 No. 31 s 5

PART 2—MARITIME SAFETY QUEENSLAND

pt hdg amd 2008 No. 31 s 6

Establishment of MSQ

s 7 amd 2008 No. 31 s 7; 2009 No. 25 s 83 sch

Functions and powers of MSQ

s 8 amd 2005 No. 22 s 4; 2006 No. 21 s 5; 2010 No. 19 s 188

Appointment of general manager

s 10 amd 2008 No. 31 s 8; 2009 No. 25 s 83 sch

Functions and powers of general manager

s 11 amd 2006 No. 21 s 6; 2009 No. 25 s 83 sch; 2009 No. 47 s 4

Delegation of functions of general manager

s 11A ins 2006 No. 21 s 7

Employees

s 12 amd 2009 No. 25 s 83 sch

Preservation of rights of particular public service officers

s 12A ins 2010 No. 19 s 189

Tenure as public service officer on ending of particular employment contracts

s 12B ins 2010 No. 19 s 189

Fund

s 13 amd 2009 No. 9 s 136 sch 1; 2010 No. 13 s 138 sch pt 1

PART 5—TRANSITIONAL PROVISIONS

Division 1—Transitional provisions for pilotage service contracts

div hdg ins 2008 No. 31 s 9

**Division 2—Transitional provisions for Transport Legislation Amendment Act 2008,
part 2**

div hdg ins 2008 No. 31 s 10

Change of name does not affect legal personality etc.

s 16 prev s 16 om R1 (see RA s 40)

pres s 16 ins 2008 No. 31 s 10

References to Maritime Safety Agency of Queensland

s 17 ins 2008 No. 31 s 10

Recording MSQ's changed name in register

s 18 ins 2008 No. 31 s 10

PART 6—CONSEQUENTIAL AMENDMENTS

pt hdg om R1 (see RA s 40)

SCHEDULE 1—CONSEQUENTIAL AMENDMENTS

om R1 (see RA s 40)

SCHEDULE 2—DICTIONARY

def “**general manager**” ins 2008 No. 31 s 11(2)

def “**MSQ**” sub 2008 No. 31 s 11

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