

Queensland



Explanatory Notes for SL 1998 No. 23

Transport Operations (Marine Safety) Act 1994

TRANSPORT OPERATIONS (MARINE SAFETY—RECREATIONAL SHIPS MISCELLANEOUS EQUIPMENT) STANDARD 1998

Authorising law

The proposed standard is made pursuant to the *Transport Operations (Marine Safety) Act 1994*, sections 45 and 46 which provide that the chief executive can make standards under the Act.

Objectives of the legislation

The *Transport Operations (Marine Safety) Act 1994* outlines the general safety obligations of people within the maritime industry. Generally, these obligations are performance based rather than prescriptive and this standard provides a means of guidance for Industry when determining the most cost effective method of achieving the required level of safety.

The objectives of the standard are to—

- (a) assist persons within the maritime industry to understand their general safety obligations;
- (b) provide guidance about marine safety issues that are not covered by regulation;
- (c) promote efficiency within the Queensland maritime industry by providing cost effective alternatives to achieve required levels of safety;

- (d) provide prescriptive and performance based alternatives for the way ships are equipped.

Reasons for legislation

The standard forms an integral part of the *Transport Operations (Marine Safety) Regulation 1995* that assists in ensuring industry self-regulation is not abused and that every vessel operated in Queensland waters meets the highest possible safety standards.

This standard is to provide guidance to the owners and masters of recreational ships in the equipping of both registered and non-registered ships with equipment necessary for the safe operation of those ships. The owners and masters have the general safety obligation placed upon them by the *Transport Operations (Marine Safety) Act 1994*, section 41. The standard outlines both prescriptive and performance methods for equipping their ships other than the safety equipment required under the regulation.

Consistency with authorising law

The proposed Standard are consistent with the overall objectives of the *Transport Operations (Marine Safety) Act 1994*, outlined in section 3, in particular section 3 (3), which states—

‘(3) These objectives are to be achieved mainly by imposing general safety obligations to ensure seaworthiness and other aspects of marine safety, and allowing a general safety obligation to be discharged by complying with relevant standards or in other appropriate ways chosen by the person on whom the obligation is imposed.’

Alternatives to the proposed standards

If the Government did not implement the proposed standard for recreational ship owners and masters, there would be a lack of guidance for these persons in their ability to meet the general safety obligation in the equipping of their ships. There would be a reliance on the various other

publications for equipment which would not allow for consistency and the flexibility provided by the performance based sections of the proposed standard.

Persons within the maritime industry may also resort to general industry practice which could vary from region to region, thus resulting in inconsistent compliance throughout the State.

A possible alternative to these standards would be for the Government to regulate on the detail contained within the standard. This would introduce a rigid regulatory regime that was contrary to the performance based framework outlined in the *Transport Operations (Marine Safety) Act 1994*.

Estimated cost for government implementation

The cost to government in implementing the standard will be administrative in nature, so the cost will not be significant. Costs will be able to be met within existing budgetary allocations.

Fundamental legislative principles

The proposed standard has been drafted by the Queensland Office of Parliamentary Counsel and is consistent with fundamental legislative principles.

Consultation

Extensive industry and community consultation was conducted during the development of the proposed standard.

To the extent possible to reconcile sometimes conflicting views, the comments received during the consultation process have been incorporated into the standard.

There are no unresolved substantive issues.

ATTACHMENT

*Transport Operations (Marine Safety—Recreational Ships
Miscellaneous Equipment) Standard 1998*

Clause 1—sets out the short title of the standard.

Clause 2—states the date on which the standard will commence.

Clause 3—provides definitions for the terms used in the standard.

Clause 4—states the purpose of the standard is a guide to satisfy the safety obligation for recreational ships whether or not they are required to be registered.

Clause 5—states the standard applies to the owner or master of every recreational ship.

Clause 6—indicates the type of suitable navigation equipment for use on a recreational ship operating beyond smooth waters.

Clause 7—indicates anchoring equipment suitable for use on various sizes of recreational ships.

Clause 8—indicates baling or pumping equipment suitable for use on various sizes of recreational ships.

Clause 9—indicates a set of oars or paddles should be available for use on recreational Ships under 6 metres in length.

Clause 10—indicates sufficient drinking water should be part of the equipment of recreational ships.

Clause 11—indicates suitable lighting devices for attracting attention should be part of the equipment for recreational ships during the hours of darkness.

Clause 12—indicates all the equipment on board a recreational ships under this standard should be in good working order.

Clause 13—states that this part of the standard applies to the owner or master of a recreational ship that does not require registration.

Clause 14—indicates suitable lighting device for attracting attention should be part of the equipment for recreational ships during the hours of darkness.

Clause 15—indicates the types of personal flotation devices which should be part of a recreational ships equipment when operating in smooth waters. Exemption for the carrying of personal flotation devices is indicated provided the ship is fitted with positive flotation and fitted with grab lines. It is also stated that the ship is not equipped properly unless there is a personal flotation device for each person on the recreational ship.

Clause 16—indicates the life saving equipment suitable for a recreational ships operation in and beyond partially smooth waters. It is also stated that the ship is not equipped properly unless there is a personal floating device for each person on the recreational ship.

Clause 17—provides for an alternative to the personal flotation device should a person use an inflatable divers jacket in a recreational ship.

Clause 18—states that the safety equipment indicated in section 15 and 16 should be correctly serviced. It is also stated that the recreational ship is not properly equipped unless the equipment is correctly serviced or replaced before the expiry date.

Clause 19—states the standard expires 7 years after its commencement.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Transport.