

Queensland



Explanatory Notes for SL 1998 No. 24

Transport Operations (Marine Safety) Act 1994

TRANSPORT OPERATIONS (MARINE SAFETY—RECREATIONAL SHIP MASTERS LICENCE APPROVALS) STANDARD 1998

Authorising law

The proposed standard is made pursuant to of 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;

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- (d) provide for the approval of applications from persons wishing to conduct training and examinations for recreational ship masters licences.

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.

The standard provides the department with transparent guidelines for the assessment and approval of applicants for the conducting of training and examinations for recreational ship masters licences. The standard is necessary for the department to approve applicants for training and examination for recreational ship masters licences.

The standard will provide the necessary guidance and flexibility for the approval of maritime persons and to provide guidance to meet the general safety obligations in their endeavours within the maritime industry.

Consistency with authorising law

The proposed Standard is 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 standard

If the Government did not implement the proposed standard for recreational ship owners and masters, the department would be unable to assess and approve applicants for the training and examination for recreational ship masters licence.

This standard is one of the standards invoked by the *Transport Operations (Marine Safety) Regulation 1995*. This standard provides the department with guidelines which are subordinate legislation for the assessment of applicants for the conducting of training and examination for recreational ship masters licences.

A possible alternative to these standard 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*.

Estimate 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 Ship Masters
Licence Approvals) Standards 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 that for a person to conduct examinations for recreational ship masters licence they must satisfy the chief executive of their appropriate qualification and knowledge of the Act, regulation, appropriate standards collision regulations, be suitably experienced in the operation of recreational ships and conducting examinations.

Clause 5—states that for a person to conduct training programs for the operation of recreational ships they must satisfy the chief executive of their appropriate qualification and knowledge of the Act, regulation, appropriate standards, collision regulation, be suitably experienced in the operation of recreational ships and conducting training programs.

Clause 6—states an applicant may not be suitable for approval to conduct examination or training programs if the applicant has been convicted of an indictable offence, had a licence to conduct ships suspended or bankrupt It also includes consideration of the applicant who may have paid a penalty or convicted of an offence under the Act.

Clause 7— states that the standard expires 7 years after it commences.

ENDNOTES

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