



Queensland

# **Transport Operations (Marine Safety—Examining and Training Program Approvals (Recreational Ships and Personal Watercraft)) Standard 2005**

**Explanatory Notes for SL 2005 No. 327**

made under the

*Transport Operations (Marine Safety) Act 1994*

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## **1 General Outline**

The proposed *Transport Operations (Marine Safety—Examining and Training Program Approvals (Recreational Ships and Personal Watercraft)) Standard 2005* prescribes how an applicant qualifies for an approval to conduct examinations or provide training in relation to recreational ships and personal watercraft.

It is in the interests of the marine industry and the general public that such an approval should be based on fair, relevant, and publicly accessible criteria, which should be embodied in legislation.

The Queensland system of approving entities for these purposes currently operates in conjunction with the BoatSafe Training and Assessment Scheme (BoatSafe)

The BoatSafe scheme ensures marine safety outcomes for recreational boat users in Queensland by enhancing the scope and quality of pre-licence training and competency assessment.

In formulating the BoatSafe scheme, interstate and overseas recreational marine licence training and assessment models were examined to identify benchmark standards of pre-licence operator training and assessment. The

scheme is modelled on nationally recognised competency-based training and assessment principles and processes, such as the National Marine Safety Committee (NMSC) National Marine Guidance Manual: Guidelines for Recreational Boat Operator Competencies.

The proposed standard provides for the minimum prerequisites for approval to conduct examinations or provide training in relation to recreational ships and personal watercraft, while the BoatSafe scheme will continue to regulate the required ongoing management standards by contract.

## **2 Short title**

The short title of this standard is the *Transport Operations (Marine Safety—Examining and Training Program Approvals (Recreational Ships and Personal Watercraft)) Standard 2005*

## **3 Authorising Law**

The power to make the proposed standard, and the required procedure, is set out in part 4 division 2 of the *Transport Operations (Marine Safety) Act 1994*. A standard may provide for any matter about which a regulation may be made, and a regulation may be made about marine safety and issues affecting marine safety.

Section 103 of the *Transport Operations (Marine Safety) Regulation 2004* empowers the general manager of Maritime Safety Queensland (MSQ) to approve entities to conduct examinations for issuing licences only if the entity qualifies under a standard.

Section 104 of the *Transport Operations (Marine Safety) Regulation 2004* empowers the general manager of MSQ to approve entities to provide training programs in the operation of ships only if the entity qualifies under a standard.

## **4 Policy Objectives**

The stated purpose of the proposed standard is to prescribe how an applicant qualifies for an approval to conduct examinations or provide training in relation to recreational ships and personal watercraft. The

proposed standard has three operative sections: qualification to conduct examinations, qualification to provide training, and suitability for approval.

The policy objective envisaged in making the proposed standard is to continue to provide appropriate minimum standards for these approvals.

## **5 How Standard will achieve the Policy Objectives**

The operative sections of the proposed standard dealing with qualifications to conduct examinations or provide training require an applicant to:

- hold a current appropriate licence;
- have knowledge and skills at least equivalent to the competencies for which the entity will assess candidates;
- have completed the competency based training and assessment qualifications to conduct examinations and training programs; and
- be suitable for approval to conduct examinations or conduct training programs.

## **6 Alternative ways of achieving Policy Objectives**

Persons who deal with approved entities are entitled to information regarding the qualifications they may expect those entities to have. The minimum prerequisites for approval should be contained in legislation.

If the proposed standard were not made, it would be necessary to amend the regulation to insert the qualification criteria for approvals in relation to providing training and examinations for recreational ships and personal watercraft.

The preferred strategy on the basis of simplicity and consistency is to make the proposed standard.

## **7 Consistency of the Standard with the Policy Objectives of the Authorising Law**

The proposed standard is consistent with the overall objectives outlined in section 3 (1) of the *Transport Operations (Marine Safety) Act 1994*, and contribute to the provision of a system that achieves an appropriate balance between:

- regulating the maritime industry to ensure maritime safety; and
- enabling the effectiveness and efficiency of the Queensland maritime industry to be further developed.

## **8 Consistency with Other Legislation**

The proposed standard is part of a broader framework of state and federal maritime safety law. Consistency with Commonwealth maritime legislation and the legislative provisions of the other Australian states and territories is being achieved through the coordinated development and adoption of uniform national marine safety legislation.

## **9 Benefits and Costs of Standard**

The benefits of the standard are to afford members of the public who deal with approved entities a measure of confidence that the entities are qualified and suitable for approval, and to provide applicants for approval with guidance as to what qualifications are required.

# **Notes on Sections**

## **Part 1 - Preliminary**

### **Short title**

Section 1 - sets out the short title of the Standard

### **Commencement**

Section 2 - provides for the Standard to commence on 1 January 2006.

## **Dictionary**

Section 3 - refers to the dictionary defining certain words located in the schedule to the standard.

## **Purpose of Standard**

Section 4 - states that the purpose of the standard is to help people understand how an entity qualifies for an examining or training approval.

## **Part 2 – Examining approvals**

### **Application of pt 2**

Section 5 – explains that Part 2 applies to an entity wishing to qualify for an examining approval.

### **Qualifying for examining approval**

Section 6 (1) sets out the criteria for an entity to qualify for an examining approval. An entity will qualify for an examining approval if the general manager is satisfied the entity:

- has skills and knowledge at least equivalent to the competencies for which the entity will assess candidates; and
- for an application for an approval in relation to recreational marine driver licences—holds a licence to operate a commercial ship as it's master; and
- for an application for an approval in relation to personal watercraft licences—holds a licence or certificate of competency the general manager considers reasonable and relevant to conducting examinations; and
- has completed either the assessment related units of competency from a Certificate IV level qualification in training and assessment under the Australian Quality Training Framework (AQF) or other studies the general manager considers are at least equivalent to those units of competency; and

- has knowledge and skills for conducting examinations for issuing licences; and
- is suitable for an examining approval.

Section 6 (2) – states that if the entity is a corporation, the general manager must be satisfied the entity is suitable for an examining approval and must apply section 6 (1) to an individual who is nominated by a company as if the individual were the entity.

Section 6 (3) – states that if the entity is an unincorporated body, the general manager must apply subsection (1) to an individual nominated by the entity, as if the individual were the entity.

## **Part 3 Training program approvals**

### **Application of pt 3**

Section 7 explains that Part 3 applies to an entity wishing to qualify for a training approval.

### **Qualifying for training program approval**

Section 8 (1) sets out the criteria for an entity to qualify for a training approval. An entity qualifies for training approval if the general manager is satisfied the entity has the following items available for training:

- training facilities and equipment;
- a registered commercial ship;
- training and assessment documents.

Section 8 (1) also states that if the entity is an individual he or she must meet the requirements as set out in Section 8 (2) and if the entity is a corporation, unincorporated body or individual who nominates another individual—the entity must nominate an individual who meets the requirements under subsection 8 (2).

Section 8 (2) states that an individual nominated must

- have skills and knowledge at least equivalent to the competencies for which the entity will assess candidates; and
- for an application for an approval in relation to recreational marine driver licences—holds a licence to operate a commercial ship as its master;
- for an application for an approval in relation to personal watercraft licences—hold a licence or certificate of competency the general manager considers reasonable and relevant to conducting training and assessment;
- have a Certificate IV level qualification in training and assessment under the (AQF); or
- a teaching diploma or degree recognised by the Queensland Studies Authority and either at least the assessment-related units of competency from a Certificate IV level qualification in training and assessment under the AQF or other studies the general manager considers at least equivalent to the units of competency.

## **Part 4 – Suitability of entity for examining approval or training program approvals**

### **Suitability of entity**

Section 9 – Sets out the criteria for suitability of an entity and defines the terms “externally-administered body corporate” and “insolvent under administration”.

## **Part 5 – Repeal and references to former standards**

### **Repeal**

Section 10 - repeals the *Transport Operations (Marine Safety—Recreational Marine Driver Licence Approvals) Interim Standard (No.2) 2005*.

### **References to former standards**

Section 11 (1) – states that in a document or instrument, other than an Act or regulation, a reference to the following is, if the context permits, a reference to this standard—

- *Transport Operations (Marine Safety—Recreational Ship Masters Licence Approvals) Standard 1998*
- *Transport Operations (Marine Safety—Marine Driver Licence Approvals) Interim Standard 2005*
- *Transport Operations (Marine Safety—Marine Driver Licence Approvals) Interim Standard (No. 2) 2005*.

Section 11 (2) - Subsection (1) above does not limit the application of the *Acts Interpretation Act 1954*, section 14H.

## **Schedule Dictionary**

The Dictionary defines certain words as they pertain to the standard.

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### **ENDNOTES**

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



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