



Queensland

Transport Operations (Marine Safety—Commercial Ships and Fishing Ships Miscellaneous Equipment) Standard 2006

Explanatory Notes for SL 2006 No. 16

made under the

Transport Operations (Marine Safety) Act 1994

1 General Outline

The *Transport Operations (Marine Safety—Commercial Ships and Fishing Ships Miscellaneous Equipment) Standard 2006* sets out the outcomes to be achieved by the miscellaneous equipment with which a commercial ship or fishing ship should be equipped.

2 Short Title

The short title of the proposed standard is the *Transport Operations (Marine Safety—Commercial Ships and Fishing Ships Miscellaneous Equipment) Standard 2006*.

3 Authorising Law

The power to make the 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.

The proposed standard is a regulatory provision for the purposes of section 42 of the Act, which deals with the relationship between regulatory provisions and the general safety obligations about the condition of ships.

4 Policy Objectives

The primary function of the proposed standard in the context of Queensland's performance based regime for the regulation of marine safety is to set out the outcomes to be achieved by the miscellaneous equipment with which a commercial ship or fishing ship should be equipped.

This proposed standard applies only to owners and masters of registered commercial ships and fishing ships and its stated purpose is to give guidance to help people understand the general safety obligations under part 4 of the Act. The relevant part of the general safety obligations requires a ship to be appropriately equipped to meet the ordinary perils of its voyage. The miscellaneous equipment with which a ship should be equipped under the standard is in addition to the safety equipment required under the *Transport Operations (Marine Safety) Regulation 2004*.

The policy objective envisaged in making the proposed standard is to continue to provide the owners and masters of commercial and fishing ships with both prescriptive and performance based ways of meeting the general safety obligation.

5 How Standard will achieve the Policy Objectives

The operative part of the proposed standard contains both a prescriptive and a performance based method of satisfying the standard.

A ship is deemed to have appropriate equipment if it is equipped in accordance with sections 12, 13 and 18 of the Uniform Shipping Laws (USL) Code. Alternatively, if it has equipment which performs the functions listed in the standard.

The performance based part of the proposed standard nominates the following functions for which miscellaneous equipment should be provided. To—

- safely navigate the ship in the intended operational area in all expected weather conditions for the area; and

- safely secure the ship in the intended operational area in all expected weather
- conditions for the area should it be disabled and afloat; and
- enable the ship to communicate with another ship, or a shore based radio station, in the
- intended operational area in all expected weather conditions for the area; and
- provide a safe environment, first aid and reasonable comfort to anyone on board the ship; and
- allow safe unhindered access to and from the ship; and
- safely secure the ship in the intended operational area in all expected weather
- conditions for the area to enable anyone to embark or disembark; or cargo to be
- transferred to or from the ship; and
- indicate weather changes within the ship's operational area.

6 Alternative ways of achieving Policy Objectives

Until the relevant parts of the National Standard for Commercial Vessels (NSCV) are adopted into Queensland law, the USL Code itself will continue to be available to ship owners and masters as a guide to appropriate miscellaneous equipment for the safe operation of ships.

However, Queensland would have no specific reference in the Act, regulation, or standard to the kinds of equipment dealt with in sections 12, 13 and 18 of the USL Code. Nor would there be any way of encouraging compliance by owners and masters with these aspects of the condition of ships other than by reference to the obligation in section 41 of the Act that a ship should be appropriately equipped.

This would be inconsistent with the intention expressed in section 31 of the Act, that standards will help people understand the general safety obligations.

The alternative of embodying the miscellaneous equipment provisions in the Act or the regulation would introduce a more rigid prescriptive system, inconsistent with the performance based philosophy of the Act.

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 Act and contributes 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 existing general safety obligation in the Act will continue to require owners and masters to ensure a commercial ship or fishing ship is appropriately equipped, but will be less effective if the standard is not made. The purpose and benefit of the standard is to provide guidance to help people understand how to comply with this obligation, while allowing owners and masters flexibility to find the most cost effective way to do this. Because the performance based part of the standard nominates functions to be performed by the equipment rather than prescribing specific equipment, a quantitative cost analysis is not possible.

Notes on Sections

Short Title

Section 1 – sets out the short title of the Standard

Commencement

Section 2 – provides for the Standard to commence on 1 March 2006.

Dictionary

Section 3 – refers to the dictionary defining certain words located in the schedule to the standard. Formerly these definitions were contained in the section of the standard.

Application of Standard

Section 4 – provides that the standard applies to a person who is the owner or master of a commercial ship or fishing ship that is required to be registered under part 3, division 4 of the regulation.

Purpose of standard

Section 5 – states the purpose of the standard is to help people to understand the general safety obligation under section 41 of the Act for commercial ships and fishing ships. The equipment mentioned in section 6 is in addition to the safety equipment required under part 2, and part 5, division 8, of the 2004 regulation.

Miscellaneous equipment

Section 6 – presents two alternative options of how commercial ships and fishing ships may meet the requirement of carrying the proper miscellaneous equipment.

Section 6(1) – details that commercial and fishing ships are to carry equipment in accordance with sections 12, 13 and 18 of the USL code.

Section 6(2) – offers and details an alternative to s 6(1) for meeting the equipment requirement by utilising performance based criteria with respect to equipping commercial and fishing ships.

Repeal

Section 7 – repeals the *Transport Operations (Marine Safety—Commercial Ships and Fishing Ships Miscellaneous Equipment) Interim Standard (No.2) 2005*.

References to former standards

Section 8 – states that in a document or instrument, other than an Act or regulation, a reference to the following standards is, if the context permits, a reference to this standard—

- *Transport Operations (Marine Safety—Commercial and Fishing Ships Miscellaneous Equipment) Standard 1998*
- *Transport Operations (Marine Safety—Commercial Ships and Fishing Ships Miscellaneous Equipment) Interim Standard 2005*.
- *Transport Operations (Marine Safety—Commercial Ships and Fishing Ships Miscellaneous Equipment) Interim Standard (No.2) 2005*.

Schedule

The dictionary defines terms used in the standard.

ENDNOTES

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