



Queensland

Transport Operations (Marine Safety—Recreational Ships Miscellaneous Equipment) Standard 2006

Explanatory Notes for SL 2006 No. 19

made under the

Transport Operations (Marine Safety) Act 1994

1 General Outline

The proposed *Transport Operations (Marine Safety—Recreational Ships Miscellaneous Equipment) Standard 2006* provides guidance on how to satisfy the general safety obligations under part 4 of the Act for equipping recreational ships, whether or not they are required to be registered.

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 proposed standard is in addition to the safety equipment required under the *Transport Operations (Marine Safety) Regulation 2004*.

2 Short Title

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

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 proposed 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 cited in the footnote to section 8 of the regulation, which characterises it as one of the standards “that specify equipment, other than safety equipment mentioned in this part, with which a ship may be equipped.”

4 Policy Objectives

The stated purpose of the proposed standard is to provide guidance to help people understand how to satisfy the general safety obligations under part 4 of the Act for recreational ships, whether or not they are required to be registered.

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 proposed standard is in addition to the safety equipment required under the regulation.

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

5 How Standard will achieve the Policy Objectives

The two operative parts of the current standard apply to the owners and masters of two overlapping classes of recreational ships. Part 2 applies to all recreational ships whether or not they are required to be registered. Part 3 applies to recreational ships that do not require registration.

Part 2 deals with equipment for navigation, anchoring, baling, manual propulsion, and drinking water. This part of the proposed standard refers to equipment that is relevant to safe operation under section 41 of the Act, but is not safety equipment as defined by reference to the regulation in section 44 of the Act.

Part 3 provides that, for section 41 of the Act, recreational ships that do not require registration should be equipped with safety equipment similar to the safety equipment which recreational ships that do require registration must carry under the Act and the regulation.

6 Alternative ways of achieving Policy Objectives

Not making the proposed standard would be inconsistent with the intention expressed in section 31 of the Act which states 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 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 general safety obligation in the Act will continue to require owners and masters to ensure a recreational ship is appropriately equipped, regardless of whether the proposed standard is made. The benefit of the proposed standard is to provide owners and masters with guidance to help them understand how to comply with this obligation.

The proposal to limit the changes to the proposed standard to those necessary for consistency with the existing Act and regulation will ensure that no significant additional compliance cost will be imposed by making the proposed standard.

10. 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 March 2006.

Dictionary

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

Purpose of Standard

Section 4 – explains that this standard will help people to understand the general safety obligation for recreational ships under section 41 of the Act.

Part 2 Miscellaneous equipment for all recreational ships

Application of pt 2

Section 5 – explains that Part 2 applies to a person who is the owner or master of a recreational ship whether or not the ship is registered. Part 2 does not apply to a person who is the owner or master of a recreational ship that is a personal watercraft.

Navigation

Section 6 – explains that a recreational ship operating in or beyond partially smooth waters should be equipped with a liquid damped compass and a navigation chart appropriate to the operational area.

Anchoring

Section 7(1) – explains that recreational ships of varying lengths should be equipped with anchors which are appropriate to the size of ship and operational area in which the ship is operating.

Section 7(2) – explains that the type and weight of the anchor and the length and thickness of the rope should be appropriate for various length ships, weather and sea conditions and the nature of the sea bed.

Section 7(3) – defines “cable” as it pertains to the section.

Baling

Section 8 – explains that a recreational ship should be equipped with the baling equipment appropriate to the length of the ship and provides examples of types of equipment which would qualify to meet these criteria.

Manual Propulsion

Section 9 – states that a recreational ship less than 6 metres should be equipped with a way of manually propelling the ship (such as oars).

Drinking Water

Section 10 – states that a recreational ship should be equipped with enough drinking water for everyone on board for the duration of the intended voyage.

Equipment to be in working order

Section 11 – states that the equipment in part 2 should be in working order.

Part 3 Miscellaneous equipment for particular recreational ships that do not require registration

Division 1 Preliminary

Definitions for pt 3

Section 12 – Defines various types of personal flotation devices (PFD)

Division 2 Miscellaneous equipment for particular recreational ships other than particular personal watercraft

Definitions for div 2

Section 13 – defines certain words as they pertain to division 2

Application of div 2

Section 14(1) – states that division 2 applies to a person who is the owner or master of a recreational ship mentioned in section 60(2)(f) or (i) of the *Transport Operations (Marine Safety) Regulation 2004* (which outlines requirements for registration and the criteria for exemption from registration) and which is not required to be registered. Section 14(2) states

that division 2 does not apply to a person who is the owner or master of a personal watercraft (PWC). (PWC's are dealt with in division 3)

Safety equipment in smooth waters

Section 15 – specifies the safety equipment that a recreational ship should be equipped with while operating in smooth waters.

Safety equipment in or beyond partially smooth waters

Section 16 – specifies the safety equipment that a recreational ship should be equipped with while operating in or beyond partially smooth waters.

Exception for person wearing diver's jacket

Section 17 – states that a recreational ship does not need to be equipped with a personal floatation device if the occupants are wearing an inflatable diver's jacket complying with BS EN 12628:1999

Division 3 Miscellaneous equipment for particular personal watercraft

Safety equipment for particular personal watercraft

Section 18 – explains that each person who is on a personal watercraft must be wearing a personal floatation device.

Division 4 Servicing or replacing safety equipment

Safety equipment to be serviced or replaced

Section 19(1) – states that this section applies if a recreational ship's safety equipment under section 15, 16 or 18 has an expiry date by which it should be serviced or replaced.

Section 19(2) – states that the ship is taken not to be equipped with safety equipment under section 15, 16 or 18 unless the equipment has been serviced or replaced before the expiry date.

Part 4 Repeal and references to former standards

Repeal

Section 20 – states the Transport Operations (Marine Safety—Recreational Ships Miscellaneous Equipment) Interim Standard (No. 2) 2005 SL No. 183 is repealed.

References to former standards

Section 21(1) states that in a document or instrument a reference to the following standards may, if the context permits, be taken to be a reference to this standard—

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

Section 21(2) states that subsection (1) does not limit the application of the *Acts Interpretation Act 1954*, section 14H.

Schedule Dictionary

The schedule is a Dictionary which defines certain words as they pertain to the standard.

ENDNOTES

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