



Queensland

Transport Operations (Marine Safety—Parasailing) Standard 2007

Explanatory Notes for SL 2007 No. 110

made under the

Transport Operations (Marine Safety) Act 1994

1 General Outline

The proposed standard provides for how a parasailing ship should be appropriately equipped and operated to satisfy general safety obligations under the *Transport Operations (Marine Safety) Act 1994* (the Act).

2 Short Title

The short title of the proposed standard is the *Transport Operations (Marine Safety – Parasailing) Standard 2007*.

3 Authorising Law

The power to make the standard, and the required procedure, is set out in part 4 division 2 of the Act. A standard may provide for any matter about which a regulation may be made but may not prescribe for offences, fees or charges. 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 obligation about the condition of ships. In general terms, a person who complies with the standard is taken to have satisfied this general safety obligation in the Act. A person who does not

comply with the standard will be taken to have contravened the general safety obligation unless a court can be satisfied otherwise.

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 help people understand and comply with the general safety obligations under part 4 division 1 of the Act about the condition and operation of ships.

The proposed standard applies to people involved in the operation of parasailing ships. Its purpose is to set out ways in which they may discharge the obligations not to operate a ship unless it is in a safe condition, and not to cause it to be operated in an unsafe manner. It also provides other measures for marine safety in relation to parasailing.

5 How Standard will achieve the Policy Objectives

The operative parts of the proposed standard set out certain obligations for people involved in the operation of parasailing ships which provide detailed guidance about how to fulfil the general safety obligations in the Act when operating a parasailing ship.

6 Alternative ways of achieving Policy Objectives

An alternative way of approaching the policy objective of ensuring compliance with the general safety obligations would be to incorporate a prescriptive set of rules in the *Transport Operations (Marine Safety) Regulation 2004*.

The use of a standard, which may not prescribe for offences, as a guide to compliance with the general safety obligations has been adopted as a more flexible solution that is more in keeping with the Act's objective of enabling the effectiveness and efficiency of the Queensland maritime industry to be further developed. The use of a standard is consistent with the statement in section 31 of the Act that standards will help people understand the general safety obligations.

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 standards.

9 Benefits and Costs of Standard

People involved in the operation of parasailing ships will continue to be subject to the general safety obligations regardless of whether the standard is made. Standards may not impose fees or charges, and are designed to allow people to find the most cost efficient ways of achieving safety and satisfying the general safety obligations.

In the absence of a standard, each operator would need to develop a regime for compliance with the general safety obligations at his or her own expense.

The cost of complying with the proposed standard will not increase substantially from the cost of complying with the expiring standard. The benefits to industry and the boating public include the provision of a flexible guide to the general safety obligations and improved marine safety.

The reduction in the social and economic costs that result from unsafe procedures and the accidents and injuries they cause outweighs the cost of complying with the standard.

10 Consistency with fundamental legislative principles

The proposed standard is consistent with fundamental legislative principles as outlined in the *Legislative Standards Act 1992*.

11 Consultation

The proposed standard is based on the consultation process required under part 4 division 2 of the Act, including the publication of a proposal document, and consultation draft standards. The advice of the Marine Board was sought at each stage. There was general support for the making of the standard. A number of technical changes such as distance off requirements were made as a result of feedback received from parasailing operators.

Notes on sections

Part 1 Preliminary

Short title

Clause 1 – sets out the short title of the standard

Commencement

Clause 2 – provides for the standard to commence on 15 June 2007.

Main purpose of standard

Clause 3 – states that the purpose of the standard is to help people understand their general safety obligations under part 4 division 1 of the Act.

Application of standard

Clause 4 – applies the standard to the conduct of parasailing using a commercial ship.

Definitions

Clause 5 – refers to the dictionary defining certain words located in the schedule in the standard.

Part 2 Equipment

Daily inspection of parasailing equipment

Clause 6 – requires the operator of a parasailing ship to make a thorough inspection of all parasailing equipment to be used each day and to keep a written record including the date of inspection, result of inspection and the name of the person who carried out the inspection. The inspection is to be carried out in accordance with the manufacturer's specifications for the equipment and must include a full test of the winch.

Unsafe equipment not to be used

Clause 7 – states that an operator must not use, or allow the use of, parasailing equipment the operator knows or suspects is unsafe.

Manufacturer's specification for equipment to be followed

Clause 8 – requires the operator of a ship used for parasailing to ensure that all equipment is fitted, inspected, maintained, replaced and used according to manufacturer's specification for the equipment.

Parasail payloads

Clause 9 – states that for each flight the weight of the passengers must be within the manufacturer's specification or within certain specified payload limits.

Annual inspection of equipment

Clause 10 – requires that parasailing equipment other than the winch be examined on an annual basis by an equipment inspector. An equipment inspector is defined as the manufacturer of the equipment, the manufacturer's agent, or another appropriately experienced person. The equipment inspector must be satisfied that the equipment is safe and make a written record of the details of the inspection. Records must be kept of the inspection for the life of the equipment.

Winch

Clause 11 – outlines the cut-out safety devices that must be fitted to a winch used for parasailing.

Winch rope

Clause 12 – outlines the necessary requirements for the use and maintenance of a winch rope to be used for parasailing.

Part 3 Personnel

Minimum experience for masters of ship used for parasailing

Clause 13 – requires the master of a ship used for parasailing to hold at least a restricted coxswain's licence and have specified experience as a parasailing deckhand and in control of a parasailing ship under supervision, over a period of at least 3 months.

Personnel to be adequately trained and experienced

Clause 14 – requires the operator of a parasailing ship to be adequately trained and experienced, and ensures that each person involved in conducting the parasailing is adequately trained and experienced for his or her role. The operator must keep a written record of the relevant qualifications for everyone involved in conducting the parasailing.

Supervisor to be at launching point

Clause 15 – states that the master of the parasailing ship is required to arrange someone to supervise what happens at the launching point. The role of the supervisor includes keeping a lookout and informing the master of any sources of danger.

Part 4 Risk management

Risk assessment

Clause 16 – the operator of a ship used for parasailing must prepare a written assessment of all the foreseeable risks, and a contingency plan for eliminating, minimising or responding to those risks. Copies of the risk assessment and contingency plan must be kept on board the parasailing ship.

First aid

Clause 17 – the operator of a ship used for parasailing must ensure that a trained first aid officer is at the launching or collection point. The operator must also ensure that a suitably equipped first aid kit is on board the parasailing ship or otherwise immediately available. Arrangements for the medical treatment and evacuation of an injured parasailor must be planned and practised.

Safety briefing

Clause 18 – requires the operator to ensure each parasailor is briefed before parasailing, and specifies the matters to be included in the briefing. The briefing session must include a question and answer session.

After the safety briefing the operator must assess whether it is safe for each parasailor to take part, and must exclude anyone for whom it would not be in the best interests of safety to take part.

Part 5 Parasailors

Age of parasailors

Clause 19 – states that a child under 12 years of age may parasail only if the child wears a harness that fits comfortably and safely, is accompanied by an adult, and the combined weight of the parasailors falls within the payload specifications in clause 9. Multi-passenger flights are further dealt with in clause 32.

Parasailors to wear personal flotation devices

Clause 20 – requires the master to ensure that all parasailors wear a personal flotation device while parasailing.

Parasail harness

Clause 21 – states that the master of a ship used for parasailing must ensure that, for each parasail flight, each parasailor is comfortably and safely fitted into the parasail harness.

Part 6 Weather and other conditions

Daily weather evaluation and log

Clause 22 – provides for the aspects of the weather that the master must assess before parasailing on any day, and requires that a written record of weather assessments be kept in a daily weather log.

Wind speed

Clause 23 – states that the master of a ship used for parasailing must measure the wind speed or obtain information about the wind speed from a reliable source, and requires that the wind speed be constantly monitored and taken into account during parasailing.

Measurement of wind speed

Clause 24 – deals with the requirement to calibrate instruments used for measuring wind speed, and the keeping of records about calibration.

Wind direction

Clause 25 – states that the master of a ship used for parasailing must ensure that the wind direction is constantly monitored and taken into account during parasailing.

Regard for swell and other sea conditions

Clause 26 – states that the master must ensure the swell and other sea conditions are constantly monitored and taken into account during parasailing.

Visibility

Clause 27 – states that the master of a ship used for parasailing must ensure that there is vertical visibility of at least 150 metres and horizontal visibility of at least 1 kilometre during parasailing.

Weather conditions – parasailing not to be conducted

Clause 28 – outlines the weather conditions in which a master of a ship used for parasailing must not conduct parasailing, including wind speeds over 20 knots, excessive or dangerous wind gusts, night, visible heavy weather, and during weather warnings.

Part 7 Conducting parasailing

Distance of separation to be kept while parasailing

Clause 29 – states that the master of a ship used for parasailing must ensure that none of the parasailing equipment comes within certain distances from various structures and objects. A list of the various structures and objects and their corresponding distances is also included.

Parasailing on a lee shore

Clause 30(1) – states that the master of a ship must not conduct parasailing on a lee shore unless a risk assessment has been done and a decision has been made that it is safe to parasail despite the risks.

Clause 30(2) – outlines that if parasailing is conducted on a lee shore the parasailing ship must maintain a safe distance from the shore, determined by reference to the wind speed and the length of the winch rope.

Controlled dipping

Clause 31 – outlines the conditions under which the master of a parasailing ship may conduct controlled dipping of a parasailor, having regard to the stability of the ship and the risk of injury to the parasailor. The clause also sets out certain distance off requirements that apply.

Multiple passenger flights

Clause 32 – outlines the conditions under which the master of a parasailing ship may conduct multiple passenger flights, including requirements relating to weather, equipment, and payload. The master must exercise extreme caution when conducting a multiple passenger flight.

Steering ship used for parasailing

Clause 33 – states that the master of a parasailing ship must steer the ship so that the angle between the centre-line of the ship and the winch rope is safe, having regard to the weather conditions.

Part 8 Repeal

Repeal

Clause 34 – repeals *Transport Operations (Marine Safety – Parasailing) Standard 2000*.

Schedule Dictionary

The schedule contains the definitions of terms and phrases used throughout the standard.

ENDNOTES

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