



Queensland

Transport Operations (Marine Safety) and Another Regulation Amendment Regulation (No. 1) 2011

Explanatory Notes for SL 2011 No. 274

made under the

Transport Operations (Marine Safety) Act 1994

General outline

Short title

Transport Operations (Marine Safety) and Another Regulation Amendment Regulation (No. 1) 2011.

Authorising law

Section 165 of the *State Penalties Enforcement Act 1999* and section 207 of the *Transport Operations (Marine Safety) Act 1994*.

Policy objectives and the reasons for them

The primary objective of this subordinate legislation is to improve boating safety by lessening the likelihood of a marine incident by introducing operational improvements, increasing the likelihood of surviving a marine incident by introducing safety equipment improvements and addressing several minor miscellaneous matters.

In September 2007, Maritime Safety Queensland released the *Improving Recreational Boating Safety* discussion paper (2007 Discussion Paper)

presenting broad policy options about several recreational boat safety reforms. Extensive consultation regarding these reforms was conducted with recreational boat users, peak bodies from industry and compliance partners.

In 2009 a record number of marine incident fatalities occurred, ending a downward trend over the previous three years. Twenty people had died as the result of a marine incident, 12 more than in the previous year of record low fatalities.

In 2010 there were another 14 fatal marine incidents resulting in 14 deaths. This was the same number of incidents as recorded in 2009, but with 30% fewer deaths. There were no multiple fatality incidents, unlike in 2009 when five marine incidents each resulted in multiple deaths.

Since the completion of the consultation for the 2007 Discussion Paper, Maritime Safety Queensland has undertaken extensive planning to develop detailed proposals that respond to the consultation feedback and other identified changes in recreational boating trends.

On 25 July 2011, Cabinet endorsed the recreational safety improvements and approved that Maritime Safety Queensland undertake the required business system and regulatory changes to implement them (Decision No 9933).

In a Ministerial Media Statement dated 27 July 2011, the Minister for Main Roads, Fisheries and Marine Infrastructure announced that these changes would be made.

Achievement of policy objectives

The objectives of the subordinate legislation will be achieved by:-

- (a) extending the list of coastal bars over which personal flotation devices (PFDs) must be worn on small open boats;
- (b) additional operating requirements for personal watercraft to minimise the likelihood of collisions; and
- (c) additional safety equipment requirements for personal watercraft operating offshore in line with that already required for other recreational boats.

Also, the objectives will be achieved through a number of miscellaneous amendments including:

- (a) requiring the owner of a recreational boat to ensure that a person who is to be the master of the boat holds an appropriate licence to operate that boat;
- (b) exempting masters holding an appropriate overseas licence or qualification from the need to obtain a recreational marine driver licence (RMDL) to operate a recreational boat until three months after taking up residence in Australia, similar to car driver licence requirements. (A list of licences or qualifications issued by overseas marine safety administrations considered equivalent to a RMDL will be published on the Maritime Safety Queensland website and relevant publications);
- (c) requiring the registration sticker issued by Australian Maritime Safety Authority (AMSA) to be affixed to the Emergency Position Indicating Radio Beacon (EPIRB);
- (d) clarifying that a recreational boat registered in another state or territory that is on an interstate voyage does not require Queensland registration while in Queensland waters;
- (e) requiring that safety equipment be stowed in a location that is clearly marked and accessible in the event of an incident; and
- (f) including a reference to the new Australian Standard 4758 under Schedule 1 (Standards) and Schedule 15 (Dictionary) definitions for PFD type 1, 2 & 3 as an alternative to the existing definitions.

On the basis of risk, safety and potentially life-saving benefits, the amendment regulation is considered reasonable and appropriate, and does not operate to the disadvantage of any person because of the long term net benefit in reducing the risk of unsafe boating.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the main objects of the *Transport Operations (Marine Safety) Act 1994* and the *State Penalties Enforcement Act 1999*.

Inconsistency with policy objectives of other legislation

The amendment regulation is consistent with the policy objectives of other legislation. Amendments to the *Transport Operations (Marine Safety -*

Recreational Ships Miscellaneous Equipment) Standard 2006 also introduced related safety equipment improvements.

Alternative ways of achieving policy objectives

An alternative method of possibly achieving policy objectives is through promotion of voluntary compliance. Maritime Safety Queensland has sought to educate the boating public about the importance of the carriage of appropriate safety equipment and wearing of suitable PFDs. Despite these efforts, the boating culture in Queensland does not generally support the wearing of PFDs as a preventative measure - particularly for adults. The continuing low PFD wearing rates for adults suggest that education and promotion alone is not sufficient to positively affect attitudes and promote voluntary PFD wearing.

Maritime Safety Queensland has also examined the alternative for a voluntary code of conduct for personal watercraft operation and experience indicates that it would be difficult to achieve a high level of voluntary compliance among the target group. Low compliance levels can be attributed to many factors including the failure of the personal watercraft operator or learner to appreciate the risks involved in activities such as wake-jumping.

Maintaining the status quo will risk avoidable fatal and serious injury incidents continuing to occur such as those highlighted in the marine incident fatality data mentioned above.

Benefits and costs of implementation

The key benefit of the amendment regulation is improving boating safety by:

- lessening the likelihood of a marine incident by introducing operational improvements;
- increasing the likelihood of surviving a marine incident by introducing safety equipment improvements; and
- addressing several minor miscellaneous matters.

Other types of benefits will affect enforcement agencies dealing with compliance matters, and search and rescue organisations responding to emergencies. There should be resource benefits that deliver improved

emergency-response and service efficiency. There should also be a decrease to the workload and increase to the effectiveness of voluntary rescue services through these additional regulatory provisions that enhance the safe operation and equipping of boats and personal watercrafts.

Costs to affected stakeholders associated with the safety equipment implementation are a one-off cost, which is far outweighed by the safety and potentially life-saving benefits to be achieved. On the basis of risk and safety benefits, the amendment regulation does not operate to the disadvantage of any person because of the long term net benefit in reducing the risk of unsafe boating.

Any cost to government will be funded within existing budget allocations.

Consistency with fundamental legislative principles

The amendment regulation is consistent with fundamental legislative principles.

Consultation

Extensive consultation was conducted with recreational boat users, peak bodies from industry and compliance partners.

Relevant Queensland Government Departments have been consulted and support the amendments.

ENDNOTES

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