

Transport Operations (Marine Safety— Queensland Regulated Ships Miscellaneous Equipment) Standard 2017

Explanatory notes for SL 2017 No. 171

made under the

Transport Operations (Marine Safety) Act 1994

General Outline

Short title

Transport Operations (Marine Safety—Queensland Regulated Ships Miscellaneous Equipment) Standard 2017

Authorising law

Section 219A of the *Transport Operations (Marine Safety) Act 1994*

Policy objectives and the reasons for them

The primary policy objective of the *Transport Operations (Marine Safety—Queensland Regulated Ships Miscellaneous Equipment) Standard 2017* (the Standard) is to help people understand the general safety obligation, and to help people adopt appropriate safety measures for Queensland regulated ships, under section 41 of the *Transport Operations (Marine Safety) Act 1994* (the Act). The general safety obligation prohibits the owner and master of a ship from operating the ship unless it is safe. The owner or master may fulfil this obligation by complying with a provision of a regulation or a standard about the condition, equipment or crewing of ships.

These matters are currently provided for by the *Transport Operations (Marine Safety—Queensland Regulated Ships Miscellaneous Equipment) Standard 2006* (the 2006 Standard).

In accordance with Part 7 of the *Statutory Instruments Act 1992*, the 2006 Standard was due to expire on 1 September 2016. An extension from expiry was provided for in the *Statutory Instruments Amendment Regulation (No. 1) 2016* and the Standard is currently due to expire on 31 August 2017. This Standard replaces the 2006 Standard.

Achievement of policy objectives

The Standard achieves the objective of helping people understand the general safety obligation for Queensland regulated ships by providing for miscellaneous safety equipment for all Queensland regulated ships, whether or not the ship is required to be registered under the *Transport Operations (Marine Safety) Regulation 2016*.

Part 2, Division 2 of the Standard deals with Queensland regulated ships other than personal watercraft. It provides that ships be equipped with such safety equipment as:

- a liquid damped compass and a navigation chart appropriate to the operational area
- an anchor of a type and weight, and with a length and thickness of cable, that is appropriate for the ship, the weather conditions and the nature of the seabed
- a pump or bailing equipment of a type determined by the length of the ship
- a means of manually propelling the ship or an auxiliary means of propulsion
- enough drinking water for all persons on board for the duration of the intended voyage.

All of the equipment should be in good working order.

Part 2, Division 3 of the Standard deals with Queensland regulated ships that are personal watercraft. It provides that personal watercraft operating in or beyond partially smooth waters be equipped with such safety equipment as:

- a liquid damped compass and a navigation chart appropriate to the operational area, or alternatively, an electronic navigation device appropriate to the operational area
- an anchor of a type and weight, and with a length and thickness of cable, that is appropriate for the ship, the weather conditions and the nature of the seabed
- enough drinking water for all persons on board for the duration of the intended voyage.

All of the equipment should be in good working order.

Part 3 of the Standard provides for additional safety equipment for particular Queensland regulated ships that do not require registration. Those ships are Queensland regulated ships that are either:

- not powered, or powered by an engine of less than three kilowatts, or
- a tender to a registered Queensland regulated ship if the tender is operated within a two nautical mile radius from the ship.

The safety equipment required for those ships depends on whether the ship is operating in smooth waters, operating in or beyond partially smooth waters, or whether the ship is a personal watercraft. The required safety equipment includes a lifejacket for each individual on board who is 1 year or older, firefighting equipment, and distress signals.

The lifejacket requirements for a ship are determined by the type of ship and the waters it is operating in. For example, a personal watercraft operating in smooth waters may carry lifejackets that are level 100, 50 or 50S lifejackets.

If the equipment has an expiry date by which it should be serviced or replaced, the equipment should be serviced or replaced before the expiry date.

Part 4 of the Standard ensures that a reference in a document or instrument to a previous version of the Standard (such as a reference to the 2006 Standard) is taken to be a reference to the Standard.

Part 5 of the Standard ensures that the transitional provision that was included in the 2006 Standard continues to operate as intended. This means that, in particular circumstances, ships that are equipped with particular personal flotation devices can continue to use those devices instead of a lifejacket until the end of the personal flotation device's serviceable life.

Consistency with policy objectives of authorising law

The Standard is consistent with the policy objectives of the *Transport Operations (Marine Safety) Act 1994*.

Inconsistency with policy objectives of other legislation

The Standard is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The Standard is the only effective means of achieving the policy objectives.

Benefits and costs of implementation

The Standard will provide guidance to help people understand how to comply with the general safety obligation and to adopt appropriate safety measures for Queensland regulated ships in the Act. At the same time, it will allow owners and masters flexibility to find the most cost effective way to comply with the safety obligation.

The changes from the 2006 Standard are minor in nature and will not have a significant cost impact on government or other stakeholders, including new or existing boat users. A beneficial change allowing a Queensland regulated ship to be equipped with an auxiliary way of propulsion introduces more flexibility and may be a cost saving to some boat users.

Consistency with fundamental legislative principles

The Standard is consistent with fundamental legislative principles, as set out in section 4 of the *Legislative Standards Act 1992*.

Consultation

Stakeholders were extensively consulted in relation to the development of the Standard.

The Act sets out particular requirements for public consultation to be undertaken before a Standard may be made. This process involves:

- giving a public notice about the proposal to prepare a draft Standard and inviting submissions
- considering all submissions properly made on the proposal
- giving public notice of the draft Standard and inviting submissions on the draft
- considering all submissions properly made on the draft Standard.

In accordance with those requirements, two public notices were placed in the Courier Mail, on Friday 16 December and 23 December 2016, giving notice about the proposal to prepare a draft Standard and inviting public authorities, industry, interested groups and persons, and the public to have their say about what changes should be made to the Standard. Submissions were received and considered. As a result of this round of consultation, a change was adopted so that Queensland regulated ships may meet propulsion requirements by being equipped with an auxiliary way of propulsion, such as an additional motor, as an alternative to oars and paddles.

Subsequently, two public notices were placed in the Courier Mail, on Friday 31 March and 7 April 2017, giving notice of the draft Standard. The public and industry were invited to make submissions on the draft Standard. Further submissions were received and considered, however this round of submissions did not result in any changes to the draft Standard.

Key stakeholder groups, including the Queensland Recreational Boating Council and the Boating Industry Association will be further informed about the Standard during the regular face to face dialogue engaged in by the Department of Transport and Main Roads with those stakeholders. The Department of Transport and Main Roads will further inform the public of the minor changes to the Standard through its website and publications.

In accordance with *The Queensland Government Guide to Better Regulation*, the Office of Best Practice Regulation (OBPR), Queensland Productivity Commission, was consulted in relation to the local regulation. The Department of Transport and Main Roads lodged a request for OBPR to exclude the remake of the regulation from further regulatory impact analysis, as the process to remake the Standard prescribed under the Act is a comparable process. On 1 June 2017, the OBPR advised that no further assessment under *The Queensland Government Guide to Better Regulation* is required.