

Queensland



Explanatory Notes for SL 1998 No. 19

Transport Operations (Marine Safety) Act 1994

TRANSPORT OPERATIONS (MARINE SAFETY—CREWING FOR COMMERCIAL AND FISHING SHIPS) INTERIM STANDARD 1998

Authorising law

The proposed standard is made pursuant to the *Transport Operations (Marine Safety) Act 1994*, sections 45 and 46 which provide that the chief executive can make standards under the Act.

Objectives of the legislation

The *Transport Operations (Marine Safety) Act 1994* outlines the general safety obligations of people within the maritime industry. Generally, these obligations are performance based rather than prescriptive and this standard provides a means of guidance for industry when determining the most cost effective method of achieving the required level of safety.

The objectives of the standards are to—

- (a) assist persons within the maritime industry to understand their general safety obligations;
- (b) provide guidance about marine safety issues that are not covered by regulation;
- (c) promote efficiency within the Queensland maritime industry by providing cost effective alternatives to achieve required levels of safety;

- (d) provide prescriptive and performance based alternatives for the way ships are crewed.

Reasons for legislation

The standard forms an integral part of the *Transport Operations (Marine Safety) Regulation 1995* that assists in ensuring industry self-regulation is not abused and that every vessel operated in Queensland waters meets the highest possible safety standards.

This standard is to provide guidance and give flexibility to the owners and masters of commercial and fishing ships by providing a guide on the appropriate crew members necessary for the safe operation of those ships.

This standard for crewing for commercial and fishing ships is currently an interim standard which will expire six months after it is introduced. This standard is to be further developed to address issues raised during the process of consultation carried out during the review of the *Transport Operations (Marine Safety) Regulation 1995*.

Consistency with authorising law

The proposed standard are consistent with the overall objectives of the *Transport Operations (Marine Safety) Act 1994*, outlined in section 3, in particular section 3 (3), which states—

‘(3) These objectives are to be achieved mainly by imposing general safety obligations to ensure seaworthiness and other aspects of marine safety, and allowing a general safety obligation to be discharged by complying with relevant Standards or in other appropriate ways chosen by the person on whom the obligation is imposed.’

Alternatives to the proposed standards

If the Government did not implement the proposed standard, there would be a lack of guidance for ship owners and masters in their ability to meet the general safety obligation in the appropriate crewing of commercial and

fishing ships. There would be a reliance on the uniform shipping code which is prescriptive and would not allow for the flexibility provided by the performance based sections of the proposed standard.

Persons within the maritime industry may also resort to general industry practice which could vary from region to region, thus resulting in inconsistent compliance throughout the State.

A possible alternative to the standard would be for the Government to regulate on the detail contained within the standard. This would introduce a rigid regulatory regime that was contrary to the performance based framework outlined in the *Transport Operations (Marine Safety) Act 1994*.

Estimated cost for government implementation

The cost to government in implementing the standard will be administrative in nature, so the cost will not be significant. Costs will be able to be met within existing budgetary allocations.

Fundamental legislative principles

The proposed standard has been drafted by the Queensland Office of Parliamentary Counsel and is consistent with fundamental legislative principles.

Consultation

Extensive industry and community consultation was conducted during the development of the proposed standard.

To the extent possible to reconcile sometimes conflicting views, the comments received during the consultation process have been incorporated into the standard.

There are no unresolved substantive issues.

ATTACHMENT

Transport Operations (Marine Safety—Crewing for Commercial and Fishing Ships) Interim Standards 1998

Clause 1— sets out the short title of the standard.

Clause 2—states the date on which the standard will commence.

Clause 3—provides definitions for the terms used in the standard.

Clause 4—state this standard applies to the owner and master of a commercial or fishing ship.

Clause 5—states the purpose of this standard is a guide to satisfy the safety obligation for the appropriate crewing of a commercial or fishing ship to enable the ship to meet the ordinary perils of a voyage.

Clause 6—indicates the appropriate crew numbers other than engineers for a commercial ship can be calculated by reference to the columns on schedule 1. There is also a reference for calculating the extra appropriate crew numbers necessary for assisting passengers in the event of an evacuation of the ship.

Clause 7—indicates the appropriate engineering crew for commercial ships by reference to either schedule 2 or 3. It also indicates the master or crew member may hold a marine engine driver licence and not have an engineer crew member as set out for the engine power in schedule 3. There is also an indication for certain outboard powered ships a engine driver's licence is not necessary.

Clause 8—indicates a commercial ship may be operated by only one engineer despite the detail in schedule 2 indicating 2 or more engineers may be required. The conditions that applies to the commercial ships operation for this exemption are also indicated.

Clause 9—indicates commercial ship that was previously registered under the repealed Queensland Marine Act 1958 for operation without an engineer may continue to operate without an engineer despite the detail on schedule 2. The conditions that apply for this operation for this exemption are also indicated which includes the inclusion of a nominated safety hand

who has demonstrated knowledge for the operation of the ships fire fighting appliances, machinery and pumping systems.

Clause 10—indicates every crew member of a commercial ship should complete the elements of a ship board safety course and at least 30% of the crew should hold a current certificate in first aid.

Clause 11—indicates the appropriate to crew members for a fishing ship may be calculated by reference to section 3 clause 24 of the uniform shipping laws code or by reference to schedule 4 of this standard. It also indicates the master or crew members may hold a marine engine drivers licence should the ship not have a chief engineer. there is also reference that the master of a fishing ship may act as chief engineer of the ship should the masters qualification required for the ships operation be a coxswains licence.

Clause 12—states that this standard expires 6 months after its commencement.

Schedule 1—provides for establishing the appropriate numbers of crew members as referred to by clause 6.

Schedule 2—provides for establishing the appropriate numbers of engineering crew members as referred to by clause 7.

Schedule 3—provides for establishing the appropriate marine engine driver Qualification as referred to by clause 7.

Schedule 4—provides for establishing the appropriate numbers of crew members as referred to by clause 11.

Schedule 5—provides for establishing the appropriate marine engine driver qualification as referred to by clause 11.

ENDNOTES

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