

## Queensland



### Explanatory Notes for SL 1998 No. 22

#### *Transport Operations (Marine Safety) Act 1994*

## **TRANSPORT OPERATIONS (MARINE SAFETY—COMMERCIAL AND FISHING SHIPS MISCELLANEOUS EQUIPMENT) STANDARD 1998**

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### **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 standard 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 equipped.

### **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 ship operated in Queensland waters meets the highest possible safety standards.

This standard is to provide guidance and flexibility to the owners and masters of commercial and fishing ships in the equipping of their ships with equipment necessary for the safe operation of those ships. The owners and masters have the general safety obligation placed upon them by the *Transport Operations (Marine Safety) Act 1994*, section 41. The standard outlines both prescriptive and performance methods for equipping their ships other than the safety equipment required under the regulation.

### **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 Standard or in other appropriate ways chosen by the person on whom the obligation is imposed.’

### **Alternatives to the proposed standard**

If the Government did not implement the proposed standard for the assistance of ship designers, ship builders, marine surveyors, ship owners and masters, there would be a lack of guidance for these persons in their ability to meet the general safety obligation in the equipping of commercial and fishing ships for the individual ships operations.

There would be a reliance on the uniform shipping code which is prescriptive and would not allow for the flexibility provided for 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—Commercial and Fishing Ships  
Miscellaneous Equipment) Standard 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—states the standard applies to owners or masters of commercial or fishing ships that are required to be registered.

Clause 5—states the purpose of the standard is a guide for the safety obligation and the equipment indicated is in addition to safety equipment required by regulation.

Clause 6— provides for a choice in the provision of miscellaneous equipment. It may be as detailed in section 13 of the uniform shipping laws code or be provided on performance based details to provide flexibility for the individual ship operators.

Clause 7—states the standard expires y years after its commencement.

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### ENDNOTES

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