

# Change on the horizon

Changes to marine safety laws commenced on 1 September 2016

A few simple changes have been made to Queensland's marine safety laws. Most boat owners and skippers will see little or no changes to existing rules. New Commonwealth legislation triggered a need to change Queensland's legislation.

Remember, you're the skipper, you're responsible for checking you understand and follow all marine safety laws when heading out on to the water.

## What laws may change?

Due to the Commonwealth's *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (National Law), changes have been made to the following laws:

- *Transport Operations (Marine Safety) Act 1994* (TOMSA)
- *Transport Operations (Marine Safety) Regulation 2004* (TOMSR)
- And some related Standards – such as the Transport Operations (Marine Safety—Recreational Ships Miscellaneous Equipment) Standard 2006 (Miscellaneous Equipment Standard). This has been amended to apply to Queensland regulated ships. Some other Standards have been removed as they only relate to commercial and fishing ships which are covered by the National Law.

## New and key terms

From 1 September 2016, new terms have been introduced to describe the way ships are regulated in Queensland.

- **National Law** (Commonwealth's *Marine Safety (Domestic Commercial Vessel) National Law Act 2012*) regulates domestic commercial vessels, which are vessels used in connection with a commercial, government or research activity.
- **Queensland regulated ship** is a new term that covers all ships regulated under Queensland's marine safety legislation and includes a 'recreational ship' and an 'other Queensland regulated ship'.
- An '**Other Queensland regulated ship**' is a commercial ship that is not covered under the National Law. The most common examples of these ships are surf lifesaving, school and community group vessels.
- **Prescribed other Queensland regulated ship** means an other Queensland regulated ship that—
  - (a) is 6metres or more in length; or
  - (b) is designed to carry more than 12 persons on the ship; or
  - (c) operates more than 15 nautical miles from land.

Examples of 'prescribed other Queensland regulated ships' are:

- A school ship engaged in marine studies carrying more than 12 persons (e.g. 17 students)
- A community group ship that is 6metres or more (e.g. 6.5metres) and operates beyond 15 nautical miles from land (e.g. Up to 50nm). For example, a community organisation taking a group off-shore fishing
- A surf lifesaving ship that is 6metres or more (e.g. 6.1metres)

## Changes

The changes clarify provisions within Queensland's marine safety legislation only apply to Queensland regulated ships. This includes for example registration, licensing, safety equipment and general safety obligations.

## General changes for Queensland regulated ships

- In line with national changes, the Australian Maritime Safety Authority EPIRB registration label no longer needs to be attached to the EPIRB. The EPIRB still needs to be registered with AMSA.
- A Ride Smart sticker no longer needs to be displayed on a personal watercraft (PWC).
- Personal flotation devices are referred to as 'Lifejackets' for national consistency.
- The registration process for '**Other Queensland regulated ships**' has been made simpler and more accessible as registration applications are able to be processed at any Transport and Main Roads customer service centre.
- The registration application form has changed to include the registration of both **recreational ships** and **other Queensland regulated ships** with the application process only differing for '**prescribed other Queensland regulated ships**'.
- Recreational fees apply to **other Queensland regulated ships**, unless ships are fee exempt.
- You can now check the registration status of a ship, the ship's purpose of use and other details such as the description of the ship online.
- A restricted use flag has become an 'authority' rather than a physical flag. The authority or copy of the authority is required to be carried on the ship when operating.
- No additional penalties have been included in the new legislation.

## Changes for other Queensland regulated ships

Generally **other Queensland regulated ships** are regulated like recreational ships. This includes ships that are less than six metres, carry 12 persons or fewer and operate within 15 nautical miles from land. A small number of these **other Queensland regulated ships** are known as **prescribed other Queensland regulated ships** (details below). These ships may have further conditions placed on them to mitigate any risks involved with the ship's operation. Overall, the changes have preserved or relaxed existing regulatory requirements.

### Majority of other Queensland regulated ships

- These ships no longer need to produce a positive flotation and suitability statement. Instead an Australian Builders Plate (ABP) can be used for this purpose. Ships with basic flotation are limited to operate in smooth waters only. Ships with level flotation are limited to within 15 nautical miles from land.
- These ships must not carry more persons than stated on the ABP or if no ABP the registration certificate.
- These ships still need to have a safety management system (SMS) as detailed in the National Standard for Commercial Vessels, or as approved by the registering entity. Please refer to the *National Standard for Commercial Vessels (NSCV) Part E Operations*.
- A master needs to have at least a Recreational Marine Driver Licence to operate a ship and a Personal Watercraft Licence to operate a PWC, or other appropriate licence. For surf lifesaving ships, masters may hold a current certificate issued by their club.
- Ships are required to be equipped with the safety equipment that recreational ships are required to have.

### Prescribed other Queensland regulated ships

Within the category of **other Queensland regulated ship** there is a subcategory identified as **prescribed other Queensland regulated ship**, defined as a ship that is:

- 6 metres or more in length; or
- designed to carry more than 12 persons on the ship; or
- operating more than 15 nautical miles from land.

- For their first registration, ships do not need a Certificate of Compliance. Instead these ships may need a survey report from a competent person. In some cases this may be from a competent person accredited under the National Law as a marine surveyor. Alternatively, an inspection of the ship may be requested.
- Registration applications for these ships are referred to Transport and Main Roads for assessment. The application may be granted with conditions. The list of conditions must be kept on board the ship if conditions have been put on the ship.
- In addition to the ABP carriage and SMS requirements, the following conditions may also apply:
  - Ships may be required to operate only in specified waters as stated on the ship's registration certificate.
  - A master or crew member of a ship may be required to hold a particular licence such as a national Certificate of Competency.
  - A ship may be required to carry a particular type of safety equipment such as those required under the national system.

### Other changes for other Queensland regulated ships

- The certificate of registration is no longer required to be displayed on the ship but instead the registration label needs to be attached. This will be sent out with the ship's registration certificate.
- Licensing requirements apply to skippers or masters of ships powered by an engine that is more than 4.5 kilowatts (kW), similar to the recreational ship requirements.
- The registration fee exemption for schools has been broadened to include all school ships, regardless of the activity a school ship is engaged in. That is, the fee exemption does not only apply to school ships engaged in marine education courses.

For updates on changes to marine safety laws visit  
[www.msq.qld.gov.au](http://www.msq.qld.gov.au) or email: [marinesafetylaws@msq.qld.gov.au](mailto:marinesafetylaws@msq.qld.gov.au)

\*Disclaimer – this document is a guide on proposed changes only. Please refer to the appropriate legislation from 1 September 2016.