Queensland

Maritime Safety Queensland Act 2002

Current as at 5 September 2014

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- The list of legislation endnote gives historical information about the original legislation and the legislation which amended it. It also gives details of uncommenced amendments to this legislation. For information about possible amendments to the legislation by Bills introduced in Parliament, see the Queensland Legislation Current Annotations at www.legislation.qld.gov.au/Leg_Info/information.htm.

- The list of annotations endnote gives historical information at section level.

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Maritime Safety Queensland Act 2002

[as amended by all amendments that commenced on or before 5 September 2014]

An Act to provide for the establishment of Maritime Safety Queensland, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Maritime Safety Queensland Act 2002*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Dictionary

The dictionary in schedule 2 defines particular words used in this Act.

4 Purposes of Act

(1) The main purpose of this Act is to create an entity, Maritime Safety Queensland, to provide professional, specialist advice to, and undertake particular functions of, the chief executive in relation to marine safety, ship-sourced pollution and related matters.

(2) This Act also facilitates the transfer from Maritime Safety Queensland to port authorities of the function of providing, or

arranging for the provision of, pilotage services in particular compulsory pilotage areas.

5 Application of Act

This Act does not limit the application of the following Acts—

(a) *Transport Infrastructure Act 1994*;

(b) *Transport Operations (Marine Pollution) Act 1995*;

(c) *Transport Operations (Marine Safety) Act 1994*;

(d) *Transport Planning and Coordination Act 1994*.

6 Act binds all persons

This Act binds all persons, including the State, and, so far as the legislative power of the Parliament permits, the Commonwealth and the other States.

Part 2 Maritime Safety Queensland

Division 1 Establishment, functions and powers of MSQ

7 Establishment of MSQ

(1) Maritime Safety Queensland (***MSQ***) is established.

(2) MSQ consists of—

(a) the general manager; and

(b) employees employed under section 12; and

(c) other employees employed under the *Public Service Act 2008*.

8 Functions and powers of MSQ

(1) MSQ has the following functions—

(a) for the *Transport Operations (Marine Safety) Act 1994*—

(i) to develop strategies for marine safety; and

Example—

education campaign for the safe use of recreational ships

(ii) to make standards for designing, building and operating commercial ships for approval by the Governor in Council, and to monitor and audit the implementation of the standards; and

(iii) to accredit ship designers, ship builders or marine surveyors; and

(iv) to approve an entity to conduct training programs for the operation of ships or to conduct examinations for issuing licences under that Act; and

(v) to licence masters, other than recreational masters, crew members and pilots; and

(vi) to set up and maintain aids to navigation; and

(vii) to handle the investigation process into marine incidents; and

(viii) to monitor and manage the movement of ships in Queensland waters; and

(ix) to monitor and manage the operation and activities of ships in Queensland waters; and

(x) to monitor and manage unseaworthy ships or abandoned, stranded, sunk or wrecked ships;

(b) for the *Transport Operations (Marine Pollution) Act 1995*—

(i) to develop strategies to prevent the deliberate, negligent or accidental discharge of ship-sourced pollutants into coastal waters; and

(ii) to deal with the discharge of ship-sourced pollutants into coastal waters;

(c) for the *Transport Infrastructure Act 1994*—to manage public marine facilities and the use of waterways;

(d) to provide, or arrange for the provision of, maritime services including pilotage services;

(e) to monitor and manage—

(i) the provision by the responsible pilotage entity for a compulsory pilotage area of pilotage services; and

(ii) arrangements made by the responsible pilotage entity for a compulsory pilotage area for providing pilotage services;

(f) any other function conferred on MSQ under this or another Act.

(2) MSQ has power to do anything necessary or convenient to be done for the performance of MSQ's functions.

(3) In this section—

responsible pilotage entity, for a compulsory pilotage area, does not include MSQ.

9 Chief executive's responsibility

(1) The chief executive is responsible for the way MSQ performs its functions.

(2) Without limiting subsection (1), the chief executive is responsible for—

(a) deciding the objectives, strategies and policies to be followed by MSQ; and

(b) ensuring MSQ performs its functions in an appropriate, effective and efficient way.

Example—

The chief executive could establish performance measures for MSQ.

(3) This section does not affect the chief executive's responsibilities for the department under another Act.

Division 2 The general manager

10 Appointment of general manager

(1) The Governor in Council appoints the general manager for MSQ (the ***general manager***).

(2) The general manager is to be employed under the *Public Service Act 2008*.

11 Functions and powers of general manager

(1) The general manager must, in accordance with the objectives, strategies and policies decided by the chief executive, manage MSQ's operations.

(2) Without limiting subsection (1), the general manager must—

(a) advise the chief executive in relation to employment conditions of employees employed under section 12; and

(b) direct employees employed under section 12 in the performance of the employees' duties.

(3) The general manager has power to do anything necessary or convenient to be done for the performance of the general manager's functions.

(4) In exercising a power, the general manager is accountable to the chief executive under the *Public Service Act 2008*.

11A Delegation of functions of general manager

(1) The general manager may delegate to an appropriate person (the ***delegate***) a function of the general manager under this or another Act.

(2) The delegation may permit the delegate to subdelegate the delegated function to an appropriate person.

(3) This section applies despite a provision to the contrary in an Act.

(4) In this section—

appropriate person means any of the following—

(a) an employee of MSQ;

(b) an authorised officer under the *Transport Operations (Marine Pollution) Act 1995*;

(c) a shipping inspector under the *Transport Operations (Marine Safety) Act 1994*.

function includes a power.

Division 3 Employees

12 Employees

(1) The chief executive may employ—

(a) pilots; and

(b) the other employees the chief executive considers necessary to perform MSQ's functions.

(2) However, the chief executive must not employ an individual as a pilot unless satisfied the individual is licensed under TOMSA as a pilot.

(3) Subject to any relevant industrial instrument, the chief executive may decide the employment conditions of employees employed under this section.

(4) The *Public Service Act 2008* does not apply to the employment of employees employed under this section.

(5) In this section—

employment conditions includes conditions about the length of the employment and ending the employment.

12A Preservation of rights of particular public service officers

(1) This section applies if—

(a) a person is employed under section 12, other than as a pilot; and

(b) the person was a public service officer immediately before being employed under section 12.

(2) The person keeps all rights and entitlements accrued or accruing to the person as a public service officer as if service as an employee under section 12 were a continuation of service as a public service officer.

Examples of rights and entitlements—

long service, recreation and sick leave and rights as a member of a superannuation scheme

12B Tenure as public service officer on ending of particular employment contracts

(1) This section applies if—

(a) a person is employed on contract under section 12, other than as a pilot; and

(b) the contract—

(i) is terminated other than by disciplinary action; or

(ii) expires and is not renewed or replaced by another contract of employment under section 12; and

(c) immediately before the person was first employed under the contract, the person was employed as a public service officer on tenure.

(2) The person becomes a public service officer employed on tenure.

(3) The person is to be employed—

(a) at the classification level at which the person would have been employed if the person had continued in employment as a public service officer on tenure; and

(b) on the remuneration to which the person would have been entitled if the person had continued in employment as a public service officer on tenure.

Part 2A Transfer of pilotage services

Division 1 Preliminary

12C Definitions for pt 2A

In this part—

asset includes a right.

Gladstone port authority means Gladstone Ports Corporation Limited ACN 131 965 896.

Gladstone ports entity means—

(a) if, before the transfer day, Gladstone port authority entered into a written agreement with a subsidiary of Gladstone port authority for the subsidiary to provide pilotage services and the general manager approves the agreement—the subsidiary; or

(b) otherwise—Gladstone port authority.

new employer, of a transferred employee, see section 12D.

pilot transfer crew member means a person—

(a) who, immediately before the transfer day, was an employee of the State; and

(b) to whom the Maritime Safety Queensland Gladstone Pilot Transfer Crew Certified Agreement 2009–2012 applied immediately before the transfer day.

transfer day means the day this part commences.

transfer notice see section 12F.

transferred administration employee means a person who—

(a) immediately before the transfer day was an employee of the State and employed under the *Public Service Act 2008*; and

(b) was offered by a port authority or Gladstone ports entity (each a ***receiving entity***) a transfer of employment from the State to the receiving entity, and for the employment to start on the transfer day; and

(c) accepted the receiving entity's offer before the transfer day.

transferred employee means any of the following—

(a) a pilot transfer crew member;

(b) a transferred administration employee;

(c) a transferred pilot.

transferred pilot means a person who—

(a) immediately before the transfer day was an employee of the State and based in the department's regional office in Cairns, Gladstone, Mackay or Townsville; and

(b) was employed under section 12(1)(a) as a pilot.

transferred pilotage area see section 12E.

12D Who is the *new employer* of a transferred employee

The ***new employer*** of a transferred employee is—

(a) for a transferred employee who is a transferred pilot—

(i) if the transferred pilot was based in the department's regional office in Cairns immediately before the transfer day—Far North Queensland Ports Corporation Limited ACN 131 836 014; or

(ii) if the transferred pilot was based in the department's regional office in Gladstone immediately before the transfer day—Gladstone ports entity; or

(iii) if the transferred pilot was based in the department's regional office in Mackay immediately before the transfer day—North Queensland Bulk Ports Corporation Limited ACN 136 880 218; or

(iv) if the transferred pilot was based in the department's regional office in Townsville immediately before the transfer day—Port of Townsville Limited; or

(b) for a transferred employee who is a pilot transfer crew member—Gladstone ports entity; or

(c) for a transferred employee who is a transferred administration employee—the port authority or Gladstone ports entity that offered the employee transfer of employment.

12E What is a *transferred pilotage area*

(1) A ***transferred pilotage area*** is a compulsory pilotage area, other than the following—

(a) Brisbane pilotage area;

(b) Southport pilotage area.

(2) In this section—

Brisbane pilotage area means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.

Southport pilotage area means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.

Division 2 Transfer of assets and liabilities, etc.

12F Transfer notice

(1) For the purpose of the transfer of pilotage services, the Minister may, by gazette notice (a ***transfer notice***), do any of the following—

(a) transfer an asset or a liability of the State to a port authority;

(b) make provision about the consideration for an asset or a liability transferred under paragraph (a);

(c) transfer a lease, easement or other right from the State to a port authority;

(d) vary or extinguish a lease, easement or other right held by the State;

(e) provide whether and, if so, the extent to which a port authority is the successor in law of the State;

(f) make provision for a legal proceeding that is being, or may be, taken by or against the State to be continued or taken by or against a port authority;

(g) make provision for or about the issue, transfer or application of an instrument to a port authority;

(h) make provision about an incidental, consequential or supplemental matter the Minister considers necessary or convenient for transferring a pilotage service.

(2) A transfer notice may include conditions applying to something done or to be done under the notice.

(3) If the Minister is satisfied it would be inappropriate for a particular matter to be stated in a transfer notice (for example, because of the size or nature of the matter), the Minister may provide for the matter by including a reference in the transfer notice to another document that is—

(a) signed by the Minister; and

(b) kept available, at a place stated in the transfer notice, for inspection by the persons to whom the matter relates.

(4) The transfer of a liability of the State under a transfer notice discharges the State from the liability, except to the extent stated in the notice.

(5) A transfer notice has effect on the day it is published in the gazette or a later day stated in it.

(6) If a transfer notice makes provision for a matter under subsection (1)(g) in relation to an instrument, the responsible entity for the instrument must take the action necessary to register or record the effect of the transfer notice, including—

(a) updating a register or other record; and

(b) amending, cancelling or issuing an instrument.

(7) In this section—

port authority includes Gladstone ports entity.

responsible entity, for an instrument, means the entity required or authorised by law to register or record matters in relation to the instrument.

Division 3 Transfer of employees and contracts

12G Matters for transfer of transferred employees

(1) On the transfer day—

(a) a transferred employee ceases to be an employee of the State; and

(b) a transferred employee becomes an employee of the new employer for the transferred employee; and

(c) for a transferred employee who is a transferred pilot or a pilot transfer crew member—the transferred employee is employed on the same conditions on which the transferred employee was employed by the State; and

Example of a condition of employment—

employment on a part-time or full-time basis

(d) the State's records for a transferred employee become records of the new employer for the transferred employee; and

(e) the State's liabilities relating to a transferred employee's accrued rights to annual, sick, long service or other leave become the liabilities of the new employer for the transferred employee.

(2) In this section—

records means the records of the State that have been identified by the general manager before the transfer day as records about the employment of a transferred employee who is to be transferred to the new employer for the transferred employee.

12H Preservation of rights of transferred employees

(1) The transfer of a transferred employee to the new employer for the transferred employee does not—

(a) subject to subsection (2), affect the employee's total remuneration; or

(b) prejudice the employee's existing or accruing rights to superannuation or annual, sick or long service leave; or

(c) interrupt continuity of service, except that the employee is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or

(d) subject to subsection (3)—

(i) constitute a retrenchment, redundancy or termination of the employee's employment by the State; or

(ii) entitle the employee to a payment or other benefit because the employee is no longer employed by the State; or

(e) require the State to make any payment to the employee in relation to the employee's accrued rights to annual, sick or long service leave irrespective of any arrangement between the State and the employee.

(2) A transferred administration employee's total remuneration on the employee's transfer from the State to the new employer for the employee may be equal to or greater than the employee's total remuneration immediately before the transfer.

(3) Subsection (1)(d) applies to a transferred pilot subject to the Fair Work Act.

(4) Subsection (5) applies if a transferred employee is a transferred pilot or a pilot transfer crew member.

(5) Subject to the Fair Work Act, an industrial instrument applying to the transferred employee immediately before the transfer day continues to apply to the employee after the transfer day.

(6) In this section—

industrial instrument includes a federal industrial instrument under the *Industrial Relations Act 1999*.

12I Contracts relating to transferred pilots

(1) This section applies to a contract entered into by the State relating or incidental to the employment of a transferred pilot that was in force immediately before the transfer day.

Example—

a contract for a mobile phone or lease of a vehicle that is part of a transferred pilot's salary package provided by the State

(2) On the transfer day, to the extent the contract applies to the transferred pilot—

(a) the new employer for the transferred pilot takes the place of the State as a party to the contract; and

(b) the contract may be enforced by or against the new employer.

(3) Compensation is not recoverable from the State or anyone else in relation to the transfer from the State to the new employer for the transferred pilot of the rights and obligations under a contract to which this section applies.

(4) In this section—

contract, for a contract that only partly relates to a transferred pilot, means that part of the contract relating to the transferred pilot.

12J Pilotage service contracts

(1) This section applies to a contract for services, entered into by the State for the supply of a pilotage service or pilotage services in 1 or more transferred pilotage areas, that was in force immediately before the transfer day.

(2) On the transfer day, to the extent the contract applies to a transferred pilotage area—

(a) the pilotage entity for the transferred pilotage area takes the place of the State as a party to the contract; and

(b) the contract may be enforced by or against the pilotage entity.

(3) Compensation is not recoverable from the State or anyone else in relation to the transfer from the State to the pilotage entity for each of the transferred pilotage areas of the rights and obligations under a contract to which this section applies.

(4) In this section—

Bundaberg pilotage area means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.

contract, for a contract that only partly relates to a pilotage service, means the part of the contract relating to the pilotage service.

Gladstone pilotage area means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.

pilotage entity, for a transferred pilotage area, means—

(a) for a transferred pilotage area that is Abbot Point pilotage area—Port of Townsville Limited; or

(b) for a transferred pilotage area that is Bundaberg pilotage area, Gladstone pilotage area or Rockhampton pilotage area—Gladstone ports entity; or

(c) otherwise—the responsible pilotage entity for the transferred pilotage area.

Rockhampton pilotage area means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.

Division 4 Other matters for transferring pilotage services

12K Non-liability for duty

No duty under the *Duties Act 2001* is payable in relation to anything done under a transfer notice.

12L Disposal of public records

(1) This section applies if—

(a) a thing is done under a transfer notice or section 12G; and

(b) the thing is, or involves, a disposal of a public record under the *Public Records Act 2002*.

(2) To remove any doubt, it is declared that, for the purpose of section 13 of that Act, the public record is disposed of under legal authority, justification or excuse.

12M Application of instruments

(1) This section applies if a transfer notice or section 12I or 12J provides for an instrument that applied to the State to apply to a port authority in place of the State.

(2) Without limiting the application of the transfer notice or the section to the instrument—

(a) any right, title, interest or liability of the State arising under or relating to the instrument is taken to be transferred from the State to the port authority; and

(b) if the instrument, including a benefit or right provided by the instrument, is given to, by or in favour of the State, the instrument is taken to have been given to, by or in favour of the port authority; and

(c) the port authority is taken to be a party to the instrument in place of the State; and

(d) a reference in the instrument to the State is, to the extent possible and if the context permits, taken to be a reference to the port authority; and

(e) if an application was made for the instrument in the name of the State, the application is taken to have been made in the name of the port authority; and

(f) if the instrument is an instrument under which an amount is or may become payable to or by the State, the instrument is taken to be an instrument under which the amount is or may become payable to or by the port authority, in the way the amount was or might have been payable to or by the State; and

(g) if the instrument is an instrument under which property, other than money, is or may become liable to be transferred, conveyed or assigned to or by the State, the instrument is taken to be an instrument under which the property is or may become liable to be transferred, conveyed or assigned to or by the port authority, in the way it was or might have been liable to be transferred, conveyed or assigned to or by the State.

(3) In this section—

port authority includes Gladstone ports entity.

12N Registering authority to note transfer or other dealing

(1) The registrar of titles or other person required or authorised by law to register or record transactions affecting assets or liabilities—

(a) may, without formal application, register or record in the appropriate way a transfer or other dealing affecting an asset or liability under a transfer notice; and

(b) must, on written application by a transferee port authority, register or record in the appropriate way the transfer of an asset or liability under a transfer notice to the transferee port authority.

(2) A transaction, related to an asset or liability transferred to a transferee port authority, entered into by the transferee port authority in the name of the State or the name of a predecessor in title to the State, if effected by an instrument otherwise in registrable form, must be registered even though the transferee port authority has not been registered as proprietor of the asset or liability.

(3) If an asset or liability is registered in the name of the State, the registrar of titles or other registering authority may register a dealing for a transaction about the asset or liability without being concerned to enquire whether it is, or is not, an asset or liability transferred under a transfer notice.

(4) In this section—

port authority includes Gladstone ports entity.

transferee port authority means the port authority to which an asset or liability is transferred under a transfer notice.

12O Part applies despite other laws and instruments

Subject to the Fair Work Act, a thing may be done under this part despite any other law or instrument.

12P Effect on legal relationships

(1) Nothing done under this part—

(a) makes a relevant entity liable for a civil wrong or contravention of a law, including for a breach of a contract, confidence or duty; or

(b) makes a relevant entity in breach of any instrument, including an instrument prohibiting, restricting or regulating the assignment, novation or transfer of a right or liability or the disclosure of information; or

(c) except as expressly provided under a transfer notice, is taken to fulfil a condition that—

(i) terminates, or allows a person to terminate, an instrument or obligation; or

(ii) modifies, or allows a person to modify, the operation or effect of an instrument or obligation; or

(iii) allows a person to avoid or enforce an obligation or liability contained in an instrument or requires a person to perform an obligation contained in an instrument; or

(iv) requires any money to be paid before its stated maturity; or

(d) releases a surety or other obligee, wholly or partly, from an obligation.

(2) If, apart from this subsection, the advice, consent or approval of a person would be necessary to do something under this part, the advice is taken to have been obtained or the consent or approval is taken to have been given unconditionally.

(3) If, apart from this subsection, giving notice to a person would be necessary to do something under this part, the notice is taken to have been given.

(4) In this section—

relevant entity means—

(a) the State or an employee or agent of the State; or

(b) a port authority, Gladstone ports entity or an employee or agent of a port authority or Gladstone ports entity.

12Q Things done under this part

To remove any doubt, it is declared that a thing is taken to be done under this part if it is done by, or in compliance with, a transfer notice, even if the thing includes taking steps under another Act.

12R Severability

(1) Subsection (2) applies if a provision of this part or a transfer notice is held by a court or judge to be beyond power, invalid or unenforceable.

(2) The provision is to be disregarded or severed and the court's or judge's decision does not affect the remaining provisions of the part or transfer notice that continue to have effect.

(3) This section does not affect the operation of the *Acts Interpretation Act 1954*, section 9 in any way.

Part 3 Financial provisions

13 Fund

(1) The Maritime Safety Queensland Fund is established.

(2) Accounts for the fund must be kept as part of the departmental accounts of the department.

(3) Amounts received for the fund must be deposited in a departmental financial institution account of the department but may be deposited in an account used for depositing other amounts of the department.

(4) Amounts received for the fund include the following received by the department—

(a) amounts received for pilotage fees and conservancy dues under the *Transport Operations (Marine Safety) Act 1994*;

(b) amounts received by the department from other sources for the fund or amounts that must be paid into the fund;

(c) amounts received for the disposal of an asset that the chief executive considers was purchased substantially with amounts paid from the fund;

(d) interest from investment of the fund.

(5) An amount is payable from the fund for the purposes of this Act.

(6) Without limiting subsection (5), an amount may be paid from the fund to the responsible pilotage entity for a compulsory pilotage area for providing, or arranging for the provision of, a pilotage service in the pilotage area.

(7) The *Financial Accountability Act 2009* applies to the fund.

(8) In this section—

departmental accounts of the department means the accounts of the department under the *Financial Accountability Act 2009*, section 69.

departmental financial institution account of the department means an account of the department kept under the *Financial Accountability Act 2009*, section 83.

other amounts of the department means amounts received by the department other than amounts received for the fund.

Part 4 Miscellaneous provisions

14 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 5 Transitional provisions

Division 1 Transitional provision for pilotage service contracts

15 Pilotage service contracts

(1) This section applies to a contract in force immediately before the commencement of this section if the contract was—

(a) a contract for services entered into by the department or a port authority for the supply of a pilotage service; or

(b) a written or oral employment contract entered into by a port authority with an employee engaged to perform a pilotage service.

(2) On the commencement—

(a) for a contract for services—

(i) MSQ takes the place of the department or port authority as a party to the contract; and

(ii) the contract may be enforced by or against MSQ; and

(b) for an employment contract—

(i) the person becomes an employee of MSQ on the same conditions on which the person was employed by the port authority; and

(ii) the person keeps all rights and entitlements accrued or accruing to the person as an employee of the port authority.

Example of rights and entitlements—

long service, recreation and sick leave and rights as a member of a superannuation scheme

(3) Without limiting subsection (2)(b), if an industrial instrument applies to the person immediately before the commencement, the instrument continues to apply to the person after the commencement.

(4) Subsection (3) has effect subject to the *Industrial Relations Act 1999*.

(5) Compensation is not recoverable from the chief executive, the State or anyone else in relation to the transfer from a port authority to MSQ of the rights and obligations under a contract to which this section applies.

(6) This section does not apply to a contract, prescribed under a regulation, that provides for the transfer of a pilot onto or off a ship.

(7) In this section—

contract, for a contract that only partly relates to a pilotage service, means that part of the contract that relates to a pilotage service.

Division 2 Transitional provisions for Transport Legislation Amendment Act 2008, part 2

16 Change of name does not affect legal personality etc.

(1) The change of name of MSQ from ‘Maritime Safety Agency of Queensland’ to ‘Maritime Safety Queensland’ does not—

(a) affect MSQ’s legal personality or identity; or

(b) affect a right, entitlement or liability of MSQ or anyone else; or

(c) make legal proceedings by or against MSQ defective.

(2) Without limiting subsection (1), the change of name of MSQ does not affect any right, entitlement, liability or benefit MSQ would have had or enjoyed apart from the change of name.

(3) In addition, but without limiting subsection (1), a legal proceeding that could have been started or continued by or against MSQ under its former name may be started or continued by or against it under its new name.

17 References to Maritime Safety Agency of Queensland

A reference in an Act or document to the Maritime Safety Agency of Queensland may, if the context permits, be taken as a reference to Maritime Safety Queensland.

18 Recording MSQ's changed name in register

The registrar of titles or other person responsible for keeping a register for dealings in property must, if asked by MSQ in the appropriate form, and on payment of any fee, record in the register, for any property vested in MSQ, the change of name of MSQ from 'Maritime Safety Agency of Queensland' to 'Maritime Safety Queensland'.

Division 3 Transitional provisions for Transport Legislation (Port Pilotage and Document Verification) Amendment Act 2013

19 Immunity for general employers

(1) This section applies to a transferred pilot who is—

(a) a conducting pilot under TOMSA, section 101 if the conducting pilot—

(i) is acting in the supply of a pilotage service in a transferred pilotage area; and

(ii) has the conduct of a ship as its pilot immediately before and immediately after the transfer day; or

(b) a supervising pilot, under section 101 of that Act, of the conducting pilot.

(2) Despite TOMSA, section 101(5), definition *general employer*, the general employer of the transferred pilot for section 101 of that Act is both—

(a) MSQ; and

(b) the new employer of the transferred pilot.

(3) Subsection (2) applies while the conducting pilot has the conduct of a ship as its pilot.

20 Licences of transferred pilots not affected by transfer of pilotage services

To remove any doubt, it is declared that a transferred pilot's licence to have the conduct of a ship as its pilot, in force immediately before the transfer day, continues in force from the transfer day as if part 2A had not commenced.

21 References to the State or MSQ in documents

(1) A reference to the State or MSQ in a document about a transferred employee may, if the context permits, be taken to be a reference to the new employer for the transferred employee.

(2) A reference to the State or MSQ in a document relating to the transfer of a pilotage service from MSQ to a port authority may, if the context permits, be taken to be a reference to the port authority.

(3) In this section—

port authority includes Gladstone ports entity.

Schedule 2 Dictionary

section 3

Abbot Point pilotage area means the area of Queensland waters declared to be a compulsory pilotage area under TOMSA that is referred to by that name.

asset, for part 2A, see section 12C.

compulsory pilotage area see TOMSA.

Fair Work Act means the *Fair Work Act 2009* (Cwlth).

general manager see section 10(1).

Gladstone port authority, for part 2A, see section 12C.

Gladstone ports entity see section 12C.

industrial instrument has the meaning given by the *Industrial Relations Act 1999*.

instrument means a document of any type or an oral agreement.

maritime service means a service provided to the maritime industry, whether or not on payment of a fee.

MSQ see section 7.

new employer, of a transferred employee, see section 12D.

pilot see TOMSA.

pilotage service means a maritime service, with an individual or other person, that provides for—

(a) the piloted movement of ships; or

(b) the transfer of a pilot onto or off a ship.

pilot transfer crew member, for part 2A, see section 12C.

port authority means a port authority under the *Transport Infrastructure Act 1994*.

Port of Townsville Limited means Port of Townsville Limited ACN 130 077 673.

record includes any document.

registrar of titles means a public official or authority responsible for registering title to land and dealings affecting land.

responsible pilotage entity, for a compulsory pilotage area, see TOMSA, section 71A.

right includes power, privilege and immunity.

subsidiary see the *Government Owned Corporations Act 1993*, section 2.

TOMSA means the *Transport Operations (Marine Safety) Act 1994*.

transfer, of pilotage services—

1 The ***transfer*** of pilotage services is—

(a) the transfer from MSQ to a port authority of the function of providing, or arranging for the provision of, pilotage services in a transferred pilotage area other than the Abbot Point pilotage area (the ***relevant area***); or

(b) the transfer, in relation to the supply of pilotage services by Port of Townsville Limited in the Abbot Point pilotage area, of an asset, liability, instrument or employee of the State to Port of Townsville Limited.

2 For paragraph 1(a), the transfer includes the transfer in relation to pilotage services in the relevant area of an asset, liability, instrument or employee of the State to a port authority or Gladstone ports entity.

transfer day see section 12C.

transfer notice, for part 2A, see section 12F.

transferred administration employee, for part 2A, see section 12C.

transferred employee see section 12C.

transferred pilot see section 12C.

transferred pilotage area see section 12E.

Endnotes

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2 Key

Key to abbreviations in list of legislation and annotations

Key		Explanation	Key		Explanation
AIA	=	**Acts Interpretation Act 1954**	**(prev)**	=	**previously**
amd	=	**amended**	**proc**	=	**proclamation**
amdt	=	**amendment**	**prov**	=	**provision**
ch	=	**chapter**	**pt**	=	**part**
def	=	**definition**	**pubd**	=	**published**
div	=	**division**	**R[X]**	=	**Reprint No. [X]**
exp	=	**expires/expired**	**RA**	=	**Reprints Act 1992**
gaz	=	**gazette**	**reloc**	=	**relocated**
hdg	=	**heading**	**renum**	=	**renumbered**
ins	=	**inserted**	**rep**	=	**repealed**
lap	=	**lapsed**	**(retro)**	=	**retrospectively**
notfd	=	**notified**	**rv**	=	**revised version**
num	=	**numbered**	**s**	=	**section**
o in c	=	**order in council**	**sch**	=	**schedule**
om	=	**omitted**	**sdiv**	=	**subdivision**
orig	=	**original**	**SIA**	=	**Statutory Instruments Act 1992**
p	=	**page**	**SIR**	=	**Statutory Instruments Regulation 2012**
para	=	**paragraph**	**SL**	=	**subordinate legislation**
prec	=	**preceding**	**sub**	=	**substituted**
pres	=	**present**	**unnum**	=	**unnumbered**
prev	=	**previous**			

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory

requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table. Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

Reprint No.	Amendments included	Effective	Notes
1	none	1 October 2002	
1A	2005 Act No. 22	19 May 2005	
1B	2006 Act No. 21	17 May 2006	
1C	2008 Act No. 31	21 May 2008	
1D	2009 Act No. 9	1 July 2009	
1E	2009 Act No. 25	2 November 2009	
1F	2009 Act No. 47	19 November 2009	R1F withdrawn, see R2
2	—	19 November 2009	
2A	2010 Act No. 13	1 April 2010	
2B	2010 Act No. 19	23 May 2010	

Current as at	Amendments included	Notes
2 November 2013	2013 Act No. 40	
5 September 2014	2014 Act No. 43	

4 List of legislation

Maritime Safety Queensland Act 2002 No. 29

date of assent 6 August 2002
ss 1–2 commenced on date of assent
remaining provisions commenced 1 October 2002 (2002 SL No. 249)

amending legislation—

Transport Infrastructure and Other Legislation Amendment Act 2005 No. 22 s 1, pt 2

date of assent 19 May 2005
commenced on date of assent

Maritime and Other Legislation Amendment Act 2006 No. 21 s 1, pt 2

date of assent 17 May 2006
commenced on date of assent

Transport Legislation Amendment Act 2008 No. 31 s 1, pt 2

date of assent 21 May 2008
commenced on date of assent

Financial Accountability Act 2009 No. 9 ss 1, 2(2), 136 sch 1
date of assent 28 May 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 2009 (2009 SL No. 80)

Criminal Code and Other Legislation (Misconduct, Breaches of Discipline and Public Sector Ethics) Amendment Act 2009 No. 25 pt 1, s 83 sch
date of assent 11 August 2009
ss 1–2 commenced on date of assent
remaining provisions commenced 2 November 2009 (2009 SL No. 241)

Transport and Other Legislation Amendment Act 2009 No. 47 s 1, pt 2
date of assent 19 November 2009
commenced on date of assent

Transport and Other Legislation Amendment Act 2010 No. 13 ss 1, 2(2)(d), 138 sch pt 1
date of assent 1 April 2010
ss 1–2 commenced on date of assent
remaining provisions commenced on date of assent (see s 2(2)(d))

Transport and Other Legislation Amendment Act (No. 2) 2010 No. 19 s 1, ch 4 pt 2
date of assent 23 May 2010
commenced on date of assent

Transport Legislation (Port Pilotage and Document Verification) Amendment Act 2013 No. 40 pts 1–2
date of assent 23 September 2013
ss 1–2 commenced on date of assent
remaining provisions commenced 2 November 2013 (2013 SL No. 209)

Transport and Other Legislation Amendment Act 2014 No. 43 ss 1, 117 sch 1
date of assent 5 September 2014
commenced on date of assent

5 List of annotations

Long title amd 2008 No. 31 s 4

Purposes of Act
prov hdg amd 2013 No. 40 s 4(1)
s 4 amd 2006 No. 21 s 4; 2008 No. 31 s 5; 2013 No. 40 s 4(2)–(3)

PART 2—MARITIME SAFETY QUEENSLAND
pt hdg amd 2008 No. 31 s 6

Establishment of MSQ
s 7 amd 2008 No. 31 s 7; 2009 No. 25 s 83 sch

Functions and powers of MSQ
s 8 amd 2005 No. 22 s 4; 2006 No. 21 s 5; 2010 No. 19 s 188; 2013 No. 40 s 5

Appointment of general manager
s 10 amd 2008 No. 31 s 8; 2009 No. 25 s 83 sch

Functions and powers of general manager
s 11 amd 2006 No. 21 s 6; 2009 No. 25 s 83 sch; 2009 No. 47 s 4

Delegation of functions of general manager
s 11A ins 2006 No. 21 s 7

Employees
s 12 amd 2009 No. 25 s 83 sch; 2013 No. 40 s 6

Preservation of rights of particular public service officers
s 12A ins 2010 No. 19 s 189
amd 2013 No. 40 s 7

Tenure as public service officer on ending of particular employment contracts
s 12B ins 2010 No. 19 s 189
amd 2013 No. 40 s 8

PART 2A—TRANSFER OF PILOTAGE SERVICES
pt hdg ins 2013 No. 40 s 9

Division 1—Preliminary
div 1 (ss 12C–12E) ins 2013 No. 40 s 9

Division 2—Transfer of assets and liabilities, etc.
div 2 (s 12F) ins 2013 No. 40 s 9

Division 3—Transfer of employees and contracts
div 3 (ss 12G–12J) ins 2013 No. 40 s 9

Division 4—Other matters for transferring pilotage services
div 4 (ss 12K–12R) ins 2013 No. 40 s 9

Fund
s 13 amd 2009 No. 9 s 136 sch 1; 2010 No. 13 s 138 sch pt 1; 2013 No. 40 s 10

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div hdg ins 2008 No. 31 s 9

Division 2—Transitional provisions for Transport Legislation Amendment Act 2008, part 2
div hdg ins 2008 No. 31 s 10

Change of name does not affect legal personality etc.
s 16 prev s 16 om R1 (see RA s 40)
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References to Maritime Safety Agency of Queensland
s 17 ins 2008 No. 31 s 10

Recording MSQ's changed name in register
s 18 ins 2008 No. 31 s 10
amd 2013 No. 40 s 11

Division 3—Transitional provisions for Transport Legislation (Port Pilotage and Document Verification) Amendment Act 2013
div hdg ins 2013 No. 40 s 12
amd 2014 No. 43 s 117 sch 1

Immunity for general employers
s 19 ins 2013 No. 40 s 12

Licences of transferred pilots not affected by transfer of pilotage services
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def ***asset*** ins 2013 No. 40 s 13
def ***compulsory pilotage area*** ins 2013 No. 40 s 13
def ***Fair Work Act*** ins 2013 No. 40 s 13
def ***general manager*** ins 2008 No. 31 s 11(2)
def ***Gladstone port authority*** ins 2013 No. 40 s 13
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