

MARITIME LAW ASSOCIATION OF AUSTRALIA AND NEW ZEALAND UNIFORM RULES FOR SURVEY OF VESSELS

by Mr. R. G. Hilderbrand*

In the early 1970's it became apparent to the Association of Australian Port and Marine Authorities (AAPMA) that there was a need for uniformity throughout Australia in Regulations for Construction, Equipping, and Manning of Commercial Vessels, including Fishing Vessels. It was decided to set up a Committee to be known as the Uniform Shipping Laws (USL) Committee to steer the exercise. The Commonwealth Department of Transport convened the Committee and provided the Secretariat.

The Committee set up 5 groups each representative of all States and chaired by an appropriate specialist Commonwealth Officer.

Group 1 was concerned with Life Saving Appliances
Radio Equipment
Miscellaneous Equipment
Survey procedures
Hire and Drive vessels

Group 2 was concerned with Engineering
Fire Appliances
Examination of Engineers
Engineer Manning
Construction

Group 3 was concerned with Loadlines and stability

Group 4 was concerned with Examination of deck officers
Deck Manning
Crew accommodation
Emergency procedures
Collision Regulations

Group 5 was concerned with Crew agreement procedures

The first step was to divide ships into classes, as follows:

- Class 1 Passenger vessels
- Class 2 Non-passenger trading vessels
- Class 3 Fishing vessels

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Class 4 Special vessels (multi-hulls, dredges, Hydrofoils, sailing, Hovercraft, etc.)

Then the operational areas were divided into classes:

- A — Unlimited
- B — Offshore
- C — Restricted Offshore
- D — Partially Smooth
- E — Smooth Waters

So we now have the vessels classed as to (1) type of trade; and (2) operational area, e.g.,

- 1D — Passenger vessel which may only operate in smooth and partially smooth waters.

Each Authority sets out by definition the limits of "smooth" and "partially smooth" waters. The Queensland Marine Board's definitions in this matter is shown as Attachment to this paper. "Offshore" is defined as within 200 miles of the coastline, and restricted offshore is defined as within 30 miles of partially smooth water limits or safe haven.

A passenger vessel is defined, in the case of a Class 1A vessel, that is a foreign going passenger ship, as one carrying more than 12 passengers, and in the case of all other vessels — one which carries more than 6 passengers.

The production of all these sections of the "Uniform Code" as it came to be known, took 8 years. The completed codes are printed in 600 closely set small type pages in a Commonwealth Government Gazette (No. P. 15, 28 December, 1979). This will give some indication of the magnitude of the task. Countless hours were devoted to the project by senior technical staff of all States and the Commonwealth. No attempt has been made to quantify the cost in terms of man hours and travelling and accommodation expenses, but it must have been enormous.

The procedure was for each Group to produce a draft of each section. This draft was circulated to industry for comment. The comment was then considered by the Group and the original draft was amended in the light of the comment received. The second draft was then considered by a Review Committee consisting of the Senior Marine Officers in each State. I represented Queensland on that Committee. The Review Committee carefully examined each section, recommended some changes and the various sections were then submitted to, and adopted by Council of AAPMA. Finally they were put to the Council of Commonwealth and State Marine Ministers known as the Marine and Ports Council of Australia. Ministers adopted the Rules and agreed to give effect to them by legislation as soon as possible.

The Commonwealth Government Gazette is available for purchase at \$7.50 per copy. There is no doubt in my mind that this document is the most up to date and authentic work available in the world today covering

construction, equipment, and manning of a full range of commercial vessels in a full range of construction modes engaged on a full range of voyages. Never before has there been such a cover, especially for small ships.

For this was the purpose of the whole exercise — there were and are adequate rules for large ocean going ships, made by both Classification Societies and National Marine Authorities, but it is not practicable to extrapolate these rules downwards to encompass small commercial craft. Life saving fire fighting and other equipment designed for large ships is not always suitable for small ships with limited stowage space and engaged mostly on short voyages. Stability and load line rules applicable to large ships cannot be successfully applied to small ships. Scantlings for small ships require special treatment based on experience in the small ship field.

The groups responsible for the Code have attacked all these problems and I believe successfully. Commonwealth officers with their experience in survey of large ships and with International Conventions, combined their expertise with State surveyors and naval architects with their wide experience in the practicalities and economics of safe small ship operations. This exercise has produced what I consider to be an excellent set of rules and of which I, as one of the instigators of the idea, feel proud, and of which I believe all marine authorities, Commonwealth and State, are proud also.

It remains now to give effect to this Code in legislation. The Commonwealth, in a recent amendment to the *Navigation Act*, has provided, in a new s.426, for orders made under the Act or in pursuance of the regulations to apply, adopt, or incorporate all or any of the provisions of the Code, and also for exemption powers, conditional or unconditional.

The States have a more difficult legal task. In Queensland, I thought we were very smart by amending the Queensland *Marine Act* so as to provide that regulations made under the Act "may adopt, wholly or in Part and either by way of reference or by way of express specification therein, any of the standard rules, codes, or specification of the (Uniform Code)".

However, when we came to try this out by simply making Regulations dividing ships into classes, and then providing that ships according to their class shall be equipped with life-saving equipment according to its class as provided in the Uniform Code, we ran into serious difficulties with our friends in the Solicitor-General's office. They pointed out that the Code contained some definitions which were at variance with definitions in the Act, and also that the Code referred to certain ships (Unlimited operations) to which the State Act did not and could not apply. Further the Code contained exemption provisions not contained in the Act. In consequence the proposed regulations were rules ultra vires and were knocked on the head.

This advice was obviously correct. So now we are all engaged in the task of drafting up major amendment to State Acts to cover all these legal objections.

In the meantime all marine consultants, boat builders, and other interested parties in Queensland have been advised of the availability of the Uniform Code, and I am sure they have all secured a copy.

The Queensland Survey Branch has been instructed by the Marine Board to apply the construction provisions of the Code to all new commercial buildings and the equipment provisions of the Code, as far as is reasonable and practicable, to all existing commercial vessels. Very few objections have been received from the industry. It seems that consultants and industry are happy to have uniform guidelines which will apply in all States in Australia and although the guidelines do not yet have the force of law everybody concerned knows that they soon will. Further, in my view they are for the most part sensible rules to which little genuine objection can be made.

In the meantime the Uniform Rules are being tested in the market place. There is provision in the arrangements for amendment and already the relevant groups are considering some proposed amendments though none of these seem to be of major nature. These will be put to the Review Committee, through AAPMA Council, and eventually to Ministers using the same process as for the original sections.

I believe as far as Australia is concerned the problem of differing survey standards in differing jurisdictions has been tackled and dealt with effectively, certainly in respect of new vessels, and all the indications are that industry has generally accepted the provisions of the Code.

QUEENSLAND

Area	Partially Smooth Water Limits
Brisbane- Moreton Bay	South of a line joining Comboyuro Point to Skirmish Point and north of the parallel of the northern extremity of Macleay Island.
Hervey Bay	South of a line from Sandy Cape to the northernmost point of the limits of the Port of Bundaberg.
Port Curtis	South and west of a line from Clews Point to East Point, Facing Island.
Keppel Bay	South and west of a line from Cape Keppel to the easternmost point of Great Keppel Island and thence to Water Park Point.
Mackay-Hay Point	From Slade Point to the eastern extremity of Hay Point Harbour limits thence follow boundary of eastern and south limits Hay Point Harbour.
Whitsunday Passage	East from Cape Conway to S.W. end of Shaw Island, thence along the western shore of Shaw Island, thence to the south western tip of Whitsunday Island thence along the western shore to Whitsunday Island to the northern tip, thence to southern

end Hook Island, thence along the western shore of Hook Island to the north western headland of Butterfly Bay, thence along eastern shore of Hayman Island to Dolphin Point, thence Dolphin Point to Eshelby Island, thence to the southern end of Gloucester Island, thence along the southern and western shore of Gloucester Island to Gloucester Head, thence westward to the north Headland Don River. (See plan.)

Townsville	From Cape Pallendra to Bay Rock, thence through positions 5 cables north White Rock, The Point, Orchard Rocks, thence to Cape Cleveland.
Rockingham Bay	South and west of a line commencing at Cape Sandwich, Hinchinbrook Island, to a point one-half mile east of South Island in the Brook Island Group of Islands thence to a point one-half mile east of Clump Point thence to Ninney Point.
Port Douglas	West of a line Island Point Light to Low Island thence to Cape Tribulation.
Cairns	West of a line from Cape Grafton to Green Island, and south of a line from Green Island to Yorkey's Point.
Thursday Island	East of a line Pott Point, Friday Island to Harrison Rock, thence south of a line to Hammond Rock to a point 5 cables north Ince Point, Wednesday Island, thence west of a line to Strait Rock then to King Point, Horn Island. Then the waters northward of a line from south Horn Point, Horn Island to Red Point, Prince of Wales Island and at the same time eastward of a line from Hochepeid Head, Prince of Wales Island and Pott Point, Friday Island.
Weipa	Albatross Bay east of a line Duyfken Point to Thud Point.

QUEENSLAND

Port	Smooth Water Limits
Bowen	West of the Meridian of Dalrymple Point.
Brisbane (1)	Moreton Bay, south of the parallel of the northern extremity of Macleay Island.
(2)	Pumicestone Strait, north of the parallel of South Point, Bribie Island, and west of the Meridian of North Point, Bribie Island.

Cairns	South of a line from Bessie Point to Ellie Point.
Cooktown	South of the parallel of the northern extremity of Grassy Hill Point.
Gladstone	Gladstone Harbour and the Narrows, north of the parallel of South Trees Point.
Hinchinbrook	South and west of a line joining Lucinda Point and the Bluff, and south of the parallel of Hecate Point.
Maryborough	Sandy Strait, west of the Meridian through the rear inner bar lead on Inskip Point (Longitude 150° 3.9 ft. East) and south of the parallel of the north head of the Mary River.
Mourilyan	West of the Meridian of Camp Point.
Port Douglas	South of the parallel of the northern extremity of Island Point.
Rockhampton	South and west of a line joining Cardigan and Cattle Points.
Thursday Island	South of the parallel of and west of the Meridian of Channel Rock and at the same time east of the Meridian of Kate Point (Hammond Island), and at the same time north of the parallel of South Horn Point (Horn Island).
Weipa	South of a line joining Urquhart Point and Gonbung Point.