

# Circular to Queensland Boat Owner Stakeholders.

This is a somewhat difficult issue and it may need some background. However, it may intimately affect your organization.

I want to register my 16.1 m ferro cement ketch in Queensland so I can transit or sail there and possibly put the vessel on the market at some time.

**So.**

I duly contacted Maritime Safety Queensland (msq) to find out about Queensland registration requirements!!!

What a cock up this proved to be.

When I went to fill out the registration form, I nearly fell over backwards to find that for my vessel, the annual registration fees recently went up by 120% (ie more than doubled). These fees are way out of kilter with other states (WA makes for a good comparison). (for my 16 m boat, WA = \$261, Queensland = \$488.30) (Incidentally, in the NT, registration is not required at all)

**However, the real problems are much worse.**

Because my vessel is over 15 m length, I am compelled to provide two extra very specific insurance covers. One is for a \$250 000 cover for pollution clean up and the second is for a \$10 000 000 cover for wreck removal of my yacht. (I am a strong supporter for reef/environment protection)

[These two conditions do not apply for a yacht or vessel of 14.9 m but do apply for one which is 15.1 m. The legislation on the msq site states that it applies for private craft between 15 and 35 m length. (Apparently a 14.9 m rust bucket with 2000 L of oil and a history of poor behaviour can run aground, spill oil, then sink on a reef with impunity, but a well founded new 15 m sailing vessel carrying 100 L of fuel and an experienced crew is seen as a major threat!)]

I tried to obtain specific insurance cover for these two conditions only to be repeatedly informed by insurance brokers that I could not get these two as a stand alone policy. I could only get them as attachments to pre-existing *comprehensive* policies. (I have spent some months trying to find any insurance broker who would supply such a policy).

So, it seems that I am compelled to take out comprehensive insurance to get the two attachments. I find this a very questionable legal issue. I do not think that msq should be allowed to inflict this on *any* boat owner, but it does seem to be the case. It may not have been their intent, but it is certainly the reality. (Note that they would not dare to make *comprehensive* insurance compulsory for motor vehicles!!!)

Insurance companies are quick to state that the addition to the comprehensive policy premium (for the two Queensland specific extras) is not great or that it is already included. However, for a visiting racing or cruising vessel (> 15 m) from overseas or interstate, they must adjust their comprehensive policies (if they have one) or take out a new one.

One overseas insurance company claims that the wreck removal insurance cover for \$10 000 000 to be "quite absurd" for a 16 m yacht. This same company will provide ferro cement comprehensive cover with adequate pollution clean up, but will only offer a maximum of \$250 000 cover for wreck removal, but no more certainly not for \$10 000 000 demanded by msq..

All this applies to transiting vessels as well. It applies for any invited racing or cruising participant in events sponsored by your organization. (for vessels over 15 m) (Registration for private vessels under 15 m does have a grace period of few months, but for vessels over 15 m, this is not the case as the two extras *must be in place even for transiting vessels.*)

However, the bottom line is that the two extra components, cover is compulsory and that the cover cannot be obtained without getting a comprehensive policy with the two conditions as

(If you own a 15 m+ NSW registered boat and have taken out normal comprehensive insurance with a local underwriter or broker, you cannot assume that the two Queensland requirements are automatically covered - in case you wanted to visit Queensland). Further, if you live in Queensland and have had a policy with your local Queensland broker for some years, you just cannot assume that you have been upgraded for the necessary extra cover.)

You may envisage a large international racing yacht being asked to pay a full yearly premium to obtain the two extra bits, all for a three race program covering a few weeks. I think you can imagine their response.

Finally, although it may be of little concern to your organization, I cannot obtain the comprehensive insurance policy in Australia to attach the two conditions to, as my vessel is ferro cement!!! (No insurance company will provide the required cover and msq are aware of this) There are still many ferro boats sailing Australian and international waters some well over 15 m. Clearly there is a serious problem here for these yacht owners.

However, there is an "exemption" pathway out of this (provided by msq).

It makes interesting reading and your association may be somewhat perplexed at it. (check their website)

It requires: -

a) letters from a number of insurance companies that the two insurance covers cannot be provided.

b) the vessel must undergo an annual survey to ensure "seaworthiness" (which msq is unable to define).

c) there must be a "risk management plan" (again, msq seems unable to give details for vessels of specific length)

The "exemption" must be renewed each 12 months. It does not absolve the owner of any claims by msq for the two matters should an

incident occur.

If insurance companies will not provide comprehensive cover for an older wooden vessel, then the owner is also subject to this nonsense.

(Also, the decision to *not* offer comprehensive cover for a particular vessel by any insurance company is an *arbitrary* one)

Finally, it is not guaranteed that an application for exemption will be accepted and just to ensure it is totally useless, it takes a minimum of **12 weeks** to be assessed. (due to legislative processes) (How's that for "the smart state" if you wish to just transit Queensland waters?)

I have sent emails off to both msq and the ministers office and after much waiting and requesting of a response, I have been told nothing that is not in the msq website. They have offered no positive or helpful suggestions to date.

However, there is one issue you may be able to assist me with. On the matter of the entire insurance issue, may I quote from the minister's office?

*"In 2005, the Queensland Government undertook public consultation throughout the State with all stakeholders, including the boating community, about the proposal to introduce a legislative requirement for ships over 15 metres to have ship insurance. Amendments to the Transport Operations (Marine Pollution) Act 1995 were passed in 2006 with subsequent amendments to the Transport Operations (Marine Pollution) Regulation 1995 passed in 2007."*

What I would like from your organization is some comment on this quote.

Personally, I find it difficult to accept that **all stakeholders** were consulted. I have not heard from *anyone* in the entire industry that was consulted.... But I could be wrong. It was some time ago. Maybe they asked the insurance companies. Hah!

1. Was your organization actually consulted about this insurance matter? If so, when? How?
2. Did your organization have any comment on the proposed legislation? If so, what?
3. What was the nature of the “ship insurance “ referred to? Was it just the two issues discussed above or was it undefined, or what?
4. What other means (if any) for providing the “*pollution clean up and wreck removal for all vessels*” cover were considered? Eg was a model whereby all registered vessels paid (as part of their annual registration fee) a component to provide insurance cover for all vessels in case of pollution or wreck removal, ever considered? (ie a fairer, cheaper and more systematic approach)
5. Was your organization aware that the legislation implied that comprehensive insurance would now be essentially mandatory for all private vessels over 15 m?
6. Do you have any other comments on the legislation or the processes used to assess stakeholder considerations?

One of the msq staff stated that they had consulted the insurance industry when formulating the regulations and the insurance issues, but did not say that the boating industry had been consulted. This conflicts with the above ministerial office quote. I smell a rat.

I am prepared to make this a public issue, as it seems to me that there is a major flaw in the legislation that should be addressed. I do not accept that this legislation has been considered or constructed carefully as my own case clearly demonstrates. The compulsion to take out comprehensive insurance for all private vessels over 15 m is simply an unsupportable position and I believe the minister should act to change the legislation quickly.

In my case, owning a ferro cement yacht, I am compelled to apply for the exemption. Let us assume I get it and my vessel does run aground in a storm. Being a retired person, there is no way I could afford wreck removal of even a million dollars. That leaves the taxpayer to pick up the bill. I bet that appeals to you. You see, the legislation shortcomings actually prevented me from taking out the needed insurance!

What do you do if you *do not want* comprehensive insurance, or can't get it (e.g. for a ferro boat), but you still *want* to be insured for pollution clean up and wreck removal? (If you believe that environmental protection is important)

It seems that it can't be done! Msq have still not been able to address this. They claim that they liaised with the insurance companies when

writing up their insurance requirements but it seems pretty clear that some deal has been done or the insurance companies put one over the msq staff.

It also seems that there may be an issue of “retrospectivity” here. People may have (earlier) built a vessel over 15 m feeling that insurance was not compulsory and now find that the rules have changed. This is not fair as it can depress the actual sale value of the boat.

If the new rules were to only apply to boats constructed *after* the new legislation was enacted, then it might have been a little bit fairer. (Although it would not help visitors to Queensland as this legislation is a local “law” that is made applicable to unsuspecting visitors.)

It is also clear that the legislation does nothing for the boating industry. Amongst some of the difficulties is the problem the legislation creates for visiting yachts-typically:-

A short term visiting or transiting yacht has to comply and to do so means they must consult with local insurance companies. (International companies generally will not provide such short term policy amendments).

The local companies want an annual comprehensive policy (with the two attachments) premium to be paid, which is nonsense for a short term visiting yacht. Some also require a survey. (Jolly good for surveyors and boat yards, but not boat owners!)

A common response to this by potential visitors is that they won't make landfall in Queensland, which must be bad news for the local small ship maintenance/repair and tourism companies.

It is also my contention that legislation such as this msq issue has come about simply because the boating industry is so fragmented. There are builders, repairers, brokers, sailors, racers, cruisers, charter operators, yacht clubs, chandleries etc. They do not have a common voice against such silly legislation yet they all eventually pay one way or the other.

An interesting comparison is the local small trailer runabout owner groups. They tend to be locals who use concrete ramps to launch and retrieve their boats.

When they want a new ramp or improvements they just turn up in numbers to the local council meeting and suggest that the mayor respond to their concerns ...and guess what? They get results. Or a new Mayor.

They don't get steamrolled.

But yachtsmen (both power and sail) have no such effective voice. Probably because (besides being fragmented), there are fewer of us and many of our needs and regulations are based on state government dealings rather than local council ones. Our associations and clubs have agendas that do not touch on such issues regularly. Some cruising sailors have no club affiliations at all !!.

Your organization may be interested enough to ask questions of your local member or the minister responsible.

The **Hon John Mickel MP**

Minister for Transport, Trade, Employment and Industrial Relations.

[tteir@ministerial.qld.gov.au](mailto:tteir@ministerial.qld.gov.au)

(Don't expect a speedy response)

Did you notice how simply they just more than doubled the registration fees?

This is what happens when the boating organizations do nothing.

However, I would really appreciate it if your organization could address the 6 questions I posed earlier.

(Please feel free to answer any of the 6 issues. You could just add comments under each of the issues and return the email. However, any comments, in any form would help.)

I will do you the courtesy conveying any outcome of my efforts if your organization can respond to this email.

I have circulated this email to some groups/organizations in Queensland You may suggest some others. The list is below.

Thank you for your time. Oh for the days when boating was a simple pleasure and your adversary was just the elements. How times have changed.

Bill Shorter

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Queensland Cruising Yacht Club Inc	<a href="mailto:info@qcyc.com.au">info@qcyc.com.au</a>		
Yachting Queensland	<a href="mailto:office@qldyachting.org.au">office@qldyachting.org.au</a>		
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Royal Queensland Yacht Squadron.	Use website		
Southport Yacht Club	Use website		
Cruising Yacht Club of Australia	Use website		