

# Technical Note –

## Safe Havens – Responsibility of Operator and Surveyor

Interim Technical Note (ITN-03-19)

June 2019

### General Purpose

Interim Technical Note (ITNs) provides supporting information on specific technical issues or areas related to maritime rules or marine protection rules. The material in this ITN should not be treated as a substitute for the rules, which are the law. This ITN may be replaced with or clarified by operational guidance or an advisory circular at a later date.

The intent of this ITN is to provide clarification on the responsibilities of the operator and surveyor in relation to safe havens referred to in Maritime rule 20.20

### Application

This ITN applies to all MOSS vessels which are assigned an inshore limit as a defined section of the coastal limit in accordance with Maritime rule part 20.20(4). The purpose of this ITN is to clarify the intent of the rule and to clarify the responsibilities of the MOSS operator and the MOSS recognized surveyor.

### Background

- Maritime rule Part 20.20 specifies the requirements of operating limits assigned to various ships

#### **Maritime Rules Part 20.20 Operating limits assigned to ships**

(1) Except as provided in rule 20.42, the owner of a ship to which this Part applies must ensure that the ship has operating limits assigned to it by a surveyor.

(2) A surveyor who assigns operating limits to a ship must clearly record the operating limits on one of the following certificates—

- (a) the certificate issued under rule 44.41; or
- (b) the certificate issued under rule 46.14; or
- (c) the certificate issued under rule 46.24; or
- (d) the certificate issued under rule 46.28.

(3) Operating limits must be assigned to a ship in a manner that is consistent with any applicable restrictions and requirements for assigning limits to that type of ship specified in any maritime rule.

(4) A surveyor who assigns an inshore limit that is a defined section of the coastal limits not beyond the limits of the territorial sea of New Zealand must assign a limit within 30 miles of a

safe haven and must specify the safe haven in the certificate issued under rule 44.41.

(5) A surveyor who assigns an inshore limit other than an inshore limit that is listed in Appendix 1 must not assign a limit to a ship that is—

(a) over 500 GT or 45 metres or more in length; or

(b) less than 12 metres in length overall, if assigning the limit would enable the ship to undertake a voyage across the Cook Strait.

(6) This rule enters into force on 1 July 2014.

- Maritime rule Part 20.20 (4) enables a surveyor to survey a vessel and assign an inshore limit that is a defined section of the coastal limit, not beyond the limits of the territorial sea of New Zealand. The rule further requires the surveyor to assign a limit within 30 miles of a safe haven and must specify the safe haven in the certificate issued.
- There has been a lot of debate about who is responsible for identifying a safe haven and the document aims to provide some clarity around this matter.
- The term “Safe Haven” is further mentioned in other maritime rules - example MR Part 40A.64, inflatable and rigid inflatable boats - MR Part 40A Appendix 6.1, 6.4, and MR Part 40C Appendix 5.
- The surveyor should ensure that the “Safe Havens” nominated by the Operator are clearly documented before assigning these survey limits.

## Clarification

- The intent of Maritime Rule Part 20.20(4) is to enable operators to undertake potential day trips and return back to port within the same day. An example of this could be day fishing charters.
- Some vessels due to operational requirements may have to transfer or relocate between restricted limits and this journey takes the vessel into the coastal limits where there are no defined areas of restricted limits.
- The term “safe haven” is not defined in the rules; however from traditional nautical terminology, this can be defined as a temporary place of refuge or protection or a safe port of return.
- When identifying safe havens for their operations, the operator should take into consideration the weather forecast and other geographical considerations that could potentially impact on a defined location being considered a safe haven.
- It is unlikely that a bar-crossing port can be considered a safe haven in bad weather or adverse sea conditions. A bar crossing port may be considered safe to cross in good weather, provided the vessel can withstand the sea and weather conditions, and the operator has good local area knowledge and the necessary skills to safely navigate across the bar. Hence, crossing a bar in inclement weather may not necessarily be considered safe due to the obvious risk of running aground, foundering, etc. In certain circumstances, remaining out at sea until the weather improves may be considered the most prudent action. Hence such bar crossing ports if nominated as a safe haven may be subject to good weather operational restrictions.
- Alternatively, an operator may have to consider operating a more suitable vessel for the intended use and operating areas that is surveyed to operate in Coastal limits, thus removing the need to depend on Maritime Rule Part 20.20(4).

- As part of the Maritime Transport Operator Plan, the MOSS operator is primarily responsible to identify the safe havens, if relying on Maritime rule Part 20.20(4) and to ensure that the skipper is suitably qualified and has the relevant local knowledge of the areas and expected weather conditions.
- It is the MOSS surveyor's responsibility to ensure that the vessel is fit for the intended purpose and meets all survey requirements to operate in the areas nominated by the operator. The surveyor's primary focus is to ensure that the ship and the ships equipment are in all respects fit for their intended use and operating limits and meet all applicable maritime rules and maritime pollution rules.[MR44.41(2)(a)(iii)]. The survey must take into account the operating area, and available ports in the area.
- Once satisfied, the surveyor must assign the safe haven on the certificate of survey, in accordance with the rule, where there is one.

## Conclusion

- Besides MR 20.20(4), the term "Safe Haven" is further mentioned in other maritime rules - example MR Part 40A.64, inflatable and rigid inflatable boats - MR Part 40A Appendix 6.1, 6.4, and MR Part 40C Appendix 5.
- Both the operator and surveyor have obligations regarding safe havens, the operator must meet best practice and identify and nominate the safe havens in the MTOP.
- The surveyor must meet the regulatory survey requirement and list the safe havens on the CoS with any conditions as deemed necessary. If there is lack of space on the CoS, the safe havens can be appended to the CoS.

## Further Recommendation

When undertaking any commercial operations, in areas where a safe haven cannot be clearly identified, the operator should consider the associated risks and hazards involved and if the operation is necessary. If so, consideration could be given to using a more suitable vessel for the intended use and operating areas that could be surveyed to meet all the requirements of the coastal limits, to enable such operations to be undertaken safely.

## Reference Material(s)

| No. | Title  | Author / Publisher          | Year |
|-----|--|-----------------------------|------|
| 1   | Maritime Rules Part 20: Operating Limits   | <i>Maritime New Zealand</i> | 2015 |
| 2   | Maritime Rules Part 20 – Advisory Circular: Issue No. 20-3   | <i>Maritime New Zealand</i> | 2014 |
| 3   | Maritime Rules Part 40A: Design, Construction and Equipment –Passenger Ships which are not SOLAS Ships     | <i>Maritime New Zealand</i> | 2016 |
| 4   | Maritime Rules Part 40C: Design, Construction and Equipment – Non-passenger Ships that are not SOLAS Ships | <i>Maritime New Zealand</i> | 2018 |

## Further information on this note may be obtained from:

---

**Maritime Systems Assurance**

**Maritime New Zealand**

**Level 11,**

**1 Grey Street**

**Wellington 6011**

*New Zealand (toll free):* **0508 225 522**

*Calling from outside New Zealand:* **+64 4 473 0111**

*Email:* `domestic.operations@maritimenz.govt.nz`

---