



MINISTRY of TRANSPORT
TE MANATŪ WAKA

WELLINGTON NEW ZEALAND

PURSUANT to Sections 386(1)(c) and 388(k) of the Maritime Transport Act 1994 and all other powers enabling me in this behalf

I, **HARRY JAMES DUYNHOVEN**, Minister for Transport Safety,

HEREBY MAKE the following marine protection rules.

SIGNED AT Wellington

this *17th* day of *November* 2004

by **HARRY JAMES DUYNHOVEN**

Minister for Transport Safety

Marine Protection Rules

Part 190

MANDATORY SHIPS ROUTEING

Maritime Transport Act 1994

Marine Protection Rules

PART 190

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PART 190

MANDATORY SHIPS ROUTEING

Part Objective, Extent of Consultation and Commencement

Objective

The objective of Part 190 is to give effect to “areas to be avoided” by certain ships in the vicinity of the Poor Knights Islands and the Three Kings Islands. Both areas are so designated in order to protect the marine environment.

The rules instruct the owners, the charterers and the masters of the ships to which the rules apply to avoid the defined areas.

“Areas to be avoided” are one of the ships routeing measures that may be adopted by the International Maritime Organisation to protect the marine environment.

The IMO adopted the Three Kings area to be avoided in 1995 and the Poor Knights area to be avoided in 2004.

The specific ship types and sizes to which these two routeing measures apply reflect the terms of the respective New Zealand applications for the adoption of the measures.

Extent of consultation

On 27 September 2003, the Maritime Safety Authority published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed Part 190. A notice was also published in the *New Zealand Gazette* on 2 October 2003. The Authority then made its invitation to comment and the draft Part available to the public with electronic and hard copies being sent automatically to interested parties. The draft was also posted on, and available for downloading from, the MSA website. Comments were requested by 21 November 2003.

Two submissions were received on Part 190. These submissions and any oral comments were considered, and where appropriate, the proposed rules were amended to take account of the comments made.

Commencement

Part 190 as amended was referred to and signed by the Minister for Transport Safety.

Part 190 comes into force on 30 December 2004.

Marine Protection Rules

PART 190

MANDATORY SHIPS ROUTEING

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190.1 Entry into force

This Part comes into force on 30 December 2004.

190.2 Definitions

In this Part—

Act means the Maritime Transport Act 1994;

length overall means the length of the ship measured from the foreside of the head of the stem to the aftermost part of the transom or stern; but—

- (a) does not include fittings such as beltings, platforms, gantries and trim tabs which project beyond those terminal points; and
- (b) does include those structures such as bulbous bows, deckhouses and buoyancy tubing which do project beyond those terminal points;

MARPOL means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto; and includes any subsequent protocol, amendment or revision of that convention accepted or ratified by New Zealand;

Poor Knights area means the area bounded by a line connecting the following geographical positions—

35° 51'. 30 S	174° 35'. 50 E
35° 34'. 55 S	174° 49'. 20 E
35° 29'. 60 S	174° 50'. 80 E
35° 24'. 70 S	174° 50'. 20 E
35° 10'. 20 S	174° 20'. 10 E;

Three Kings area means the area bounded by a line connecting the following geographical positions—

34° 06'. 00 S	172° 00'. 00 E
34° 06'. 00 S	172° 12'. 50 E
34° 13'. 50 S	172° 12'. 50 E
34° 13'. 50 S	172° 00'. 00 E.

190.3 Poor Knights Islands

- (1) This rule applies to every ship of more than 45 metres length overall except—
 - (a) a fishing ship engaged in a fishing operation; or
 - (b) a barge under tow provided its cargo does not include oil or any other harmful liquid substance as defined in Annex I and Annex II of MARPOL.
- (2) The owner, charterer and master of a ship to which this rule applies must not cause or allow the ship to enter the Poor Knights area in transit.

190.4 Three Kings Islands

Subject to sections 32 and 100 of the Act, the owner, charterer and master of a ship of 500 gross tons or more must not cause or allow the ship to enter the Three Kings area.

Marine Protection Rules

PART 190

Consultation Details

(This text does not form part of the rules contained in Part 190. It provides details of the consultation undertaken in making the rules.)

Summary of Consultation

An invitation to comment on draft Part 190 “Mandatory Ships Routeing” was issued on 27 September 2003 with a closing date for submissions of 21 November 2003.

As a result of the formal consultation process, two organisations, the Department of Conservation and the Royal New Zealand Navy, provided written submissions.

General

The Department of Conservation supports the introduction of Part 190 in that it formally endorses the International Maritime Organisation’s adopted “areas to be avoided” that relate to New Zealand.

Rule 190.3

The Royal New Zealand Navy queried the reference to warships in the application of rule 190.3 (Poor Knights Area) as section 4(1) of the Maritime Transport Act 1994 provides a general exclusion, for such vessels, from rules made under the Act.

The MSA has removed the reference to warships in rule 190.3 in light of the Navy’s submission and the debate held at the International Maritime Organisation.