

Introduction:

This advisory circular accompanies the Maritime Rule, but is not a part of the Rule. Its purpose is to explain the rule and how it should be interpreted, especially when the meaning may not be obvious. It also explains the reason why particular words are used, or a rule is adopted.

In addition to complying with this Rule, skippers of vessels should use it as a “code of conduct” for behaviour on the water.

The Rule must be read and interpreted in conjunction with **Rule 22: Collision Prevention**, which applies to all vessels in all waters.

Every boat has a **skipper or person in charge**. The **Maritime Transport Act 1994** places certain responsibilities on the skipper of every vessel. The skipper is responsible for:

- The safety of the vessel
- The safety of all persons on board
- Complying with all Maritime Rules and any other regulations.

The Act also states that it is an offence to operate a vessel in such a way that it causes any “**unnecessary risk or danger to persons or property**”.

91.2 Definitions:

Buoyancy Aids and Personal Flotation Devices (PFD):

A PFD is a buoyancy aid designed to be worn on the body. This description, based on the definition in Standards New Zealand 5823/2001, is included here to explain the differences between various devices designed to minimize the chance of drowning. The different types of PFD covered by SNZ 5823 are as follows:

Type 401: Open-waters Lifejacket. - used on pleasure vessels going overseas. As well as the conventional constructed PFD, many inflatable jackets meet this standard. This lifejacket is designed to turn an unconscious person face up in the water. person

Type 402: Inshore-waters Lifejacket. -, this type of jacket must not allow the wearer to tilt forward of vertical, but it is not guaranteed to hold an unconscious person’s mouth clear of the

water. It has less buoyancy than type 401 but this makes it more comfortable to wear continuously. It is probably the most common lifejacket used aboard pleasure vessels. Some styles provide increased thermal protection. Small children's' lifejackets must be fitted with a crotch strap to prevent the wearer from slipping out the bottom. This is recommended for larger sizes.

Type 403: Buoyancy Vest. No collar is fitted and it has lower buoyancy than a lifejacket. It is designed for use in aquatic sports, such as dinghy sailing.

Type 404: Buoyancy-aid Wet Suit - a wet suit with added buoyancy.

Type 405: Buoyancy Garment - similar to Type 403, but is not required to be fitted with reflective tape. Designed for special use situations.

Type 408: Specialist lifejacket designed for White water rafting or Jet boating. - the same buoyancy rating as type 401 applies.

In addition NZS sets the standard for 2 buoyancy aids that are not PFDs. These standards are relevant to alternative means of compliance with the requirement to carrying pfd's on board a boat:

Type 406: Rescue Buoy - a semi-rigid buoyancy aid designed to be thrown to a person in the water to provide buoyancy while awaiting rescue. Commonly shaped as a ring or horseshoe. It can be held on to or placed around the chest.

Type 407: Float off buoyancy aids - these float free from a vessel which founders or capsizes to provide flotation for survivors awaiting rescue.

Recreational Craft:

Unpowered vessels, such as kayaks and small yachts without an engine fitted, are exempt from the requirements of Safe Ship Management when hired out or used commercially. In these circumstances such craft do not fit the definition of "any other vessel". The Rule has adopted the term "Recreational Craft" to ensure these craft must comply with the Rule along with other commercial vessels and pleasure vessels.

River

Estuaries and coastal inlets subject to tidal effects are not included in this definition even though they may be titled 'river' on charts and maps.

91.3 Application

The Rule applies to all vessels inside the New Zealand twelve-mile limit, including all inland waters both natural and man-made. Where Navigation Safety bylaws established by Regional or District Councils are in place, this Rule does not apply. However, such bylaws must not conflict with this Maritime Rule. In effect, this means that there is one consistent set of requirements throughout New Zealand. Other Maritime Rules, including the Collision Prevention Rules, also apply in all waters throughout the country.

91.4 Personal Flotation Devices (PFDs)

This rule makes it compulsory for PFDs to be carried on board all recreational craft, and for them to be worn at times of heightened risk. It does so because there is overwhelming evidence to show that the use of PFDs could prevent as many as 10-15 drownings in New Zealand each year.

The rule provides for a range of PFDs to be worn to suit each type of boating activity – whether it be buoyancy vest for kayaking or canoeing or a gas inflatable PFD for everyday use aboard a trailer boat. All are invariably far more comfortable than their kapok counterparts of 20-30 years ago, and are available in a range of prices to suit most pockets.

Tenders – in submissions on the draft rule, some respondents argued that tenders (usually dinghies), to larger boats should be exempt from the requirement to carry PFDs. This has not been adopted in the rule because the accident record of such craft, both in terms of fatalities and “near misses”, is far from being unblemished. Moreover, tenders are often used at night and may be heavily loaded, with the occupants sometimes having consumed alcohol.

PFD Standards –the rule requires PFDs to meet the New Zealand Standard 5823. However, PFDs certified to a recognised international or national standard that substantially complies with the New Zealand standard may be permissible under the rule, subject to acceptance by the Director of Maritime Safety that they do so. In order to have a overseas certified PFD considered for acceptance by the Director, the importer/seller of the PFD must submit written evidence showing how it “substantially complies” with the New Zealand Standard, including details of the overseas standard to which it has been certified and the quality control procedures under which it is being manufactured.

Matching PFDs to the Activity – by adopting NZS5823, which includes six different types of PFD, as the standard, boat owners are able to use a PFD which best suits their particular type of activity. For example, when sailing a small yacht which is likely to trap a person underneath in a capsized, a Type 403 buoyancy vest provides adequate flotation while allowing the wearer to escape. Only Types 401 and 408 will keep an unconscious person’s nose and mouth above water. Inflatable jackets are included in the NZ Standard and often are the most comfortable.

91.4 (1) - This Rule requires the person in charge of every boat, no matter how small, to take responsibility for ensuring a correctly sized, serviceable PFD is available to every person on board. PFDs must be readily accessible in a sudden emergency; for example, following a sudden capsizing.

91.4 (2) (a) – there is no requirement in this rule for surfboarders to carry a PFD. However, if a device such as a surfski is being paddled and the intention is to use it as transport from one place to another, it can be considered a boat and a PFD must be carried.

91.4 (2) (b) - during the development of this Rule and the associated Council bylaws, consultation with windsurfers and board sailors indicated significant difficulties would be experienced if the PFD requirement were applied to these craft. Bearing in mind that the board itself provides a form of buoyancy for the rider, the use of wetsuits is seen in this case as an appropriate alternative safety system. The type of wetsuit has been left to the discretion of the windsurfer.

91.4 (2) (c) - small commercial dive boats carrying passengers involved in recreational diving are exempt from the requirement to carry lifejackets in Maritime Rule 40A. However, all persons must wear full wet suits. The same provision is included in this Rule for reasons of consistency.

91.4 (2) (d) - there are a number of occasions when the carriage of PFDs is not practicable. An obvious example is competitive rowing at a regatta. In many cases, organized sporting bodies have voluntarily adopted safety procedures of a much higher standard than those in this Navigation Safety Rule. This rule will not apply, therefore, where a boat is operated under the umbrella of a national organisation's safety system, which has been approved by the Director of Maritime Safety. National organisations wishing to take advantage of this rule should apply in writing to the Director of Maritime Safety providing details of the organisation's status and the safety systems it has in place.

91.4 (2) (e) - many foreign sports teams come to New Zealand to compete in aquatic sports events. They are required to comply with the safety rules which apply to that particular sport, and where PFDs are required (e.g. yachting), it is appropriate, for practical reasons, that they be permitted to use a PFD approved in their own country.

For legal reasons, pleasure vessels registered in a foreign country cannot be made subject to New Zealand Maritime Rules regarding equipment standards while visiting New Zealand.

91.4 (3) - this exemption recognizes that responsible national sporting organisations are in the best position to develop the most appropriate safety measures for their sport.

91.4 (4) - in co-operation with the organizers of sports or ceremonial events, the MSA has developed guidelines and codes of practice to put in place an appropriate alternative safety system when carriage of PFDs is impractical. These guidelines include allowing an accompanying vessel to carry the PFDs or

suitable buoyancy aids such as lifebelts, which are usually more easily put on by a person in the water than PFDs.

91.4 (5) - where special circumstances exist, it is possible for the organisers of an event to apply for an exemption from carrying PFDs from the authority controlling a particular area, provided alternative safety systems are adequate.

91.4 (6) - this rule sets out the circumstances in which it is **mandatory to wear** a PFD. If the risk to safety is clearly increased for any reason, properly secured PFDs must be worn by all. It should be noted that this rule applies in spite of exemptions which have been authorised. It is the **skipper's responsibility** to ensure all on board comply.

91.4 (7) - everyone being towed, including those water-skiing, on a 'biscuit', on a board, swimming, in a dinghy or in a vessel which has had a mishap, must wear a PFD unless taking part in an activity such as 'trick' skiing/boarding where wearing is not a practical option. The New Zealand Water Ski Association Rules should be used as a guide for water skiing.

91.5 Age for operating power driven vessels

A powered vessel is one being propelled (or partly propelled) by an engine at the time. Personal Water Craft or "Jet-skis" are powered vessels.

There is no age restriction on driving a boat which is not capable of a speed of 10 knots (about 18km per hour). On boats capable of 10 knots or more, a person under the age of 15 may be at the controls only if a person 15 or over is closely supervising. This allows young persons to gain experience and learn boat handling skills.

It is possible for exemptions to be made in certain circumstances such as the need for a younger person to use a boat for transport to school, or in some sports competitions.

In all cases, speed is measured through the water ("proper speed") since this can be estimated visually with reasonable accuracy without the need for special equipment.

91.6 Speed

Every year there are a number of fatal accidents where high speed is the most important factor involved. Keeping a safety zone between vessels traveling at speed and other water users or dangers is necessary to help prevent such accidents. Circumstances exist where speeds higher than 5 knots at lesser distances are necessary for safety reasons; for example, the need to use full power and speed when leaving a surf beach. Skippers must not exceed speed limits unless there is reasonable excuse for doing so.

91.6 (1) (a) - the Water Recreation Regulations (1979), which this rule replaces, required a separation distance of at least 30 metres between vessels traveling at speeds over 5 knots. This distance has been increased to 50 metres in this rule to reflect the increase in speed and size of vessels since 1979. While 50 metres could be considered excessive in the case of, say, dinghies traveling at 8 knots, it could also be considered barely adequate in the case of large high-speed launches. As with the Collision Prevention Rule, good seamanship is always required and all circumstances should be taken into consideration when complying with this Rule.

91.6 (1) (b) - the 200 metre distance from shore provides a safe area for swimmers and other recreational users at beaches and along the shore line. It also provides a safety zone when headlands, bridges, wharves and similar structures block the view of other craft in the same area.

91.6 (1) (c) - Divers often surface some distance from their vessel. It is usually not possible for a diver to see an approaching boat when surfacing. Keeping well clear of vessels displaying a dive flag or slowing to a speed below 5 knots is essential if fatalities are to be avoided. It is equally essential for boats supporting divers to display a dive flag that is large enough (and spread out) so it can be clearly seen from at least 200 metres away (see also rule 91.18). There are no circumstances under which any vessel may exceed a speed of 5 knots within 200 metres of a vessel displaying a dive flag.

91.6 (2) - a number of lives have been lost in boating accidents when people have fallen overboard and been struck by the boat's propeller. While this rule minimises the chance of such accidents, special care must be taken aboard power boats not fitted with rails.

91.6 (3) - the 50 metre and 200 metre speed restrictions apply to both vessels **and** to persons or boats which are towed.

91.6 (5) (b) - non-powered vessels involved in competitive sports where close quarters situations are a normal part of the sport (e.g. yacht racing) are exempt from the 50 metre rule while competing with each other.

91.6 (6) - with the exception of craft that are rowed or paddled competitively close to shore, the only vessels exempted from the 200 metre rule are those in an area specially designated such as an access lane or where the speed has been uplifted. Some commercial vessels or rescue craft are also exempt in special circumstances.

91.7 Wake

Wake is caused by a combination of factors including hull shape, speed and water depth. An essential part of every skipper's lookout duty is to monitor the wake and its effect.

If a wake causes damage or injury, the skipper of the vessel creating the wake may be liable to enforcement action such as infringement notice or prosecution.

91.8 Water Skiing

Both the skipper of the vessel towing a skier and the skier are responsible for ensuring a person is acting as lookout on the towing vessel, in addition to the skipper. Wake boards, sea biscuits, dinghies, boogey boards and similar devices being towed are all included in the skiing rule.

Because of the impracticality of carrying suitable navigation lights, skiing and similar activities are prohibited from sunset to sunrise on safety grounds. All vessels must display the correct lights from sunset to sunrise.

91.10 Access Lanes

The Collision Prevention Rule requiring vessels to stay as far as possible to starboard applies in access lanes.

When an access lane is not being used for its declared purpose (e.g., water skiing), other users must obey the usual navigation rules as if the area was not an access lane.

When someone wishes to use an access lane for its declared purpose, other water users must leave. The same rules also apply in reserved areas.

91.13 Anchoring and Obstructions

Every boat must anchor well clear of other boats already anchored. Sufficient room must be left to allow for swinging with the wind and tide.

If a boat is anchored and then drags in such a way that it becomes a hazard to other anchored craft, the skipper of the craft which drags may commit an offence.

Proper anchoring technique with adequate ground tackle is the responsibility of every skipper.

91.15 Distance from Flag 'B'

The dangers of approaching close to tankers and other vessels or places where explosives are present are obvious. Only if it cannot be avoided, such as in a narrow channel, should any vessel come within 200 metres of such a vessel or place.

91.16 Vessels under 500 tons

Tons are a volumetric measurement. Typically a vessel of 500 tons will be over 50 metres in length. An average Japanese or Korean fishing vessel commonly seen in our harbours and coastal areas is likely to be about 500 tons.

The area where this rule applies will be marked specifically on charts.

The Rule states vessels under 500 tons must not impede the passage of larger vessels. Any activity including anchoring, or any action which impedes the larger vessel is prohibited, even if the larger vessel is overtaking as defined in Rule 22.13. Large ships frequently need to travel at a considerable speed in order to maintain control. This is often very deceptive with the ship appearing to be traveling much more slowly than it is.

91.17 River Safety

Rivers, by definition, do not include any areas where tides have an effect. While keeping to the starboard side is always correct, many rivers have a number of channels which constantly change direction among sand banks. Because boats traveling upstream against the current are usually more easily controlled, it is conventional practice for such vessels to give way to those moving with the stream.

Skippers should check river and weather conditions before setting out. If the river is unsafe for any reason, they must not operate their vessel on the river.

91.18 Flags

All vessels which have a diver operating must display code flag "A" in such a way that it can be clearly seen from a distance of at least 200 metres. Any flag with dimensions less than about 750mm by 500mm is unlikely to comply. The diver also has a responsibility to comply with this rule. Those aboard the vessel need to make sure the flag is displayed in such a way that the skipper of any approaching vessel is able to see it easily.

91.9 Temporary Events

The process for arranging a temporary suspension of the 5 knot speed restriction for vessels within 200 metres of each other or within 200 metres of the shore, is commonly termed a "speed uplifting". Jetboat events and races on rivers are a typical example. Where councils have navigation safety bylaws in place, application for an uplifting is made to the council.

Where councils do not have navigation safety bylaws in place, application is made to the MSA. The applicant should provide the MSA with evidence that power boating is a permitted activity in the regional plan that covers the relevant piece of water. Secondly, a letter from the relevant local council should accompany the application, along with evidence of consultation with affected parties such as Fish and Game. The uplifting must be advertised in advance of the event in the local press.

Councils will set their own lead times for processing applications. The MSA requires a lead time of at least four weeks.

91.21 Safe Boating Advisers

In 1979, the position of Honorary Launch Warden was introduced. The Warden's tasks included educating the boating public on safety matters and identifying offenders for possible prosecution. More recently, Regional Council Harbourmasters have appointed suitable persons in their areas as Honorary Enforcement Officers under the Local Government Act to assist with the management of boat operators in their area. These officers have largely taken over the role of the Honorary Launch Wardens. There are some areas where councils have chosen not to exercise control through bylaws and the MSA administers these areas.

Following a survey of all Launch Wardens, the MSA concluded that the most effective method of promoting a better safety culture among skippers who misbehaved or who were ignorant of the rules or their obligations, is a system of Safe Boating Advisers (SBAs) whose sole function is to promote safety awareness. This rule provides for the appointment of Safe Boating Advisers by the MSA to carry out this function.

Since SBAs will not have an enforcement role, it is hoped that a wider range of people, such as those involved in boating clubs, will be prepared to assist with safety awareness programmes. The MSA will not, however, appoint SBAs to work in areas where councils exercise control without the agreement of the local Harbourmaster.

Amendments to Rules Part 22: Collision Prevention

Yacht Racing - yachts taking part in a yacht race use international yacht racing rules designed for racing purposes. While the racing rules have much in common with the Collision Prevention Rules, there are some significant differences. This amendment provides legal recognition for the yacht racing rules while yachts are racing under the control of a yacht club. When a racing yacht meets any other vessel not in the race, the Collision Prevention Rules apply to both boats.

Vessels Under Oars - the Collision Prevention Rule states that when crossing, power vessels must give way to sailing vessels (22.18.1), but it does not require them to give way to vessels under oars. However, the Rule prescribes the same lights for rowing and sailing vessels from sunset to sunrise (22.25.(3).(b)), effectively meaning that power vessels are obliged to give way to both types of vessel at night as they are unable to tell the difference between the two. To provide consistency and ensure that there is one give way rule for vessels under oars and power vessels during both the day and at night, Rule 22 has been amended to require power vessels to give way to vessels under oars (rowing or paddling).

While power vessels must give way, other parts of the rule clearly state that when a power vessel is unable to comply due to a narrow channel, all small vessels and sailing craft must give way (22.9.(2)).

Anchor Lights – for reasons of safety, the Collision Prevention Rule has been amended to remove the exemption for vessels under 7 metres in length from showing an anchor light (22.30.(3)). Many craft under 7 metres are used for fishing at night or for living aboard, especially during summer, which creates a potential safety hazard. With this amendment, these craft are now required to show an anchor light even if anchored away from a fairway or where other vessels normally navigate.

Very small unmanned boats, when anchored in the shallows close to shore, will continue to be exempt due to the fact that displaying a light is not practical.

NOTE:

In all situations, the Collision Prevention Rules require the skipper of every vessel to consider all circumstances, including the limitations of the vessels, when complying with the Rules. (22.40.2).