

# Maritime Rules

## Invitation to Comment

### PART 91

#### WATER RECREATION RULES

##### **Comments, please**

You are invited to comment on the draft maritime rule known as “Part 91 Water Recreation Rules” now available from the Maritime Safety Authority.

##### **What is Part 91 about?**

Part 91 replaces the Water Recreation Regulations 1974. Part 91 continues the basic navigation safety rules contained in those regulations with some modifications and additions to bring the requirements up to date with modern boating conditions and safety expectations.

Part 91 introduces new requirements for the carriage of personal flotation devices (buoyancy aids designed to be worn on the body) on pleasure craft. Provision is made for exemptions to these requirements in restricted circumstances where compliance with the rule is impractical or inappropriate. The rules also make the wearing of personal flotation devices mandatory in some circumstances.

Part 91 also sets a standard for the required personal flotation devices. The standard is taken from the New Zealand standard NZS 5823:2001. The rules propose that personal flotation devices meeting other national or international standards substantially complying with the New Zealand Standard may be accepted by the Director as complying with Part 91. This is consistent with the policy applied to commercial ships. The intention of the rule in setting this

standard is to encourage compliance by facilitating choice and price competitiveness while retaining an acceptable level of safety.

Part 91 also modifies and carries over some provisions from the General Harbour (Nautical and Miscellaneous) Regulations 1968 in respect of anchoring and mooring, give way rules, wakes and proximity to oil tankers and ships carrying dangerous goods.

### **Which craft are covered by Part 91?**

Part 91 applies to all ships in New Zealand waters, including inland waters and the territorial sea. However Part 91 has been drafted to complement navigation safety bylaws made by regional councils under the Local Government Act 1974. Part 91 provides that bylaws must be consistent with the provisions of Part 91.

### **What are the likely benefits for New Zealand arising from Part 91?**

Part 91, together with navigation safety bylaws made under the Local Government Act 1974, continue and update the safety code established under the Water Recreation Regulations 1979 and the Harbours Act bylaws. This safety code is primarily aimed at recreational craft. However, some requirements are considered appropriate for all craft including commercial ships.

The new requirement to carry personal flotation devices (buoyancy aids designed to be worn on the body) on recreational craft in combination with a proposed education campaign to increase awareness of boating safety issues (particularly the need to carry PFDs) is expected to provide a significant improvement to levels of safety on recreational craft in New Zealand in the medium term.

### **What will it cost to comply?**

A preliminary cost/benefit study has been undertaken by the Maritime Safety Authority in respect of mandatory carriage of personal flotation devices on recreational craft.

In the study benefits have taken into account a reduction in the number of fatalities and serious injuries. Costs are based on personal flotation devices

costing \$50 per unit and include an allowance for an ongoing educational promotion campaign supporting the rule. The costs also take into account the estimate that 50% of the boating population already have personal flotation devices. The result of the cost benefit analysis showed an overall benefit cost ratio of 5.44 to 1; that is the value of benefits would be 5.44 times the cost of implementing the proposal over a 10 year period.

### **Enforcement**

Provision will be made in the Maritime (Offences) Regulations 1998 prescribing the breaches of Part 91 that will be offences against the Maritime Transport Act 1994. The maximum fine payable upon summary conviction will range from \$1250 to \$5000. For infringement offences, the likely infringement fee is expected to be from \$100 to \$200.

### **Are you interested in commenting? If so, please read on**

#### *Time to make comments*

The close off date for comments on Part 91 is 15 March 2002. The Maritime Safety Authority is under no obligation to consider comments made after that date, but will do so where possible.

#### *Scope of comments*

Feel free to comment on all, some or on any one of the draft rules and on any wider issues associated with the draft Part. It will help us to evaluate your submission if you provide reasons for your views.

#### *Address for comments*

Your comments may be communicated by the following means:

- e-mail to [manager.standards@msa.govt.nz](mailto:manager.standards@msa.govt.nz)
- ordinary mail to PO Box 27006, Wellington
- fax (04) 494 1263

- delivery to the eighth floor, gen-i Tower, 109 Featherston Street, Wellington.

We will acknowledge all submissions that we receive and once the rule is finalised you will receive an outline of the consideration given to comments received.

*Submissions made by others*

Subject to the rules of the Privacy and Official Information Acts, you may view the submissions made by other people at the Head Office of the Authority between 8.30 am and 4.30 pm on weekdays, except statutory holidays. Please arrange this with the Manager, Safety and Environmental Standards beforehand on (04) 494 1242.

For further information on the rules programme see the *Maritime Safety Authority Rules Review*, a free quarterly survey of rule making activities.

If you have not already done so, you are invited to put your name on the mailing lists for the *Rules Review* and for drafts of the proposed rules that are of particular interest to you. (Use the list of proposed rules on page 4 of the *Rules Review* to identify these.)

The mailing lists are maintained by the Administrator, Safety and Environmental Standards at [administrator.standards@msa.govt.nz](mailto:administrator.standards@msa.govt.nz) or (04) 494 1239 (telephone) or (04) 494 1263 (fax), or by writing to Box 27006, Wellington.

All draft rules are available free of charge.

# Maritime Rules

## PART 91

### WATER RECREATION RULES

#### General

- 91.1 Entry into force
- 91.2 Definitions
- 91.3 Application

#### Operating Requirements

- 91.4 Personal Flotation Devices
- 91.5 Minimum age for operating powered vessels
- 91.6 Speed of vessels
- 91.7 Wake
- 91.8 Lookouts on vessel used for water skiing and towing any person
- 91.9 Water skiing or towing between sunset and sunrise
- 91.10 Conduct in access lanes
- 91.11 Marking of access lanes
- 91.12 Reserved areas
- 91.13 Anchoring and mooring
- 91.14 Damage to navigation aids
- 91.15 Distance from oil tankers or other vessels showing Flag B
- 91.16 Duty of master of a vessel under 500 gross tonnage
- 91.17 River safety rules

#### Administration

- 91.18 Temporary events
- 91.19 Permanent speed upliftings
- 91.20 Appointment of Safe Boating Advisors
- 91.21 Savings

#### Amendment to Part 22

## ***General***

### **91.1 Entry into force**

Part 91 comes into force 28 days after its notification in the *Gazette*.

### **91.2 Definitions**

In these rules, unless the context otherwise requires:

**“Commercial vessel”** means a vessel that is not -

- (a) a pleasure craft; or
- (b) solely powered manually; or
- (c) solely powered by sail:

**“Director of Maritime Safety”** means the person who is for the time being the Director of Maritime Safety under section 439 of the Maritime Transport Act 1994:

**“Explosive”** means an explosive or an authorised explosive as defined in section 222 of the Hazardous Substances and New Organisms Act 1996:

**“Flag A”** means flag A of the International Code of Signals (the divers flag), a burgee (swallow-tailed) flag coloured in white and blue, with white to the mast, or a rigid equivalent:

**“Flag B”** means the flag B of the International Code of Signals, a burgee (swallow-tailed) flag coloured in red, or a rigid equivalent:

**“Harbourmaster”** means a person appointed as harbourmaster pursuant to the Harbours Act 1950 or the Local Government Act 1974:

**“Internal waters”** means the internal waters of New Zealand as defined by section 4 of the Territorial Sea and Exclusive Economic Zone Act 1977:

**“Length”** in relation to a vessel, means overall length:

**“Master”** means any person (except a pilot) having command or charge of a vessel:

**“Navigate”** means the act or process of managing or directing the course of a vessel on, through, over, or under the water:

**“Navigation bylaw”** means a bylaw continued by section 15(1)(b) of the Local Government Amendment Act (No 2) 1999 or a navigation bylaw made under section 684B of the Local Government Act 1974:

**“New Zealand waters”** means —

- (a) the territorial sea of New Zealand; and
- (b) the internal waters of New Zealand; and
- (c) all rivers and other inland waters of New Zealand:

**“Owner”,—**

- (a) in relation to a ship registered in New Zealand under the Ship Registration Act 1992, means the registered owner of the ship:
- (b) in relation to a ship registered in any place outside New Zealand, means the registered owner of the ship:
- (c) in relation to a ship to which paragraph (a) or paragraph (b) or paragraph (c) of this definition applies, where, by virtue of any charter or demise or for any other reason, the registered owner is not responsible for the management of the ship, includes the charterer or other person who is for the time being so responsible:
- (d) in relation to an unregistered ship or a registered ship that does not have a registered owner, means the person who is for the time being responsible for the management of the ship:

**“Person in charge of a vessel”** means the master:

**“Personal flotation device”** means any serviceable buoyancy aid that is designed to be worn on the body and that is certified by a recognised authority as meeting —

- (a) a standard in NZ standard 5823:2001 applicable to the buoyancy aid; or
- (b) a national or international standard that the Director is satisfied substantially complies with a standard in NZ standard 5823:2001 applicable to the buoyancy aid:

**“Pleasure craft”** means a vessel that is used exclusively for the owner's pleasure or as the owner's residence, and is not offered or used for hire or reward; but does not include –

- (a) a vessel that is provided for transport or sport or recreation by or on behalf of any institution, hotel, motel, place of entertainment, or other establishment or business;
- (b) a vessel that is used on any voyage for pleasure if it is normally used or intended to be normally used as a fishing vessel or for the carriage of passengers or cargo for hire or reward;
- (c) a vessel that is operated or provided by any club, incorporated society, trust, or business:

**“Powered vessel”** means any vessel that is not solely powered manually or by sail:

**“Proper speed”** means speed through the water:

**“Publicly notify”** means to publish a notice in one or more daily newspapers circulating in the region, the waters of which are subject to an application under rule 91.18 or rule 91.19:

**“Recognised authority”** means an authority that the Director considers is competent to certify a personal flotation device's compliance with a standard:

**“Recreational craft”** means a vessel that is –

- (a) a pleasure craft; or
- (b) solely powered manually; or
- (c) solely powered by sail:

**“Regional council”** has the meaning given to the term “regional council” in section 2 of the Local Government Act 1974; and includes any territorial authority referred to in section 16(1) of the Local Government Amendment (No 2) 1999:

**“Reserved area”** means a reserved area referred to in rule 91.21(b) or an area reserved by a regional council for the exclusive use of specified vessels or any class of specified vessels:



**“Reward”** means the payment to or for the benefit of the owner or master of a vessel, of a contribution towards the expenses of a voyage by or on behalf of persons; but does not include payment of any contributions by part owners of the vessel or by persons engaged as bona fide crew members:

**“River”** has the same meaning as in section 2 of the Resource Management Act 1991:

**“Territorial sea”** means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea and Exclusive Economic Zone Act 1977:

**“Vessel”** means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes -

- (a) a barge, lighter, or other like vessel:
- (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates:
- (c) a submarine or other submersible.

### **91.3 Application**

- (1) Part 91 applies to all vessels in New Zealand waters and any person or class of person referred to in this Part.<sup>1</sup>
- (2) Unless a rule provides otherwise, navigation bylaws must not be inconsistent with or repugnant to Part 91, and must be interpreted subject to Part 91.<sup>2</sup>

*Rule 91.3 states the relationship between Part 91 and navigation bylaws. Rule 91.3(2) is derived from section 451(7) of the Maritime Transport Act.*

*Part 91 applies in all New Zealand waters. If navigation bylaws do not contain substantive provisions found in Part 91, Part 91 applies and will be enforced by the Director of Maritime Safety.*

---

<sup>1</sup> Unless the rule specifies to the contrary, this includes recreational and commercial vessels. Note New Zealand waters is defined in rule 91.2.

<sup>2</sup> This provision reflects the requirement in section 451(7) of the Maritime Transport Act 1994. Rules 91.6 and 91.16 provide for regional variation in navigation bylaws. Rule 91.18 does not apply in areas to which regional councils have jurisdiction.

*If bylaws contain provisions that are inconsistent with or repugnant to Part 91 then in any enforcement action, the bylaws must be interpreted subject to Part 91. Requirements dealing with matters not dealt with in Part 91 would not be considered inconsistent with Part 91. Requirements dealing with matters dealt with in Part 91 that set a different standard to that set in Part 91 will generally be considered inconsistent by the MSA.*

## ***Operating Requirements***

### **91.4 Personal Flotation Devices**

- (1) No person in charge of a recreational craft may use it unless there are on board at the time of use, and in a readily accessible location, sufficient personal flotation devices of an appropriate size for each person on board.
- (2) Rule 91.4(1) and (5) shall not apply to –
  - (a) any surfboard or similar unpowered craft; and
  - (b) any sailboarder or windsurfer, if a wetsuit is worn.
- (3) Rule 91.4(1) shall not apply in respect of any sporting event, training activity or ceremonial event if a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the recreational craft and the recreational craft or support vessel or both carry buoyancy aids of an appropriate size for each person on board the recreational craft.

In this rule buoyancy aid means –

- (a) a buoyancy aid that meets any standard in NZ standard 5823:2001; or
  - (b) a buoyancy aid that the Director is satisfied provides a level of safety equivalent to the standard prescribed in paragraph (a) and that provides a minimum of 53 newtons of buoyancy.
- (4) Rule 91.4(1) shall not apply in respect of any sporting event, training activity, ceremonial event, or other organised recreational activity if a harbourmaster with jurisdiction for the applicable region has granted an exemption in writing. A harbourmaster may grant an exemption for a specified period if the

harbourmaster is satisfied that adequate safety precautions are made for rescuing any person participating in the event or activity.

- (5) No person in charge of a recreational craft may use that craft in circumstances where tides, river flows, visibility, rough seas, adverse weather, emergencies or other situations cause danger or a risk to the safety of persons on board, unless every person on board is wearing a personal flotation device of an appropriate size for that person.

*This rule implements on a national basis navigation safety bylaw requirements that currently exist in some regions.*

*Comment is sought on the requirements to carry personal flotation devices, the circumstances in which they are required to be worn, the exemptions and the definition of personal flotation device (see rule 91.2).*

*MSA specifically invites comment on the proposed standard for personal flotation devices that requires personal flotation devices to be manufactured to the New Zealand Standard or an international or national standard that substantially complies with the New Zealand Standard. This standard would allow satisfactory imported PFDs to meet the requirements of the rule.*

*MSA considers the following criteria central to establishing substantial compliance with the New Zealand Standard:*

- *PFD must meet applicable NZS buoyancy requirement*
- *PFD must have markings for donning and limitation on use and instructions for storage and maintenance for the outer material*
- *PFD fittings must meet NZS*
- *PFD must be constructed under certified quality process*

### **91.5 Minimum age for operating powered vessels**

- (1) No person under the age of 15 years may propel or navigate a powered vessel that is capable of a proper speed exceeding 10 knots.
- (2) The owner of a powered vessel that is capable of a proper speed exceeding 10 knots must not allow any person who is under the age of 15 years to propel or navigate that vessel.

- (3) Rule 91.5(1) and (2) do not apply to any person who has a written exemption from a regional council issued in accordance with a navigation bylaw or from the Director.
- (4) The Director may issue an exemption, subject to such conditions as the Director considers necessary in the interest of maritime safety, that is valid for any specified place or places to a person under the age of 15 for training, competitions or other sporting events, if the Director –
  - (a) considers that the person –
    - (i) is competent to propel or navigate a powered vessel at a proper speed exceeding 10 knots; and
    - (ii) is aware of relevant navigation safety rules and navigation bylaws; and
    - (iii) will be under adequate supervision during the proposed activity or activities; and
  - (b) consults with the relevant regional council and notifies the council of the decision to issue the exemption.

*This rule introduces specific criteria which the Director must consider in issuing an exemption from the minimum age requirement. An exemption granted by a regional council harbourmaster under navigation safety bylaws is recognised as an exemption from this rule.*

#### **91.6 Speed of vessels**

- (1) No person may, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a proper speed exceeding 5 knots:
  - (a) within 50 metres of any other vessel, raft, or person in the water; or
  - (b) within 200 metres of the shore or of any structure; or
  - (c) within 200 metres of any vessel or raft that is flying Flag A of the International Code of Signals (divers flag).

*The proposed requirement in rule 91.6(1)(a) increases the distance to 50 m from the 30 m requirement in the Water Recreation Regulations 1979. The*

*proposed rule now applies to all ships, not just small craft, except as specified in rule 91.6(5).*

- (2) No person may propel or navigate a powered vessel at a proper speed exceeding 5 knots while any person is sitting at or on the fore part or bow of that vessel with any portion of their body extending over the fore part, bow, or side of that vessel.
- (3) No person may cause himself or herself to be towed by a vessel (whether or not on a water ski, aquaplane, or other similar object) at a proper speed exceeding 5 knots in any circumstances specified in rule 91.6(1).
- (4) No person in charge of a vessel may permit the vessel to continue onwards, after any person being towed by that vessel has dropped (whether accidentally or otherwise) any water ski or similar object which may cause danger to any other person or vessel, without first taking appropriate action to immediately recover that water ski or similar object.
- (5) Rule 91.6 shall not apply to:
  - (a) a vessel operating in an access lane or a reserved area unless any declaration or bylaw related to that access lane or reserved area requires compliance; or
  - (b) a vessel operating in accordance with a speed uplifting –
    - (i) established under rule 91.19; or
    - (ii) continued by rule 91.21; or
    - (ii) established for inland waters by navigation bylaw; or
  - (c) a vessel over 500 gross tonnage, if the vessel cannot be safely navigated in compliance with this clause; or
  - (d) a vessel solely powered by sail participating in a yacht race or training administered by a club affiliated to Yachting New Zealand in relation to any other vessel solely powered by sail participating in such an activity; or
  - (e) a craft training for or participating in competitive rowing; or
  - (f) a tug, pilot vessel, harbourmaster vessel or police vessel when the vessel's duties cannot be performed in compliance with this clause.

**91.7 Wake**

Subject to rule 91.6, every person who propels or navigates a recreational craft must do so at a speed that does not cause its wake to be a hazard to other vessels or persons.

*This proposed rule prohibits pleasure craft operating at speeds that cause wakes that are a hazard to other craft and persons. It gives notice that skippers must take account of the impact of their wake and adjust their speed accordingly.*

**91.8 Lookouts on vessel used for water skiing or towing any person**

- (1) No person in charge of a vessel may use it to tow any person unless at least one other person is on board who is responsible for immediately notifying the person in charge of every mishap that occurs to the person who is being towed.
- (2) No person may cause himself or herself to be towed by any vessel unless at least one other person is on board who is responsible for immediately notifying the person in charge of every mishap that occurs to the person who is being towed.
- (3) No person who is under the age of 10 years may act as the additional person required by rule 91.8(1) and (2).

**91.9 Water skiing or towing between sunset and sunrise**

- (1) No person may operate, between sunset and sunrise<sup>3</sup>, a vessel that is towing any person on water skis, an aquaplane, surfboard, or similar object, or who is barefoot skiing, or who is on a paraglider or similar object.
- (2) No person may cause himself or herself to be towed in the circumstances described in rule 91.9(1).

**91.10 Conduct in access lanes**

- (1) No person may propel, navigate, or manoeuvre a vessel in an access lane for the purpose for which it is declared except by the most direct route through the

---

<sup>3</sup> The times for sunset and sunrise can be found in the current edition of the New Zealand Nautical Almanac.

access lane and on that side of the access lane that lies to the starboard or right hand side of the vessel.

- (2) No person may –
  - (a) while being towed by a vessel in an access lane, cause himself or herself or any water ski, aquaplane or other similar object, on or by which he or she is being towed; or
  - (b) cause any object that is being towed by a vessel in an access lane;  
to travel other than by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right hand) side of the vessel.
- (3) No person within an access lane may proceed in a manner that is dangerous in relation to any vessel or other person in the access lane.
- (4) No person may obstruct any other person while that other person is using an access lane for the purpose for which it has been declared.
- (5) If one or more persons are using an access lane for the purpose for which it is declared, no person may enter, remain in or use the lane for any other purpose.

#### **91.11 Marking of access lanes**

Where an access lane is defined by bylaws, the applicable regional council must ensure that –

- (a) the access lane is demarcated on shore by orange posts with horizontal black bands; and<sup>4</sup>
- (b) an adequate sign or signs are provided in the vicinity of the access lane that declare the purpose of that lane.

#### **91.12 Reserved areas**

- (1) No person may obstruct any other person while that other person is using a reserved area for the purpose for which it is reserved.

---

<sup>4</sup> An access lane may in addition be marked with orange buoys with vertical black stripes.

- (2) If one or more persons are using a reserved area for the purpose for which it is reserved, no person may enter, remain in or use the area for any other purpose.
- (3) Where a reserved area is defined by bylaws, the regional council must ensure that adequate signs are provided in the vicinity of the area that –
  - (a) define the area; and
  - (b) declare the purpose for which the area has been reserved.

#### **91.13 Anchoring and mooring**

- (1) No person may anchor a vessel so as to –
  - (a) obstruct the passage of other vessels or obstruct the approach to any wharf, pier or jetty; or
  - (b) create a hazard to other vessels at anchor.
- (2) When a vessel is moored in a dock or alongside a wharf or other landing place, the owner or master must ensure that –
  - (a) the vessel is securely fastened to the dock, wharf or landing place; and
  - (b) an adequate and safe means of access to the vessel is provided, that is properly installed, secured, and adjusted to suit any tidal conditions.

#### **91.14 Damage to navigation aids**

- (1) No person may tie a vessel to any aid to navigation without the written permission of –
  - (a) if the aid to navigation is operated by a local authority or port company, the harbourmaster; or
  - (b) if the aid to navigation is operated by the Maritime Safety Authority, the Director.
- (2) No person may damage, remove, deface or otherwise interfere with an aid to navigation.



**91.15 Distance from oil tankers or other vessels showing flag B**

Where possible, the master of a vessel must not allow that vessel to approach within 200 metres of an oil tanker or a ship carrying explosives that is showing flag B by day or a red light by night.

**91.16 Duty of master of a vessel under 500 gross tonnage**

- (1) The master of a vessel under 500 gross tonnage must not impede the navigation of any vessel of 500 gross tonnage or more if the vessels are in an area defined for the purpose of this rule by bylaws.
- (2) If a regional council defines an area in bylaws for the purpose of rule 91.16(1), the council must inform Land Information New Zealand of the defined area so that it may be marked on any applicable nautical chart.

*The 500 ton rule will generally apply in existing prescribed harbour limits for each region.*

**91.17 River safety rules**

A person in charge of a vessel on a river must –

- (a) ensure that the vessel keeps to the right of the river channel; and
- (b) if going upstream, give way to any vessel coming downstream; and
- (c) not operate the vessel unless river and weather conditions permit safe operation of the vessel.

*This proposed rule implements long established and accepted rules for the safe navigation of rivers.*

## *Administration*

### **91.18 Temporary events**

- (1) Any person intending to conduct a race, speed trial, competition or other organised water activity in an area where navigation bylaws do not apply may apply to the Director –
  - (a) to temporarily suspend the application of any part of rule 91.6 during the conduct of the race, speed trial, competition or other organised water activity; and
  - (b) to temporarily reserve the area for the purpose of that activity.
- (2) If the Director is satisfied that an application may be granted without endangering the public, he or she may grant the application for a specified period or periods and subject to such conditions as he or she may specify in the interests of maritime safety.
- (3) No grant of an application under rule 91.18(2) shall have effect unless, not less than 7 days or more than 14 days before the commencement of the activity, the applicant publicly notifies the period of the activity and details of the suspension or reserved area.<sup>5</sup>

*This rule provides for the temporary uplifting of speed limits in areas not under the jurisdiction of regional council navigation safety bylaws. Informal consultation raised the issue of whether public consultation should be required in addition to public notification. MSA comments that consultation with affected persons may not be practical for temporary upliftings given that affected persons may not be easily contacted unless they belong to representative interest groups. Comment is sought on this issue.*

*MSA also seeks comment on the new power to reserve an area exclusively for the notified activity. In the past there has been no power to exclude the public from areas subject to a temporary uplifting.*

---

<sup>5</sup> Local Authority permits may also be required for land use associated with the temporary speed uplifting.

**91.19 Permanent speed upliftings**

- (1) A person may apply to have any speed limit prescribed in rule 91.6 or navigation bylaws uplifted from waters specified in the application –
  - (a) where navigation bylaws are in force, by application in writing to the appropriate regional council; and
  - (b) where navigation bylaws are not in force, by application in writing to the Director.
- (2) An application under rule 91.19(1) must not be granted unless the regional council or the Director, as applicable, is satisfied that –
  - (a) the application has been publicly notified; and
  - (b) affected persons have had reasonable opportunity to comment on the application; and
  - (c) the applicant has provided evidence of the consultation undertaken with affected persons and any navigation safety concerns arising from the consultation process; and
  - (d) uplifting the speed limit will not unacceptably increase the risk to navigation safety or endanger persons using the waters that are the subject of the application.
- (3) A regional council must consult with the Director before granting any application made under rule 91.19(1)(a) and must notify the Director when it grants such an application. Any application granted under rule 91.19(1) must be publicly notified and notified in the Gazette as soon as practicable after it is granted.

*This provision proposes a structured process for the permanent uplifting of speed restrictions. The object of the provision is to provide for uniformity of process nationally and to provide applicants an avenue of appeal on the basis of navigation safety issues.*

*Several regional councils have suggested that the uplifting process is out of date. Such councils consider the speed limit and any exemptions should be dealt with entirely at a local level through navigation bylaws and in conjunction with use and amenity considerations under the Resource Management Act. Comment is particularly sought on this issue.*

### **91.20 Appointment of Safe Boating Advisors**

- (1) The Director may appoint a person as a Safe Boating Advisor for the purpose of promoting safety awareness on recreational craft if the Director is satisfied that the person has –
  - (a) a boatmaster certificate issued by the Coastguard Boating Education Service or a qualification that the Director considers is equivalent to that certificate; and
  - (b) a minimum of 5 years recreational craft experience that is acceptable to the Director.
- (2) The Director may revoke the appointment of a person under rule 91.20(1) at will.

*Safe Boating Advisors are intended to replace MSA appointed Honorary Launch Wardens. The role of the Safe Boating Advisor is to promote safety awareness on recreational craft rather than any enforcement role for these rules.*

### **91.21 Savings**

- (1) Subject to any navigation bylaw or rule in a plan made under the Resource Management Act 1991, any access lane designated under regulation 10 of the Water Recreation Regulations 1979 that was in force on the day before Part 91 came into force is an access lane for the purposes of Part 91.
- (2) Subject to any navigation bylaw or rule in a plan made under the Resource Management Act 1991, any area reserved under regulation 18 of the Water Recreation Regulations 1979 that was in force on the day before Part 91 came into force is a reserved area for the purposes of Part 91.
- (3) Subject to any navigation bylaw or rule in a plan made under the Resource Management Act 1991, any area of inland waters which, on the date before Part 91 came into force was not subject to a speed limit of 5 knots by virtue of a notice in the Gazette made in accordance with regulation 20 of the Water Recreation Regulations 1979, is not subject to the speed limit specified in rule

91.6 and is subject to any conditions that were specified in the applicable Gazette notice.

*This provision will save access lanes, reserved areas and speed upliftings in any area not under the jurisdiction of the regional council.*

### ***Amendment to Part 22***

#### **Rule 22.3 Application**

Amend rule 22.3 by adding the following new paragraph (4):

- “(4) Nothing in this Part applies to a vessel participating in a race or training or coaching administered by a club affiliated to Yachting New Zealand in relation to other vessels participating in such an activity, if participants have undertaken to comply with rules different to those in this Part.

*This amendment to Part 22 is intended to clarify the legal position of yachts racing or training for races and complying with rules that differ from the Collision Prevention Rules in Part 22. Such yachts will not be in breach of Part 22 in respect of other yachts participating yacht races.*