



Ministry of **Transport**
TE MANATŪ WAKA

Maritime Transport Act 1994

Maritime Rules

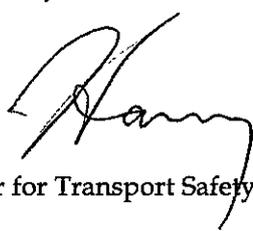
PART 91 AMENDMENT RULES 2007

Pursuant to sections 34 and 36 of the Maritime Transport Act 1994
I, Harry James Duynhoven, Minister for Transport Safety, hereby make the
following maritime rules.

Signed at Wellington

this *22nd* day of *May* 2007

by HARRY JAMES DUYNHOVEN



Minister for Transport Safety

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Part Objective

The objective of the Part 91 Amendment Rules 2007 is to require the International Code of Signal type “A” and “B” flags be at least 600 mm², provide clarification of the requirement on persons being towed to wear a personal flotation device, and to require vessels to keep as near to the starboard side of the river ‘as safe and practicable’.

Rules subject to Regulations (Disallowance) Act 1989

Maritime rules are subject to the Regulations (Disallowance) Act 1989. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rules.

The Regulations Review Committee is the select committee responsible for considering rules under the Regulations (Disallowance) Act 1989.

Extent of Consultation

On 20 May 2006, Maritime New Zealand published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the proposed Part 91 Amendment Rules 2007. A notice was also published in the *New Zealand Gazette* on 18 May 2006. The Authority then made its Invitation to Comment and draft Part 91 Amendment Rules 2007 available to the public with approximately 100 copies being sent automatically to interested parties. Comments on the draft Part were requested by 28 July 2006.

9 organisations and 4 individuals provided written submissions on the draft. All submissions and any oral comments were considered.

1 Entry into Force

These rules come into force on 28 June 2007.

2 Rule 91.2 Definitions

Rule 91.2 is amended –

- (a) by substituting for the definition of “Director of Maritime Safety” the following definition –
‘ “**Director**” means the Director of Maritime New Zealand appointed under section 439 of the Maritime Transport Act 1994’
- (b) by substituting for the definition of “Flag A” the following –
‘ “**Flag A**” means flag A of the International Code of Signals (the diver's flag) being a swallow tailed flag, or a rigid equivalent, coloured in white and blue with white to the mast, of not less than 600mm by 600mm;’
- (c) by substituting for the definition of “Flag B” the following –
‘ “**Flag B**” means flag B of the International Code of Signals being a swallow tailed flag, or a rigid equivalent, coloured in red, of not less than 600mm by 600mm;’
- (d) by deleting the definition of “Commercial vessel”.

3 Rule 91.3 Application

Rule 91.3(1) is amended by substituting for the words “New Zealand” the words “New Zealand waters”.

4 Rule 91.4 Personal Flotation Devices

Rule 91.4 is amended by substituting for subrule (8) the following –

- “(8) Rule 91.4(7) does not apply to –
- (a) persons training for any trick water skiing element of a sporting event administered by a national sporting organisation approved under rule 91.4(3); or
 - (b) persons participating in a sporting event that is administered by a national sporting organisation approved under rule 91.4(3); or
 - (c) towing at a speed of less than 5 knots.”

5 Rule 91.17 River Safety Rules

Rule 91.17 is amended by substituting for paragraph (a) the following –

- “(a) ensure that the vessel keeps as near to the starboard (right) side of the river channel as is safe and practicable; and”

Maritime Rules

PART 91

NAVIGATION SAFETY RULES

AMENDMENT 2007

Consultation Details

(This text does not form part of the rules contained in Part 91. It provides details of the consultation undertaken before making the rules.)

Summary of Consultation

13 organisations and individuals provided written submissions on the draft of Part 91 Amendment Rules 2007 –

Auckland Regional Council Deputy Harbourmaster, Bryan Murray, David Renouf, Environment Canterbury, Hawke's Bay Regional Council Harbourmaster, John Smallridge, Ken Bilyard, Marine Industry Association, Northland Regional Council Harbourmaster, Perano Subsea Technology, Scouting New Zealand, Speight's Coast to Coast, Waimarie Operating Trust

General

Bryan Murray agrees with the amendments.

John Smallridge made several comments on the amendments that were out with the scope of the proposed amendments. These comments will be kept on record for consideration at a later date.

Ken Bilyard agrees with the amendments.

Speight's Coast to Coast agree with the amendments.

The Auckland Regional Council Deputy Harbourmaster agrees with the amendments and have noted the changes in the re-write of their Navigation Safety Bylaws.

The Hawke's Bay Regional Council Harbourmaster agrees with the amendments.

The Marine Industry Association agree with the amendments

The Northland Regional Council Harbourmaster agrees with the amendments and comments that the amendments are consistent with the Council's continual improvement in navigation and safety on Northland's harbours and along the coastline.

The Waimarie Operating Trust made comments that are outside the scope of these amendments. These comments will be kept on record for consideration at a later date.

91.2 Definitions

John Smallridge comments that the flag a diving vessel displays should correspond to the size of the vessel. He also comments that a dive vessel should use blue and white flashing lights instead of a flag above the superstructure, giving a full 360 degree unbroken arch.

Maritime NZ response: Maritime New Zealand disagrees. The size chosen for the dive flag reflects the requirement of rules 91.18(3) and (4) that states a flag must be of a size that can be seen by a watchkeeper of a vessel that is at least 200 metres away. Flag 'A' is the international signal for vessels with divers and the use of flashing lights would cause confusion with the International Collision Prevention Regulations.

Perano Subsea Technology comments that they believe there is an international size for the alphabet flags already, which is 18 inches by 24 inches (460 mm by 600 mm) and that only the IMO has the authority to alter the size of the flags.

Maritime NZ response: Maritime New Zealand does not agree. Unlike day-shapes specified in the Convention on the International Regulations for Preventing Collisions at Sea, flags generally have no legal status. Specifying both the use of a flag and specifying its minimum size in a rule is acceptable and gives legal definition to the requirement.

Scouting New Zealand comments that the research into range of visibility of various sizes of divers flag (flag A) makes amending the minimum size to 600mm² valid. However provision should be included in the rules to provide a rigid support to cloth flags so that they remain 600mm² even in light winds although this is implied in Maritime Rules 91.18(3) and (4).

Maritime NZ response: As Scouting New Zealand mention, Part 91.18 (3) and (4) puts the responsibility on the diver and the Master of the vessel to ensure flag A is displayed in such a manner that it can be clearly identified by the watchkeeper of another vessel at a distance in excess of 200 metres. Along with this reason, Maritime New Zealand believes that providing rigid support to cloth flags is more of a practical requirement.

91.4(8) Personal Flotation Devices

David Renouf comments that it is too hard to judge the speed of 5 knots and that even at 5 knots there is a risk of an accident or drowning. He suggests that (c) be deleted and the rule left as it originally was to give simple enforcement with no complications.

Environment Canterbury comments that the proposed amendment would exempt persons being towed at a speed of less than 5 knots. Such an amendment would endanger young persons who are unable to make their own safety judgements when being towed on biscuit type devices. They would prefer the amendment is not proceeded with but as an alternative would accept an amendment along the lines of “towing of persons of 10 years of age or older at a speed of less than 5 knots”.

Perano Subsea Technology comments that it would not be wise to amend this rule for the following reasons –

- (a) persons training for any trick waterskiing often get into difficulty;
- (b) many juveniles that are towed on boards, etc. are very poor swimmers.

Therefore, irrespective of speed, the person(s) being towed should wear a life preserver.

Scouting New Zealand comments that inclusion of the exemption to wear PFDs when being towed at speeds of less than 5 knots will be difficult to administer and it is the opinion of the Scout Association that Maritime Rule 91.4(7) and 91.4(8) remain unchanged.

Maritime NZ response: Maritime New Zealand disagrees and points out that there is no requirement not to wear a PFD at under 5 knots and in all cases where there is an increased risk, PFDs must be worn.

The requirement for mandatory wearing of PFDs was fully scoped when Part 91 was introduced and the amendment permits them not to be worn only if being towed at slow speed and only if no increased risk is present.

Maritime New Zealand would also like to note that towing of a person or vessel can occur in a wide range of circumstances.

91.17 River Safety Rules

John Smallridge comments that keeping to the starboard side of a channel in rivers creates risk.

Maritime NZ response: Maritime New Zealand does not agree. The amendment has been made to incorporate the fact that it may not always be safe to travel on the starboard side of the river but users should stay as close as is practicable and safe. This does not conflict with the International Collision Prevention Rule.

Perano Subsea Technology agrees with the amendment.

Scouting New Zealand comments that the amendment of Maritime Rule 91.17 brings this rule into compliance with Maritime Rule 22.9(1) Narrow Channels and therefore the proposed amendment is supported.

The New Zealand Recreational Canoeing Association agrees with the amendment.