

# Rule Clarification –

## Shelter and Passenger Accommodation

Interim Technical Note (ITN-02-19)

June 2019

### General Purpose

Interim Technical Notes (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 application of the rule in relation to warm / waterproof clothing for non-passenger vessels operating within restricted limits.

### Application

This ITN aims to provide clarification on the application of Maritime Rule Part 40A.17 and 40C.16 to ensure consistency in the application of this rule for vessels carrying 12 or less passengers within the restricted limits, having regard to the area and season of operation.

### Background

- Maritime rule Part 40A.17 specifies the requirements of having shelter or warm / weatherproof clothing for certain MOSS Passenger vessels, having regard to the area and season of operation.

#### Maritime Rules Part 40A.17 Shelter

- 1) Except as provided in rule 40A.17(2), where a ship proceeds beyond enclosed water limits the ship must have spaces that provide shelter from the weather for the total number of passengers that the ship is certified to carry. Such sheltered spaces may be open at the after end in a ship that does not proceed beyond inshore limits.
- 2) A ship of 12 metres or less in length and carrying 12 passengers or less that is permitted to operate beyond enclosed water limits but not beyond a restricted coastal limit may, with the approval of a surveyor, be provided with suitable warm and weatherproof clothing for the total number of passengers that the ship is certified to carry in lieu of the shelter required by rule 40A.17(1), having regard to the area and season of operation.

- Maritime rule Part 40C.16 specifies the requirements of having shelter and passenger accommodation for certain MOSS non-passenger vessels.

**Maritime Rules Part 40C.16 Shelter and passenger accommodation**

- The owner of a ship must ensure that, where the ship proceeds beyond enclosed water limits, the ship has spaces that provide shelter from the weather for the total number of persons that may be carried. Such sheltered spaces may be open at the after end in ships that do not proceed beyond inshore limits.
- The owner of a ship that proceeds beyond restricted limits and carries 12 or less passengers must ensure that the ship complies with the applicable requirements of rules 40A.16 to 40A.21 inclusive of Part 40A of the maritime rules.

- Maritime Rule Part 40C.16 would appear to be silent in relation to warm / weatherproof clothing for non-passenger vessels operating within the restricted limits. This is highlighted in the diagram below:

		Beyond Enclosed	Beyond Inshore		
		Enclosed	Inshore	Restricted Coastal	
<b>Maritime Rule Part 40A</b>					
MR 40A.17(1)			Shelter for all Pax	(shelter permitted to be open at aft end permitted)	Fully enclosed shelter
(OR)					
MR 40A.17(2)	(<12m in length / <12 Pax)		Warm / Weatherproof Clothing for All Pax in lieu of shelter		
<b>Maritime Rule Part 40C</b>					
MR 40C.16(1)			Shelter for all Persons	(shelter permitted to be open at aft end permitted)	Fully enclosed shelter
MR 40C.16(2)	(All Lengths / <= 12 Pax)		(Rule is silent on warm / waterproof clothing within restricted limits) Vessels carrying 12 or less passengers need to comply with MR Part 40A as they are deemed to be passenger vessels as per the rule definition.		Rule requires compliance with MR Part 40A.16 to MR Part 40A.21 inclusive

## Clarification

- Maritime Rule Part 40C.16(2) refers to non-passenger vessels carrying 12 or less passengers and operating **beyond the restricted limits** and requires such vessels to comply with the applicable requirements of rules:
  - Maritime Rule Part 40A.16: Number of Passengers
  - Maritime Rule Part 40A.17: Shelter
  - Maritime Rule Part 40A.18: Seating
  - Maritime Rule Part 40A.19: Egress
  - Maritime Rule Part 40A.20: Headroom
  - Maritime Rule Part 40A.21: Toilet facilities

- The rule appears to be silent for vessels carrying 12 or less passengers within restricted limits. However, the definition of a “Passenger ship” in Maritime Rule Part 40C is:  
***passenger ship*** means—  
(a) for ships that do not proceed beyond restricted limits, a commercial ship that carries any passengers; and  
(b) for ships that proceed beyond restricted limits, a commercial ship that carries more than 12 passengers;
- For non-passenger vessels carrying 12 or less passengers, and operating **within the restricted limits** the use of suitable warm and weatherproof clothing for the total number of passengers the ship is certified to carry may be permitted in lieu of the shelter requirements as specified in Maritime Rule Part 40C.16(1), having regard to the area and season of operation. This also ensures consistency with the requirements of Maritime rule Part 40A.17.
- Hence a non-Passenger vessel (MR Part 40C) operating **within the restricted limits** and carrying even one passenger should be surveyed to MR 40A requirements in addition to the MR Part 40C requirements (dual certification).
- MNZ has published guidance material on its website clarifying the definition of a “Passenger”. This can be found at: <https://www.maritimenz.govt.nz/commercial/safety/safety-updates/people/passenger-definition.asp>

## Conclusion

- Non-passenger vessels carrying 12 or less passengers, and operating **within the restricted limits** are captured by the definition of “passenger ship” and hence the use of suitable warm and weather proof clothing for the total number of passengers the ship is certified to carry may be permitted in lieu of the shelter requirements as specified in Maritime Rule Part 40C.16(1), having regard to the area and season of operation.
- Given that the rule is silent with regards to shelter / warm waterproof clothing for non-passenger vessels when operating **within the restricted limits** as a non-passenger vessel, the surveyor is permitted to use their discretion in permitting warm / waterproof clothing for crew / persons on board.

## Reference Material(s)

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

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

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