



## THE WATER RECREATION REGULATIONS 1979

KEITH HOLYOAKE, Governor-General

### ORDER IN COUNCIL

At the Government Buildings at Wellington this 26th day of February 1979

Present:

THE RIGHT HON. R. D. MULDOON PRESIDING IN COUNCIL

PURSUANT to section 241A of the Harbours Act 1950, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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### REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Water Recreation Regulations 1979.

(2) These regulations shall come into force on the 1st day of April 1979.

**2. Interpretation**—In these regulations, unless the context otherwise requires,—

“Access lane” means an area that is designated as an access lane under regulation 10 of these regulations:

“Enforcement officer” means—

(a) A supervising officer; or

(b) An honorary launch warden; or

(c) An honorary officer appointed for the purposes of Part II of the Fisheries Act 1908 under section 9 (2) of the Fisheries Amendment Act 1959; or

(d) A ranger, as defined in section 2 of the Wildlife Act 1953; or

(e) A ranger appointed pursuant to section 27A (1) of the National Parks Act 1952:

“Mooring for a small craft” means a mooring that is suitable for use by a small craft:

“Proper speed” means speed through the water:

“Reserved area” means an area that is declared to be a reserved area under any of regulations 13, 15, and 18 of these regulations:

“Shore” includes, in relation to a river, any bank of the river:

“Small craft” means a vessel that is less than 30 metres in overall length, or a seaplane that is less than 30 metres in overall length and is on the water:

“Small motor craft” means any small craft that is propelled or driven otherwise than solely by oars, paddles, or the wind:

“Specified area” means a specified area of a harbour (as defined in section 241A (2) of the Harbours Act 1950) or a specified area of tidal water:

“Supervising officer” means—

(a) In relation to any area to which these regulations apply, where there is a harbourmaster for that area, the harbourmaster or his deputy; and

(b) In relation to any area to which these regulations apply, where there is no harbourmaster, an officer of the Ministry of Transport or other person who, in either case, is for the time being appointed by the Minister to discharge the duties of supervising officer under these regulations for that area.

**3. Honorary launch wardens**—(1) The Secretary for Transport may from time to time appoint persons to be honorary launch wardens for the purposes of these regulations.

(2) Any such appointment—

(a) May be made for such period as the Secretary for Transport specifies; and

(b) Notwithstanding paragraph (a) of this subclause, may at any time be revoked by him.

(3) The Secretary for Transport shall issue an identification warrant to each honorary launch warden.

**4. Powers of enforcement officers**—(1) Any enforcement officer may from time to time—

(a) Require any person who appears to be in charge of a small craft to stop that craft; and

(b) Require any person who appears to be in charge of a small craft, or any other person who is found committing an offence against these regulations, to supply his name and address to the enforcement officer; and

- (c) Require the owner of a small craft, on being informed of any offence against these regulations that is alleged to have been committed by any person in respect of that craft, and on being requested so to do by the enforcement officer, to give all information in the possession of the owner or obtainable by the owner that may lead to the identification of the person by whom the offence is alleged to have been committed; and
- (d) Require any person appearing to be in charge of a surfboard that is alleged to have been used in a manner that is dangerous to any other person, to give his name and address to the enforcement officer; and
- (e) Require the owner or the person appearing to be in charge of a small craft or raft that is anchored or moored in such a position as to—
  - (i) Interfere unduly with; or
  - (ii) Constitute a danger to—  
navigation to remove the craft or raft, or adequately mark or light it.

(2) Every person commits an offence against these regulations who, being required by an enforcement officer under subclause (1) of this regulation to do any thing, fails to comply with that requirement as soon as is reasonably possible.

**5. Excessive noise—**(1) No person shall propel or navigate a small motor craft, the engine of which causes excessive noise by reason of—

- (a) The lack of a silencing device; or
- (b) The disrepair of the engine; or
- (c) The construction or condition of any part of the craft or its machinery.

(2) No person shall cause excessive noise by accelerating or racing the engine of a small motor craft while the craft is stationary.

**6. Minimum age for small motor craft operators—**(1) No person who is under the age of 15 years shall propel or navigate a small motor craft that is capable of a proper speed exceeding 10 knots.

(2) Subclause (1) of this regulation shall not apply to a person to the extent that he is for the time being exempted in writing from that subclause by the Secretary for Transport.

(3) Nothing in this regulation authorises a person to propel or navigate a small motor craft in contravention of any requirement in any other enactment.

**7. Speed of small craft—**(1) No person shall propel or navigate a small craft at a proper speed exceeding 5 knots—

- (a) Within 30 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.

(2) Every person who propels or navigates a small craft shall, as far as is practicable, do so at such a speed so that waves caused by the movement of the craft through the water do not break against the shore or against any structure.

(3) No person shall propel or navigate a small motor craft at a proper speed exceeding 5 knots while any person is sitting at or on the fore part or bow of that craft with any portion of his body extending over the fore part, bow, or side of that small craft.

**8. Speed limits for water skiing—**(1) No person in charge of a small motor craft shall use it or allow it to be used so that any water ski, aquaplane, or other similar object, or person towed by the craft is towed, propelled, navigated, or manoeuvred, at a proper speed exceeding 5 knots—

- (a) Within 30 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 flying Flag A of the International Code of Signals.

(2) No person shall cause or allow himself to be towed by a small motor craft (whether or not on a water ski, aquaplane, or other similar object) at a proper speed exceeding 5 knots in any circumstances specified in any of paragraphs (a) to (c) of subclause (1) of this regulation.

**9. Lookouts on craft used for water skiing—**(1) No person in charge of a small motor craft shall use it or allow it to be used to tow any person (whether or not on a water ski, aquaplane, or other similar object) unless there is on the craft, in addition to the person in charge, at least one person 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 shall cause or allow himself to be towed by or from any small motor craft (whether or not on a water ski, aquaplane, or other similar object) unless there is on the craft, in addition to the person in charge of it, at least one other person who is responsible for immediately notifying the person in charge of every mishap that occurs to the person who is being towed.

**10. Access lanes—**(1) The Minister may from time to time, by notice in the *Gazette*, designate any specified area that is within 200 metres of the shore as an access lane for any specified purpose.

(2) A designation under this regulation may be made on such conditions, and for such period or periods, as the Minister may specify in the notice.

(3) Regulations 7 and 8 of these regulations (which impose speed restrictions) shall not apply within any access lane.

**11. Conduct in access lanes—**(1) No person shall in any access lane propel, navigate, or manoeuvre a small motor craft except by the most direct route through the access lane and on that side of the access lane that lies to the starboard or right hand side of the craft.

(2) No person shall—

- (a) While being towed by a small motor craft in any access lane, cause himself or any water ski, aquaplane or other object, on or by which he is being towed; or

(b) Cause any object that is being towed by a small motor craft in any 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 or right hand side of the craft.

(3) No person within an access lane shall proceed in any manner that is dangerous in relation to any vessel or other person in the access lane.

**12. Marking of access lanes—**(1) Every access lane shall be indicated by notice boards that are prominently displayed in the vicinity of the access lane, and shall be demarcated by orange posts with horizontal black bands.

(2) An access lane may also be marked with orange buoys with vertical black stripes.

**13. Reserved areas for surfboards—**(1) The Minister may from time to time, by notice in the *Gazette*, reserve any specified area for the use of surfboards.

(2) A reservation under this regulation may be made on such conditions, and for such period or periods, as the Minister may specify in the notice.

(3) Every area that is reserved under this regulation shall be indicated by notice boards that are prominently displayed on the land at the ends of the area.

**14. Use of surfboards—**No person shall use a surfboard in any manner that is dangerous in relation to any other person.

**15. Reserved areas for moorings—**(1) The Minister may from time to time, by notice in the *Gazette*, reserve any specified part of any specified area for the laying of moorings for small craft.

(2) A reservation under this regulation may be made on such conditions, and for such period or periods, as the Minister may specify in the notice.

(3) Where any part of a specified area is reserved under this regulation for the laying of moorings, the supervising officer shall maintain in a convenient place in his office, so as to be available for inspection by members of the public free of charge during normal working hours, a plan showing—

(a) The specified area; and

(b) The part of the area that is reserved under this regulation.

**16. Moorings to be laid only in reserved areas—**Where any specified part of a specified area has been reserved under regulation 15 of these regulations for the laying of moorings, no person shall lay or place any mooring for a small craft within the specified area, except in the part so specified.

**17. Removal of moorings—**(1) Where—

(a) Any mooring for a small craft is laid or placed in such a manner that the Secretary for Transport considers it to be a danger to navigation, or to cause overcrowding or to interfere unduly with the public enjoyment of any area of water; or

- (b) The Secretary for Transport is of the opinion that any such mooring is not being used regularly or maintained properly; or
- (c) Any such mooring is laid or placed in contravention of regulation 16 of these regulations—

the Secretary for Transport may serve a notice on the owner of the mooring requiring him to remove it forthwith.

(2) Where a notice that has been served under subclause (1) of this regulation on the owner of a mooring is not complied with, any supervising officer may at any time after the expiry of the period of 3 months following the date of service cause the mooring to be removed.

(3) Notwithstanding subclause (2) of this regulation, where the Secretary for Transport is satisfied after reasonable inquiries that the owner of the mooring cannot be traced or served with a notice under this regulation, the Secretary for Transport may direct any supervising officer to remove the mooring forthwith.

(4) Notwithstanding subclause (1) or subclause (2) of this regulation, where the Secretary for Transport is of the opinion that, because it is a danger to navigation or causes overcrowding, a mooring ought to be removed immediately, he may direct any supervising officer to remove the mooring forthwith.

(5) Where the Secretary for Transport directs a supervising officer to remove a mooring under subclause (4) of this regulation, the supervising officer shall notify the owner as soon as practicable after the removal of the mooring that it has been so removed.

**18. Reserved areas for other activities—**(1) The Minister may from time to time, by notice in the *Gazette*, reserve any specified area for any purpose specified in the notice (being a purpose specified in section 241A of the Act other than a purpose specified in any of regulations 13 and 15 of these regulations).

(2) A reservation under this regulation may be made on such conditions, and for such period or periods, as the Minister may specify in the notice.

(3) Every reserved area under this regulation shall be indicated by notice boards that are prominently displayed in the vicinity of the area.

(4) If any such reservation is for the purpose of allowing small craft, or small craft towing water skis, aquaplanes, or other similar objects, to travel at a proper speed exceeding 5 knots, regulations 7 and 8 of these regulations (which impose speed restrictions) shall not apply within the reserved area.

**19. General restrictions on use of access lanes and reserved areas—**(1) No person shall do any act or make any omission in an access lane or reserved area, in contravention of any condition specified under these regulations by the Minister in respect of that area.

(2) No person shall obstruct or impede any other person while that other person is using an access lane or reserved area for the purpose for which it has been reserved under these regulations.

(3) No person shall enter, remain in, or use an access lane or reserved area for any purpose other than a purpose for which the lane or area is designated or reserved (as the case may be) under these regulations.

(4) The restriction specified in subclause (3) of this regulation shall not apply where—

- (a) The access lane or reserved area is not being used by any person for any purpose for which it is designated or reserved; and
- (b) No condition has been specified by the Minister under these regulations prohibiting the use of the access lane or reserved area for any purpose other than a purpose for which it is designated or reserved.

**20. Modification of regulations in special circumstances—**(1) Where, in the opinion of the Minister, special circumstances justify his doing so, he may in any particular case from time to time by notice in the *Gazette* declare—

- (a) That any provisions of these regulations that are specified in the notice shall not apply to small craft generally or to any specified class of small craft; or
- (b) That any such provisions shall apply with such modifications as he may specify in the notice to small craft generally or to any specified class of small craft.

(2) A notice under this regulation may impose such conditions, and have effect for such period or periods, as the Minister may specify in the notice.

(3) Every notice published under this regulation shall have effect according to its tenor.

(4) Notwithstanding any other provision of this regulation, no person who is permitted by any such provision to propel or navigate a small craft at a proper speed exceeding 5 knots shall do so in any manner that is likely to endanger or unduly annoy any person who is—

- (a) On, in, or using the water; or
- (b) Fishing or undertaking any recreational activity in the vicinity of the small craft.

**21. Suspension of regulations—**(1) Any person who desires to conduct a race, speed trial, or competition in any area to which these regulations apply may apply to the supervising officer for that area to suspend the application of these regulations in that area during the conduct of the race, speed trial, or competition.

(2) Where the supervising officer is satisfied, on considering an application under this regulation, that the suspension to which the application relates may be granted without endangering the public, he may grant the application accordingly, for such period as he shall specify and on such conditions (if any) as he may specify.

(3) Every grant of an application under this regulation shall, subject to subclause (4) of this regulation, have effect according to its tenor.

(4) No grant of a suspension under these regulations shall have effect unless, not less than 7 days nor more than 14 days before the commencement of the period during which the suspension is to apply, the applicant causes a notice specifying the period of the suspension and the area to which it relates to be published in a newspaper circulating in the district in which that area is situated.

**22. Offences**—(1) Every person commits an offence against these regulations, and is liable on summary conviction to a fine not exceeding \$1,000, who contravenes any provision of regulations 5 to 11, 14, and 16 of these regulations.

(2) Notwithstanding subclause (1) of this regulation, no enforcement officer shall be guilty of an offence under these regulations by reason only of the fact that he does any act in contravention of these regulations, if—

(a) He does the act in the reasonable belief that it is necessary in order to enable him to carry out any of his duties under these regulations; and

(b) He has due regard, while doing the act, to the safety of every person and vessel within his vicinity.

(3) Notwithstanding subclause (1) of this regulation, in any proceedings for an offence against these regulations it shall be a defence to the charge if the person charged proves that any act or omission that is an ingredient of the offence was committed or made because of stress of weather, or for the safety of navigation in an emergency.

**23. Revocation and savings**—(1) The Motor Launch Regulations 1962\* are hereby revoked.

(2) Notwithstanding subclause (1) of this regulation, every notice published under the Motor Launch Regulations 1962 that is in force immediately before the commencement of these regulations shall continue in force according to its tenor until it is revoked.

P. G. MILLEN,

Clerk of the Executive Council.

\*S.R. 1962/180

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#### EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which replace the Motor Launch Regulations 1962, regulate water recreation in harbours and tidal waters not within the jurisdiction of Harbour Boards.

They provide for the following matters:

- (a) The appointment of enforcement officers;
- (b) The control of excessive noise by small motor craft;
- (c) Age limits for operating small motor craft;
- (d) Speed restrictions on small craft;
- (e) Safety measures in respect of water skiing;
- (f) The reservation of areas of water for surfboards, moorings, and other purposes;
- (g) The modification or suspension of the regulations in special circumstances or on special occasions.

The regulations will come into force on 1 April 1979.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 1 March 1979.

These regulations are administered in the Ministry of Transport.