

# DRAFT FOR CONSULTATION

## **Life Jackets for Children and Young Persons Bill**

Member's Bill

### **Explanatory note**

#### **General policy statement**

New Zealand has a high fatal drowning rate compared to other Western nations. For the last decade, the drowning rate has been 1.7 per 100,000 of population and in 2020 is 1.62. Far greater than Australia's 1.1 and Canada's 1.3 per 100,000. Analysis from Water Safety New Zealand shows that in the 161 boating fatalities between 2011 and 2020, life jackets were carried but not worn in 40 and unavailable in 59.

Life jacket wearing rates have increased markedly in recent years. However, many boat users still do not wear life jackets regularly. Consequently, fatalities that could have been avoided on our waters continue to occur. Analysis of boating accidents shows that capsizes and other events are often unexpected, and boat users have little or no opportunity to put on their life jackets. To reduce the risk for children and young persons under 15 years, it is necessary to make fundamental changes to rules 91.2 to 91.4 of the Maritime Rules, which govern the circumstances in which life jackets must be worn on recreational craft.

This Bill provides that recreational craft of 6 metres or less cannot be used unless every person on board under the age of 15 years wears a life jacket. This is a significant departure from the existing regime, which largely leaves the wearing of life jackets to the skipper's discretion and those on board. The current exceptions in the Maritime Rules - for surfboards, sailboards, and windsurfers provided a wet suit is worn, supervised water sports events, and commercial rafting - are all preserved. The amendment applies everywhere in New Zealand waters, regardless of local navigation bylaws.

The term "personal flotation device" is replaced by the more contemporary term "life jacket". Consultation draft Ensuring no loophole for craft with hulls less than 6 metres in length To ensure that the amendment applies to craft that are, in reality, 6 metres or less in length, waterline length is to be used in place of overall length. This means that bowsprits, prods, and similar appendages associated with small craft,

which do not increase seaworthiness in the same way as additional hull size, cannot be used as a loophole. The extra length provided by an outboard motor does not count for the same reason.

### Clause by clause analysis

*Clause 1* gives the Bill's Title.

*Clause 2* states the commencement date.

*Clause 3* identifies Part 91 of the Maritime Rules as the Rules being amended by the Bill (the **principal Rules**).

*Clause 4* amends the rule in Part 91 of the Maritime Rules containing defined terms. A definition of **life jacket** is inserted and the definition of **personal flotation device** is deleted. A definition of **waterline length** is inserted.

*Clause 5* amends the rule in Part 91 of the Maritime Rules specifying requirements for the use of life jackets.

*Cameron Brewer*

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### **The Parliament of New Zealand enacts as follows:**

#### **1 Title**

This Act is the Life Jackets for Children and Young Persons Act **2022**.

#### **2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

#### **3 Principal Rules**

This Act amends Part 91 of the Maritime Rules (the **principal Rules**), which were made under section 36 of the Maritime Transport Act 1994.

#### **4 Rule 91.2 amended (Definitions)**

- (1) In rule 91.2, insert in its appropriate alphabetical order:

**life jacket** means a buoyancy aid that —

- (a) is designed to be worn on the body; and
- (b) is certified by a recognised authority as meeting—

- (i) type 401, 402, 403, 404, 405, or 408 in NZ Standard 5823:1989; or
    - (ii) type 401, 402, 403, 404, 405, or 408 in NZ Standard 5823:2001; or
    - (iii) type 401, 402, 403, 404, 405, or 406 in NZ Standard 5823:2005; or
    - (iv) a national or international standard whose application is considered by the Director to have substantially the same effect as the application of any of **subparagraphs (i) to (iii)**; and
  - (c) is serviceable:
  - (2) In rule 91.2, delete the definition of **personal flotation device**.
  - (3) In rule 91.2, replace the definition of **recognised authority** with:
 

**recognised authority** means an authority that the Director considers is competent to certify a life jacket's compliance with a standard:
  - (4) In rule 91.2, in the definition of **vessel**, replace “.” with “:”.
  - (5) In rule 91.2, after the definition of **vessel**, insert:
 

**waterline length** means the horizontal distance between the most forward and the most aft points on a vessel's hull, measured—

    - (a) at the vessel's waterline; and
    - (b) without including the vessel's outboard motor, if it has one; and
    - (c) when the vessel has no persons on board; and
    - (d) when the vessel is stationary; and
    - (e) when the vessel is not affected by the wind.
- 5 Rule 91.4 amended (Personal flotation devices)**
- (1) Replace the heading to rule 91.4 with “**Life jackets**”.
  - (2) Replace 91.4(1) with:
    - (1) No person in charge of a recreational craft of over 6 m in waterline length may use it unless, at the time of use, life jackets are on board—
      - (a) in numbers sufficient for each person on board; and
      - (b) in sizes appropriate for each person on board; and
      - (c) in a location readily accessible by each person on board.
    - (1A) No person in charge of a recreational craft of 6 m or less in waterline length may use it unless, at the time of use,—
      - (a) each person on board under the age of 15 years wears a life jacket in a size appropriate for him or her; and
      - (b) each person on board of or over the age of 15 years has available to him or her a life jacket—

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| (i)  | in a size appropriate for him or her; and       |
| (ii) | in a location readily accessible by him or her. |
- (3) In rule 91.4(2), replace “Rule 91.4(1) and” with “Rule 91.4(1), **(1A)**, and”.
  - (4) In rule 91.4(2)(e), replace “personal flotation device” with “life jacket”.
  - (5) In rule 91.4(3), replace “personal flotation devices” with “life jackets”.
  - (6) In rule 91.4(4), replace “rule 91.4(1)” with “rule 91.4(1) **and (1A)**”.
  - (7) In rule 91.4(4), replace “personal flotation devices” with “life jackets”.
  - (8) In rule 91.4(5), replace “Rule 91.4(1) and” with “Rule 91.4(1), **(1A)**, and”.
  - (9) In rule 91.4(6), replace “personal flotation device” with “life jacket”.
  - (10) In rule 91.4(7), replace “personal flotation device” with “life jacket”.
  - (11) In rule 91.4(9), replace “personal flotation device” with “life jacket”.
  - (12) In rule 91.4(9)(a), replace “device” with “life jacket”.