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Crackdown on Reckless Jet Ski Drivers



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Fines and imprisonment for reckless jet ski drivers: we take a look at the changes under the Merchant Shipping (Watercraft) Order 2023.

Spurred by a surge in the popularity of watercraft, such as jet skis, during the pandemic, the government has taken steps to crack down on their misuse.

The Merchant Shipping (Watercraft) Order 2023 (the Order) was put before parliament on 18 January 2023 and will come into force on 31 March 2023. The Order seeks to extend the scope of existing maritime legislation, namely the Merchant Shipping Act 1995 (the 1995 Act) and the Harbours Act 1964.

Under the existing legislation, the definition of a “ship” did not, until now, include personal watercraft (PWCs) as following the infamous case of *R v Goodwin* [2006], PWCs were not deemed to be vessels “used in navigation”. This has made it particularly difficult for harbour authorities and the Maritime and Coastguard Agency to take action against anti-social or dangerous use of PWCs (other than for offences such as speeding, which are covered in harbour byelaws).

The Order will see a change to the definition and scope of the current legislation and now includes the following definition of “watercraft”:

“any type of craft which –

- *is capable of moving under its own power*
- *is used, navigated or situated wholly or partly in or on water, and*
- *is capable or being used to carry one or more persons”*

PWCs will therefore be captured within the new definition of “watercraft”, which is incorporated into the 1995 Act and the Harbours Act 1964. This means that, amongst other things, the following provisions and regulations will apply to all PWCs in UK waters as of 31 March 2023:

- It will be an offence for a PWC to be operated in such a way that endangers other watercraft, ships, structures or individuals (see Section 58 of the 1995 Act). This will include individuals under the excessive influence of alcohol when operating a PWC.
- The 1995 Act is further extended and will render owners liable for the unsafe operation of a personal watercraft (see section 100 of the 1995 Act).
- The Order introduces the power to detain PWCs in the same way a ship can be detained pursuant to the 1995 Act.
- Health and safety requirements that would otherwise apply to ships pursuant to the 1995 Act will now also apply to PWCs.

When the Order comes into force, reckless use of PWCs could result in imprisonment of up to two years and an unlimited fine.

Overall, the Order is a positive step in the right direction in ensuring the safety of all water users, although there is still further work to be done. The Order notably excludes kayaks, paddle boards and any other watercraft that is not capable of moving under its own power.

Advice on the Merchant Shipping (Watercraft) Order 2023

If you would like advice on how the Order might affect you, please contact LA Marine by emailing online.enquiries@la-law.com.