



Shipping: jet skis

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This note explains the law governing the use of jet skis.

Wet bikes or personal watercraft (PWC) is the technical description of what are often colloquially known as jet skis. "Jet ski" is the trade name for one particular brand of motorised personal watercraft manufactured by Kawasaki.

Jet skis are not covered by the same legislation as small boats taking passengers as there is a legal precedent for saying that jet skis are not boats. That was, however, challenged by the outcome of a 2005 court case which prompted a change in guidance and a consultation on changes to legislation. The view of successive UK governments has generally been that it is the responsibility of local authorities and harbour authorities to regulate personal watercraft using local bye-law powers.

Information on other shipping and ports-related matters can be found on the [Shipping Topical Issues](#) page of the Parliament website.

Contents

1	Local bye-laws	2
2	Government initiatives pre-Goodwin	3
3	The Goodwin case and its aftermath, 2005-	5

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1 Local bye-laws

There are no national regulations governing the ownership and use of recreational craft in inshore waters as there is a common law right of navigation permitting people to sail a vessel wherever they like in tidal waters.

The common law right can be circumscribed if specific powers are taken. Harbour authorities are statutory bodies and can make bye-laws.¹ One of the problems is that even if bye-laws are in place, it is often costly to bring about a prosecution. Once the craft are outside the harbour the responsibility lies with the local authority. For example, local authorities in England and Wales have powers to make bye-laws regulating (though not banning) the use of "seaside pleasure boats" under section 76 of the *Public Health Act 1961*, as amended. These powers could be used to regulate speed boats and to require the use of silencers:

76 Byelaws as to seaside pleasure boats

- (1) For the prevention of danger, obstruction or annoyance to persons bathing in the sea or using the seashore, a local authority may make byelaws—
 - (a) regulating the speed of pleasure boats;
 - (b) regulating the use of pleasure boats so as to prevent their navigation in a dangerous manner or without due care and attention or without reasonable consideration for other persons;
 - (c) requiring the use of effectual silencers on pleasure boats propelled by internal combustion engines.
- (2) The Secretary of State shall be the confirming authority as respects byelaws made under this section.
- (3) . . .
- (4) Any byelaw made under this section shall be of no effect if and in so far as it is inconsistent with any byelaw made by any dock undertakers or by any person authorised by any enactment or statutory order to construct or operate a pier.

Local authorities may also make bye-laws banning vessels from areas reserved for bathing at certain times under section 231(1)(f) of the *Public Health Act 1936*, as amended:

231 Byelaws with respect to public bathing

- (1) A local authority may make byelaws with respect to public bathing, and may by such byelaws—
 - (a) regulate the areas in which, and the hours during which, public bathing shall be permitted;
 - [(aa) prohibit or restrict public bathing at times when and places as respects which warning is given, by the display of flags or by other means specified in the byelaws, that bathing is dangerous;]
 - (b) fix the places at which *bathing-machines may be stationed*, or bathing huts or tents may be erected;

¹ more information about harbour authorities can be found in HC Library standard note [SN/BT/4089](#)

- (c) regulate the manner in which *bathing-machines*, huts or tents may be used, and the charges which may be made for the use thereof;
 - (d) *regulate, so far as decency requires, the costumes to be worn by bathers;*
 - (e) require persons providing accommodation for bathing to provide and maintain life-saving appliances, or other means of protecting bathers from danger; and
 - (f) regulate, for preventing danger to bathers, the navigation of vessels used for pleasure purposes within any area allotted for public bathing during the hours allowed for bathing.
- (2) If and so far as a byelaw made under the preceding subsection is inconsistent with a byelaw made by dock undertakers, the latter shall prevail.

Section 235 of the *Local Government Act 1972*, as amended, also allows district and borough councils to make bye-laws for the regulation and suppression of 'nuisances' where no other powers are available:

235 Power of councils to make byelaws for good rule and government and suppression of nuisances

- (1) The council of a district [the council of a principal area in Wales] and the council of a London borough may make byelaws for the good rule and government of the whole or any part of the district [principal area] or borough, as the case may be, and for the prevention and suppression of nuisances therein.
- (2) The confirming authority in relation to byelaws made under this section shall be the Secretary of State.
- (3) Byelaws shall not be made under this section for any purpose as respects any area if provision for that purpose as respects that area is made by, or is or may be made under, any other enactment.

As a result, some local authorities have addressed the problems of jet skis through the segregation of activities in their waters (e.g. Dorset), which require registration of PWCs and the payment of a fee.²

2 Government initiatives pre-Goodwin

Much of the existing legislation is couched in terms of "craft" or "vessels" and before 2005 there was a legal precedent for saying that personal watercraft were not boats. In *Steedman v Scofield* [1992] 2 Lloyds Rep 163, Sheen J sitting in the Queen's Bench Division, Admiralty Court held that a Kawasaki Jet Ski was not within the meaning of a "vessel used in navigation", on the ground that it was neither a 'vessel', nor was it 'used in navigation'. Jet skis are therefore not covered by the relevant merchant shipping legislation as this applies only to ships.³

² by way of an example, [details of the scheme in place at Christchurch](#) in Dorset are available to view on the internet

³ [HL Deb 12 July 1999, c3](#); the Isle of Man legislated to include PWCs within a legal definition of 'craft in 1996; section 20 of the [Merchant Shipping \(Miscellaneous Provisions\) Act 1996](#) states: ""craft" means every description of craft or vessel (whether with or without means of propulsion of any kind), and includes anything constructed or used to carry persons by water;""

In December 1996 the then Conservative Government published a discussion document that identified coastal recreation management as a major issue.⁴ This was followed, in February 1997, by a consultative document from the [Maritime and Coastguard Agency \(MCA\)](#). *Non-legislative measures for the improved safety of non-regulated pleasure vessels* was intended to promote debate and draw together views from a wide range of authorities, organisations and bodies about the ways in which incidents could be reduced.⁵

The new Labour Government said in 1998 that it intended to amend the [Merchant Shipping Act 1995](#) “when Parliamentary time allows” in order that specified legislation such as the implementing regulations for the [Convention on the International Regulations for Preventing Collisions at Sea, 1972](#) (COLREGS) could be applied to jet skis. Recreational sailing and motor boats are subject to these regulations and to comply, vessels must be navigated in a safe and responsible manner. Contravention of COLREGS is a criminal offence.⁶

The then Department for the Environment, Transport and the Regions (DETR) consulted on possible improvements to the control of personal watercraft and other non-regulated pleasure vessels and in October 1998 the then Transport Minister, Glenda Jackson, published the report of the inter-Departmental working party on bye-law powers for coastal waters.⁷ Ms Jackson explained how the Government intended to proceed in a statement to the House in November:

... the MCA will develop a Code of Conduct for all types of recreational craft, including personal watercraft (for example "Jet skis") which will cover best and safe practice together with a voluntary registration and identification scheme. The Code will be developed by the Sea Safety Liaison Group which, in addition to the MCA, comprises representatives of the Royal National Lifeboat Institution, Royal Yachting Association, Royal Life Saving Society UK and the British Marine Industries Federation, and will be subject to external consultation before being launched next summer.

The third strand of the Government's strategy is a long term commitment to primary legislation to enable local authorities to have better control, through bye-laws, of their coastal waters. This commitment follows acceptance of the recommendations of the review of coastal bye-laws by an Inter-Departmental working party led by the Countryside Division of my Department. Following extensive consultation, the working party recommended that:

- a) that local authority powers need to be consolidated in one place, and updated;
- b) any powers must include the ability to provide exclusive bathing zones where all type of craft, powered and non-powered, can be excluded;
- c) local authorities should be given more general bye-law powers (with safeguards to prevent indiscriminate use) to regulate activities affecting the wider environment, and;
- d) any extension of, or amendment to, bye-law powers should not conflict or overlap with powers held by other authorities.

⁴ Department of the Environment, *Bye-law powers for the coast - a discussion paper*, December 1996; a parallel document was issued for consultation in Wales in February 1997

⁵ [HC Deb 27 June 1997, c674W](#)

⁶ [HC Deb 7 November 2001 c 294W](#); COLREGS are enforced in the UK under the *Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996* ([SI 1996/75](#))

⁷ DETR, *Review of bye-law powers for the coast*, October 1998

Having consulted ministerial colleagues, I have decided to accept these recommendations. The Government intends to pursue the primary legislation needed to bring them into effect in due course.⁸

The necessary powers were included in what is now section 112 of the *Railways and Transport Safety Act 2003*. They enable the Secretary of State to “provide for a shipping provision to apply (with or without modification) in relation to specified things which are used, navigated or situated wholly or partly in or on water”. This could include, for example, COLREGS. However, no relevant orders have as yet been made under this section of the Act.⁹

The Government issued guidance to harbour operators in March 2002 which included advice on managing recreational navigation.¹⁰ A *Voluntary code of practice for leisure users*, distributed to individual PWC owners in 2000, specified that persons aged between 12 and 16 should be directly supervised by an adult and persons under 12 should not be allowed to use personal watercraft.

3 The Goodwin case and its aftermath, 2005-

The case of *R v Goodwin* may have ramifications for PWC owners in the future.¹¹ Newcastle Law School gives the following summary of how the case progressed:

In May 2004 Mark Goodwin was on the sea in Weymouth Bay within the Port of Weymouth riding his Yamaha Waverunner, a type of PWC. He was involved in a collision with another stationary PWC causing serious injury to its rider. In July 2005 he was indicted before Salisbury Crown Court on a single count of doing an act which caused or was likely to cause serious injury, contrary to section 58(2)(a) of the Merchant Shipping Act 1995.

The s.58 offence applies to the master of, or any seaman employed in, a United Kingdom ship, and is committed if such a person while on board his ship or in its immediate vicinity—

(a) does any act which causes or is likely to cause--

....

(iii) the death of or serious injury to any person,

The only defence offered at the trial was that the Waverunner PWC was not a “ship” for the purposes of s.58. Mr Recorder A Davies QC, sitting in the Crown Court at Salisbury ruled the Waverunner was within the statutory definition of “ship” in the Merchant Shipping Act 1995. The defendant changed his plea to guilty, and was later sentenced to six months imprisonment, but released on bail pending appeal against conviction and sentence.

In December 2005 his appeal was allowed. The Court of Appeal refused leave to appeal to the House of Lords but certified the following questions of law of general public importance were involved in its decision: (i) whether the Waverunner was a 'ship' within the meaning of s 58 of the Merchant Shipping Act 1995; (ii) whether the Waverunner craft was a 'seagoing ship' within the meaning of reg 4 of the Merchant

⁸ [HC Deb 16 November 1998, c333W](#)

⁹ the only Order made to date is to do with pollution from drilling rigs and other platforms, see: [SI 2005/74](#)

¹⁰ DfT, *A guide to good practice on port marine operations*, March 2002, section 7.8

¹¹ *R v. Goodwin*, 7 December 2005 [Case No: 2005/03970 B3]

Shipping Act 1970 (Unregistered Ships) Regulations 1991 (SI 1991/1366); and (iii) whether reg 4 applies only to masters employed in a seagoing ship. In March 2006 the prosecution's petition for leave to appeal to the House of Lords was refused.¹²

The Maritime and Coastguard Agency issued a press notice just after the judgement giving its view of the implications of the decision and providing advice to PWC owners and local authorities:

It is the MCA's view that the Appeal Court ruling does not give a blanket exemption for leisure vessels from regulations such as the Collision Regulations. There may be specific circumstances where regulations do not apply, however it is regarded as best practice for all craft to observe the International Regulations for Preventing Collisions at Sea at all times.

Current byelaws made and enforced by local authorities are unlikely to be affected by this ruling and all craft should continue to comply with any local regulations.

The ruling was made in respect of a criminal case. Owners are reminded that the rules on civil liability, whereby they may be liable for their actions in civil proceedings, are unaffected by the Court of Appeal's judgment.

Jeremy Smart, Head of the MCA Enforcement Unit said:

"Whilst the MCA was disappointed with the outcome of the Goodwin case, we are now working to resolve the issues highlighted by that case, in order to ensure that regulations such as the International Regulations for Preventing Collisions at Sea are suitably complied with."¹³

In response to a Parliamentary Question in October 2006 the then Minister for Transport, Dr Stephen Ladyman, stated that officials were "considering the options available for ensuring that all personal water craft, including jet skis, are operated safely".¹⁴

Nothing further happened until mid-2009 when the Department for Transport published a consultation and draft regulations (made under section 112 of the 2003 Act) on proposals to regulate the safe use of all watercraft by bringing them into the scope of the merchant shipping legislation and to clarify the process for registering them on the UK ship register. The then Transport Minister, Paul Clark, explained the proposals as follows:

The changes are being considered following a Court of Appeal ruling in 2005 (*R v Goodwin*) where an accident between two jet skis resulted in serious injuries to one of the riders. The Court ruled that watercraft used simply for having fun on the water, such as jet skis (also referred to as personal watercraft), were not within the definition of 'ship' in the Merchant Shipping Act 1995 (MSA). This meant that such watercraft and their users were not covered by the MSA and related legislation, including offences related to conduct endangering ships, structures or individuals.

The consultation paper has two elements:

Safe use of watercraft—At present there is no overarching power of enforcement to prosecute those who use certain watercraft neglectfully, causing accidents or endangering the safety of others.

¹² Bruce Grant. "What is a "ship": *R v Goodwin* in the Court of Appeal", Newcastle Law School, 2006

¹³ MCA press notice, "[Maritime and Coastguard Agency issue advice on personal water craft use](#)", 21 March 2006

¹⁴ [HC Deb 16 October 2006, c922W](#)

We are committed to protecting all users of our waters so they can pursue their activities in safety. The proposal to bring all watercraft within relevant provisions of the MSA and related legislation would allow us to take action against the owners and users of watercraft who carry out reckless or dangerous activity on the water. These proposals would bring such craft within the scope of safety requirements, including alcohol and drug offences.

Clarifying the process for registering watercraft on the ship register—As a result of the Goodwin decision, there is also no power for owners of certain watercraft to register their craft on the UK ship register. We are proposing that those sections of the MSA which provide for registration and registration regulations apply to all watercraft so that owners can register them if they choose to.¹⁵

The consultation closed in September 2009 and there has been no further statement on whether the proposals will be introduced.

¹⁵ HC Deb 7 July 2009, c42WS; and: DfT, *Consultation on the Merchant Shipping (Watercraft) Order 200X*, July 2009