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UK Governance of Personal Water Craft (PWC) or 'Jet skis'



Summary

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Summary

This briefing paper explains the law governing the use of personal watercraft (PWC), which 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.

Issues with PWC

There have been periodic reports of accidents involving PWC in British coastal waters in recent years. Most accidents are due to collisions with other PWC or watercraft, crashing into jetties, piers or rocks or failing to avoid more vulnerable water users. In some cases there have been fatalities, as well as reports of lower-level nuisance, including antisocial behaviour and the piloting of PWC close to other water users.

Legal definition of PWC

PWC are not covered by the same legislation as ships or small boats taking passengers, as there is a legal precedent for saying that PWC are not defined as ships. They are therefore not subject to the Merchant Shipping Act 1995 nor the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS). That legal precedent emerged from a 2005 court case where the Court of Appeal ruled that PWC were not ships because they are not "used in navigation". The case prompted a change in guidance and a consultation on changes to legislation in 2009. That consultation considered bringing PWC within the definition of a "ship" in Merchant Shipping legislation pertaining to safety.

However, substantive legislative changes did not immediately follow. The view of successive UK governments was that it is the responsibility of local authorities and harbour authorities to regulate personal watercraft using local bye-law powers to, for instance, restrict the times and places that PWC can be used.

Government Consultation 2021

More recently, some MPs, industry groups and journalists have continued to raise the issues about PWCs and their perceived danger and nuisance to other members of the public. Some have called for the Government to regulate PWC (e.g. by introducing licences and age-restrictions) and introduce greater enforcement powers. In September 2021, the Government consulted on how to bring PWC within the scope of the Merchant Shipping Act 1995 in order to provide a way for their misuse to be prosecuted.

Information on other shipping and ports-related matters can be found on the [Transport](#) pages of the Parliament website.

1 Background

There are estimated to be around 12,000 – 15,000 PWC in use in the UK. Some are used by Police or the Royal National Lifeboat Institution (RNLI) but most are used for recreation.¹ There have been periodic reports of accidents involving PWC in British coastal waters in recent years. According to the Royal Society for the Prevention of Accidents, most accidents are due to collisions with other PWC or watercraft, crashing into jetties, piers or rocks or failing to avoid more vulnerable water users². In some cases there have been fatalities. The Daily Mail reported three deaths due to PWC crashes in summer of 2020, following six between 2009 to 2019.³ There have also been reports of lower-level nuisance, including antisocial behaviour and the piloting of PWC close to other water users. There is currently no compulsory age limit, licence or training required to use PWC. PWC sales and usage are likely to have increased in 2020 and 2021 due to the pandemic, lockdown and increase in 'staycations'.⁴

1.1 Powers to regulate the use of PWC

Note that matters pertaining to maritime safety, including watercraft, are not devolved to the Scottish Parliament, Welsh or Northern Irish Assemblies.⁵

There are no national regulations governing the ownership and use of recreational craft in inshore waters. This is because there is a common law right of navigation permitting people to pilot a vessel wherever they like in tidal waters. However, this common law right can be restricted through the introduction of bye-laws by:

- **Harbour authorities** which are statutory bodies, and can make bye-laws within the harbour area.
- **Local authorities** in England and Wales, which have several powers to make bye-laws regulating the waters outside of Harbour authority areas.

¹ Transport Committee [Oral evidence: Jet skis: safety, regulation and environmental effects](#), 8 September 2021, HC 623, Q5

² “[A rising tide of boat sales in 2020 helps lift the UK marine industry](#)” British Marine [online] 18 March 2021 (accessed 2 June 2021)

³ “[The speed boats bringing death to Britain's shores](#)” Daily Mail [online], 21 August 2020 (accessed 12 April 2021)

⁴ [HC Debate 10 November 2020 c767](#)

⁵ DfT [Strengthening enforcement of the dangerous use of recreational and personal watercraft](#) 6 September 2021, Paragraph 5.30

1.2 Existing bye-law powers

Regulating “seaside pleasure boats”

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 1961⁶, as amended. This regulation include the limiting of speed or requirements to fit silencers to pleasure boats.

Banning vessels from public bathing areas

Local authorities may also make bye-laws under section 231(1)(f) of the Public Health Act 1936⁷, as amended. Such bye-laws may ban vessels from areas reserved for bathing at certain times.

“Suppression of nuisance”

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. As a result, some local authorities have addressed the problems of PWC through the segregation of activities in their waters, which require registration of PWC and the payment of a fee to access certain coastal areas (e.g. Dorset Council limiting and charging for PWC access to certain areas in Weymouth Bay).⁸

The industry group, the Personal Watercraft Partnership (PWP) note that many local authorities already use their available powers to require PWC users to have permits, display identification numbers and/or carry proof of insurance. Some harbours exclude PWC from busy shipping channels.⁹

1.3 Issues with current regulation

There are a number of issues with the current regulation of PWC.

Firstly, because PWC are not legally considered ‘ships’ (for legal reasons explained in Section 2), PWC users do not require any formal training or licences. When sharing coastal areas with other beach-users, there have been instances of PWC causing a nuisance, and in some cases, injury to other beach-users.

Secondly, once the craft are outside a harbour area, the responsibility lies with a local authority, who may lack the means to enforce byelaws with

⁶ [The Public Health Act 1961](#)

⁷ [The Public Health Act 1936](#)

⁸ [Dorset Council & Weymouth Harbour: Notice to Mariners No 5/21 ‘Personal Water Craft - from 1st April 2021’](#)

⁹ [“Training & Safety”](#) Personal Watercraft Partnership [online] (accessed 2 June 2021)

regular coastal patrols or bring prosecutions. At an oral evidence hearing on PWC, held on 8 September 2021¹⁰, the Transport Select Committee was told that despite byelaws create restrictions in some popular coastal areas (e.g. the requirement to have insurance, age restrictions, restriction of PCW to specific coastal zones), many PCW users appear to be unaware of such byelaws as they are often coming to the coast from out-of-town. The main safety risks were reported to be “speed, leaving the jet ski at speed, impact with the water, impact with other users—collisions—or impact with fixed objects.”¹¹

The Committee heard that it can be hard for the Police to enforce byelaws across long sections of open coast, and that the Police have to use intelligence to target ‘hotspots’ of irresponsible water users. However, David Walker, Head of Road and Leisure Safety, RoSPA said there are limitations to this approach:

“Fundamentally, you can put these things [PWC] on the back of a trailer and drive somewhere else, so those sorts of intelligence, as the PCSO was saying, work both ways. Jet ski users who do not want to be regulated can move quite quickly.”¹²

Witnesses welcomed the Government’s consultation (see Section 3.2 below) and said that local byelaws were inconsistent, hard to enforce and communicate to users, so a national-level response to PWC regulation from central government was a positive development. Some witnesses did express concern that any expansion of the definition of a ‘vessel’ or ‘ship’ to include motorised PWC – a key part of the Government’s consultation – should not be so broad to also include paddle-boards or kayaks.¹³

Aside from bye-laws, harbour Directions (HOs) are one way in which statutory harbour authorities (SHAs) can regulate its waters (See box 1). They are intended to be quicker to implement and more responsive of local needs than changing byelaws. However, due to legal definitions HOs cannot include PWC, a point specifically made in a DfT note:

An SHA designated under section 40A of the Harbour Act 1964 can give harbour directions for the purposes of the movement, mooring and unmooring, manning and equipment of ships. “Ship” where used as noun is defined in the HA 1964 as including “every description of vessel used in navigation, seaplanes on the surface of the water and hovercraft within the meaning of the Hovercraft Act 1968”. The Court

¹⁰ Transport Committee [Oral evidence: Jet skis: safety, regulation and environmental effects](#), 8 September 2021, HC 623. The Transport Committee heard from representatives from the Personal Watercraft Partnership, RoSPA, Dorset Marine Policing Team, and Dorset Council.

¹¹ Transport Committee [Oral evidence: Jet skis: safety, regulation and environmental effects](#), 8 September 2021, HC 623, Q8

¹² Transport Committee [Oral evidence: Jet skis: safety, regulation and environmental effects](#), 8 September 2021, HC 623, Q52

¹³ Transport Committee [Oral evidence: Jet skis: safety, regulation and environmental effects](#), 8 September 2021, HC 623, Q60

of Appeal has held that to mean "used in navigation" a vessel must be used to make ordered progression from one place to another and does not therefore include personal water craft.¹⁴

Box 1: Harbour directions (HOs)

Under the Marine Navigation Act 2013, statutory harbour authorities (SHAs) can ask the Secretary of State for the power to make Harbour Directions (HOs). These are intended to be used:

- a. to regulate the use of any main navigation channel or fairway;
- b. to prescribe where and how vessels are to moor and move within the harbour;
- c. to ensure ships above a certain size have working radios to allow communication between harbour master and ship;
- d. to specify requirements for no deficiency in machinery; and,
- e. to ensure sufficient people with relevant experience crew specific types of ship.

According to the Department for Transport (DfT)¹⁵, HOs are intended to be quicker to implement and more responsive of local needs than changing byelaws.

¹⁴ [DfT, Regulatory impact assessment for The Harbour Directions \(Designation of Harbour Authorities\) Order 2017, April 2017](#)

¹⁵ [DfT, Harbour Directions Guidance, November 2013](#)

2 Government actions

2.1 Government initiatives pre-2005

Much of the existing legislation is couched in terms of “craft” or “vessels” and before 2005 there was a legal precedent for saying that PWC were not boats.

In *Steedman v Scofield* [1992] it was 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’. PWC were therefore not covered by the relevant merchant shipping legislation as this applies only to ships.¹⁶

In December 1996, the then Conservative Government published a discussion document that identified management of coastal recreation, including the use of PWC, as a major issue.¹⁷ 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.

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](#) (Collision Regulations or ‘COLREGS’) could be applied to PWC. 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.¹⁸

The then Department for the Environment, Transport and the Regions (DETR) consulted on possible improvements to the control of PWC and other non-regulated pleasure vessels and in October 1998 the then Transport Minister,

¹⁶ [HL Deb 12 July 1999, c3](#); the Isle of Man legislated to include PWC 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;”

¹⁷ 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

¹⁸ COLREGS are enforced in the UK under the [Merchant Shipping \(Distress Signals and Prevention of Collisions\) Regulations 1996 \(SI 1996/75\)](#)

Glenda Jackson, published the report of the inter-Departmental working party on bye-law powers for coastal waters.¹⁹

The necessary powers were included in what is now section 112 of the [Railways and Transport Safety Act 2003](#) which enables 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.²⁰

In a written answer, Lord Macdonald of Tradeston, Government Minister in 2002, summarised the approach to personal watercraft safety as one of pursuing “a programme of education rather than regulation.” Safety in the use of PWC was to be promoted via national sporting bodies, manufacturers, local authorities and other water safety organisations.²¹

As part of this programme, the Government issued guidance to harbour operators in March 2002, which included advice on managing recreational navigation.²² 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 PWC.

2.2

Government initiatives 2005-2010

A 2004 court case, and its appeal, prompted the Government of the time to consult on proposals to regulate the safe use of all watercraft by bringing them into the scope of the Merchant Shipping Act (MSA) legislation. The proposals were not taken forward.

In the case of *R v Goodwin* (see box 2), the only defence offered was that a PWC was not a “ship” for the purposes of s.58 of the Merchant Shipping Act 1995.

Box 2: Case of R v Goodwin [2005]

The case of *R v Goodwin* had ramifications for PWC regulations in the future.²³ 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

¹⁹ DETR, *Review of bye-law powers for the coast*, October 1998

²⁰ The only Order made to date is to do with pollution from drilling rigs and other platforms, see [The Merchant Shipping \(Prevention of Pollution\) \(Drilling Rigs and Other Platforms\) Order 2005](#)

²¹ [HL Debate 25 June 2002WA](#)

²² DfT, *A guide to good practice on port marine operations*, March 2002, section 7.8

²³ [Goodwin, R v \[2005\] EWCA Crim 3184 \(07 December 2005\)](#)

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 the defendant’s appeal was allowed. The Court of Appeal said that 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 s58 of the Merchant Shipping Act 1995; (ii) whether the Waverunner craft was a 'seagoing ship' within the meaning of reg 4 of the Merchant 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.²⁴

The Maritime and Coastguard Agency issued a press notice just after the judgement which encouraged PWC users to observe Collision Regulations, and that, despite this case they could still be liable to civil – if not criminal – proceedings if they cause harm to others. 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.²⁵

In response to a Parliamentary Question in October 2006 the then Minister for Transport, Dr Stephen Ladyman, stated that officials were “considering the

²⁴ [Goodwin, R v \[2005\] EWCA Crim 3184 \(07 December 2005\)](#)

²⁵ MCA press notice, “Maritime and Coastguard Agency issue advice on personal water craft use”, 21 March 2006

options available for ensuring that all personal water craft, including jet skis, are operated safely”.²⁶

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 Act (MSA) and to clarify the process for registering them on the UK ship register. The then Transport Minister, Paul Clark, explained the two main elements of the proposals, as follows:

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.

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.²⁷

The consultation closed in September 2009. The then Labour Government did not issue a response to the consultation before the 2010 General Election.

²⁶ [HC Deb 16 October 2006, c922W](#)

²⁷ [HC Deb 7 July 2009 c495](#); DfT, [Consultation on the Merchant Shipping \(Watercraft\) Order 2009](#), July 2009

3

Developments since 2020

The issue of regulation of PWC has been raised periodically by MPs and Lords in Parliament.²⁸ In 2020, Hywel Williams MP proposed a Private Members Bill which would require all PWC-users to be licenced, to create an offence of driving PWC without a licence, and for the introduction of enforcement measures at a national level, without needing to rely on local bye-laws and enforcement.²⁹

In the DfT's 2019 'Maritime Safety Action Plan'³⁰, the Government acknowledged the "legislative gap" around negligent PWC use, and pledged to publish a consultation in 2019. In October 2020, Transport Minister Robert Courts said that the Government was developing draft legislation to enforce dangerous behaviour whilst using PWC and that a consultation would be published "shortly"³¹. This commitment to a consultation on bringing PWC safety within the provisions of the Merchant Shipping Act 1995 was reiterated in March 2021.³²

Beyond Parliament, the UK Harbour Master Association (UKMHA) issued an open letter in 2020 to the then Minister for Maritime, Kelly Tolhurst MP, calling for "long awaited action in regulating the dangerous use of such non-defined craft within our Ports and along our coasts."³³ The letter noted that the legal definition of a ship, following the court cases noted above (section 2.2), excluded PWC. The effect of this was that modern harbour bye-laws and harbour directions, which are based on the assumption that the Collision Regulations (or COLREGS) would apply to all vessels, could not extend to PWC.

In 2021, editorials in *The Times*³⁴ and *The Telegraph*³⁵ raised concerns about the public safety, anti-social behaviour and nuisance posed by PWC towards other users of coastal waters. Both called for stronger regulation, noting the discrepancy between age limits, licencing and regulation of motor vehicle use, and the more liberal regime governing that of PWC.

²⁸ For example [HL Debate 25 June 2002 WA](#), [HL Debate 5 June 2003 c261GC](#)

²⁹ [HC Debate 10 November 2020 c767](#)

³⁰ [DfT, Maritime Safety Action, 2019](#)

³¹ [PQ 100899 \[on Jet Skis: Accidents\], 8 October 2020](#)

³² [PQ 160852 \[on Jet Skis: Regulation\], 4 March 2021](#)

³³ UKMHA, [Letter to the Maritime Minister on safe use of personal watercraft](#), 2020 [online] (accessed 2 June 2021)

³⁴ "[The Times view on jet ski regulation](#)", *The Times* [online] March 27 2021 (accessed 12th April 2021)

³⁵ "[Jet skis may be subject to maritime law for the first time in crackdown on rowdy behaviour](#)", *The Telegraph* [online] 27 March 2021 (accessed 12th April 2021)

3.1 Government Consultation

Between 6 September and 1 November 2021, the DfT consulted on proposed approaches to regulating PWC, which focused on creating a route prosecuting for their misuse, under the Merchant Shipping Act 1995 (MSA).³⁶

Problems with PWC and the definition of a 'ship'

Before the Goodwin case in 2005, the Government assumed PWCs would be legally classified as a ship because the definition of a 'ship' used in the MSA includes "every description of vessel used in navigation". However, the 2005 Goodwin case (mentioned in Section 2.2 above) changed this because the Court of Appeal ruled that PWC were not "used in navigation". The Court of Appeal's view was that:

- PWC were not ships as defined in the MSA 1995 because the words "used in navigation" in the definition exclude craft that are simply used for having fun without the object of going anywhere;
- a vessel "used in navigation" means only a vessel that makes ordered progression over the water from one place to another;
- even if a PWC were a ship, an unregistered craft would be outside the scope of section 58 MSA 1995 because that applies to unregistered vessels (by virtue of the Merchant Shipping Act 1970 (Unregistered Ships) Regulations 1991) only if they are "seagoing" and, the Court held, a PWC is not a seagoing vessel; and
- the 1991 Regulations applied section 58 only to a "master and crew employed in" an unregistered ship and, since the appellant was not employed as a master of the PWC, section 58 MSA 1995 could not apply to him.³⁷

As well as placing PWC beyond the scope of Section 58 of the MSA 1995³⁸, this Court decision also potentially places other watercraft – such as speed boats or rigid inflatable boats – out of scope as well, because they are also used for fun rather than navigation, and so might not be considered to be a 'ship'. The consultation document notes that this would make it impossible to enforce reckless or dangerous activity with these craft too.

³⁶ DfT [Strengthening enforcement of the dangerous use of recreational and personal watercraft](#) 6 September 2021

³⁷ DfT [Strengthening enforcement of the dangerous use of recreational and personal watercraft](#) 6 September 2021, Paragraph 3.4

³⁸ Section 58, [Merchant Shipping Act 1995](#)

Finally, the consultation document notes that 2005 Court decision generates uncertainty about the registration of PWC and similar craft on the UK Ship Register if they were not within scope of the definition of “ship” for the purposes of the MSA 1995. This matters because registering a craft or vessel on the UK Ship Register can be a required step should owners wish to obtain a marine mortgage, or take their craft overseas.³⁹

Potential legal options

The consultation offers four remedies to the problem:

1. Do nothing
2. Introduce new primary legislation
3. Legislation under the Railways and Transport Safety Act 2003 (preferred)
4. Amend the MSA 1995 definition of “ship”

Option 3, the DfT’s preferred option, would use section 112 of the Railways and Transport Safety Act (RTSA) 2003 to extend the relevant provisions of the MSA 1995, and related regulations, to encompass recreational watercraft and PWCs. This would be possible because, under S112(1)(a) of the RTSA:

The Secretary of State may by order—

(a) 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.⁴⁰

The DfT say that this empowers the Secretary of State to amend any provision which defines ship, vessel or boat, and thus to amend relevant sections of the MSA 1995⁴¹. The objective would be to amend the MSA 1995 in the following aspects:

- Offences: applying the offence of conduct endangering ships, structures or individuals regardless of whether the watercraft involved was seagoing or the master was employed;
- Unsafe operation: making watercraft owners liable for unsafe operation;
- Detention: powers to enable enforcement authorities to detain unsafe watercraft;

³⁹ DfT [Strengthening enforcement of the dangerous use of recreational and personal watercraft](#) 6 September 2021, Paragraph 5.6

⁴⁰ Section 112 [Railways and Transport Safety Act 2003](#)

⁴¹ The similar only order under section 112 of the Railways and Transport Safety Act (RTSA) 2003 made to date is to do with pollution from drilling rigs and other platforms, see [The Merchant Shipping \(Prevention of Pollution\) \(Drilling Rigs and Other Platforms\) Order 2005](#)

- Health & Safety: applying relevant safety regulations made under the MSA 1995 in a way that is appropriate and proportionate, and enabling future regulations to be made specifically for watercraft if required; and
- Registration: to facilitate voluntary registration of watercraft on the UK Ship Register.⁴²

The change would be implemented through a Statutory Instrument. The draft version of this SI, provided in the consultation document, proposes a definition of watercraft which excludes any unpowered craft which is less than 2.5 metres in length, or a product designed or intended for use in play (i) in shallow water (whether or not exclusively), and (ii) by children under 14 years old.⁴³

Option 1 is not seen as attractive in the consultation document, because it would not address the legislative 'gap' that the 2005 case has identified and which has been discussed in this briefing paper.

Option 2 is described as 'superficially attractive' in the consultation document because it could create new and bespoke provisions to be designed for watercraft. However, the DfT say that a new Act of Parliament would be time-consuming and potentially create confusion for enforcement authorities because of disparities between the new legislation and existing legislation that applies to other vessels in use on the water.

Option 4 would introduce a direct amendment to the definition of "ship" under section 313 of the MSA 1995, to widen its scope to cover all descriptions of watercraft. However, the DfT note that "the current definition of ship has been established for over a century and provides that "ship includes every description of vessel used in navigation" and "a direct amendment would entail having to consider the effect on all existing merchant shipping legislation which uses that definition and otherwise already works well in practice."⁴⁴

⁴² DfT [Strengthening enforcement of the dangerous use of recreational and personal watercraft](#) 6 September 2021, Paragraph 4.13

⁴³ DfT [Strengthening enforcement of the dangerous use of recreational and personal watercraft](#) 6 September 2021, Annex A: Draft Order

⁴⁴ DfT [Strengthening enforcement of the dangerous use of recreational and personal watercraft](#) 6 September 2021, Paragraph 4.16

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