



## Information Sheet

# Surfskis

This document contains information regarding which laws apply to surfski hire operations in WA. Changes to their regulation have occurred due to the Commonwealth Parliament passing new laws to regulate commercial vessels in 2013.

'Surfski' includes paddle craft without a hull and 'sit on top' kayaks.

Surfskis owned by schools should instead refer to the School Vessel Treatment Fact Sheet, and are not subject to the treatment described below.

## 1 Vessel Treatment

### 1.1. Marine Safety (Domestic Commercial Vessel) National Law Act 2012 (National Law)

The National Law replaces state and territory laws that regulate commercial vessels and their crew. Surfskis are not captured by the National Law, even if used for commercial purposes (i.e. hire, or in connection with a commercial or business transaction) so remain subject to WA law.

### 1.2. Western Australian Marine Act 1982 (WAMA)

Consistent with the decision at national level, and given their low-risk status, WA has also decided to allow commercial surfskis to operate subject to recreational treatment, subject to some conditions. A legal instrument has been created to exempt surfskis from commercial requirements of the WAMA.

Owners of surfskis used for commercial purposes can only take advantage of this exemption if the following conditions are met:

- craft comply with all **laws applicable to recreational vessels**, including safety equipment (for more information see the "paddle safe" brochure on the Transport website); and
- craft are operated in accordance with a **safety management plan** (we recommend this be based on Part F2 (Leisure Craft) of the National Standard for Commercial Vessels (see 2 below).

Surfskis used solely for recreational purposes are not subject to these additional conditions.

## 2 Safety Management Plan (SMP) Requirements

Sit on top kayaks must be operated in accordance with a SMP that ensures their safe operation. Operators should write a SMP that is suitable for their unique operations and risks. Key elements of a SMP are:

- a hazard identification and risk assessment of the activity to be conducted by the provider;
- an assessment of hazards to navigation in the operating area and strategies to manage those hazards;
- an assessment of the abilities and level of medical fitness required by a participant to undertake the activity;
- an assessment of the required competency of the guide including experience and appropriate qualifications;
- a description of the plans in place to deal with accidents and emergencies, including administering first aid and evacuation of persons requiring medical treatment;



- the content of information to be provided to participants, including an explanation of any hazards, risk of injury, and demonstration of use of safety equipment;
- a description of the procedures established for the inspection, maintenance and potential withdrawal from service of defective craft;
- a feedback system for capturing and storing information for at least 12 months about hirers and guides as well as incidents and addressing safety issues as they arise; and
- a description and justification of the type of safety equipment provided on the vessel, taking account of its suitability for the waters where the vessel will be operating and the level of skills of the participants.

This information is based on the Operations guidance in Part F2 (Leisure Craft) of the NSCV, available on the AMSA website (under 'standards and tools'). Operators should consult this material for more detailed information on the above requirements.

While safety management plans are not required to be submitted for review to the Department of Transport, they are a legal requirement of the use of these craft as described above.

### 3 The Regulations

The *Navigable Waters Regulations 1958* regulate the operation of sit on top kayaks. This includes safety equipment, safe navigation and conduct and registration of craft fitted for a motor. Minimum legal safety equipment requirements are different depending on a craft's distance from shore. More information can be found on the Transport recreational boating website.

### 4 Additional Guidance

The Western Australian Adventure Activity Standards identifies common safe practice for group outdoor kayaking (including inflatables). This document is for informational purposes only and can be found on the Outdoors WA website.