

Boating activity exemptions and exclusion zones

Organised boating activities and on-water events range from sport, to entertainment and even cultural gatherings. They can be commercial ventures, club-based competition or provide a not-for-profit experience for the community. They may be high profile attracting media attention, have a national or international focus or be local volunteer driven. The organisers may provide their own event team members, or outsource some functions to contractors.

Each activity or on-water event is unique and poses its own specific safety risks.



What is a boating activity exemption?

Marine safety legislation and rules are designed to provide for a safe operating environment for a wide range of general boating and on-water activities. A boating activity exemption (BAE), granted under section 203 of the Marine Safety Act 2010, allows a person or event organiser to conduct organised boating activity or an on-water event or series of events on State waters that would, otherwise, be in contravention of a relevant law, rule or regulation.

A BAE is temporary and can exempt the activity or event from the application of:

- the Marine Safety Act 2010 (Vic) (MSA)
- the Marine Safety Regulations 2012 (Vic) (MSR)
- the waterway rules (Vessel Operating & Zoning Rules) (VOZR)
- regulations made under the Port Management Act 1995 (Vic) (PMA)

When is a boating activity exemption required?

If you want to conduct boating activity or hold an on-water event and need an exemption or a modification from a rule to do so a BAE is required for the duration of the event.

Common exemptions include:

- 'Vessels racing in close proximity' requires an exemption for vessels exceeding 5 knots within 50 metres of another vessel
- 'Skiers racing in close proximity to vessels' requires an exemption for vessels exceeding 5 knots within 50 metres of a person in the water (in the event of a fall)
- 'Vessels operating in close proximity to on-water infrastructure' requires an exemption to exceed 5 knots within 50 metres of a fixed or floating structure.
- 'Vessels operating in close proximity on a narrow river and under bridges' requires exemptions for vessels exceeding 5 knots within 50 metres of another vessel, within 50 metres of the water's edge and within 50 metres of a fixed or floating structure
- High speed vessels with fire suppression and/or bilge pump systems installed may require an exemption from carrying safety equipment such as a fire extinguisher and bucket
- Persons competing in an organised sporting event that find wearing a PFD restrictive and/or impractical may require an exemption from wearing a PFD
- An event held in an area that has a speed or other rule restriction may require an exemption from the specific waterway rule as detailed in the VOZR.

Exclusion Zones

The waterway manager may grant 'exclusive use' of an area of waterway to an applicant by establishing an exclusion zone under section 208 of the MSA. An exclusion zone is used to prohibit persons, vessels and all other activities from a specific area of water to create the exclusive area where an activity/event can take place. Exclusion zones can only be created in conjunction with an exemption.

An exclusion zone is a form of control measure that can help keep other persons and vessels away from a higher risk activity/event, and also help control an activity/event by keeping the participants in the specified area for the duration of an event(s). They are typically used for high risk or high speed events.

Applying for a boating activity exemption and exclusion zone

Persons or organisations proposing organised boating activity or on-water events (applicants) should contact the waterway manager in the first instance to discuss the proposed boating activity, complete required forms and receive permission to use the waterway.

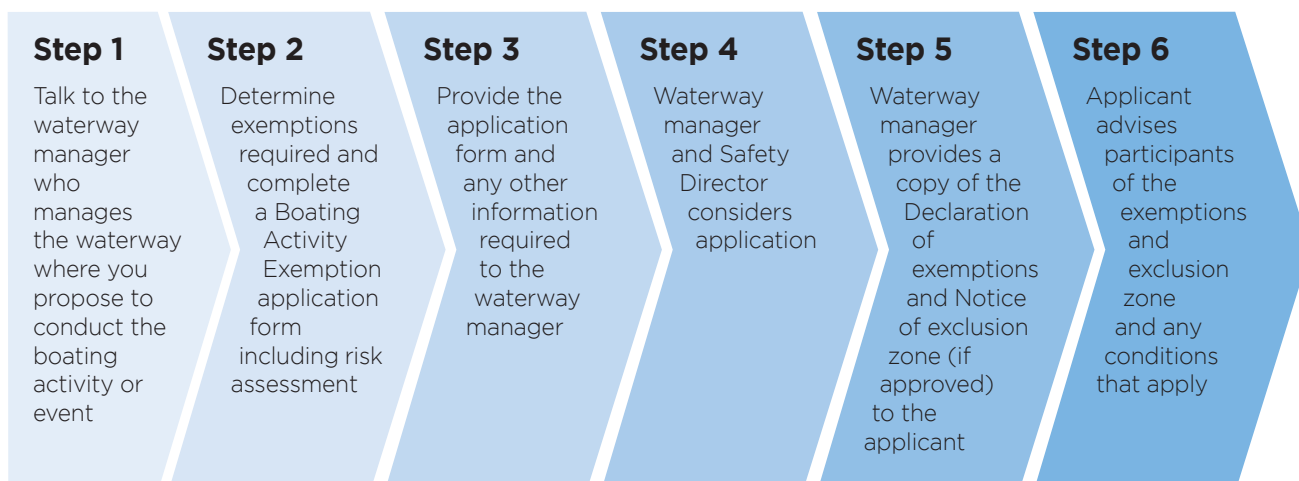
Section 203 of the MSA details the steps that must be followed by applicants in regard to boating activity exemptions.

Any request for an exemption from or modification to legislation or rules requires an assessment of risk related to the proposed activity (and the exemption requested), and the control measure(s) proposed to mitigate that risk(s) due to the exemption or modification.

An application will not be considered to be complete until all components of the application have been provided. A complete application includes the following:

- All relevant sections of the form are completed
- All relevant documents as per the application are submitted
- Any additional information requested by the waterway manager or MSV is submitted within the requested timeframe.

It is recommended the applicant provide a complete application to the waterway manager several weeks before the date of the proposed boating activity, in order for the waterway manager to meet their requirements under the Act, including assessment, publishing details in newspapers and when appropriate the government gazette. If your application is in relation to a large-scale or complex event, you will need to liaise with the waterway manager well ahead of the proposed event date. The waterway manager or MSV may refuse to accept an application or refuse to grant an exemption where insufficient time has been allowed for appropriate assessment or where insufficient information has been provided.



Contact us

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