Changes to Legislation: as of 12 March 2024, there are changes to this Act which have not been implemented by the Revised Acts editorial team, see highlighted entries **here**. Note that some amendments may not be in force until commenced by a commencement order or other provision.

Number 11 *of* 2005

MARITIME SAFETY ACT 2005

REVISED

Updated to 22 November 2021

This Revised Act is an administrative consolidation of the *Maritime Safety Act 2005*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Child and Family Agency (Amendment) Act 2021* (34/2021), enacted 24 November 2021, and all statutory instruments up to and including the *Maritime Jurisdiction Act 2021 (Commencement) Order 2021* (S.I. No. 601 of 2021), made 17 November 2021, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 11 *of* 2005

MARITIME SAFETY ACT 2005

REVISED

Updated to 22 November 2021

ARRANGEMENT OF SECTIONS

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PRELIMINARY AND GENERAL

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8. Requirement to cease operating craft or to remove it from waters in certain circumstances.
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39. Authorised persons.
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56. Amendment of Canals Act 1986.
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SCHEDULE

Enactments Repealed

acts referred to

Canals Act 1986	1986, No. 3
Carriage by Sea (Heavy Articles) Act 1934	1934, No. 45
Fisheries Act 1980	1980, No. 1
Fisheries (Amendment) Act 1997	1997, No. 23
Fisheries (Amendment) Act 2003	2003, No. 21
Fisheries and Foreshore (Amendment) Act 1998	1998, No. 54
Fisheries (Consolidation) Act 1959	1959, No. 14
Fishery Harbour Centres Act 1968	1968, No. 18
Fishery Harbour Centres Acts 1968 to 1998	
Foreshore Act 1933	1933, No. 12
Foreshore Acts 1933 to 2003	
Harbours Act 1946	1946, No. 9
Harbours Act 1996	1996, No. 11
Harbours Acts 1946 to 1976	
Harbours Acts 1996 and 2000	
Landlord and Tenant (Ground Rents) Act 2005	2005, No. 7
Landlord and Tenant (Ground Rents) (No. 2) Act 1978	1978, No. 16
Landlord and Tenant Acts 1967 to 2005	
Local Government Act 2001	2001, No. 37

Maritime Jurisdiction Act 1959	1959, No. 22
Maritime Jurisdiction (Amendment) Act 1988	1988, No. 9
Merchant Marine Act 1955	1955, No. 29
Mercantile Shipping Act 1947	1947, No. 46
Merchant Shipping (Certification of Seamen) Act 1979	1979, No. 37
Merchant Shipping (Investigation of Marine Casualties) Act 2000	2000, No. 14
Merchant Shipping (Miscellaneous Provisions) Act 1998	1998, No. 20
Merchant Shipping Act 1894	57 & 58 Vict., c. 60
Merchant Shipping Act 1947	1947, No. 46
Merchant Shipping Act 1981	1981, No. 33
Merchant Shipping Act 1992	1992, No. 2
Merchant Shipping Acts 1894 to 2000	
Merchant Shipping (Spanish Civil War) Act 1937	1937, No. 9
National Monuments Acts 1930 to 2004	
Shannon Navigation Act 1990	1990, No. 20
Wildlife (Amendment) Act 2000	2000, No. 38
Wildlife Act 1976	1976, No. 39

Number 11 *of* 2005

MARITIME SAFETY ACT 2005

REVISED

Updated to 22 November 2021

AN ACT TO PROVIDE FOR THE REGULATION AND CONTROL OF CERTAIN FAST POWERED WATERCRAFT AND CODES OF PRACTICE FOR VESSELS, TO PROHIBIT CERTAIN ACTS ON OR WITH VESSELS, TO AMEND THE HARBOURS ACT 1946, SECTION 222B OF THE FISHERIES (CONSOLIDATION) ACT 1959, THE FISHERY HARBOUR CENTRES ACT 1968, SECTION 4 OF THE LANDLORD AND TENANT (GROUND RENTS) (NO. 2) ACT 1978, THE CANALS ACT 1986, THE SHANNON NAVIGATION ACT 1990, THE MERCHANT SHIPPING ACTS 1894 TO 2000 AND THE HARBOURS ACT 1996, TO PROVIDE FOR MATTERS RELATING TO THE FORESHORE AND TO AQUACULTURE, TO REPEAL CERTAIN ENACTMENTS AND TO PROVIDE FOR RELATED MATTERS.

[29*th June*, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Annotations

Modifications (not altering text):

C1 Application of Act and collectively cited *Foreshore Acts 1933 to 2011*, *Harbours Acts 1996 to 2009*, *Maritime Safety Acts 1992 to 2006* and *Shannon Navigation Acts 1990 and 2005* affected (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), regs. 42(22), 46(3), 63(2) and sch. 2, in effect as per reg. 1(3).

Screening for Appropriate Assessment and Appropriate Assessment of implications for European Sites

42. ...

(22) Notwithstanding any provision of any statute listed in the Second Schedule that provides for the consent for a plan or project to which this Regulation applies to be obtained by default on the failure of the public authority to provide a response within a specified timescale or otherwise, that provision shall not have effect in respect of any plan or project to which this Regulation applies

...

Review of existing plans

46. ...

(3) For the purposes of this Regulation, a decision, including a decision to adopt or undertake, or give approval for a plan, may include those adopted, undertaken or approved pursuant to any of the enactments set out in the Second Schedule to these Regulations.

...

General provisions regarding licences etc

63. ...

(2) A licence, consent, permission, permit, derogation or other authorisation given under these Regulations or under any of the enactments referred to in the Second Schedule may include conditions requiring compliance with any guideline or code of practice issued under Regulation 71 or such provisions thereof as may be specified in the conditions.

...

SECOND SCHEDULE

Number	Year	Short Title/Citation
		...
		Canals Act 1986 and 2005
		...
		Fisheries Harbour Centres Acts 1968 and 1980
		...
		Foreshore Acts 1933 to 2011
		...
		Harbours Acts 1996 to 2009
		...
		Maritime Safety Acts 1992 to 2006
		...
		Shannon Navigation Acts 1990 and 2005
		...

C2 Certain functions under collectively cited *Foreshore Acts 1933 to 2009* transferred (7.07.2011) by *Foreshore (Amendment) Act 2011* (11/2011), s. 1, commenced on enactment. See also s. 2, "appropriate Minister" construed. Note: name of Department of Environment, Community and Local Government changed to Department of Housing, Planning, Community and Local Government (23.07.2016) by S.I. No. 394 of 2016, in effect as per art. 1(2).

Transfer and vesting of certain foreshore functions.

1.— (1) Except as provided for by *subsection (2)*, the functions, immediately before the passing of this Act, of the Minister for Agriculture, Fisheries and Food under the Foreshore Acts 1933 to 2009 are, on such passing, transferred to the Minister for the Environment, Community and Local Government and this subsection has effect for the purpose of vesting in the Minister for the Environment, Community and Local Government the functions so transferred.

(2) The following functions of the Minister for Agriculture, Fisheries and Food under the Foreshore Acts 1933 to 2009 remain with and continue to be functions of that Minister:

(a) any function in relation to a fishery harbour centre,

(b) any function in respect of—

(i) an activity which is wholly or primarily for the use, development or support of aquaculture, or

(ii) an activity which is wholly or primarily for the use, development or support of sea-fishing including the processing and sale of sea-fish and manufacture of products derived from sea-fish.

(3) The administration and business in connection with the performance of any functions transferred to the Minister for the Environment, Community and Local Government from the Minister for Agriculture, Fisheries and Food by *subsection (1)* are, on the passing of this Act, transferred to the Department of the Environment, Community and Local Government.

C3 Functions under collectively cited *Shannon Navigation Acts 1990 and 2005* transferred and references to "Department of Community, Equality and Gaeltacht Affairs" and "Minister for Community, Equality and Gaeltacht Affairs" construed (1.05.2011) by *Inland Waterways and Waterways Ireland (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 195 of 2011), arts. 2 and 3 and sch. part 1, in force as per art. 1(2), subject to transitional provisions in arts. 4-8. Note: Name of Department of Tourism, Culture and Sport most recently changed (7.07.2016) by *Arts, Heritage and the Gaeltacht (Alteration of Name of Department and Title of Minister) Order 2016* (S.I. No. 357 of 2016), in effect as per art. 1(2).

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Tourism, Culture and Sport.

(2) References to the Department of Community, Equality and Gaeltacht Affairs contained in any Act or any instrument made thereunder and relating to any administration and business transferred by paragraph (1) shall, from the commencement of this Order, be construed as references to the Department of Tourism, Culture and Sport.

3. (1) The functions vested in the Minister for Community, Equality and Gaeltacht Affairs by or under the Acts specified in Part 1 of the Schedule and the provisions of the Acts specified in Part 2 of the Schedule in so far as they relate to—

(a) inland waterways,

(b) Waterways Ireland,

(c) supporting and promoting North/South co-operation in relation to inland waterways,

are transferred to the Minister for Tourism, Culture and Sport.

(2) References to the Minister for Community, Equality and Gaeltacht Affairs contained in any Act or instrument made thereunder and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Tourism, Culture and Sport.

SCHEDULE

PART 1

Canals Acts 1986 and 2005

Shannon Navigation Acts 1990 and 2005

C4 Collectively cited *Merchant Shipping Acts 1894 to 2010* applied with modifications (3.07.2010) by *Merchant Shipping Act 2010* (14/2010), ss. 13(2), 51(3), commenced on enactment.

Cargo ship safety certificate.

13.— ...

(2) The provisions of the Merchant Shipping Acts relating to the issue, the period of validity, the granting of an extension or the cancellation of a safety equipment certificate, a radio certificate or a cargo ship safety construction certificate apply to a cargo ship safety certificate, in respect of the certificate concerned, as if it were the certificate.

...

Application (Chapter 5).

51.— ...

(3) The following provisions of the Merchant Shipping Acts do not apply to a vessel's tender, namely—

(a) section 271 of the Principal Act,

(b) section 10, 15, 18 or 20 of the Act of 1952,

(c) section 6 or 15 of the Act of 1992,

(d) section 8 of the Act of 1992 or that section as applied by the European Communities (Passenger Ships) Regulations 2004 (S.I. No. 716 of 2004), and

(e) section 82 or 84 of this Act.

C5 Certain functions under collectively cited *Foreshore Acts 1933 to 2005* transferred (15.01.2010) by *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), s. 3, commenced as per s. 1(4). See also ss. 4 and 6, and C-note above. Note: name of Department of Environment, Community and Local Government changed to Department of Housing, Planning, Community and Local Government (23.07.2016) by S.I. No. 394 of 2016, in effect as per art. 1(2).

Transfer and vesting of certain foreshore functions.

3.— (1) Such of the functions, immediately before the commencement date, of the Minister for Agriculture, Fisheries and Food under the Foreshore Acts 1933 to 2005 to which this Part and Schedule 1 relate are, on that date, transferred to the Minister for the Environment, Heritage and Local Government in accordance with and to the extent provided for by this Part and that Schedule and those provisions have effect for the purpose of vesting in the Minister for the Environment, Heritage and Local Government the functions so transferred.

(2) The administration and business in connection with the performance of any functions transferred to the Minister for the Environment, Heritage and Local Government from the Minister for Agriculture, Fisheries and Food by subsection (1) are, on the commencement date, transferred to the Department of the Environment, Heritage and Local Government.

Schedule 1

[Listing of 99 provisions of *Foreshore Act 1933* from s. 2 to s. 23].

C6 Functions transferred and references to "Department of Communications, Marine and Natural Resources" and "Minister for Communications, Marine and Natural Resources" construed (19.10.2007) by *Sea Fisheries, Foreshore and Dumping at Sea (Transfer of Departmental Administration and Ministerial Functions) Order 2007* (S.I. No. 707 of 2007), arts. 2 and 3 and sch. part 1, in effect as per art. 1, subject to transitional provisions in arts. 4-8; superseded in relation to *Foreshore Acts* and *Fishery Harbour Centres Acts* as per C-notes above.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Agriculture and Food.

(2) A reference to the Department of Communications, Marine and Natural Resources contained in any Act or instrument made thereunder and relating to any administration and business transferred by paragraph (1) shall be construed as a reference to the Department of Agriculture and Food.

3. (1) A function vested in the Minister for Communications, Marine and Natural Resources by or under—

(*a*) an enactment cited in Part 1 of the Schedule to this Order, and

...

is transferred to the Minister for Agriculture and Food.

(2) A reference to the Minister for Communications, Marine and Natural Resources contained in an enactment or instrument made under an enactment and relating to a function transferred by this Article shall be construed as a reference to the Minister for Agriculture and Food.

...

SCHEDULE

PART 1

...

Part 2 of the *Maritime Safety Act 2005* (No. 11 of 2005) so far as that Part relates to a fishery harbour centre to which the *Fishery Harbour Centres Act 1968* (No. 18 of 1968) applies.

Fishery Harbour Centres Acts 1968 to 2006

...

Foreshore Acts 1933 to 2005

...

C7 Functions under collectively cited *Maritime Safety Acts 1992 to 2005* and *Merchant Shipping Acts 1894 to 2005* transferred and references to "Department of Communications, Marine and Natural Resources" and "Minister for Communications, Marine and Natural Resources" construed (1.01.2006) by *Maritime Transport, Safety and Security (Transfer of Departmental Administration and Ministerial Functions) Order 2005* (S.I. No. 842 of 2005), arts. 3 and 4 and sch. part 1, in effect as per art. 1(2), subject to transitional provisions in arts. 5-9.

3. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 4 of this Order are transferred to the Department of Transport.

(2) References to the Department of Communications, Marine and Natural Resources contained in any Act or instrument made thereunder and relating to any administration and business transferred by paragraph (1) of this Article shall, from the commencement of this Order, be construed as references to the Department of Transport.

4. (1) The functions vested in the Minister for Communications, Marine and Natural Resources —

(a) by or under the Acts specified in Part 1,

...

of the Schedule to this Order are transferred to the Minister for Transport.

(2) References to the Minister for Communications, Marine and Natural Resources contained in any Act or instrument made thereunder and relating to any functions transferred by this Article shall, from the commencement of this Order, be construed as references to the Minister for Transport.

Schedule

Part 1

Acts

...

Harbours Act 1946 to 2005

Harbours Acts 1996 to 2005 (other than section 86 of the *Harbours Act 1996* (No. 11 of 1996))

...

Maritime Safety Acts 1992 to 2005

...

Merchant Shipping Acts 1894 to 2005

...

C8 References in collectively cited *Merchant Shipping Acts 1894 to 1966* construed (14.05.1967) by *Merchant Shipping Act 1966* (20/1966), s. 19(2), S.I. No. 54 of 1967.

Amendment of section 271 of Merchant Shipping Act, 1894.

19.— ...

(2) References in the *Merchant Shipping Acts* to a passenger steamer shall be construed as including any ship while on or about to proceed on a voyage or excursion in any case where a passenger steamer's certificate is required to be in force in respect of her.

C9 References in collectively cited *Merchant Shipping Acts 1894 to 1921* construed (23.10.1945) by *Merchant Shipping Acts, 1894 To 1921, Adaptation Order 1945* (S.I. No. 273 of 1945), art. 2.

Adaptation of "consular officer" in *Merchant Shipping Acts, 1894 to 1921*

2.— (1) The expression "consular officer" in the *Merchant Shipping Acts, 1894 to 1921* (exclusive of Part IV of the *Merchant Shipping Act, 1906*), shall be construed as including the persons to whom this Article applies as well as the persons included in the expression apart from this Order, and the expression shall be so construed notwithstanding any qualification in relation to nationality attached thereto.

(2) This Article applies to the following persons:

(a) a person who is employed in the Civil Service of the Government and who is an envoy extraordinary and minister plenipotentiary, a high commissioner, a chargé d'affaires, a counsellor of legation, a secretary of a legation or high commissioner's office, or an attaché,

(b) a person who is employed in the Civil Service of the Government and who is a consul-general, a consul or a vice-consul,

(c) a person nominated, whether individually or by reference to a class, by the Minister for External Affairs after consultation with the Minister for Industry and Commerce to exercise consular functions for the purposes of the *Merchant Shipping Acts, 1894 to 1921*.

C10 Application of collectively cited *Merchant Shipping Acts 1894 to 1900* restricted and references construed (1.06.1907) by *Merchant Shipping Act 1906* (6 Edw. 7 c. 48), ss. 17, 65(2) and 84(1), commenced as per s. 86(2). Note: functions of Board of Trade transferred to Department of Industry and Commerce (2.06.1924) by *Ministers and Secretaries Act 1924* (16/1924), s. 1(vii) and sch. sixth part, S.R.& O. No. 4 of 1924. Name of Department of Industry and Commerce most recently changed to Department of Jobs, Enterprise and Innovation (2.06.2011) by *Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 245 of 2011), in effect as per reg. 1(2).

Regulations substituted for Schedules 10, 11, 12, 13, and 14 of principal Act.

17.— ...

(2) Any reference in the Merchant Shipping Acts or in any other Act or document to any of those schedules shall be construed as a reference to the corresponding regulations, scales, conditions, or forms prescribed by the Board of Trade under this section.

...

Provisions as to failure to join ship and desertion.

65.—...

(2) Where it is shown to the satisfaction of the superintendent that a seaman lawfully engaged has wilfully or through misconduct failed to join his ship, the superintendent shall report the matter to the Board of Trade, and that Board may direct that any of the seaman's certificates of discharge shall be withheld for such period as they may think fit, and, while a seaman's certificate of discharge is so withheld, the Registrar-General of Shipping and Seamen, and any other person having the custody of the necessary documents, may, notwithstanding anything in the Merchant Shipping Acts, refuse to furnish copies of any of his certificates of discharge or certified extracts of any particulars of service or character.

...

Construction of references to Merchant Shipping Acts.

84.—(1) In this Act the expression "principal Act" means the *Merchant Shipping Act, 1894*, and the expression "Merchant Shipping Acts" means the *Merchant Shipping Acts, 1894 to 1900*, and this Act.

Editorial Notes:

E1 Power to raise sunken vessel for purposes of prosecution under collectively cited *Merchant Shipping Acts 1894 to 2010* prescribed (3.07.2010) by *Merchant Shipping Act 2010* (14/2010), s. 75, commenced on enactment.

E2 Power to seize and detain evidence for purposes of prosecution under collectively cited *Merchant Shipping Acts 1894 to 1993* prescribed (1.03.1994) by *Merchant Shipping (Salvage and Wreck) Act 1993* (34/1993), ss. 10(1)(c) and 62, S.I. No. 32 of 1994.

E3 Power of inspection and examination for purposes of collectively cited *Merchant Shipping Acts 1894 to 1992* prescribed (1.08.1992) by *Merchant Shipping Act 1992* (2/1992), s. 25(1), S.I. No. 205 of 1992.

E4 Requirements under collectively cited *Merchant Shipping Acts 1894 to 1992* modified (19.11.1953) by *Merchant Shipping (Safety Convention) Act 1952* (29/1952), ss. 29(1), 44, and 45, S.I. No. 338 of 1953.

E5 Passengers deemed to be carried from or to State for purposes of returns under collectively cited *Merchant Shipping Acts 1894 to 1900* (1.06.1907) by *Merchant Shipping Act 1906* (6 Edw. 7 c. 48), s. 15, commenced as per s. 86(2).

E6 Double punishment for any misconduct under collectively cited *Merchant Shipping Acts 1894 to 1900* prohibited (1.06.1907) by *Merchant Shipping Act 1906* (6 Edw. 7 c. 48), s. 44(5), commenced as per s. 86(2).

E7 Functions under collectively cited *Merchant Shipping Acts 1894 to 1900* made subject to control of Board of Trade (1.06.1907) by *Merchant Shipping Act 1906* (6 Edw. 7 c. 48), s. 74(1), commenced as per s. 86(2). Note: functions of Board of Trade transferred to Department of Industry and Commerce (2.06.1924) by *Ministers and Secretaries Act 1924* (16/1924), s. 1(vii) and sch. sixth part, S.R.& O. No. 4 of 1924. Name of Department of Industry and Commerce most recently changed to Department of Jobs, Enterprise and Innovation (2.06.2011) by *Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011* (S.I. No. 245 of 2011), in effect as per reg. 1(2).

E8 Penalty for failure to comply with collectively cited *Merchant Shipping Acts 1894 to 1900* prescribed (1.06.1907) by *Merchant Shipping Act 1906* (6 Edw. 7 c. 48), s. 21, commenced as per s. 86(2); repealed (1.08.1992) by *Merchant Shipping Act 1992* (2/1992), s. 4(1) and sch., not commenced as of date of revision.

E9 Power to exempt ships from provisions of collectively cited *Merchant Shipping Acts 1894 to 1900* prescribed (1.06.1907) by *Merchant Shipping Act 1906* (6 Edw. 7 c. 48), s. 78(1), commenced as per s. 86(2).

E10 Previous affecting provision: requirement to withhold and power to revoke safety certificates under collectively cited *Merchant Shipping Acts 1894 to 2005* prescribed (21.07.2009) by *European Communities (Marine Equipment) Regulations 2009* (S.I. No. 259 of 2009), reg. 6, in effect as per reg. 2; revoked (4.12.2014) by *European Union (Marine Equipment) Regulations 2014* (S.I. No. 540 of 2014), reg. 11, in effect as per reg. 1(2).

E11 Previous affecting provision: power to withhold or withdraw safety certificates under collectively cited *Merchant Shipping Acts 1894 to 1998* prescribed (6.02.2003) by *European Communities (Marine Equipment) Regulations 2003* (S.I. No. 38 of 2003), reg. 6; revoked (21.07.2009) by *European Communities (Marine Equipment) Regulations 2009* (S.I. No. 259 of 2009), reg. 10(a), in effect as per reg. 2.

E12 Previous affecting provision: power to withhold or withdraw safety certificates under collectively cited *Merchant Shipping Acts 1894 to 1998* prescribed (23.12.1998) by *European Communities (Marine Equipment) Regulations 1998* (S.I. No. 545 of 1998), reg. 6; revoked (6.02.2003) by *European Communities (Marine Equipment) Regulations 2003* (S.I. No. 38 of 2003), reg. 11(a).

E13 Previous affecting provision: functions under collectively cited *Merchant Shipping Acts 1894 to 1983* transferred and references to "Department of Communications" and "Minister for Communications" construed (31.03.1987) by *Communications (Transfer of Departmental Administration and Ministerial Functions) Order 1987* (S.I. No. 91 of 1987), arts. 3 and 4 and sch. part 1, in effect as per art. 1(2); superseded as per C-notes above.

E14 Previous affecting provision: functions under collectively cited *Merchant Shipping Acts 1894 to 1952* transferred and references to "Department of Industry and Commerce" and "Minister for Industry and Commerce" construed (27.07.1959) by *Transport, Fuel and Power (Transfer of Departmental Administration and Ministerial Functions) Order 1959* (S.I. No. 125 of 1959), arts. 3 and 4 and sch. part 1 item 6; superseded as per C-note above.

E15 Previous affecting provision: method of calculating tonnage of steamship for purposes of collectively cited *Merchant Shipping Acts 1894 to 1900* prescribed (1.06.1907) by *Merchant Shipping Act 1906* (6 Edw. 7 c. 48), s. 69, commenced as per s. 86(2); repealed (6.02.1997) by *Merchant Shipping (Liability of Shipowners and Others) Act 1996* (35/1996), s. 3 and sch. 4, S.I. No. 215 of 1997.

PART 1

Preliminary and General

Short title, collective citation and commencement.

1.—(1) This Act may be cited as the Maritime Safety Act 2005.

(2) The Act of 1992, the Act of 2000 and *Part 2, 3* and *4* may be cited together as the Maritime Safety Acts 1992 to 2005.

(3) The Merchant Shipping Acts 1894 to 2000 and this Act (other than *Parts 5* and *6*) may be cited together as the Merchant Shipping Acts 1894 to 2005.

(4) The Harbours Acts 1946 to 1976 and *section 52* may be cited together as the Harbours Acts 1946 to 2005.

(5) The Harbours Acts 1996 and 2000 and *section 58* may be cited together as the Harbours Acts 1996 to 2005.

(6) The Fishery Harbour Centres Acts 1968 to 1998 and *section 54* may be cited together as the Fishery Harbour Centres Acts 1968 to 2005.

(7) The Canals Act 1986 and *section 56* may be cited together as the Canals Acts 1986 and 2005.

(8) The Shannon Navigation Act 1990 and *section 57* may be cited together as the Shannon Navigation Acts 1990 and 2005.

(9) The Harbours Acts 1996 and 2000 and *section 58* may be cited together as the Harbours Acts 1996 to 2005.

(10) This Act (other than *sections 53* and *55* and *Part 6*) comes into operation one month after the day of its passing.

Interpretation.

2.—(1) In this Act—

"Act of 1992" means Merchant Shipping Act 1992;

"Act of 2000" means Merchant Shipping (Investigation of Marine Casualties) Act 2000

F1**[**"Inland waters of the State" shall be construed in accordance with section 8 of the Maritime Jurisdiction Act 2021;**]**

"Irish waters" includes the F2**[**territorial sea**]**, the waters on the landward side of the territorial seas, and the estuaries, rivers, lakes and other inland waters (whether or not artificially created or modified) of the State;

F3**[**...**]**

"Minister" means Minister for Communications, Marine and Natural Resources;

F1**[**"Territorial sea of the State" has the meaning assigned to it by the Maritime Jurisdiction Act 2021.**]**.

(2) In this Act a reference to a member of the Garda Síochána or an officer of the Permanent Defence Forces holding commissioned naval rank is a reference to that member or officer while in uniform.

(3) In this Act—

(*a*) a reference to a section or Part is a reference to a section or Part of this Act, unless it is indicated that reference to some other enactment is intended,

(*b*) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended, and

(*c*) a reference to any enactment is, unless the context otherwise requires, to be read as a reference to that enactment as amended or extended by or under any subsequent enactment including this Act.

Annotations

Amendments:

F1 Inserted (22.11.2021) by *Maritime Jurisdiction Act 2021* (28/2021), s. 20(3) and sch. 2 item 34(c), S.I. No. 601 of 2021, art. 2.

F2 Substituted (22.11.2021) by *Maritime Jurisdiction Act 2021* (28/2021), s. 20(3) and sch. 2 item 34(a), S.I. No. 601 of 2021, art. 2.

F3 Deleted (22.11.2021) by *Maritime Jurisdiction Act 2021* (28/2021), s. 20(3) and sch. 2 item 34(b), S.I. No. 601 of 2021, art. 2.

Editorial Notes:

E16 Previous affecting provision: "Inland waters of the State" amended (4.04.2006) by *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 104(a), commenced on enactment; definition deleted as per F-note above.

Repeals.

3.—Each enactment specified in *column (2)* of the *Schedule* to this Act is repealed to the extent specified in *column (3)* of the *Schedule*.

Expenses.

4.—The expenses incurred by the Minister and the Minister for the Environment, Heritage and Local Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

PART 2

Personal Watercraft and Recreational Craft

Annotations

Modifications (not altering text):

C11 Functions transferred and references to "Department of Communications, Marine and Natural Resources" and "Minister for Communications, Marine and Natural Resources" construed (19.10.2007) by *Sea Fisheries, Foreshore and Dumping at Sea (Transfer of Departmental Administration and Ministerial Functions) Order 2007* (S.I. No. 707 of 2007), arts. 2 and 3 and sch. part 1, in effect as per art. 1, subject to transitional provisions in arts. 4-8; superseded in relation to *Foreshore Acts* and *Fishery Harbour Centres Acts* as per C-notes above s. 1.

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Agriculture and Food.

(2) A reference to the Department of Communications, Marine and Natural Resources contained in any Act or instrument made thereunder and relating to any administration and business transferred by paragraph (1) shall be construed as a reference to the Department of Agriculture and Food.

3. (1) A function vested in the Minister for Communications, Marine and Natural Resources by or under—

(*a*) an enactment cited in Part 1 of the Schedule to this Order, and

...

is transferred to the Minister for Agriculture and Food.

(2) A reference to the Minister for Communications, Marine and Natural Resources contained in an enactment or instrument made under an enactment and relating to a function transferred by this Article shall be construed as a reference to the Minister for Agriculture and Food.

...

SCHEDULE

PART 1

...

Part 2 of the *Maritime Safety Act 2005* (No. 11 of 2005) so far as that Part relates to a fishery harbour centre to which the *Fishery Harbour Centres Act 1968* (No. 18 of 1968) applies.

Fishery Harbour Centres Acts 1968 to 2006

...

Foreshore Acts 1933 to 2005

...

C12 Functions transferred and references to "Department of Transport" construed (17.10.2006) by *Marine and Natural Resources (Transfer of Departmental Administration and Ministerial Functions) Order 2006* (S.I. No. 530 of 2006), arts. 2 and 3(a).

2. (1) The administration and business in connection with the exercise, performance or execution of any functions transferred by Article 3 are transferred to the Department of Communications, Marine and Natural Resources.

(2) References to the Department of Transport contained in any Act or instrument made under an Act and relating to any administration and business transferred by paragraph (1) are to be read as references to the Department of Communications, Marine and Natural Resources.

3. The functions conferred on the Minister for Transport —

(*a*) by or under Part 2 of the *Maritime Safety Act 2005* (No. 11 of 2005) relating to a fishery harbour centre to which the Fishery Harbour Centres Act 1968 (No. 18 of 1968) applies or any other harbour under the control or management of the Minister for Communications Marine and Natural Resources, and

...

are transferred to the Minister for Communications, Marine and Natural Resources.

Definitions (*Part 2*).

5.—In this Part, unless the context otherwise requires—

"Act of 1968" means Fishery Harbour Centres Act 1968;

"Act of 1976" means Wildlife Act 1976;

"Act of 1996" means Harbours Act 1996;

"authorised person" means a person or class of persons appointed under *section 17* as an authorised person or authorised persons for the purposes of this Part;

"authority" means a local authority, a harbour authority or Waterways Ireland, as the case may require;

"craft" means personal watercraft or recreational craft when operated by a mechanical means of propulsion;

"fishery harbour centre" has the meaning assigned to it by the Act of 1968;

"functions" includes powers and duties;

"functional area" in the case of a local authority, includes—

(*a*) inland waters, the foreshore and coastal waters adjoining its functional area, and

(*b*) inland waters, the foreshore and coastal waters adjoining its functional area which adjoin the functional area of another local authority, with the agreement of that other local authority,

but excluding waters under the control or management of a harbour authority or Waterways Ireland;

"harbour authority" means—

(*a*) in the case of a harbour to which the Act of 1996 applies, a harbour company,

(*b*) in the case of a harbour to which the Harbours Acts 1946 to 1976 apply, the harbour authority concerned,

(*c*) in the case of a fishery harbour centre to which the Act of 1968 applies or any other harbour under the control or management of the Minister, the Minister,

(*d*) in the case of a harbour under the control or management of a local authority, the local authority concerned,

(*e*) in the case of a harbour under the control or management of Iarnród Éireann-Irish Rail, that company;

"harbour company" means a company within the meaning of section 2 of the Act of 1996;

"local authority" means—

(*a*) in the case of an administrative county, the council of the county, and

(*b*) in the case of a city, the council of the city;

"National Monuments Acts" means National Monuments Acts 1930 to 2004;

"natural heritage area" means—

F4**[**(*a*) a European Site (within the meaning of Regulation 2 of the European Communities (Birds and Natural Habitats) Regulations 2011),**]**

(*b*) an area proposed as a natural heritage area and the subject of a notice under section 16(2) of the Wildlife Act 2000,

(*c*) an area designated as a natural heritage area by a natural heritage order under section 18 of the Wildlife Act 2000,

(*d*) land established by order under section 15 (as amended by section 26 of the Wildlife Act 2000) of the Act of 1976,

(*e*) land recognised by order under section 16 (as amended by section 27 of the Wildlife Act 2000) of the Wildlife Act 1976, or

(*f*) land designated as a refuge for flora or fauna or both by order under section 17 (as amended by section 28 of the Wildlife Act 2000) of the Act of 1976;

"personal watercraft" means a craft (other than a recreational craft) of less than 4 metres in length which uses an internal combustion engine having a water jet pump as its primary source of propulsion, and which is designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;

"prescribed" means prescribed by regulations made by the Minister;

"recreational craft" means a craft of not more than 24 metres in length (measured in accordance with the ISO standard EN ISO 8666:2002 — Small craft — Principal data) intended for sports and leisure purposes;

"reserved function" is to be read in accordance with section 131 of the Local Government Act 2001;

"Wildlife Act 2000" means Wildlife (Amendment) Act 2000.

Annotations

Amendments:

F4 Substituted (21.09.2011) by *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011), reg. 56(10), in effect as per reg. 1(3).

Modifications (not altering text):

C13 References construed (17.10.2006) by *Marine and Natural Resources (Transfer of Departmental Administration and Ministerial Functions) Order 2006* (S.I. No. 530 of 2006), art. 4(1)(a). Note: name of Minister for Communications, Marine and Natural Resources most recently changed to Minister of Communications, Climate Action and Environment (23.07.2016) by *Communications, Energy and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2016* (S.I. No. 421 of 2016).

4. (1) In the *Maritime Safety Act 2005* —

(a) in paragraph (c) of the definition of "harbour authority" in section 5, the references to the Minister, and

...

are to be read as references to the Minister for Communications, Marine and Natural Resources.

Bye-laws relating to regulation and control of craft.

6.—(1) Bye-laws may be made regulating or controlling the operation of craft or craft of a specified class by—

(*a*) a local authority, in waters in its functional area, other than waters referred to in *paragraph (b)* (except where the harbour authority concerned agrees) or *paragraph (c)*,

(*b*) a harbour authority, in or on waters under its control or management, or

(*c*) Waterways Ireland, in or on waters under its control or management,

in respect of any or all of the following matters—

(i) the prohibition or restriction in the waters or such part of the waters specified in the bye-laws of the operation generally or for any particular purpose of craft or specified classes of craft in such places or at such times (if any) or for such periods (if any) as specified in the bye-laws—

(I) in the interests of the safety of persons using the waters generally or at certain times,

(II) to prevent nuisance to or injury to persons or damage to watercraft or other property on the waters, or

(III) subject to *subsection (7)*, to protect—

(A) a natural heritage area, or

(B) a monument or wreck protected under the National Monuments Acts,

(ii) matters relating to launching, mooring or berthing craft,

(iii) conditions to be observed by operators of craft with regard to the waters or the adjacent area in which craft are used or launched, or

(iv) maximum speed limits at which craft may be operated.

(2) A person who operates a craft in contravention of a bye-law made under *subsection (1)(i)* is guilty of an offence and is liable on summary conviction to a fine not exceeding—

(*a*) €1,000, in the case of a first offence, or

(*b*) €2,000, in the case of a second or subsequent offence.

(3) A person who fails to comply with bye-laws made under *subsection (1)(ii), (iii)* or *(iv)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.

(4) A person who allows himself or herself to be carried on or towed by a craft in contravention of a bye-law under *subsection (1)(i)* to operate such craft is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.

(5) An authority which prohibits or restricts the operation of craft under *subsection (1)(i)* shall erect and maintain notices giving details of the prohibition or restriction in conspicuous places on or near the waters concerned.

(6) The making of bye-laws under this section by a local authority is a reserved function.

(7) An authority shall consult with the Minister for the Environment, Heritage and Local Government before making bye-laws regulating or controlling the operation of craft in or adjacent to—

(*a*) a natural heritage area, or

(*b*) a monument or wreck protected under the National Monuments Acts.

Annotations

Editorial Notes:

E17 Form of fixed payment notice for offences under subss. (2), (3) and (4) prescribed (27.07.2005) by *Maritime Safety Act 2005 (Fixed Payment Notices) Regulations 2005* (S.I. No. 390 of 2005), regs. 2 and 3 and schs. 1 and 2.

Procedure for making bye-laws and publication.

7.—(1) Not less than one month before making bye-laws an authority shall publish a notice in one or more newspapers published in the State and circulating in the area to which the proposed bye-laws relate—

(*a*) indicating that it is proposed to make such bye-laws and stating the purpose of the bye-laws,

(*b*) indicating the times at which and the period (which shall be not less than one month) during which a copy of the draft bye-laws will be available for public inspection, free of charge, at such place as is specified in the notice,

(*c*) stating that a copy of the draft will be given to any person applying therefor on payment of such specified sum, if any, as the authority may have fixed, and

(*d*) stating that the authority will consider any submissions in relating to the draft which are submitted to the authority in writing by any person before such date as may be specified, not being less than 7 days after the end of the period for inspection of the draft.

(2) An authority shall, during the stated period referred to in *subsection (1)(b)*, being not less than one month, keep a copy of the draft bye-laws open for public inspection, free of charge, during ordinary office hours at the place specified in the notice in that behalf and shall provide a copy of the draft to any person applying therefor on payment of such reasonable sum, if any, being a sum (not exceeding the reasonable cost of making the copy) as may be fixed by the authority.

(3) An authority shall consider any submissions made to it under *subsection (1)* and not withdrawn and may then make the bye-laws either in accordance with the draft or subject to such changes as the authority may, at its discretion, determine.

(4) Bye-laws shall come into operation on such day as may be specified therein or, if no such day is so specified, on the thirtieth day after the day on which the bye-laws are made.

(5) An authority shall, whenever required so to do by any court produce to the court a true copy of any bye-laws made by it and verify the copy to the court by having endorsed on it a certificate signed by an officer of the authority, whose official position it shall not be necessary to prove, by which the bye-laws were made and the court shall receive the copy in evidence and thereupon the copy shall, unless the contrary is shown, be sufficient evidence of the bye-laws.

(6) Bye-laws shall, as soon as may be after they have been made, be published by the authority which made them in the *Iris Oifigiúil* and notice of their making and of the place where copies of the bye-laws may be purchased or inspected shall be published by the authority in one or more newspapers circulating in the area to which the bye-laws relate.

(7) A notice referred to in *subsection (6)* shall include—

(*a*) a statement of the general purposes for which the bye-laws were made,

(*b*) the date on which they come into force,

(*c*) a statement that a copy of the bye-laws may be inspected, free of charge, during ordinary office hours, at the principal offices of the authority, and

(*d*) a statement that a copy of the bye-laws will be given to any person applying therefor on payment of a specified fee, not exceeding the reasonable cost of making such copy.

(8) An authority shall keep a copy of any bye-laws made by it open for public inspection, free of charge, during ordinary office hours, at the principal offices of the authority, and shall give a copy of the bye-laws to any person applying therefor on payment of such reasonable sum, if any, being a sum (not exceeding the reasonable cost of making the copy) as may be fixed by the authority.

(9) Failure to publish notice of the making of or to make available a copy of bye-laws does not invalidate the bye-laws.

(10) (*a*) An authority shall maintain a register of bye-laws made by it.

(*b*) The register shall be available for public inspection at the principal offices of the authority during normal office hours.

(11) In this section "bye-laws" means bye-laws made under *section 6*.

Requirement to cease operating craft or to remove it from waters in certain circumstances.

8.—(1) Where an authorised person or a member of the Garda Síochána has reasonable grounds for believing that a person is operating a craft—

(*a*) on waters where it is prohibited by law to use a craft,

(*b*) in contravention of bye-laws made under *section 6* or of *section 10*, *23* or *24*, or

(*c*) in or on waters in circumstances (whether or not such bye-laws are contravened) which the authorised person or member considers that the craft poses—

(i) a risk or danger to persons, or property or a serious nuisance to persons, in, on or adjacent to the waters, or

(ii) a risk of damage to or interference with a natural heritage area or a monument or wreck protected under the National Monuments Acts,

he or she may require the person to—

(I) cease operating the craft, or

(II) remove or cause to be removed or allow an authorised person or a member of the Garda Síochána to remove the craft from the waters concerned.

(2) A person who, without reasonable excuse, fails to comply with a requirement under *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €2,000.

Annotations

Editorial Notes:

E18 Form of fixed payment notice for offences under subs. (2) prescribed (27.07.2005) by *Maritime Safety Act 2005 (Fixed Payment Notices) Regulations 2005* (S.I. No. 390 of 2005), reg. 2 and sch. 1.

Seizure of craft in interests of safety, etc.

9.—(1) Where an authorised person or a member of the Garda Síochána has reasonable grounds for believing that a person is committing or has committed an offence under *section 6, 8, 10, 23* or *24*, he or she may—

(*a*) where he or she reasonably considers it is in the interests of public safety, or

(*b*) to prevent—

(i) a danger to persons or property or nuisance to persons, or

(ii) damage to or interference with a natural heritage area or a monument or wreck protected under the National Monuments Acts,

seize (using reasonable force, if necessary) and detain the craft to which the alleged offence relates until such time, in the interests of safety of persons or property in or on the waters concerned or to stop any nuisance to persons in or on the waters or to prevent damage to or interference with a natural heritage area or a monument or wreck protected under the National Monuments Acts, as the authorised person or member considers reasonable.

(2) Where a craft has been detained under *subsection (1)*, a reasonable charge may be made for the craft to be released to cover any reasonable expenses involved in the seizure or detention.

Operating craft without reasonable consideration.

10.—(1) A person shall not operate a craft in Irish waters—

(*a*) without reasonable consideration for other persons using or adjacent to those waters, or

(*b*) at a speed which is unreasonable in the circumstances or place, such as in the confines of a harbour or close to persons in or on the waters.

(2) A person who contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000.

Annotations

Editorial Notes:

E19 Form of fixed payment notice for offences under subs. (2) prescribed (27.07.2005) by *Maritime Safety Act 2005 (Fixed Payment Notices) Regulations 2005* (S.I. No. 390 of 2005), reg. 3 and sch. 2.

Power to stop, board and inspect craft, etc.

11.—(1) An authorised person or a member of the Garda Síochána for the purpose of enforcing this Part may stop, board and inspect a craft in, on or adjacent to Irish waters.

(2) An authorised person or a member of the Garda Síochána may request of a person stopped under *subsection (1)* or whom the authorised person or member suspects is committing or has committed an offence under this Part to give his or her name and address.

(3) A person who—

(*a*) without reasonable excuse, fails to stop a craft when required under *subsection (1)* or allow its inspection, or

(*b*) refuses to give his or her name or address when requested under *subsection (2)* or gives a name or address which is false or misleading,

is guilty of an offence and is liable on summary conviction to a fine not exceeding—

(i) €1,000, in the case of a first offence, and

(ii) €2,000, or imprisonment for a term not exceeding one month or both, in the case of a second or subsequent offence.

Annotations

Editorial Notes:

E20 Form of fixed payment notice for offences under subs. (3) prescribed (27.07.2005) by *Maritime Safety Act 2005 (Fixed Payment Notices) Regulations 2005* (S.I. No. 390 of 2005), reg. 2 and sch. 1.

Obstruction.

12.—A person who obstructs or impedes an authorised person or a member of the Garda Síochána in the exercise of his or her functions under this Part is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months or both.

Annotations

Editorial Notes:

E21 Form of fixed payment notice for offences under section prescribed (27.07.2005) by *Maritime Safety Act 2005 (Fixed Payment Notices) Regulations 2005* (S.I. No. 390 of 2005), reg. 2 and sch. 1.

Power of arrest.

13.—(1) A member of the Garda Síochána who reasonably suspects that a person is committing or has committed an offence under this Part or *section 23* or *24* involving the careless or dangerous navigation or operation of a craft may arrest without warrant the person.

(2) (*a*) Subject to *paragraph (b)*, an authorised person who reasonably suspects that a person has committed or is committing an offence under this Part or *section 23* or *24* involving the careless or dangerous navigation or operation of a craft may—

(i) within the functional area of the authority which appointed him or her, or

(ii) in the functional area of another authority, with the agreement of that other authority,

arrest without warrant the person.

(*b*) An authorised person is not entitled to exercise the power referred to in *paragraph (a)* unless he or she has received (whether before or after the commencement of this section) training and instruction which, in the opinion of the authority concerned, after consultation with the Garda Síochána, is such as will provide guidance to him or her in the exercise of that power.

(*c*) An authority shall endorse on the warrant it furnishes to an authorised person appointed by it a statement to the effect that the person has received the training and instruction referred to in *paragraph (b)*.

(*d*) Where an authorised person arrests a person under *paragraph (a)* he or she shall, as soon as practicable, deliver the person into the custody of a member of the Garda Síochána to be dealt with according to law.

(*e*) The arrest of a person under *paragraph (a)* does not prejudice the re-arrest under statute or otherwise of that person by a member of the Garda Síochána.

Forfeiture.

14.—(1) Where the owner of, or of a share in, a craft, or a person permitted by the owner to operate the craft, is convicted on indictment of an offence under *section 24* involving the dangerous navigation or operation of the craft, the court concerned may, in addition to any penalty that it may impose under that section, order the craft with its equipment, fittings and furnishings, or the appropriate share of it, to be forfeited to the authority within whose functional area the offence was committed and may make such other order as it considers necessary or expedient for the purpose of giving effect to the forfeiture.

(2) Whenever an order is made under *subsection (1)*, an authorised person or a member of the Garda Síochána may, for the purpose of giving effect to it—

(*a*) seize and detain the craft,

(*b*) do such other things as are authorised by the order or are necessary.

(3) In this section "owner", in relation to a craft, includes a person in possession of the craft under a hire-purchase agreement or a letting agreement.

Prohibition from operating craft.

15.—(1) A person who is convicted of—

(*a*) within a period of 2 consecutive years, a second or subsequent offence under this Part or an offence under *section 23* involving the careless navigation or operation of a craft, or

(*b*) an offence under *section 24* involving the dangerous navigation or operation of a craft,

in addition to the penalty imposed by the court under the relevant provision is prohibited from operating a craft in Irish waters—

(i) in the case of an offence referred to in *paragraph (a)*, for not more than 2 years, or

(ii) in the case of an offence referred to in *paragraph (b)*, for such period as the court sees fit.

(2) A person who has been prohibited under *subsection (1)* for a period exceeding 6 months may, at any time and from time to time after the expiration of 3 months from the beginning of the period of the prohibition and before the expiration of that period, apply to the court which made the order, for the removal of the prohibition, and that court, if it considers (having regard to all such matters which appear to it to be relevant, including the character of the applicant, his or her conduct after conviction and the nature of the offence) that circumstances exist which justify such a course, may by order remove the prohibition as from a specified date not earlier than 6 months after the beginning of the period of the prohibition.

(3) Where an application under *subsection (2)* is refused, a fresh application shall not be made within 6 months of the refusal.

(4) A person who operates a craft in Irish waters while prohibited under *subsection (1)* from operating a craft in Irish waters is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months or both.

Fixed payment notice.

16.—(1) Where an authorised person or a member of the Garda Síochána has reasonable grounds for believing that a person is committing or has committed an offence under *section 6, 8, 10, 11* or *12* he or she may serve the person with a notice, in the prescribed form, stating that—

(*a*) the person is alleged to have committed the offence, and

(*b*) the person may during the period of 21 days beginning on the date of the notice make to the authority concerned at the address specified in the notice a payment of—

(i) €150, for a contravention of *section 6(2), 8(2), 11(3)*, or *12*, or

(ii) €50, for a contravention of *section 6(3)* or *(4)* or *10(2)*,

or such other amount that, for the time being, stands prescribed, in lieu of any of those amounts, and accompanied by the notice, and

(*c*) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where notice is given under *subsection (1)*—

(*a*) a person to whom the notice applies may, during the period specified in the notice, make to the authority concerned at the address specified in the notice the payment specified in the notice accompanied by the notice,

(*b*) the authority specified in the notice may receive the payment, issue a receipt for it and retain the money paid, and any payment received shall not be recoverable in any circumstances by the person who made it,

(*c*) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under this Part the onus of proving that a payment pursuant to a notice under this section has been made lies on the defendant.

(4) Every regulation made under *subsection (1)* shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(5) Any payment received by the Minister under this section in respect of a fishery harbour centre shall be paid into the Fishery Harbour Centres Fund.

Annotations

Editorial Notes:

E22 Power pursuant to subs. (1) exercised (27.07.2005) by *Maritime Safety Act 2005 (Fixed Payment Notices) Regulations 2005* (S.I. No. 390 of 2005).

Authorised persons.

17.—(1) An authority may appoint in writing such persons or persons of such classes as it sees fit to be authorised persons for the purposes of this F5**[**Part**]**.

(2) The Minister may appoint such persons or persons of such classes as he or she sees fit to be authorised persons to exercise the functions of an authorised person under this Part in any Irish waters.

(3) An authorised person appointed by a local authority may exercise the functions conferred on an authorised person under this Part within the functional area of the local authority which appointed the authorised person.

(4) An authorised person appointed by Waterways Ireland may exercise the functions of an authorised person under this Part in or on any waters or land under the control or management of Waterways Ireland.

(5) An authorised person appointed by a harbour authority to which the Harbours Acts 1946 to 1976 apply may exercise the functions of an authorised person under this Part within the harbour of that harbour authority.

(6) An authorised person appointed by a harbour company may exercise the functions of an authorised person under this Part within the company's harbour.

(7) An authorised person appointed by the Minister in respect of a fishery harbour centre may exercise the functions of an authorised person under this Part in the fishery harbour centre to which the appointment relates.

(8) An authorised person appointed by Iarnród Éireann-Irish Rail in respect of a harbour under the control or management of that company may exercise the functions of an authorised person under this Part in respect of the harbour to which the appointment relates.

(9) Every authorised person appointed under this section shall be furnished with a warrant of his or her appointment as an authorised person and when exercising any power conferred on him or her by this Part as an authorised person shall, unless in uniform, if requested by a person affected, produce the warrant or a copy thereof to that person.

(10) An authorised person may be assisted in the exercise of his or her functions under this Part by such persons as the authorised person considers necessary.

(11) An authorised person appointed under *subsection (2)* or a member of the Garda Síochána may for the purposes of enforcing this Part enter upon any Irish waters or land adjoining the waters.

(12) An authorised person appointed by a particular authority may, for the purposes of enforcing this Part, with the agreement of another authority, enter upon any waters within the functional area or under the control or management of that other authority or land adjoining those waters.

Annotations

Amendments:

F5 Substituted (4.04.2006) by *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 104(b), commenced on enactment.

Modifications (not altering text):

C14 Reference construed (17.10.2006) by *Marine and Natural Resources (Transfer of Departmental Administration and Ministerial Functions) Order 2006* (S.I. No. 530 of 2006), art. 4(1)(b). Note: name of Minister for Communications, Marine and Natural Resources most recently changed to Minister of Communications, Climate Action and Environment (23.07.2016) by *Communications, Energy and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2016* (S.I. No. 421 of 2016).

4. (1) In the *Maritime Safety Act 2005* — ...

(b) in section 17(7), the reference to the Minister,

are to be read as references to the Minister for Communications, Marine and Natural Resources.

Exemptions from bye-laws under *section 6*.

18.—Bye-laws made under *section 6* do not apply to craft operated in the course of duty of—

(*a*) the authority concerned,

(*b*) the Garda Síochána,

(*c*) the Defence Forces,

(*d*) the Revenue Commissioners,

(*e*) F6**[**Inland Fisheries Ireland**]**,

(*f*) the Irish Coast Guard,

(*g*) the Commissioners of Irish Lights, or

(*h*) the Royal National Lifeboat Institution,

or any craft involved in bona fide law enforcement, emergency or rescue missions.

Annotations

Amendments:

F6 Substituted (1.07.2010) by *Inland Fisheries Act 2010* (10/2010), s. 8(3)(a) and sch. 2 part 15, S.I. No. 262 of 2010.

Prosecution of offences, recovery of costs and payment of fines.

19.—(1) Proceedings for a summary offence under this Part may be brought and prosecuted by the authority concerned.

(2) Any costs of an authority incurred in connection with the prosecution of a person for an offence under this Part for which the person is convicted may be recovered by the authority, in a court of competent jurisdiction, as a debt due and payable by the convicted person to the authority.

(3) Any fine in respect of an offence prosecuted summarily by an authority under this Part shall be paid to the authority which prosecuted the offence.

(4) Any payment of a fine received by the Minister in respect of an offence committed in a fishery harbour centre shall be paid into the Fishery Harbour Centres Fund.

PART 3

Prohibitions Relating to Vessels — Codes of Practice for the Safe Operation of Vessels, etc.

Prohibition on sailing unscaworthy vessels.

20.—(1) If a vessel, having regard to the nature of the service for which she is intended, goes out or attempts to go out to sea or into waters in such an unseaworthy state that the life of any person is likely to be or is endangered, then, the person in command or in charge, and the owner, of the vessel and any person sending her to sea, who knows or could have discovered by the exercise of ordinary care that the vessel is in such an unseaworthy state, is guilty of an offence.

(2) A person guilty of an offence under this section is liable—

(*a*) on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both, or

(*b*) on conviction on indictment to a fine not exceeding €250,000 or to imprisonment for a term not exceeding 2 years or both.

(3) In a prosecution for an offence under this section it is a defence for the defendant to show that—

(*a*) the vessel going out to sea or into waters in an unseaworthy state was, under the circumstances, reasonable and justifiable, or

(*b*) he or she used all reasonable means to ensure the vessel was seaworthy.

Seizure of unseaworthy vessels.

21.—(1) Where—

(*a*) a member of the Garda Síochána or an authorised person has reasonable grounds for believing that a vessel, or

(*b*) an authorised person appointed under *Part 2* by an authority (within the meaning of *Part 2*) has reasonable grounds for believing that a personal watercraft or recreational craft (within the meaning of *Part 2*),

is unseaworthy and is going out or has gone out to sea or into waters and he or she considers that the vessel is liable to founder or be in such a defective condition as to be unsafe for persons on board or other users of Irish waters, he or she may order the vessel to go to a port or harbour or a place of refuge or seize (using reasonable force, if necessary) and detain the vessel in the interest of safety of persons, until—

(i) such time as the vessel—

(I) if it is a pleasure craft, is made to his or her satisfaction seaworthy, or

(II) if it is a vessel other than a pleasure craft or being a pleasure craft and he or she considers it necessary, is made seaworthy to the satisfaction of a surveyor of ships (within the meaning of section 724 of the Merchant Shipping Act 1894) by a certificate issued in that behalf by the surveyor and produced to him or her,

(ii) arrangements (including arrangements for the repair, disposal, salvage or berthing) have been made by the person in command or in charge or the owner of the vessel which the member or authorised person is satisfied with, or

(iii) the conclusion of any proceedings in respect of the vessel brought under this Act.

(2) Where a vessel has been detained under *subsection (1)*, a reasonable charge may be made for her to be released to cover any reasonable expenses involved in the seizure and detention and any survey of the vessel.

(3) Where a vessel is detained under *subsection (1)* and the vessel is not made seaworthy, within a reasonable stated period, to the satisfaction of a member of the Garda Síochána or an authorised person (within the meaning of *subsection (1)*) the member or person may give notice in writing, stating that after the expiration of 5 days, or such further period as is specified in the notice, it is intended to dispose of the vessel, unless representations are made within that time to him or her by the owner or his or her representative of the vessel.

(4) Where the member or an authorised person having considered any representations under *subsection (3)* decides to dispose of the vessel he or she shall give notice in writing to the owner of the decision.

(5) The owner of a vessel detained under *subsection (1)* or to whom a notice to dispose of the vessel has been given under *subsection (4)* may within 7 days of the detention or being given the notice, appeal to the District Court within whose District Court area is the port, harbour or place where the vessel was detained or first brought after its detention, against the detention or notice.

(6) Where no appeal has been made within the period of 7 days against a notice under *subsection (4)*, the notice has effect upon the expiration of the period.

(7) In hearing an appeal under *subsection (5)* the court may confirm the detention or allow the disposal or order the release of the vessel (with or without conditions).

(8) Any proceeds of the disposal of a vessel under this section remaining after the deduction of any reasonable expenses and court costs, shall be paid to the owner of the vessel.

Weighing of goods vehicles before loading onto ships.

22.—(1) (*a*) A goods vehicle, trailer or semi-trailer of a prescribed weight shall not be loaded onto a ship in a harbour in the State unless valid information in accordance with *subsection (2)* as to its weight ("vehicle weight information") is provided by the operator of the vehicle beforehand to the master of the ship. This information shall be used by the master of the ship to determine whether or not the vehicle can be safely loaded and accommodated on the ship and, if so, to ensure the proper loading and accommodation of the vehicle on the ship.

(*b*) *Paragraph (a)* does not apply to a motor vehicle which is used only for loading trailers or semi-trailers onto, and unloading them from, a ship.

(2) (*a*) Vehicle weight information in respect of a goods vehicle, trailer or semi-trailer shall consist of—

(i) a certificate or a machine-readable record obtained from a weighbridge or other weighing machine situated within the harbour premises of the harbour at which the ship is to be loaded, or

(ii) data transmitted electronically by such a weighbridge or other weighing machine,

giving the weight of the vehicle, trailer or semi-trailer and any load being carried by it, and shall relate—

(I) in the case of a goods vehicle, to the vehicle and its load, if any (but excluding its driver and any passenger carried by it), and

(II) in the case of a trailer or semi-trailer, to it and its load and, if it is being pulled by a tractor, that of the tractor pulling it.

(*b*) Reference to the load of a vehicle in *paragraph (a)* includes reference to—

(i) any water, fuel or accumulators used for the purpose of power for the propulsion of the vehicle, and

(ii) any loose tools and loose equipment.

(*c*) In exceptional circumstances, information obtained, with the consent of the Minister, from a weighbridge or other weighing machine situated outside the premises of the harbour at which the ship is berthed, may be accepted as valid information as to weight.

(3) The certificate, records and data referred to in *subsection (2)* shall be retained by the owner of the ship concerned, in accordance with arrangements specified by the Minister in a Marine Notice, and shall be made available in legible form to the Department on request during the period, being a period of not more than 12 months, provided for in those arrangements.

(4) A person who—

(*a*) supplies information for the purpose of this section which he or she knows or has grounds for believing that it is false, or

(*b*) forges or interferes with any document purporting to be a certificate or record referred to in *subsection (2)* or uses any such document or altered certificate or record or altered data with intent to deceive,

is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding one month or both.

(5) The Minister may by regulations exempt from compliance with *subsection (1)* or *(3)* a class or type of ship, and subject to any conditions, specified in the regulations.

(6) Every regulation made under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(7) In this section—

"harbour premises" in relation to any harbour, means the docks, landing places and other works and land for the time being vested in, belonging to or administered by a harbour authority (within the meaning of *Part 2*);

"Marine Notice" means a notice described as such and includes a subsequent Marine Notice amending or replacing a Marine Notice;

"goods vehicle" means a mechanically propelled vehicle constructed or adapted primarily for the conveyance of goods or burden of any description;

"prescribed" means prescribed by regulations made by the Minister;

"trailer" and "semi-trailer" means a trailer or semi-trailer constructed or adapted primarily for the conveyance of goods or burden of any description.

Annotations

Editorial Notes:

E23 Power pursuant to section exercised (2.10.2006) by *Merchant Shipping (Weighing of Goods Vehicles) Regulations 2006* (S.I. No. 510 of 2006).

Careless navigation or operation of vessels.

23.—(1) A person shall not in Irish waters navigate or operate a vessel without due care and attention to persons in or on those waters or on land, within the State, adjacent to those waters.

(2) A person who, without reasonable excuse, contravenes *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding one month or both.

Dangerous navigation or operation of vessels.

24.—(1) A person shall not in Irish waters navigate or operate a vessel in a manner (including at a speed) which, having regard to all the circumstances of the case (including the condition of the vessel or class of vessel, the nature, condition and use of the waters and the amount of maritime traffic, or number of people, which or who then actually are, or might reasonably be expected then to be, on or in those waters) is dangerous to persons in or on those waters or land, within the State, adjacent to those waters.

(2) A person who, without reasonable excuse, contravenes *subsection (1)* is guilty of an offence and—

(*a*) where the contravention causes death or serious bodily harm to another person, is liable, on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine not exceeding €100,000 or both, and

(*b*) in any other case, is liable, on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both.

(3) Where, when a person is tried on indictment or summarily for an offence under this section, the jury, or in the case of a summary trial the District Court, is of opinion that the person was not guilty of an offence under this section but was guilty of an offence under *section 23*, the jury or court may find the person guilty of an offence under that section and the person may be sentenced accordingly.

Exclusion.

25.—*Sections 23* and *24* do not apply to a crew member, other than the skipper, who is not helming a pleasure craft which is a yacht or sailing boat powered wholly or mainly by sail.

Defence.

26.—In a prosecution for an offence under *section 23* or *24* it is a defence for the defendant to show that—

(*a*) he or she was acting under direct instructions from the person in command or in charge of the vessel concerned or a person in charge of him or her and it was not unreasonable in the circumstances to so act,

(*b*) he or she had been instructed by that person to perform a task which he or she could not reasonably perform or had not been adequately instructed to perform, or

(*c*) he or she took all reasonable steps to avoid the collision or incident to which the prosecution relates but due to—

(i) the nature of the vessel and the service for which she was intended, or

(ii) the weather, tidal or navigational conditions prevailing at the time of the collision or incident,

it was not possible to stop the vessel or change course in time to avoid the collision or incident and it was not reasonable to do so.

Conduct endangering vessels, structures or individuals.

27.—(1) This section applies to the master, or another member of the crew, of an Irish ship in waters anywhere or any other vessel while in Irish waters.

(2) If a person to whom this section applies, while on board his or her vessel or in her immediate vicinity—

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

(i) the loss or destruction of or serious damage to his or her vessel or machinery, navigation equipment or safety equipment on board the vessel,

(ii) the loss or destruction of or serious damage to any other vessel or any structure, or

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

or

(*b*) omits to do anything required—

(i) to preserve his or her vessel or machinery, navigation equipment or safety equipment on board the vessel from being lost, destroyed or seriously damaged,

(ii) to preserve any person on board his or her vessel from death or serious injury, or

(iii) to prevent his or her vessel from causing the loss or destruction of or serious damage to any other vessel or any structure, or the death of or serious injury to any person not on board his or her vessel,

and the act or omission was deliberate or amounted to a breach or neglect of duty or the person to whom this section applies was under the influence of alcohol or a drug or any combination of drugs or drugs and alcohol at the time of the act or omission, that person is, subject to *subsection (4)*, guilty of an offence.

(3) A person guilty of an offence under this section is liable—

(*a*) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both, or

(*b*) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 2 years or both.

(4) In a prosecution for an offence under this section it shall be a defence to prove—

(*a*) that the defendant could have avoided committing the offence only by disobeying a lawful command, or

(*b*) that in all the circumstances the loss, destruction, damage, death or injury in question or, as the case may be, the likelihood of its being caused either could not reasonably have been foreseen by the defendant or could not reasonably have been avoided by him or her, or

(*c*) if the act or omission alleged against the defendant constituted a breach or neglect of duty, the defendant took all reasonable steps to discharge that duty.

(5) In this section—

"breach or neglect of duty", except in relation to a person in command or in charge, includes any disobedience to a lawful command;

"duty"—

(*a*) in relation to a master or another crew member, means any duty falling to be discharged by him or her in his or her capacity as such, and

(*b*) in relation to a master, includes his or her duty with respect to the good management of his or her vessel and his or her duty with respect to the safety of operation of his or her vessel, or machinery and equipment on board;

"structure" means any fixed or movable structure (of whatever description) other than a vessel.

Prohibition on operating vessels while under influence of alcohol or drugs.

28.—(1) A person being in command or in charge or another member of the crew of a vessel in Irish waters or an Irish ship in waters anywhere shall not operate or control or attempt to operate or control the vessel or carry out any task or duty in relation to such operation or control while he or she or the other is under the influence of alcohol or a drug or any combination of drugs or drugs and alcohol to such an extent as to be incapable of properly controlling or operating the vessel or carrying out the task or duty.

(2) A person who fails to comply with *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months or both.

Drunkenness, etc., of passengers or members of crew.

29.—(1) (*a*) The person in command or in charge of a vessel may—

(i) refuse to permit to board the vessel a person who, in the opinion of the person in command or in charge, is, by reason of being under the influence of alcohol or a drug or any combination of drugs or drugs and alcohol, in such a condition or misconducts himself or herself in such a manner, as to cause injury or serious offence or annoyance to persons on the vessel, to cause damage to the vessel or to obstruct, impede or molest a member of the crew of the vessel, or

(ii) put such a person ashore at any convenient place.

(*b*) A person who, under *paragraph (a)*, has been refused permission to board, or been put ashore from, a vessel shall not be entitled to be repaid any fare paid by him or her in respect of any voyage or excursion to which his or her attempted boarding of, or presence on, the vessel related.

(2) If a person in command or in charge or another member of the crew of a vessel is, while on duty, under the influence of alcohol or a drug or any combination of drugs or drugs and alcohol to such an extent that his or her ability to discharge his or her duties is impaired, he or she is guilty of an offence and liable on summary conviction to a fine not exceeding €5,000.

Control of consumption of alcohol or drugs on board vessel.

30.—(1) A person on board a vessel in Irish waters or an Irish ship in waters anywhere shall not consume alcohol or take a drug or any combination of drugs or drugs and alcohol while on board the vessel in circumstances which could affect the safety of persons or create a disturbance or serious nuisance on board the vessel or affect the safety of other persons using Irish waters or constitute a nuisance to such persons.

(2) A person in command or in charge of a vessel in Irish waters or an Irish ship in waters anywhere shall take all reasonable steps to ensure that all persons on board comply with *subsection (1)*.

(3) A person who fails to comply with *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months or both.

Prohibition on disruptive behaviour on vessels.

31.—(1) A person on board a vessel in Irish waters or an Irish ship in waters anywhere who, without justification, engages in behaviour that is likely to cause serious offence or annoyance to any person on board the vessel, at any time after having been requested by a member of the crew of the vessel to cease such behaviour, is guilty of an offence.

(2) A person on board a vessel in Irish waters or an Irish ship in waters anywhere who engages in behaviour of a threatening, abusive or insulting nature whether by word or gesture with intent to cause a breach of the peace or being reckless as to whether a breach of the peace might be occasioned is guilty of an offence.

(3) A person guilty of an offence under this section is liable on summary conviction—

(*a*) in the case of an offence under *subsection (1)*, to a fine not exceeding €2,000, or

(*b*) in the case of an offence under *subsection (2)*, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both.

Prohibition on endangering vessels or persons on board.

32.—(1) A person on board a vessel in Irish waters or on an Irish ship in waters anywhere who through any deliberate or reckless action or by reason of being under the influence of alcohol or a drug or any combination of drugs or drugs and alcohol puts at risk or endangers the safety, security or seaworthiness of the vessel or the lives or safety of persons on board is guilty of an offence.

(2) A person guilty of an offence under *subsection (1)* is liable—

(*a*) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both, or

(*b*) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 2 years or both.

(3) In a prosecution of an offence under this section it is a defence for the defendant to show that he or she could have avoided committing the offence only by disobeying a lawful command.

Directions to passengers on board passenger boats and ships.

33.—(1) The master of a passenger boat or passenger ship or another vessel carrying passengers in Irish waters, or being an Irish ship carrying passengers in waters anywhere, or a person in uniform on board, authorised by him or her or the owner of the boat or ship, may give directions to passengers on board, which in the circumstances are reasonable, in relation to the safety or security of, or safety or security procedures on board, the boat or ship or for the purposes of complying with *section 30(2)*.

(2) A direction under this section shall not be given to a passenger in relation to anything which is a duty or task of the crew of the boat or ship or which would be unreasonable or inappropriate for him or her to carry out.

(3) A passenger who, without reasonable excuse, fails to comply with a direction given to him or her under *subsection (1)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €500.

(4) In this section—

"passenger" and "passenger boat" have the meanings assigned to them, respectively, in section 2 of the Act of 1992;

"passenger ship" means a ship carrying more than 12 passengers.

Annotations

Editorial Notes:

E24 Form of fixed payment notice for offences under subs. (3) prescribed (10.08.2005) by *Maritime Safety Act 2005 (Fixed Payment Notices) (Sections 33 and 34) Regulations 2005* (S.I. No. 512 of 2006), reg. 3 and sch. 1.

Nautical publications.

34.—(1) The Minister may make regulations specifying such charts, nautical directions or information or other nautical publications as appear to him or her to be necessary or expedient for the safe operation of vessels and such regulations may require—

(*a*) Irish ships, or such class or description of such ships as is specified in the regulations, to carry either at all times or on such voyages as is so specified,

(*b*) vessels which are not Irish ships, or such class or description of such vessels as is so specified, to carry at any time while they are in Irish waters or such of those waters as is so specified,

either a copy of all, or a copy of such as are so specified, of the charts, nautical directions or information or other nautical publications so specified.

(2) If a vessel goes or attempts to go out to sea or into other Irish waters without carrying one copy of any chart, nautical directions or information or other nautical publication which it is by regulations under this section required to carry, the master

and the owner of the vessel are each guilty of an offence and liable on summary conviction to a fine not exceeding €5,000.

(3) The Merchant Shipping (Carriage of Nautical Publications) Regulations 1985 (S.I. No. 282 of 1985) if in operation on the commencement of this Act continue in force as if made under this section.

(4) In this section "copy" includes a copy in electronic form which is capable of being read in legible form by the person in command or in charge on board the vessel concerned at all times during the navigation or operation of the vessel.

Annotations

Editorial Notes:

E25 Power pursuant to section exercised (30.03.2021) by *Merchant Shipping (Carriage of Nautical Charts and Publications) Regulations 2021* (S.I. No. 149 of 2021).

E26 Form of fixed payment notice for offences under subs. (2) prescribed (10.08.2005) by *Maritime Safety Act 2005 (Fixed Payment Notices) (Sections 33 and 34) Regulations 2005* (S.I. No. 512 of 2006), reg. 4 and sch. 2.

E27 Previous affecting provision: *Merchant Shipping (Carriage of Nautical Publications) Regulations 1985* (S.I. No. 282 of 1985) continued in force under subs. (3) was revoked (30.03.2021) by *Merchant Shipping (Carriage of Nautical Charts and Publications) Regulations 2021* (S.I. No. 149 of 2021), reg. 10.

Codes of practice for vessels.

35.—(1) For the purpose of providing practical guidance to persons in command or in charge of, manning or sailing on vessels with respect to—

(*a*) seamanship,

(*b*) the safe operation, the safety of their passengers and crews and the seaworthiness of vessels,

(*c*) the prevention of the abuse of alcohol and drugs and the safe use of alcohol on board vessels,

(*d*) the prevention of pollution or nuisance to other persons or interference with natural or archaeological heritage areas of importance, or

(*e*) the requirements or prohibitions by or under the *Merchant Shipping Acts 1894* to *2005*,

the Minister may, following consultation with such persons as he or she considers relevant, prepare and publish codes of practice for such persons.

(2) The Minister shall, before publishing a code of practice or any amendment to it, publish in such manner, as he or she considers appropriate, a draft of the code or the amendment. A person may, not later than one month or such further period allowed by the Minister being not later than 3 months, from the publication, make representations in writing to the Minister in relation to the draft. Having considered any representations and following such consultations with such persons as he or she considers relevant, the Minister may make the code of practice or the amendment with or without modification.

(3) Where the Minister publishes a code of practice or any amendment to a code of practice, he or she shall publish a notice of the publication in the *Iris Oifigiúil* and the notice shall—

(*a*) identify the code,

(*b*) specify the matters in relation to the matters referred to in *subsection (1)* in respect of which the code or the amendment is published, and

(*c*) specify the date on which the code or amendment comes into operation.

(4) The Minister may, following consultation with any person he or she considers relevant, amend or revoke any code of practice or any part of a code of practice.

(5) Where the Minister revokes a code of practice or any part of a code of practice, he or she shall publish a notice of the revocation in the *Iris Oifigiúil*.

(6) The Minister shall make available for public inspection, without charge on the Department's website on the internet and at the principal office of the Department and at such other places as the Minister considers appropriate, during normal working hours—

(*a*) a copy of each code of practice, and

(*b*) where a code of practice has been amended, a copy of the code as amended.

(7) It is the duty of persons in command or in charge of or manning vessels to be aware of and follow any code of practice relating to the vessel.

Use of codes of practice in criminal proceedings.

36.—(1) Where a code of practice has been published and there are any proceedings for an offence under the *Merchant Shipping Acts 1894* to *2005* and—

(*a*) the code of practice appears to the court to give practical guidance to F7**[**any of the matters referred to in *section 35*(1)**]** or the observance of the requirement or prohibition alleged to have been contravened, the code is admissible in evidence, or

(*b*) where it is shown that any act or omission of the defendant alleged to constitute the offence—

(i) is a failure to observe a code of practice, or

(ii) is a compliance with that code,

then such failure or compliance is admissible in evidence.

(2) A document published by the Department and purporting to be a code of practice or a part of a code of practice or any amendment to a code of practice is admissible as evidence in any proceedings referred to in *subsection (1)*.

Annotations

Amendments:

F7 Substituted (4.04.2006) by *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 104(c), commenced on enactment.

Non-interference with access to and from ports and harbours.

37.—(1) A vessel shall not, without lawful authority, impede or interfere with any other vessel lawfully entering or leaving, or attempting to enter or leave, a port or harbour (including any approaches to, and waters within the confines of, the port or harbour).

(2) A person in command or in charge of a vessel which contravenes *subsection (1)* is guilty of an offence and is liable—

(*a*) on summary conviction, to a fine not exceeding €5,000, or

(*b*) on conviction on indictment, to a fine not exceeding €250,000.

(3) The prohibition under *subsection (1)* in relation to a vessel does not apply to a vessel in distress or out of control due to being in distress.

Directions, etc., to have vessels moved in the interests of safety of life at sea and marine security, etc.

38.—(1) The Minister or an authorised person for the purposes of—

(*a*) securing the safety and security of vessels, persons on vessels or persons or property adjacent to Irish waters,

(*b*) securing the proper operation of a port or harbour (including access to and from it and movement within its confines by vessels),

F8**[**(*c*) securing safe navigable routes,

(*cc*) securing that search and rescue and search and recovery operations can be conducted safely, or**]**

(*d*) providing for the protection of a natural heritage area (within the meaning of *Part 2*) or a monument or wreck protected under the *National Monuments Acts 1930 to 2004*,

may give directions, in accordance with *subsection (3)*, to the owner or master of a vessel or a person who reasonably appears to him or her, to be in charge of the vessel, in Irish waters.

(2) If, in the opinion of the Minister or an authorised person, a direction under *subsection (1)* is not being complied with, the Minister or an authorised person, may take such action and do such things, in accordance with *subsection (3)*, in relation to the vessel concerned or the stores, equipment or cargo of the vessel as appear, having regard to all the circumstances, to be necessary and reasonable for the purposes of enforcing *subsection (1)*.

(3) A direction given, or action taken, under this section may include all or any of the following—

(*a*) the movement of a vessel in, out of, or beyond, the limits of Irish waters or to a specified place in such manner as may be specified,

(*b*) the restraint or control of a vessel or its movements and the attendance on the vessel of such tug-boats or other vessels as may be specified,

(*c*) the boarding of the vessel for the purposes of giving advice or assistance in relation to the movement, restraint or control of a vessel, or to assess any damage to the vessel which may prevent the carrying out of the movement, restraint or control of the vessel, and to take any measures deemed necessary to repair such damage,

F9**[**(*d*) the temporary prevention of or restriction on the navigation of vessels within a specified area or specified areas, or the establishment and maintenance of a temporary exclusion zone around a vessel, structure or other thing that is sunk, wrecked, damaged or in distress, for the purposes of allowing any directions or actions under this section to be carried out safely, and**]**

(*e*) the unloading of the stores, equipment, cargo or any other substance on a vessel, and the specification of the type or class of vessel by which any such operation of unloading is to be carried out.

(4) The Minister or an authorised person in the exercise of his or her powers under this section shall not unduly detain a vessel from proceeding on her voyage.

(5) The owner of a vessel is liable to pay to the Minister the expenses of the Minister or incidental to any action taken by the Minister or an authorised person under this section. Any such expenses may be recovered by the Minister, in a court of competent jurisdiction, as a debt due and payable to the Minister.

(6) A person who, without reasonable excuse—

(*a*) contravenes or fails to comply with a direction under this section, or

(*b*) obstructs a person who is complying with such a direction or an authorised person carrying out any action or doing anything under this section,

is guilty of an offence and is liable—

(i) on summary conviction, to a fine not exceeding €5,000, or

(ii) on conviction on indictment, to a fine not exceeding €250,000.

(7) Where any expenses due under *subsection (5)* or a fine imposed on the owner or master of a vessel under *subsection (6)* is or are not duly paid the court may, without prejudice to any other powers for enforcing payment, direct that any amount of the expenses or fine remaining unpaid be levied by the distress and sale of such property, comprising the vessel, her equipment and stores, as the court thinks necessary.

(8) The Minister or an authorised person, or a person acting under the direction of the Minister or an authorised person, is not liable in any proceedings for any action taken in accordance with *subsection (3)* if the court is satisfied that the action was done in good faith and there were reasonable grounds for doing it.

Annotations

Amendments:

F8 Substituted and inserted (4.04.2006) by *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 104(d)(i), commenced on enactment.

F9 Substituted (4.04.2006) by *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 104(d)(ii), commenced on enactment.

Authorised persons.

39.—(1) The Minister may appoint in writing such persons or persons of such classes as he or she sees fit to be authorised persons for the purposes or specified purposes of this Part.

(2) An authorised person or a member of the Garda Síochána may be assisted in the exercise of his or her functions under this Part by such persons as he or she considers necessary.

(3) An authorised person (other than an officer of the Permanent Defence Forces holding commissioned naval rank) shall be furnished with a warrant of his or her appointment as an authorised person and when exercising any power conferred on him or her by this section as an authorised person, shall, unless in uniform, if requested by a person affected, produce the warrant or a copy of it to that person.

(4) A person who obstructs a member of the Garda Síochána or an authorised person in the exercise of his or her powers under this Part is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 3 months or both.

Power to stop, board and inspect vessels, etc.

40.—(1) An authorised person or a member of the Garda Síochána for the purpose of enforcing this Part may stop, board and inspect a vessel in or on Irish waters or on land, within the State, adjacent to those waters.

(2) An authorised person or a member of the Garda Síochána may request of a person on a vessel stopped and boarded under *subsection (1)* and whom the authorised

person or member suspects is committing or has committed an offence under this Part to give his or her name and address.

(3) A person who—

(*a*) without reasonable excuse, fails to stop a vessel when required under *subsection (1)* or allow its inspection, or

(*b*) refuses to give his or her name or address when requested under *subsection (2)* or gives a name or address which is false or misleading,

is guilty of an offence and is liable on summary conviction to a fine not exceeding—

(i) €1,000, in case of a first offence, and

(ii) €2,000, or imprisonment for a term not exceeding one month or both, in the case of a second or subsequent offence.

Power of arrest.

41.—(1) A member of the Garda Síochána or an authorised person being an officer of the Permanent Defence Forces holding commissioned naval rank who reasonably suspects that a person is committing or has committed an offence under this Part may arrest without warrant the person.

(2) (*a*) The person in command or in charge of a vessel or a person authorised by him or her or the owner of the vessel who reasonably suspects that a person is committing or has committed an offence under *section 30, 31, 32* or *33* may arrest without warrant the person.

(*b*) A person authorised under this subsection is not entitled to exercise the power referred to unless he or she is in uniform and has received (whether before or after the commencement of this section) training and instruction which in the opinion of the person or if he or she is authorised by another, the person authorising him or her, after consultation with the Garda Síochána, is such as will provide guidance to him or her in the exercise of that power.

(3) Where an authorised person referred to in *subsection (1)* or a person referred to in *subsection (2)* arrests a person under that subsection he or she shall, as soon as practicable, deliver the person into the custody of a member of the Garda Síochána to be dealt with according to law. The arrest of the person does not prejudice his or her re-arrest under statute or otherwise by a member of the Garda Síochána.

Suspension or cancellation of certificate of competency of master, etc., of ship in certain circumstances.

42.—(1) On conviction of a person under this Part, the court may at its discretion, in addition to any other penalty to which any such person may be liable, suspend or cancel a certificate of competency held by the person and require the holder to surrender the certificate to the Minister.

(2) Where a certificate of competency has been suspended or cancelled under *subsection (1)*, the court may, upon application to it, if it thinks the circumstances so warrant, direct the Minister to re-issue and return the certificate suspended or cancelled or it may reduce the period of suspension.

(3) Any certificate of competency suspended or cancelled under this section shall be delivered to the Minister as soon as practicable after it is suspended or cancelled.

(4) A person who fails to comply with *subsection (3)* is guilty of an offence and is liable on summary conviction to a fine not exceeding €500.

(5) In this section "certificate of competency" means a valid certificate of competency issued by the Minister under section 3 of the Merchant Shipping (Certification of Seamen) Act 1979.

Prosecution of summary offences.

43.—Proceedings for an offence under this Part may be prosecuted summarily by the Minister.

Recovery of costs of Minister.

44.—Any costs of the Minister incurred in or in connection with the prosecution of a person for an offence under this Part for which a person is convicted may be recovered by the Minister as a debt due and payable to the Minister by the convicted person.

Non-application of *Part 3* to warships, etc.

45.—A prohibition or requirement under this Part in relation to a vessel or a person on board and *sections 21, 40* and *41* do not apply to—

(*a*) a warship, naval auxiliary or other vessel in the service of the Defence Forces or the navy or military of another state, or

(*b*) a vessel being used for coast guard, customs or police or rescue purposes.

Definitions (*Part 3*).

46.—(1) In this Part—

"authorised person" means a person or class of persons appointed under *section 39(1)* as an authorised person or authorised persons for the purposes of this Part;

"code of practice" means a code of practice prepared and published under *section 35*;

"Department" means Department of Communications, Marine and Natural Resources;

"Irish ship" has the meaning assigned to it by section 9 of the Mercantile Marine Act 1955;

"master" in relation to a ship, means the person being, for the time being, in command or in charge of the ship;

"operate" in relation to a vessel, means—

(*a*) doing anything which relates directly to the helming, steering, sailing or navigation of the vessel, or

(*b*) operating nautical equipment relating to the vessel's intended purpose or use at sea or in waters (including the opening or closing of any part of the vessel or raising or lowering any ramp or gangway to facilitate the boarding onto, or disembarkation from, the vessel of passengers or vehicles);

"owner" in relation to a vessel, means the person registered under the Mercantile Marine Act 1955 as her owner, or, if no person is so registered, the person who owns the vessel, and includes any partowner, charterer, hirer, manager or operator of the vessel;

"pleasure craft" has the meaning assigned to it by section 20 (as amended by *section 47*) of the Act of 1992;

"ship" includes any description of vessel used in navigation not propelled by oars;

"vessel" includes any ship or boat and any other vessel used in navigation and personal watercraft and recreational craft;

"unseaworthy" in relation to a vessel, means she—

(*a*) being unfit to go out to sea or into waters, by reason of—

(i) the condition of the vessel's hull, rigging, equipment or machinery, or

(ii) undermanning or overloading or improper loading, or

(*b*) does not comply with regulations made under the *Merchant Shipping Acts 1894* to *2005* relating to the safety of the vessel and persons on board (and in particular in relation to standards of seaworthiness, construction and maintenance and life-saving, fire-fighting, radio and navigation equipment).

(2) In this Part (other than F10**[***sections 23*, *24*, *37* and *38***]**) a reference to a ship or vessel in Irish waters which is to a ship or vessel registered outside the State is a reference to the ship or vessel while in a port, harbour or other place in the State or within the territorial seas of the State while proceeding to or from any such port, harbour or place.

Annotations

Amendments:

F10 Substituted (4.04.2006) by *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 104(e), commenced on enactment.

F11 Substituted by *Merchant Shipping (Registration of Ships) Act 2014* (43/2014), s. 68 and sch. 4, not commenced as of date of revision.

Editorial Notes:

E28 Prospective affecting provision: definitions of "Irish ship" and "owner" in subs. (1) substituted by *Merchant Shipping (Registration of Ships) Act 2014* (43/2014), s. 68 and sch. 4, not commenced as of date of revision.

46.—(1) In this Part— ...

F11**[** 'Irish ship' means an Irish ship within the meaning of *section 33* of the Merchant Shipping (Registration of Ships) Act 2014;**]**

...

F11**[**'owner', in relation to a vessel, means the person registered under the Merchant Shipping (Registration of Ships) Act 2014 as its owner, or if no person is so registered, the person who owns the vessel, and includes any part-owner, charterer, hirer, manager or operator of the vessel;**]**

...

PART 4

Safety Regulations — Passenger Boats, Fishing Vessels and Pleasure Craft — and Amendment of Merchant Shipping Acts

Safety regulations — passenger boats, fishing vessels and pleasure craft.

47.—(1) The Act of 1992 is amended by substituting for sections 18, 19 and 20 (as amended by section 44 of the Act of 2000) the following:

"Safety of passenger boats and their passengers and crews.

18.—(1) The Minister may, by regulations, make such provisions as the Minister thinks necessary or expedient for the purpose of ensuring—

(*a*) the safety of—

(i) passenger boats,

(ii) the passengers and crews of passenger boats, and

(iii) other persons, and of property, from injury or damage caused by, resulting from or arising out of the use of passenger boats,

or

(*b*) that the use of a passenger boat does not create a disturbance or constitute a nuisance.

(2) Without prejudice to the generality of subsection (1), regulations under subsection (1) may—

(*a*) require passenger boats to comply with specified standards of seaworthiness (including stability),

(*b*) require passenger boats to comply with specified standards of construction and maintenance,

(*c*) require specified classes of passenger boats to carry one or more of the following, that is to say, specified life-saving, fire-fighting, radio and navigation equipment,

(*d*) prohibit the having on board or the carriage of passengers by vessels, or specified classes of vessels, the subject of licences unless there are in force policies of insurance under which the owners of the vessels or, if the vessels are on hire, the persons to whom they are on hire are insured to a specified extent against specified risks,

(*e*) make provision for ascertaining and testing the standards of competence of masters and of any other members of the crews of vessels the subject of licences, whether by examination, interview or otherwise, and the prohibition of those who do not reach such standards of competence as the Minister considers appropriate from working as masters or, as the case may be, other members of the crews of such vessels and the prohibition of owners of such vessels from employing as captains or other members of the crews of the vessels those who do not reach such standards as aforesaid,

(*f*) provide for the registration of passenger boats or specified classes of passenger boats and the licensing or certification of masters or persons in control of or operating passenger boats or passenger boats of a specified class,

(*g*) regulate the use of passenger boats or specified classes of passenger boats by reference to the age or other qualifications of masters or persons in control of or operating passenger boats or passenger boats of a specified class,

(*h*) regulate or prohibit the use of passenger boats or specified classes of passenger boats in particular circumstances, and the consumption of alcohol or drugs by masters or persons in control of or operating passenger boats or passenger boats of a specified class,

(*i*) require and regulate the use of personal flotation devices on specified classes of passenger boats,

(*j*) regulate vehicles or prohibit classes of vehicles being carried on board a passenger boat designed to carry vehicles,

(*k*) regulate or prohibit the carriage of goods or materials of a specified class on passenger boats or on passenger boats of a specified class,

(*l*) regulate the number of persons that may be carried on passenger boats of a specified class, and

(*m*) regulate or prohibit the towing of anything by or from passenger boats or passenger boats of a specified class.

(3) Regulations under this section may make provision for such consequential, incidental, ancillary and supplementary matters (including the enforcement of the regulations and, with the consent of the Minister for Finance, the charging of fees) as the Minister considers necessary or expedient.

(4) Different provision may be made in regulations under this section for different classes of passenger boats or persons on or using passenger boats.

(5) (*a*) If in respect of a vessel there is a contravention of a regulation under this section (other than subsection (2)(*d*)), the owner and (if the vessel is in use) the master of the vessel is each guilty of an offence and each is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months, or to both.

(*b*) If, in respect of a vessel, there is a contravention of a regulation under subsection (2)(*d*), the owner of the vessel (or, if the vessel is on hire, the person to whom it is on hire) and the master of the vessel is each guilty of an offence and is each liable—

(i) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both, or

(ii) on conviction on indictment, to a fine not exceeding €100,000 or to imprisonment for a term not exceeding 2 years or to both.

Safety of fishing vessels and their crews.

19.—(1) The Minister may, by regulations, make such provision as the Minister thinks necessary or expedient for the purpose of ensuring—

(*a*) the safety of—

(i) fishing vessels,

(ii) the crews of fishing vessels, and

(iii) other persons, and of property, from injury or damage caused by, resulting from or arising out of the use of fishing vessels,

or

(*b*) that the use of a fishing vessel does not create a disturbance or constitute a nuisance.

(2) Without prejudice to the generality of subsection (1), regulations under this section may—

(*a*) require fishing vessels or specified classes of fishing vessels to comply with specified standards of seaworthiness (including stability),

(*b*) require fishing vessels or specified classes of fishing vessels to comply with specified standards of construction and maintenance,

(*c*) require fishing vessels or specified classes of fishing vessels to carry one or more of the following, that is to say, specified life-saving, fire-fighting, radio and navigation equipment,

(*d*) make provision for periodic surveys of fishing vessels or specified classes of fishing vessels and their equipment and the prohibition of the use for fishing of fishing vessels that have not been surveyed in accordance with the regulations or that, following such a survey, are declared by the person who carried it out to be unsafe for use for fishing, angling in the sea or angling in fresh water, and for appeals against such declarations and against other findings of such surveys,

(*e*) make provision for ascertaining and testing the standards of competence of skippers and of any other members of the crews of fishing vessels or specified classes of fishing vessels, whether by examination, interview or otherwise, and the prohibition of those who do not reach such standards of competence as the Minister considers appropriate from working as skippers or, as the case may be, other members of the crews of such vessels and the prohibition of owners of such vessels from employing as skippers or other members of the crews of such vessels those who do not reach such standards as aforesaid,

(*f*) require and regulate the use of personal flotation devices on specified classes of fishing vessels, and

(*g*) regulate or prohibit the towing of anything (other than fishing nets) by or from fishing vessels or fishing vessels of a specified class.

(3) Regulations under this section may make provision for such consequential, incidental, ancillary and supplementary matters (including the enforcement of the regulations and, with the consent of the Minister for Finance, the charging of fees by the Minister) as the Minister considers necessary or expedient.

(4) Different provision may be made in regulations under this section for different classes of fishing vessels.

(5) If in respect of a fishing vessel there is a contravention of a regulation under this section, the owner and (if the vessel is in use) the master of the vessel is each guilty of an offence and each is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months, or to both.

Safety of pleasure craft and their occupants.

20.—(1) The Minister may, by regulations, make such provision as he or she thinks necessary or expedient for the purpose of ensuring—

(*a*) the safety of—

(i) pleasure craft,

(ii) the occupants of pleasure craft, and

(iii) other persons, and of property, from injury or damage caused by, resulting from or arising out of the use of pleasure craft,

or

(*b*) that the use of a pleasure craft does not create a disturbance or constitute a nuisance.

(2) Without prejudice to the generality of subsection (1), regulations under subsection (1) may—

(*a*) require pleasure craft or specified classes of pleasure craft to comply with specified standards of seaworthiness (including stability),

(*b*) require pleasure craft or specified classes of pleasure craft to comply with specified standards of construction and maintenance,

(*c*) require pleasure craft or specified classes of pleasure craft to carry specified life-saving, fire-fighting, radio and navigation equipment,

(*d*) make provision for periodic survey of specified classes of pleasure craft and their appliances and equipment and the prohibition of the use of specified classes of pleasure craft that have not been surveyed in accordance with the regulations or that, following such a survey, are declared by the person who carried it out to be unsafe for use and for appeals against such declarations or against other findings of such surveys,

(*e*) provide for the registration of specified classes of pleasure craft and the licensing or certification of masters or persons in control of or operating pleasure craft or specified classes of pleasure craft,

(*f*) regulate the use of pleasure craft or specified classes of pleasure craft by reference to the age or other qualifications of masters or persons in control of or operating pleasure craft or pleasure craft of a specified class,

(*g*) regulate or prohibit the use of pleasure craft or specified classes of pleasure craft in particular circumstances, and the consumption of alcohol or drugs by masters or persons in control of or operating pleasure craft or pleasure craft of a specified class,

(*h*) prohibit the use of pleasure craft or specified classes of pleasure craft unless there are in force policies of insurance under which the owners of the pleasure craft or, if the pleasure craft are on hire, the persons to whom they are on hire are insured to a specified extent against specified risks relating to the use of the pleasure craft,

(*i*) require and regulate the use of personal flotation devices on specified classes of pleasure craft,

(*j*) regulate the number of persons that may be carried on pleasure craft of a specified class, and

(*k*) regulate or prohibit the towing of anything by or from pleasure craft or pleasure craft of a specified class.

(3) Regulations under this section may make provision for such consequential, incidental, ancillary and supplementary matters (including the enforcement of the regulations and, with the consent of the Minister for Finance, the charging of fees by the Minister) as the Minister considers necessary or expedient.

(4) Different provision may be made in regulations under this section for different classes of pleasure craft or persons on or using pleasure craft.

(5) If in respect of a pleasure craft there is a contravention of a regulation under this section, the owner and (if the craft is in use) the master of the craft is each guilty of an offence and each is liable on

summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months, or to both.

(6) In this section 'pleasure craft' means vessels used otherwise than for profit and used wholly or mainly for sport or recreation but includes mechanically propelled vessels that are on hire pursuant to contracts or other arrangements that do not require the owners of the vessels to provide crews or parts of crews for them.".

(2) The Act of 1992 is amended by substituting for section 27 the following:

"Fixed payment notice.

27.—(1) The Minister may prescribe that this section applies to a contravention or a particular contravention of regulations made under section 18 (other than subsection (2)(*d*)), 19 and 20.

(2) Where an authorised officer has reasonable grounds for believing that a person is committing or has committed an offence under section 18, 19 or 20 in relation to a contravention of regulations made under section 18, 19 or 20 to which this section applies or under *section 33(3)* or *34(2)* of the *Maritime Safety Act 2005* he or she may serve on the person a notice in the prescribed form or in a form to like effect stating that—

(*a*) the person is alleged to have committed the offence in respect of the contravention,

(*b*) the person may during the period of 21 days beginning on the date of the notice make to the organisation specified at the address specified in the notice a payment of €150, or such other amount prescribed under subsection (5), accompanied by the notice, and

(*c*) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(3) Where notice is given under subsection (2)—

(*a*) a person to whom the notice applies may, during the period specified in the notice, make to the organisation specified at the address specified in the notice the payment specified in the notice accompanied by the notice,

(*b*) the organisation specified may receive the payment, issue a receipt for it and retain the money so paid, and any payment so received shall not be recoverable in any circumstances by the person who made it,

(*c*) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(4) In a prosecution for an offence under section 18, 19 or 20 or *section 33(3)* or *34(2)* of the *Maritime Safety Act 2005* the onus of proving that a payment pursuant to a notice under this section has been made lies on the defendant.

(5) The Minister may prescribe another amount, or different amounts in respect of different contraventions or different classes of vessels, in lieu of the amount specified in subsection (2)(*b*).

(6) In this section 'organisation' means the Department of Communications, Marine and Natural Resources or such other person as specified in a notice issued under this section.".

(3) Regulations made under section 18, 19, 20 and 27 of the Act of 1992 which are in force immediately before the commencement of this section continue in force after such commencement and are deemed to have been made under section 18, 19, 20 or 27, as the case may be, inserted by this section.

Amendment of Merchant Shipping Act 1947.

48.—Section 12(4) of the Merchant Shipping Act 1947 is amended by substituting "€500" for "twenty five pounds".

Amendment of Merchant Shipping (Certification of Seamen) Act 1979.

49.—The Act of 1979 is amended—

(*a*) in section 3(3), by substituting "€5,000" for "£250",

(*b*) in section 5(1), by substituting "€100,000" for "£5,000",

(*c*) in section 5(2), by substituting "€5,000" for "£500",

(*d*) in section 6, by substituting "€5,000" for "£250",

(*e*) in section 7(2), by substituting "€500" for "£250",

(*f*) in section 8(2), by substituting "€5,000" for "£250", and

(*g*) in section 11(2), by substituting "€500" for "£100".

Miscellaneous amendments to Act of 1992.

50.—The Act of 1992 is amended—

(*a*) in section 6(2)—

(i) paragraph (*a*), by substituting "€5,000" for "£1,000", and

(ii) paragraph (*b*), by substituting "€100,000" for "£10,000",

(*b*) in section 8(6)—

(i) paragraph (*a*), by substituting "€5,000" for "£1,000",

(ii) paragraph (*b*), by substituting "€100,000" for "£10,000", and

(iii) paragraph (*c*), by substituting "€100,000" for "£100,000",

(*c*) in section 9, by inserting after subsection (2) the following:

"(2A) Where the Minister revokes or suspends a certificate in respect of a particular vessel, and is of opinion that it is in the interests of safety that the holder of the certificate should not be the holder of a certificate or licence in relation to other vessels, then the Minister may revoke or suspend any other certificate or licence held by the holder in relation to any other vessel.",

(*d*) in section 10(2)—

(i) paragraph (*a*), by substituting "€1,000" for "£500", and

(ii) paragraph (*b*), by substituting "€5,000" for "£1,000",

(*e*) in section 11(2)—

(i) paragraph (*a*), by substituting "€5,000" for "£1,000", and

(ii) paragraph (*b*), by substituting "€100,000" for "£10,000",

(*f*) in section 12(2)—

(i) paragraph (*a*), by substituting "€5,000" for "£1,000", and

(ii) paragraph (*b*), by substituting "€100,000" for "£100,000", and

(*g*) in section 13(3)—

(i) paragraph (*a*)(i), by substituting "€5,000" for "£1,000",

(ii) paragraph (*a*)(ii), by substituting "€100,000" for "£100,000",

(iii) paragraph (*b*), by substituting "€2,000" for "£500", and

(iv) paragraph (*c*), by substituting "€5,000" for "£1,000",

(*h*) in section 14(2)—

(i) paragraph (*a*), by substituting "€5,000" for "£1,000", and

(ii) paragraph (*b*), by substituting "€100,000" for "£5,000",

(*i*) in section 14A(3) (inserted by section 4(*c*) of the Merchant Shipping (Miscellaneous Provisions) Act 1998)—

(i) paragraph (*a*), by substituting "€5,000" for "£1,500", and

(ii) paragraph (*b*), by substituting "€100,000" for "£10,000",

(*j*) in section 15(7)—

(i) paragraph (*a*), by substituting "€5,000" for "£1,000",

(ii) paragraph (*b*), by substituting "€100,000" for "£5,000", and

(iii) paragraph (*c*), by substituting "€100,000" for "£50,000",

(*k*) in section 16, by inserting after subsection (2) the following:

"(2A) Where the Minister revokes or suspends a licence in respect of a particular vessel under subsection (2), and is of opinion that it is in the interests of safety that the holder of the licence should not be the holder of a licence or certificate in relation to other vessels, then the Minister may revoke or suspend any other licence or certificate held by the holder in relation to any other vessel.",

(*l*) in section 17(3)—

(i) paragraph (*a*), by substituting "€500" for "£200", and

(ii) paragraph (*b*), by substituting "€2,000" for "£500",

(*m*) in section 25(3), by substituting "€5,000" for "£1,000", and

(*n*) in section 30, by substituting "€5,000" for "£1,000".

Increase in fines, etc., in Act of 2000.

51.—The Act of 2000 is amended—

(*a*) in section 2, in the definition of "owner", by inserting "hirer," after "charterer,",

(*b*) in section 30(7), by substituting "€2,000" for "£1,000",

(*c*) in section 31(3), by substituting "€2,000" for "£1,000",

(*d*) in section 36(7), by substituting "€5,000" for "£1,500" and "6 months" for "12 months",

(*e*) in section 42—

(i) paragraph (*a*), by substituting "€5,000" for "£1,500" and "6 months" for "3 months", and

(ii) paragraph (*b*), by substituting "€100,000" for "£100,000".

PART 5

Amendment of Certain Enactments

Amendment of Harbours Act 1946.

52.—The Harbours Act 1946 is amended—

(*a*) by substituting for section 48 the following:

"Cleaning, etc., of harbour.

48.—Subject to compliance with the law for the time being in force, a harbour authority may take such measures as they think fit for cleaning, scouring, deepening, improving and dredging their harbour and the approaches to it.",

and

(*b*) in section 60—

(i) by substituting for subsection (12) the following:

"(12) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding €5,000.",

and

(ii) by inserting after subsection (13), the following:

"(14) (*a*) Where an officer of a harbour authority authorised for the purposes of this subsection has reasonable grounds for believing that a person is committing or has committed an offence under subsection (12) of this section he or she may serve the person with a notice, in the form specified by the harbour authority in bye-laws under this section, stating that—

(i) the person is alleged to have committed the offence, and

(ii) the person may during the period of 21 days beginning on the date of the notice make to the harbour authority at the address specified in the notice a payment of €150, accompanied by the notice, and

(iii) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(*b*) Where notice is given under paragraph (*a*) of this subsection—

(i) a person to whom the notice applies may, during the period specified in the notice, make to the harbour authority at the address specified in the notice the payment specified in the notice, accompanied by the notice,

(ii) the harbour authority may receive the payment, issue a receipt for it and retain the money paid, and any payment received shall not be recoverable in any circumstances by the person who made it,

(iii) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(*c*) In a prosecution for an offence under this subsection the onus of proving that a payment pursuant to a notice under this subsection has been made lies on the defendant.".

Sea-fishing boat licences.

53.—F12**[...]**

Annotations

Amendments:

F12 Repealed (4.04.2006) by *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 4(1) and sch. 1, commenced on enactment. Every order, regulation, licence, permit or authorisation granted under section is revoked by subs. (2), subject to conditions.

Amendment of Fishery Harbour Centres Act 1968.

54.—Section 4 of the Fishery Harbour Centres Act 1968 is amended—

(*a*) by substituting for paragraph (*a*) of subsection (6) the following:

"(*a*) A person who contravenes an order or bye-law under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000.",

and

(*b*) by inserting after subsection (9) the following:

"(10) (*a*) Where an officer of the Minister authorised for the purposes of this subsection has reasonable grounds for believing that a person is committing or has committed an offence under subsection (6)(*a*) of this section he or she may serve the person with a notice, in the form specified by the Minister in bye-laws under this section, stating that—

(i) the person is alleged to have committed the offence, and

(ii) the person may during the period of 21 days beginning on the date of the notice make to the Minister at the address specified in the notice a payment of such amount specified in bye-laws under this section, accompanied by the notice, and

(iii) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(*b*) Where notice is given under paragraph (*a*) of this subsection—

(i) a person to whom the notice applies may, during the period specified in the notice, make to the Minister at the address specified in the notice the payment specified in the notice accompanied by the notice,

(ii) the Minister may receive the payment, issue a receipt for it and retain the money paid, and any payment received shall not be recoverable in any circumstances by the person who made it,

(iii) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(*c*) In a prosecution for an offence under this subsection the onus of proving that a payment pursuant to a notice under this subsection has been made lies on the defendant.

(*d*) Any payment received by the Minister under this subsection shall be paid into the Fishery Harbour Centres Fund.".

Amendment of section 4 of Landlord and Tenant (Ground Rents) (No. 2) Act 1978.

55.—(1) Section 4(1) (inserted by section 2 of the Landlord and Tenant (Ground Rents) Act 2005) of the Landlord and Tenant (Ground Rents) (No. 2) Act 1978 is amended by inserting after paragraph (*c*) the following:

"(*cc*) a company within the meaning of section 2 of the Harbours Act 1996,".

(2) The amendment provided for in *subsection (1)* does not affect actions taken before the commencement of this section under the Landlord and Tenant Acts 1967 to 2005.

Amendment of Canals Act 1986.

56.—The Canals Act 1986 is amended—

(*a*) in section 7, by inserting after subsection (1) the following:

"(1A) (*a*) If Waterways Ireland proposes to make bye-laws under subsection (1), it shall publish a notice of the proposal in one or more newspapers circulating in the vicinity of the canal or other canal property to which the proposal relates.

(*b*) A notice under paragraph (*a*) shall contain a statement in general terms of the purposes for which the proposed bye-laws are to be made and an intimation that—

(i) a copy of the draft bye-laws is open for public inspection at a place specified in the notice, and

(ii) a person may submit to Waterways Ireland objections to the draft bye-laws at any time during the period of 21 days commencing on the day of the first publication of the notice.

(*c*) Waterways Ireland shall, during the period of 21 days, keep a copy of the draft bye-laws open for public inspection at the place specified in the notice.

(*d*) Any person who objects to the draft bye-laws may submit his or her objections to Waterways Ireland in writing at any time during the period of 21 days. Waterways Ireland shall consider the objections.

(*e*) On the expiration of the period of 21 days, Waterways Ireland shall, as it thinks proper, refrain from making the bye-laws or, with the consent of the Minister for Community, Rural and Gaeltacht Affairs, make the bye-laws either without modification or with such modification, as it thinks proper.

(*f*) A copy of the bye-laws for the time being in force under subsection (1) in relation to a canal or other canal property shall be made available by Waterways Ireland for inspection by the public at the public offices

of Waterways Ireland during ordinary office hours. Waterways Ireland shall make available to the public at such price (if any) as may be determined by it copies of bye-laws for the time being in force relating to a canal or other canal property.";

(*b*) in section 7—

(i) by substituting for subsection (3), the following:

"(3) A person who contravenes a bye-law under subsection (1) (other than paragraph (i)) is guilty of an offence and is liable on summary conviction to a fine not exceeding €5000.",

(ii) by deleting subsection (4), and

(iii) by inserting after subsection (7) the following:

"(8) Waterways Ireland may recover as a simple contract debt in any court of competent jurisdiction from any person by whom it is payable any amount due and owing under bye-laws made under subsection (1)(i).",

and

(*c*) by inserting after section 7, the following:

"Fixed payment notice.

7A.—(1) Where an authorised officer of Waterways Ireland has reasonable grounds for believing that a person is committing or has committed an offence under section 7, he or she may serve the person with a notice, in the form specified by Waterways Ireland in bye-laws under section 7 stating that—

(*a*) the person is alleged to have committed the offence, and

(*b*) the person may during the period of 21 days beginning on the date of the notice make to Waterways Ireland, at the address specified in the notice a payment of €150, accompanied by the notice, and

(*c*) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of that alleged offence will be instituted.

(2) Where notice is given under subsection (1)—

(*a*) a person to whom the notice applies may, during the period specified in the notice, make to Waterways Ireland at the address specified in the notice the payment specified in the notice, accompanied by the notice,

(*b*) Waterways Ireland may receive the payment, issue a receipt for it and retain the money paid, and any payment received shall not be recoverable in any circumstances by the person who made it,

(*c*) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under section 7 the onus of proving that a payment pursuant to a notice under this section has been made lies on the defendant.".

Amendment of Shannon Navigation Act 1990.

57.—The Shannon Navigation Act 1990 is amended—

(*a*) in section 3, by inserting after subsection (1) the following—

"(1A) (*a*) If Waterways Ireland proposes to make bye-laws under subsection (1), it shall publish a notice of the proposal in one or more newspapers circulating in the vicinity of the Shannon navigation to which the proposal relates.

(*b*) A notice under paragraph (*a*) shall contain a statement in general terms of the purposes for which the proposed bye-laws are to be made and an intimation that—

(i) a copy of the draft bye-laws is open for public inspection at a place specified in the notice, and

(ii) a person may submit to Waterways Ireland objections to the draft bye-laws at any time during the period of 21 days commencing on the day of the first publication of the notice.

(*c*) Waterways Ireland shall, during the period of 21 days, keep a copy of the draft bye-laws open for public inspection at the place specified in the notice.

(*d*) Any person who objects to the draft bye-laws may submit his or her objections to Waterways Ireland in writing at any time during the period of 21 days. Waterways Ireland shall consider the objections.

(*e*) On the expiration of the period of 21 days, Waterways Ireland shall, as it thinks proper, refrain from making the bye-laws or, with the consent of the Minister for Community, Rural and Gaeltacht Affairs, make the bye-laws either without modification or with such modification, as it thinks proper.

(*f*) A copy of the bye-laws for the time being in force under subsection (1) in relation to the Shannon navigation shall be made available by Waterways Ireland for inspection by the public at the public offices of Waterways Ireland during ordinary office hours. Waterways Ireland shall make available to the public, at such fee (if any) as may be determined by it, copies of bye-laws for the time being in force relating to the Shannon navigation.";

(*b*) in section 3, by substituting for subsection (5), the following:

"(5) A person who contravenes a bye-law under subsection (1) (other than paragraph (*l*)) is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000.

(5A) Waterways Ireland may recover as a simple contract debt in any court of competent jurisdiction from any person by whom it is payable any amount due and owing under bye-laws made under subsection (1)(*l*).",

and

(*c*) by inserting after section 3, the following:

"Fixed payment notice.

3A.—(1) Where an authorised officer of Waterways Ireland has reasonable grounds for believing that a person is committing or has committed an offence under section 3, he or she may serve the person with a notice, in the form specified by Waterways Ireland in bye-laws under section 3, stating that—

(*a*) the person is alleged to have committed the offence, and

(*b*) the person may during the period of 21 days beginning on the date of the notice make to Waterways Ireland, at the address specified in the notice, a payment of €150, accompanied by the notice, and

(*c*) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of that alleged offence will be instituted.

(2) Where notice is given under subsection (1)—

(*a*) a person to whom the notice applies may, during the period specified in the notice, make to Waterways Ireland at the address specified in the notice the payment specified in the notice, accompanied by the notice,

(*b*) Waterways Ireland may receive the payment, issue a receipt for it and retain the money paid, and any payment received shall not be recoverable in any circumstances by the person who made it,

(*c*) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under section 3 the onus of proving that a payment pursuant to a notice under this section has been made lies on the defendant.".

Amendment of Harbours Act 1996.

58.—The Harbours Act 1996 is amended—

(*a*) by substituting for subsections (1) and (2) of section 6 the following:

"(1) A person guilty of an offence under section 46, 50, 52, 53, 60 or 77 is liable—

(*a*) on summary conviction, to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or both, or

(*b*) on conviction on indictment, to a fine not exceeding €1,000,000 or imprisonment for a term not exceeding 2 years or both.

(2) A person guilty of an offence under this Act (other than section 46, 50, 52, 53, 60 or 77) is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000.",

(*b*) by inserting after section 6 the following:

"Fixed payment notice.

6A.—(1) Where a member of a company's harbour police (within the meaning of section 54), has reasonable grounds for believing that a person is committing or has committed an offence under section 42, 47, 48, 49, 61, 66, 71, 76 or 92(10) in the harbour for which he or she is such a member, he or she may serve the person with a notice, in the form specified by the company in bye-laws under section 42, stating that—

(*a*) the person is alleged to have committed the offence, and

(*b*) the person may during the period of 21 days beginning on the date of the notice make to the company concerned at the address specified in the notice a payment of—

(i) €300, in respect of committing an offence, other than an offence under section 42 or 71, or

(ii) such other amount, of not more than €300 but not less than €50, as specified in bye-laws made under section 42, in respect of committing an offence under section 42 or 71, as the case may be,

or such other amount in lieu of any of those amounts as stands specified in regulations made by the Minister, accompanied by the notice, and

(*c*) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

(2) Where notice is given under subsection (1)—

(*a*) a person to whom the notice applies may, during the period specified in the notice, make to the company at the address specified in the notice the payment specified in the notice accompanied by the notice,

(*b*) the company specified in the notice may receive the payment, issue a receipt for it and retain the money paid, and any payment received shall not be recoverable in any circumstances by the person who made it,

(*c*) a prosecution in respect of the alleged offence shall not be instituted in the period specified in the notice, and if the payment so specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

(3) In a prosecution for an offence under a provision mentioned in subsection (1) the onus of proving that a payment pursuant to a notice under this section has been made lies on the defendant.",

and

(*c*) in section 42, by inserting after subsection (3) the following:

"(4) (*a*) If a company proposes to make bye-laws under subsection (1) it shall publish a notice of the proposal in one or more newspapers circulating in the vicinity of the harbour to which the proposal relates.

(*b*) A notice under paragraph (*a*) shall contain a statement in general terms of the purposes for which the proposed bye-laws are to be made and an intimation that—

(i) a copy of the draft bye-laws is open for public inspection at a place in the harbour specified in the notice, and

(ii) a person may submit to the company objections to the draft bye-laws at any time during the period of 21 days commencing on the day of the first publication of the notice.

(*c*) The company shall, during the period of 21 days, keep a copy of the draft bye-laws open for public inspection at the place specified in the notice.

(*d*) Any person who objects to the draft bye-laws may submit his or her objections to the company in writing at any time during the period of 21 days. The company shall consider the objections.

(*e*) On the expiration of the period of 21 days, the company shall, as it thinks proper, refrain from making the bye-laws or make the bye-laws either without modification or with such modification, as it thinks proper.

(5) A copy of bye-laws for the time being in force under subsection (1) in relation to a harbour shall be made available, by the company which made them, for inspection by the public at the harbour during ordinary office hours. The company shall make available to the public at such price (if any) as may be determined by the company copies of bye-laws for the time being in force relating to the harbour.".

PART 6

Provisions Relating to the Foreshore and to Foreshore and Aquaculture Licences, etc.

Collective citation (*Part 6*).

59.—The Foreshore Acts 1933 to 2003 and this Part may be cited together as the Foreshore Acts 1933 to 2005 and shall be construed together as one Act.

Amendment of Foreshore Act 1933.

60.—The Foreshore Act 1933 is amended—

(*a*) in section 1—

(i) in the definition of "foreshore" by inserting "and the outer limit of the foreshore shall be determined in accordance with section 1A of this Act" after "any such river or estuary", and

(ii) by inserting the following before the definition of "the Minister":

"the expression 'the *Act of 2005*' means the *Maritime Safety Act 2005*;",

(*b*) by inserting the following section after section 1:

"Outer limit of foreshore.

1A.—(1) The outer limit of the foreshore is, and shall be deemed always to have been and to be, coterminous with the seaward limit of the territorial seas of the State as provided, from time to time, by Act of the Oireachtas.

(2) If immediately before 21 June 2005 any part of the foreshore, being foreshore as determinable before that date without reference to subsection (1) of this section, was not owned by the State by virtue of any grant, charter, purchase or other means, then nothing in subsection (1) of this section shall be construed so as to extend any person's interest in that part of the foreshore beyond the outer limit of that part of the foreshore as determined or determinable at the time of such grant, charter or purchase or the time ownership by other means arose.",

(*c*) by inserting the following sections after section 3:

"Provisions relating to certain leases, licences, etc.

3A.—(1) Where a lease, licence or consent was granted by the Minister before the passing of *Part 6* of the *Act of 2005*, that relates to or includes an area that, but for section 1A(1) of this Act, would not be foreshore, then the lease, licence or consent (including any terms and conditions) shall have effect by reference to the definition

of 'foreshore' (as amended by *Part 6* of the *Act of 2005*) in section 1 of this Act.

(2) Where—

(*a*) any measures were taken by the Minister before the passing of *Part 6* of the *Act of 2005*, and

(*b*) those measures relate in whole or in part to an area that, but for section 1A(1) of this Act, would not form part of the foreshore,

then those measures shall have effect, and be deemed always to have had effect, by reference to the definition of 'foreshore' (as amended by *Part 6* of the *Act of 2005*) in section 1 of this Act.

(3) If, because of any provision of subsection (1) or (2) of this section, that provision would conflict with the constitutional rights of any person, then that provision shall be subject to such limitations as are necessary to secure that it does not so conflict but shall otherwise be of full force and effect.

Provisions relating to certain applications for lease, licence or consent.

3B.—(1) Where before the passing of *Part 6* of the *Act of 2005*—

(*a*) an application was made to the Minister for a lease, licence or consent,

(*b*) the application relates to or includes an area that, but for section 1A(1) of this Act, would not be foreshore, and

(*c*) the application has not been finally determined before such passing,

then in determining the application account may be taken of the definition of 'foreshore' (as amended by *Part 6* of the *Act of 2005*) in section 1 of this Act.

(2) If, because of any provision of subsection (1) of this section, that provision would conflict with the constitutional rights of any person, then that provision shall be subject to such limitations as are necessary to secure that it does not so conflict but shall otherwise be of full force and effect.

Provisions relating to certain aquaculture licences.

3C.—(1) Where a foreshore licence was deemed by—

(*a*) section 75 of the Fisheries (Amendment) Act 1997, or

(*b*) section 3 of the Fisheries and Foreshore (Amendment) Act 1998,

to be an aquaculture licence and that foreshore licence relates to or includes an area that, but for section 1A(1) of this Act, would not be foreshore, then the aquaculture licence shall have effect, and be deemed always to have had effect, by reference to the definition of 'foreshore' (as amended by *Part 6* of the *Act of 2005*) in section 1 of this Act.

(2) Where before the passing of *Part 6* of the *Act of 2005*—

(*a*) a foreshore licence was granted that relates in whole or in part to aquacultural purposes, and

(*b*) an aquaculture licence was granted in respect of those aquacultural purposes and those purposes relate to or include

an area which, in whole or in part, would not be foreshore but for section 1A(1) of this Act,

then the aquaculture licence shall have effect, and be deemed always to have had effect, by reference to the definition of 'foreshore' (as amended by *Part 6* of the *Act of 2005*) in section 1 of this Act.

(3) If, because of any provision of subsection (1) or (2) of this subsection, that provision would conflict with the constitutional rights of any person, then that provision shall be subject to such limitations as are necessary to secure that it does not so conflict but shall otherwise be of full force and effect.",

and

(*d*) by inserting the following section after section 16:

"Provisions with respect to certain court proceedings.

16A.—(1) Where, before the passing of *Part 6* of the *Act of 2005*, a court made a finding as to whether an area is or is not foreshore, then that finding shall not be affected by reference to the definition of 'foreshore' (as amended by *Part 6* of the *Act of 2005*) in section 1 of this Act or to section 1A of this Act.

(2) Where the validity of any lease, licence or consent to which section 3A(1) of this Act relates has been challenged in court proceedings instituted before 21 June 2005 by reference to the area in respect of which it was granted, then the said section 3A(1) shall not apply to that lease, licence or consent.".

Section 3.

SCHEDULE

ENACTMENTS REPEALED

Session and Chapter or Number and Year (1)	Short Title (2)	Extent of Repeal (3)
57 & 58 Vict., c. 60	Merchant Shipping Act 1894	Section 220
No. 45 of 1934	Carriage by Sea (Heavy Articles) Act 1934	The whole Act
No. 9 of 1937	Merchant Shipping (Spanish Civil War) Act 1937	The whole Act
No. 46 of 1947	Merchant Shipping Act 1947	Section 11
No. 33 of 1981	Merchant Shipping Act 1981	Sections 4 and 5
No. 2 of 1992	Merchant Shipping Act 1992	Sections 23, 24 and 33 to 37
No. 14 of 2000	Merchant Shipping (Investigation of Marine Casualties) Act 2000	Section 44(2) to (9) and (11)

Number 11 *of* 2005

MARITIME SAFETY ACT 2005

REVISED

Updated to 22 November 2021

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Merchant Shipping Acts 1894 to 2015: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Harbours Act 2015* (61/2015), s. 1(3)). The Acts in this group are:

- *Merchant Shipping Act 1894* (57 & 58 Vict. c. 60)
- *Merchant Shipping Act 1897* (60 & 61 Vict. c. 59)
- *Merchant Shipping (Mercantile Marine Fund) Act 1898* (61 & 62 Vict. c. 44)
- *Merchant Shipping Act 1906* (6 Edw. 7 c. 48)
- *Merchant Shipping (Amendment) Act 1920* (10 Geo. 5 c. 2)
- *Merchant Shipping Act 1921* (11 & 12 Geo. 5 c. 28)
- *Merchant Shipping (International Labour Conventions) Act 1933* (29/1933)
- *Merchant Shipping (Safety and Load Line Conventions) Act 1933* (42/1933)
- *Merchant Shipping (Amendment) Act 1939* (12/1939)
- *Merchant Shipping Act 1947* (46/1947)
- *Merchant Shipping (Safety Convention) Act 1952* (29/1952)
- *Merchant Shipping Act 1966* (20/1966)
- *Merchant Shipping (Load Lines) Act 1968* (17/1968)
- *Merchant Shipping (Certification of Seamen) Act 1979* (37/1979)
- *Merchant Shipping Act 1981* (33/1981)
- *Merchant Shipping (Light Dues) Act 1983* (18/1983)
- *Merchant Shipping Act 1992* (2/1992)
- *Merchant Shipping (Salvage and Wreck) Act 1993* (34/1993)
- *Merchant Shipping (Liability of Shipowners and Others) Act 1996* (35/1996)
- *Merchant Shipping (Commissioners of Irish Lights) Act 1997* (37/1997)
- *Merchant Shipping (Miscellaneous Provisions) Act 1998* (20/1998)
- *Merchant Shipping (Investigation of Marine Casualties) Act 2000* (14/2000)
- *Sea Pollution (Hazardous Substances) (Compensation) Act 2005* (9/2005), s. 28
- *Maritime Safety Act 2005* (11/2005), other than Parts 5 and 6
- *Merchant Shipping Act 2010* (14/2010), other than s. 93
- *Local Government Reform Act 2014* (1/2014), s. 1(15), and s. 5(6) and sch. 2 part 6 (in so far as they amend the *Merchant Shipping (Salvage and Wreck) Act 1993*)
- *Merchant Shipping (Registration of Ships) Act 2014* (43/2014)
- *Harbours Act 2015* (61/2015), s. 51

Acts previously included in the group but now repealed are:

- *Merchant Shipping (Exemption from Pilotage) Act 1897* (60 & 61 Vict. c. 61)
- *Merchant Shipping (Liability of Shipowners) Act 1898* (61 & 62 Vict. c. 14)
- *Merchant Shipping (Liability of Shipowners & Others) Act 1900* (63 & 64 Vict. c. 32)
- *Merchant Shipping Act 1907* (7 Edw. 7 c. 52)
- *Pilotage Act 1913* (2 & 3 Geo. 5 c. 31)
- *Merchant Shipping (Certificates) Act 1914* (4 & 5 Geo. 5 c. 42)
- *Merchant Shipping (Convention) Act 1914* (4 & 5 Geo. 5 c. 50)
- *Merchant Shipping (Salvage) Act 1916* (6 & 7 Geo. 5 c. 41)
- *Merchant Shipping (Wireless Telegraphy) Act 1919* (9 & 10 Geo. 5 c. 38)
- *Merchant Shipping (Helm Orders) Act 1932* (32/1932)
- *Pilotage (Amendment) Act 1962* (2/1962)
- *Fisheries (Amendment) Act 1983* (27/1983), s. 8, in so far as it amends the *Merchant Shipping Act 1894*, and s. 10(2)
- *Fisheries (Amendment) Act 1994* (23/1994), s. 4

Shannon Navigation Acts 1990 and 2005: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Maritime Safety Act 2005* (11/2005), s. 1(8)). The Acts in this group are:

- *Shannon Navigation Act 1990* (20/1990)
- *Maritime Safety Act 2005* (11/2005), s. 57

Canals Acts 1986 to 2018: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Heritage Act 2018* (15/2018), s. 1(2)). The Acts in this group are:

- *Canals Act 1986* (3/1986)
- *Maritime Safety Act 2005* (11/2005), s. 56
- *Heritage Act 2018* (15/2018), Part 2

Fishery Harbour Centres Acts 1968 to 2015: this Act is one of a group of Acts included in this collective citation (*Harbours Act 2015* (61/2015), s. 1(4)). The Acts in this group are:

- *Fishery Harbour Centres Act 1968* (18/1968)
- *Fishery Harbour Centres Act 1980* (22/1980)
- *Fishery Harbour Centres (Amendment) Act 1992* (10/1992)
- *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), s. 6 and ss. 1 and 7, in so far as they relate to s. 6
- *Maritime Safety Act 2005* (11/2005), s. 54
- *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 102
- *Vehicle Clamping Act 2015* (13/2015), s. 35
- *Harbours Act 2015* (61/2015), s. 52

Maritime Safety Acts 1992 to 2006: this Act is one of a group of Acts included in this collective citation (*Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 1(8)). The Acts in this group are:

- *Merchant Shipping Act 1992* (2/1992)
- *Merchant Shipping (Investigation of Marine Casualties) Act 2000* (14/2000)
- *Maritime Safety Act 2005* (11/2005), Parts 2, 3 and 4
- *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006), s. 104

Foreshore Acts 1933 to 2021: this Act is one of a group of Acts included in this collective citation (*Maritime Area Planning Act 2021*, s. 1(2). The Acts in the group are:

- *Foreshore Act 1933* (12/1933)
- *Foreshore (Amendment) Act 1992* (17/1992)
- *Fisheries and Foreshore (Amendment) Act 1998* (54/1998), s. 5 and ss. 1 and 7 in so far as they relate to s. 5
- *Fisheries (Amendment) Act 2003* (21/2003), s. 32 and s. 2, in so far as it relates to s. 32
- *Maritime Safety Act 2005* (11/2005), Part 6
- *Foyle and Carlingford Fisheries Act 2007* (17/2007), s. 35

- *Foreshore and Dumping at Sea (Amendment) Act 2009* (39/2009), other than s. 1(3) and (5), Part 3 and sch. 2
- *Foreshore (Amendment) Act 2011* (11/2011)
- *Local Government Reform Act 2014* (1/2014), s. 1(13), and s. 5(6) and sch. 2 part 6 (in so far as they amend the *Foreshore (Amendment) Act 1992*)
- *Maritime Area Planning Act 2021* (50/2021), Part 9 chs. 1, 3

Harbours Acts 1996 to 2015: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Harbours Act 2015* (61/2015), s. 1(2)). The Acts in this group are:

- *Harbours Act 1996* (11/1996)
- *Harbours (Amendment) Act 2000* (21/2000)
- *Maritime Safety Act 2005* (11/2005), s. 58
- *Sea Pollution (Miscellaneous Provisions) Act 2006* (29/2006), Part 4 and s. 1(4)
- *Harbours (Amendment) Act 2009* (26/2009), other than ss. 7(1) and (2), 20 and 21(3)
- *Vehicle Clamping Act 2015* (13/2015), s. 36
- *Harbours Act 2015* (61/2015), other than Part 6

Harbours Acts 1946 to 2005: this Act is one of a group of Acts previously included in this collective citation, to be construed together as one (*Maritime Safety Act 2005* (11/2005), s. 1(4)). The substantive provisions included in the collective citation still in force were repealed (25.12.2015) by *Harbours Act 2015* (61/2015), s. 5(1), commenced on enactment.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Maritime Jurisdiction Act 2021* (28/2021)
- *Merchant Shipping (Registration of Ships) Act 2014* (43/2014)
- *Merchant Shipping Act 2010* (14/2010)
- *Inland Fisheries Act 2010* (10/2010)
- *Sea-Fisheries and Maritime Jurisdiction Act 2006* (8/2006)
- *Merchant Shipping (Salvage and Wreck) Act 1993* (34/1993)
- *Merchant Shipping Act 1992* (2/1992)
- *Merchant Shipping Act 1966* (20/1966)
- *Merchant Shipping (Safety Convention) Act 1952* (29/1952)
- *Merchant Shipping Act 1906* (6 Edw. 7 c. 48)

All Acts up to and including *Child and Family Agency (Amendment) Act 2021* (34/2021), enacted 24 November 2021, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

- *Merchant Shipping (Carriage of Nautical Charts and Publications) Regulations 2021* (S.I. No. 149 of 2021)
- *European Communities (Birds and Natural Habitats) Regulations 2011* (S.I. No. 477 of 2011)
- *Inland Waterways and Waterways Ireland (Transfer of Departmental Administration and Ministerial Functions) Order 2011* (S.I. No. 195 of 2011)
- *Sea Fisheries, foreshore and Dumping at Sea (Transfer of Departmental Administration and Ministerial Functions) Order 2007* (S.I. No. 707 of 2007)
- *Marine and Natural Resources (Transfer of Departmental Administration and Ministerial Functions) Order 2006* (S.I. No. 530 of 2006)
- *Merchant Shipping (Weighing of Goods Vehicles) Regulations 2006* (S.I. No. 510 of 2006)
- *Maritime Transport, Safety and Security (Transfer of Departmental Administration and Ministerial Functions) Order 2005* (S.I. No. 842 of 2005)
- *Maritime Safety Act 2005 (Fixed Payment Notices) (Sections 33 and 34) Regulations 2005* (S.I. No. 512 of 2005)
- *Maritime Safety Act 2005 (Fixed Payment Notices) Regulations 2005* (S.I. No. 390 of 2005)
- *European Communities (Marine Equipment) Regulations 2003* (S.I. No. 38 of 2003)
- *European Communities (Marine Equipment) Regulations 1998* (S.I. No. 545 of 1998)
- *Communications (Transfer of Departmental Administration and Ministerial Functions) Order 1987* (S.I. No. 91 of 1987)
- *Transport, Fuel and Power (Transfer of Departmental Administration and Ministerial Functions) Order 1959* (S.I. No. 125 of 1959)
- *Merchant Shipping Acts, 1894 To 1921, Adaptation Order 1945* (S.I. No. 273 of 1945)

All statutory instruments up to and including *Maritime Jurisdiction Act 2021 (Commencement) Order 2021* (S.I. No. 601 of 2021), made 17 November 2021, were considered in the preparation of this revision.