



AN BILLE UM SHÁBHÁILTEACHT MHUIRÍ 2004
MARITIME SAFETY BILL 2004

Mar a tionscnaíodh
As initiated

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[No. 30 of 2004]

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ACTS REFERRED TO

Fisheries Act 1980	1980, No. 1
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Harbours Act 1996	1996, No. 11
Harbours Acts 1996 and 2000	
Local Government Act 2001	2001, No. 37
Merchant Shipping (Investigation of Marine Casualties) Act 2000	2000, No. 14
Merchant Shipping Act 1992	1992, No. 2
Merchant Shipping Acts 1894 to 2000	
National Monuments Acts 1930 to 1994	
Wildlife (Amendment) Act 2000	2000, No. 38
Wildlife Act 1976	1976, No. 39



AN BILLE UM SHÁBHÁILTEACHT MHUIRÍ 2004
MARITIME SAFETY BILL 2004

BILL

entitled

5 AN ACT TO PROVIDE FOR THE REGULATION AND CON-
TROL OF CERTAIN FAST POWERED WATERCRAFT,
TO AMEND THE FISHERY HARBOUR CENTRES ACT
1968, THE MERCHANT SHIPPING ACT 1992 AND THE
10 HARBOURS ACT 1996 IN RELATION TO PENALTIES
AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Maritime Safety Act 2004.

Short title and
collective citation.

15 (2) The Merchant Shipping Acts 1894 to 2000 and this Act (other
than *sections 18* and *20*) may be cited together as the Merchant Ship-
ping Acts 1894 to 2004.

(3) The Fishery Harbour Centres Acts 1968 to 1998 and *section*
18 may be cited together as the Fishery Harbour Centres Acts 1968
20 to 2004.

(4) The Harbours Acts 1996 and 2000 and *section 20* may be cited
together as the Harbours Acts 1996 to 2004.

2.—(1) “Act of 2000” means Merchant Shipping (Investigation of Interpretation.
Marine Casualties) Act 2000.

25 (2) In this Act—

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

30 (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

35 (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 enact-
ment including this Act.

PART 2

PERSONAL WATERCRAFT AND RECREATIONAL CRAFT

Definitions (*Part 2*). 3.—In this Part, unless the context otherwise requires—

“Act of 1968” means Fishery Harbour Centres Act 1968;

“Act of 1976” means Wildlife Act 1976; 5

“Act of 1992” means Merchant Shipping Act 1992;

“Act of 1996” means Harbours Act 1996;

“authorised person” means—

(a) a person appointed under *section 14*, or

(b) in the case of a harbour company, its harbour police (within 10
the meaning of section 54 of the Act of 1996),

in so far as relates to the exercise of functions in the functional area
of the appointing authority or of the harbour company concerned,
as the case may be;

“authority” means a local authority or a harbour authority, as the 15
case may be;

“craft” means personal watercraft or recreational craft when oper-
ated by a mechanical means of propulsion;

“fishery harbour centre” has the meaning assigned to it by the Act
of 1968; 20

“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 25
functional area which adjoin the functional area of
another local authority, with the agreement of that other
local authority;

“harbour authority” means—

(a) in the case of a harbour to which the Act of 1996 applies, a 30
harbour company,

(b) 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,

(c) in the case of a harbour under the control or management 35
of a local authority, the local authority concerned,

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

“harbour company” means a company referred to in section 7 of the
Act of 1996; 40

“Irish waters” has the meaning assigned to it by section 2(1) of the Act of 2000;

“inland waters” includes estuaries, rivers, lakes and other inland waters (whether or not artificially created or modified);

5 “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;

10 “Minister” means Minister for Communications, Marine and Natural Resources;

“National Monuments Acts” means National Monuments Acts 1930 to 1994;

“natural heritage area” means—

15 (a) a European site (with the meaning of Regulation 2 (inserted by section 75(a) of the Wildlife Act 2000) of the European Communities (Natural Habitats) Regulations 1997 (S.I. No. 94 of 1997)),

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

20 (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,

25 (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;

30 “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;

35 “prescribed” means prescribed by regulations made by the Minister;

“recreational craft” means a craft of at least 2.5 metres in length and 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;

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

“section 35 or 36 of the Act of 1992” means section 35, involving the careless operation of a craft, or section 36, involving the dangerous operation of a craft, of the Act of 1992 (inserted by section 44(11) of the Act of 2000);

“Wildlife Act 2000” means Wildlife (Amendment) Act 2000. 5

Bye-laws relating to regulation and control of craft.

4.—(1) Bye-laws may be made regulating or controlling the operation of craft by—

(a) a local authority, in waters in its functional area, other than waters referred to in *paragraph (b)* or waters under the control or management of Waterways Ireland, or 10

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

in respect of any or all of the following matters—

(i) the prohibition 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 in such places or at such times (if any) or for such periods (if any) as specified in the bye-laws— 15

(I) in the interests of the safety of persons using the waters generally or at certain times, 20

(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, 25

(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 30

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

(2) A person who operates a craft in waters prohibited by 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 35

(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 waters in which it is prohibited by bye-laws 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. 40

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

5 (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

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

15 5.—(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—

Procedure for making bye-laws and publication.

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

20 (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

25 (d) stating that the authority will consider any submissions in relation 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.

30 (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
35 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
40 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.

45 (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
50 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 *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. 5

(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, 10
- (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, 15 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. 20

(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. 25
- (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 4*. 30

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

6.—(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, 35
- (b) in contravention of bye-laws made under *section 4* or of *section 8* or of *section 35* or *section 36* of the Act of 1992, 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— 40
 - (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 45 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.

7.—(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 4, 6 or 8* or *section 35 or 36* of the Act of 1992, he or she may—

Seizure of craft in interests of safety, etc.

(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.

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

Operating craft without reasonable consideration.

(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 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.

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

Power to stop and inspect craft, etc.

(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— 5

(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, 10

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. 15

Obstruction.

10.—(1) 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 €3,000 or to imprisonment for a term not exceeding 3 months or both. 20

(2) Where a member of the Garda Síochána has reasonable grounds for believing that a person is committing or has committed an offence under this section, the member may arrest the person without warrant. 25

Forfeiture.

11.—(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 36 (inserted by section 44(11) of the Act of 2000) of the Act of 1992 involving the dangerous 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 State and may make such other order as it considers necessary or expedient for the purpose of giving effect to the forfeiture. 30

(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— 35

(a) seize and detain the craft,

(b) do such other things as are authorised by the order or are necessary. 40

(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.

12.—(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 35 (inserted by section 44(11) of the Act of 2000) 45

of the Act of 1992 involving the careless operation of a craft, or

- (b) an offence under section 36 (inserted by the said section 44(11)) of the Act of 2000) of the Act of 1992 involving the dangerous 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 €3,000 or to imprisonment for a term not exceeding 3 months or both.

13.—(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 4, 6, 8, 9 or 10* he or she may serve the person with a notice, in the prescribed form, stating that—

Fixed payment
notice.

- (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 4(2), 6(2), 9(3), or 10(1)*, and

- (ii) €50, for a contravention of *section 4(3) or (4) or 8(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, 5
- (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, 10
- (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 15 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. 20 25

(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.

Authorised persons. **14.—**(1) An authority may appoint in writing such and so many persons as it sees fit to be authorised persons for the purposes of this Act. 30

(2) The Minister may appoint such and so many persons 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 (other than waters under the control or management of Waterways Ireland). 35

(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. 40

(4) A person who is a member of a harbour company's harbour police, or is appointed as an authorised person by a harbour company, may exercise the functions of an authorised person under this Part within the company's harbour.

(5) 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. 45

(6) An authorised person appointed by Iarnród Éireann-Irish Rail in respect of a harbour under the control or management of that 50

company may exercise the functions of an authorised person under this Part in respect of the harbour to which the appointment relates.

5 (7) 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 Act as an authorised person shall, if requested by a person affected, produce the warrant or a copy thereof to that person.

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

(9) An authorised person 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.

15 **15.**—Bye-laws made under *section 4* do not apply to craft operated in the course of duty of— Exemptions from bye-laws under *section 4*.

(a) the authority concerned,

(b) the Garda Síochána,

(c) the Defence Forces,

(d) the Revenue Commissioners,

20 (e) the Central Fisheries Board or a Regional Fisheries Board (within the meaning of the Fisheries Act 1980),

(f) the Irish Coast Guard,

(g) the Commissioners of Irish Lights, or

(h) the Royal National Lifeboat Institution,

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

16.—(1) Proceedings for a summary offence under this Part may be brought and prosecuted by the authority concerned. Prosecution of offences, recovery of costs and payment of fines.

30 (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.

35 (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.

40 **17.**—Section 33 (inserted by section 44(11) of the Act of 2000) of the Merchant Shipping Act 1992 is repealed. Repeal (*Part 2*).

PART 3

AMENDMENT OF PENALTIES IN CERTAIN ENACTMENTS

Amendment of
penalties in Fishery
Harbour Centres
Act 1968.

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

(a) by substituting for paragraph (a) of subsection (6) the following: 5

“(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 €3,000.”, 10

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— 15 20

(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 25

(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. 30 35

(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, 40

(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, 45

(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.”.

19.—The Merchant Shipping Act 1992 is amended—

Amendment of certain penalties in Merchant Shipping Act 1992.

(a) in section 20 (which relates to safety of pleasure craft and their occupants) by substituting for subsection (5) (as amended by section 44(9)(f) of the Act of 2000) the following:

“(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 or person in charge of the craft is each guilty of an offence and each is liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 6 months or to both.”,

(b) in section 34 (which relates to fixed penalty notice) (inserted by section 44(11) of the Act of 2000) by substituting “€150” for “£100”,

(c) in section 35(2) (which relates to careless operation of vessels) (inserted by section 44(11) of the Act of 2000) by substituting “€2,000” for “£500”, and “one month” for “3 months”, respectively, and

(d) in section 36(2) (which relates to dangerous operation of vessels) (inserted by section 44(11) of the Act of 2000) by substituting—

(i) in paragraph (a), “€25,000” for “£10,000”, and

(ii) in paragraph (b), “€3,000” for “£1,500” and “6 months” for “12 months”, respectively.

20.—The Harbours Act 1996 is amended—

Amendment of penalties in Harbours Act 1996.

(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 €3,000 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 €3,000.”, 5

(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— 10 15

(a) the person is alleged to have committed the offence, and 20

(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— 25

(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, 30 35

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 40

(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. 45

(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 anytime during the period of 21 days. The company shall consider the objections. 5

(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. 10

(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.”. 15