Merchant Shipping Bill 2009
Screening Regulatory Impact Analysis

Reduced Mobility Provisions

Policy Context

The Disability Act 2005 under section 35 requires the Minister for Communications, Marine and Natural Resources (now the Minister for Transport) to prepare a sectoral plan containing information on the measures to be taken by operators of passenger ships and certain ports for the purpose of facilitating access to marine passenger transport services and the time within which such measures are to be taken. A passenger ship is a vessel carrying more than twelve passengers.

The Department of Transport’s Sectoral Plan, *Transport Access for All*, and the sectoral plans of the five other Departments obliged by the Disability Act 2005 to draw up such plans, were approved by the Oireachtas. The Sectoral Plan contains a section on maritime passenger transport services.

The Department has established a Maritime Transport Passenger Forum to oversee the implementation of the maritime passenger transport section of the Sectoral Plan.

Legal advice received from the Office of the Attorney General in 2004 when the Disability Act was being drafted cast doubt on the powers of the Minister to make measures obligatory in relation to modifications for safety requirements to domestic passenger ships, i.e. vessels engaged in voyages within the State, for persons with reduced mobility under existing Merchant Shipping legislation.

Passenger ships engaged on international voyages i.e. on voyages to or from the State, are governed by international agreements. The International Maritime Organisation (IMO) has developed recommendations for international going passenger ships - IMO Circular MSC/735 *Recommendation on the design and operation of passenger ships to respond to elderly and disabled persons’ needs.*

Further consideration was given to the types of vessels the legislation should apply to and it was agreed that there was merit, at this stage, in expanding the Minister’s enabling powers to include passenger boats (vessels which carry not more than twelve passengers). Given their size and construction types it may prove difficult and/or costly to impose the full conditions on passenger boats that may be applied to passenger ships (vessels that carry more than twelve passengers). However, there are certain requirements that all vessel owners including boat owners should be able to comply with e.g. nature of pre-journey information, signage, colour-contrasting strips etc.
Statement of Objectives

The immediate objective is to give the Minister for Transport enabling powers under Merchant Shipping legislation to set standards/requirements for access for persons with reduced mobility to domestic passenger ships and passenger boats. The ultimate objective is to make such ships and boats accessible as far as possible to persons with reduced mobility. For the purposes of the Bill the definition of person with reduced mobility is ‘any person whose mobility when using transport is reduced or impaired as a result of any physical disability (sensory or locomotive) intellectual disability, age or as a result of pregnancy or being accompanied by small children’.

Identification of Options/Choices

Option 1 – The “no change” option

This involves making no change to existing Merchant Shipping legislation but in view of the advice from the Office of the Attorney General that measures could not be made obligatory in relation to modifications for safety requirements for persons with reduced mobility under existing Merchant Shipping legislation, this is not a realistic option.

Option 2 – Voluntary system for implementing standards

Since the introduction of the Disability Act 2005 and the publication of the Department’s Sectoral Plan, the Department has been working with passenger ship and passenger boat operators, to improve accessibility on vessels for persons with disabilities on a voluntary basis.

The voluntary approach on accessibility is still relatively new. The establishment of the Maritime Passenger Transport Forum under the Sectoral Plan may assist and give impetus to a culture of voluntary compliance. However, there are early indications that there may be a lack of engagement by some operators of domestic passenger ships and passenger boats to undertaking measures which would facilitate reduced mobility access to their vessels. The difficulty with the voluntary system option is that without the necessary legislative powers the Department cannot insist that accessibility measures are put in place.

Option 3 – Introduce legislative provisions on accessibility to passenger ships and boats

To meet the ultimate objective of making passenger ships and passenger boats accessible as far as possible to persons with reduced mobility, primary legislation is required to give the Minister the necessary enabling powers. The advice from the Office of the Attorney General is that existing primary Merchant Shipping legislation does not provide the requisite vires.

The primary legislative provisions in the Bill are enabling provisions and consideration would only be given to introducing regulations setting down standards in the event that the voluntary approach is shown not to be working. However,
because of the long lead in time to getting primary legislation enacted, it is considered that the primary legislation giving the Minister the necessary enabling powers should be brought forward now so that there is no delay if the voluntary approach is shown not to be working. This is the recommended option.

The Bill proposes to give the Minister the power to exempt, from all or any or the provisions of reduced mobility regulations, any passenger vessel or any class or classes of passenger vessel, having regard to the nature of the vessel and the use to which it is put.

Identification of Costs, Benefits and Impacts

(i) Risks and assumptions

The risk associated with options 1 and 2 is that the objective of making passenger ships and passenger boats as accessible as far as possible for persons with reduced mobility will not be achieved.

(ii) Costs

There are no costs implications involved in Option 1.

If passenger ship and passenger boat owners are to make their vessels accessible under a voluntary system under Option 2, there will be certain cost implications depending on the extent of the measures taken but that cannot be avoided if Government/Department policy to make transport accessible to persons with reduced mobility is to be achieved.

As Option 3 involves giving the Minister enabling powers only there are certain cost implications depending on the extent of the regulation and enforcement provisions.

The Bill proposes that the Minister, before making reduced mobility regulations, shall publish on the Department’s website and in such other manner as he or she considers appropriate a draft of the proposed regulations and shall give interested parties one month and in any event a period not exceeding two months to make representations in relation to the proposed regulations. The Minister shall have regard to any representations made including those relating to the costs of different requirements and standards and any information provided with regard to the financial resources generally of owners of vessels of a class to which the regulations apply in complying with the regulations.

(iii) Benefits

There is no benefit resulting from Option 1 other than that there would be no cost involved.

The benefit of option 2 is that it avoids bringing in legislation and allows passenger ship and passenger boat operators to regulate themselves.

The benefit of Option 3 is that it addresses the legal difficulties identified by the Attorney General and would enable the enforcement of statutory standards on
accessibility to ensure the objective of making passenger ships and passenger boats as accessible as far as possible for persons with reduced mobility is achieved.

(iv) Other Impacts

Impacts on National Competitiveness
None.

Impacts on Socially Excluded or Vulnerable Groups
The regulatory proposal has the potential to make a positive impact on the lives of persons with reduced mobility notwithstanding the fact that there may be a minimal impact on this group resulting from its implementation should vessel owners increase their prices to cover costs involved in complying with regulations.

Impacts on the Environment
None.

Whether the Proposal involves a significant Policy change in an Economic Market including an Examination of the Impacts on Consumers and Competition
The regulatory proposal does not involve a significant policy change in an economic market and as persons with reduced mobility are consumers it will have a positive impact for them.

Impacts on the Rights of Citizens
The regulatory proposal has the potential to make a positive impact on the rights of persons with disabilities as citizens of the State and in addition to persons with a disability, to improve accessibility for the other categories of persons who come within the definition of persons with reduced mobility.

Whether the Proposal involves a significant compliance burden
Because the proposal provides for enabling powers only for the Minister there is no compliance burden at this stage. When making reduce mobility regulations the Bill provides that the Minister shall have regard to the costs incurred and the estimate financial resources of the owner of a vessel to which the regulations apply in complying with the regulations. The Bill also provides that before making regulations the Minister shall publish on the Department’s website and in such other manner as he or she considers appropriate a draft of the proposed regulations. Interested parties shall be given one month from the date of publication of the draft proposed regulations to make written representations to the Minister in relation to the proposals.

Consultation
The Department is using the Maritime Passenger Transport Forum established under the Department’s Sectoral Plan to consult with relevant stakeholders including the
Enforcement and Compliance

The Department of Transport’s Surveyors of ships will be authorised persons for the purpose of enforcing any regulations to be introduced on foot of the proposed primary legislation.

Compliance with any regulations made under the proposed legislation will be tied in to the issue/continued validity of certificates and licences issued by the Minister in respect of passenger ships and passenger boats.

Review

The proposed primary legislation only contains enabling provisions. The question of introducing regulations to give statutory effect to standards on accessibility on passenger ships and passenger boats will be kept under review in the light of progress with voluntary measures to make passenger ships and passenger boats accessible.

Enabling provisions contained in the Merchant Shipping Bill 2009(reduced mobility)

The Minister may make reduced mobility regulations for the purposes of making passenger vessels accessible to persons with reduced mobility.

Before making regulations the Minister shall publish on the Department’s website and in any other manner as he or she thinks appropriate a draft of the proposed regulations and shall give interested persons one month from the date of publication of the draft within which to make written representations to the Minister in relation to it, or for such further period, not exceeding 2 months the Minister in his or her absolute discretion thinks fit, and having considered any representations may make regulations with or without amendment.

In making regulations the Minister may set down requirements or standards or both in relation to:

(a) pre-journey information;
(b) on-board accommodation and facilities;
(c) lifts, ramps, steps and stairs;
(d) information and announcements on board, including those required in emergency situations;
(e) safety announcements and signage;
(f) management and training of personnel;
(g) interface with facilities on shore;
(h) information to be furnished to the Minister;
(i) carrying out accessibility audits.

Reduced mobility regulations may apply either generally or to specified class or classes of passenger vessel and different provisions may be made for different classes of passenger vessel.
Reduced mobility regulations may set different and separate requirements and standards in relation to different classes of passenger vessel for different circumstances and for different areas of operation.

**Further regulatory impact assessment**

In recognition of the importance of the regulatory process a regulatory impact assessment (RIA) will be conducted on all of the proposed measures when reduced mobility secondary legislation is being prepared and the specific content of the proposals are being formulated.