REGULATORY IMPACT ANALYSIS

NEW REGIME FOR THE
REGISTRATION OF SHIPS IN IRELAND

Prepared by the Irish Maritime Administration, Department of Transport, Tourism and Sport
December 2013 [Rev. December 2014]
### Summary of Regulatory Impact Analysis (RIA)

<table>
<thead>
<tr>
<th>Department/Office: Department of Transport, Tourism and Sport (DTTAS)</th>
<th>Title of Legislation: Merchant Shipping (Registration of Ships) Act 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Stage:</strong> Enacted in December 2014 – No. 43 of 2014.</td>
<td><strong>Date:</strong> December 2014</td>
</tr>
</tbody>
</table>

**Related Publications:** Consultation Paper on Proposals for the Registration of Vessels in Ireland (Department of Transport 2008)

**Available to view or download at:** [www.dttas.ie](http://www.dttas.ie)

**Contact for enquiries:** Michelle Kavanagh     **Telephone:** (01) 6041101

**Policy Options Considered:**
1. The no change option
2. Amend the Mercantile Marine Act 1955 as amended*
3. Replace the ship registration provisions of the Mercantile Marine Act 1955 as amended*


**Preferred Option:** Option 3

<table>
<thead>
<tr>
<th>OPTIONS</th>
<th>COSTS</th>
<th>BENEFITS</th>
<th>IMPACTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Option 1.</td>
<td>No change in existing costs.</td>
<td>No long term benefits</td>
<td>No provision for the mandatory registration of high risk ships or ships of particular categories while operating in Irish waters.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No provision to remove unsafe, unsuitable or decommissioned ships from the Register.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No provision to refuse registration to unsuitable ships, therefore endangering Ireland’s white flag status.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Existing legislative framework does not provide for registration for specified periods or purposes, or for renewal of registration.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Continuation of the manual registration system (recording the data in Register Books).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Limited enforcement and continued outdated penalty provisions.</td>
</tr>
<tr>
<td>Option 2.</td>
<td>Same as option 3</td>
<td>Similar to option 3 except it would not be one primary Act supported by flexible secondary legislation. The legislation would be fragmented.</td>
<td>The primary ship registration legislative provisions would be spread across four Acts.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Option 3.</td>
<td>New costs for certain ship owners arising from the extension of mandatory ship registration to new ship categories. New registration renewal fees for ship owners, up to 5 years after initial registration and at intervals of up to 10 years thereafter. Costs for DTTAS in developing and maintaining the new centralised, electronic and on-line Register, the associated ship registration administration system and regulatory regime.</td>
<td>Modern, accessible, streamlined and comprehensive ship registration system. Centralised, electronic Register facilitating improved records and statistical information and maximum on-line application. More accessible registration system for ship owners. Extended mandatory registration for certain craft including ships that have the potential to cause danger. Enhanced enforcement and updated penalty provisions. The new Act will be supported by secondary legislation facilitating evolution and enhancement into the future.</td>
<td>Updated and modernised ship registration regime in Ireland. More accessible registration system for ship owners. One piece of primary legislation supported by flexible secondary legislation. Enhanced safety of ships and positive effects on the environment. May encourage registration on the Irish flag and lead to growth in the merchant fleet.</td>
</tr>
</tbody>
</table>

### 1. Summary of the RIA

A review of the ship registration regime in Ireland, principally the Mercantile Marine Act 1955, was initiated against a background of continuing international and national developments in the maritime area since the current legislation governing ship registration in Ireland was introduced in 1955. These developments include the growth and changing nature of maritime trade, an increase in the use of pleasure craft, and an increasing emphasis at an international and EU level on safety, security and environmental issues and on flag state obligations.
The proposed new legislation takes into account the responses to a public consultation and represents a significant step forward from the current system under the Mercantile Marine Act 1955, as amended, which is antiquated in terms of dealing effectively with a modern maritime industry. The proposals will overhaul ship registration by providing a basis for a central Irish Register of Ships, facilitate maximum online applications and access to the Register, and enhance standards for vessels on the Register and enforcement including the power to remove non-compliant ships from the Register. The Bill will enable the introduction of categories of registration, ship registration renewal, and the extension of mandatory registration to additional categories of ships.

It is anticipated that there will be administrative and staffing costs for the Exchequer associated with the preferred option. However, the overall benefits will outweigh the costs. Arising from the Bill provisions, more ships operating domestically will be subject to mandatory registration and will therefore be liable for ship registration and renewal fees for the first time.

When fully implemented, the Bill and supporting secondary legislation will result in an improved, more efficient ship registration regime that will not only provide an accurate record of ships on the Irish flag, but will also facilitate a record of compliance by Irish ships with requirements relating to national and international safety, security, living and working conditions and environmental obligations.

2. **Brief Description of Policy Context, Objectives**

   (i) **Policy Context/Background**

Historically, registration of ships in Ireland has been used as a means of establishing title to the property in a ship. The Act dealing with the registration of ships is the Mercantile Marine Act 1955, as amended by the Merchant Shipping (Miscellaneous Provisions) Act 1998 and the Sea-Fisheries and Maritime Jurisdiction Act 2006.

The Department of Transport, Tourism and Sport is the national authority with responsibility for the registration of Irish ships. The existing legislation lays down the legal provisions for ship registration and provides for the national character, ownership and registry of Irish ships, for the mortgage, sale, transfer and measurement of tonnage of such ships and other connected matters.

Under the existing legislative provisions, ships wholly owned by an Irish citizen or an Irish body corporate are obliged to register unless the ship is exempt from the requirement to register as follows:

- ships not exceeding 15 net tons, provided they are only used on the rivers, canals, lakes or coasts of Ireland, Great Britain, the Channel Islands or the Isle of Man
- ships acquired before the date of the passing of the Mercantile Marine Act 1955
- ships in respect of which the Minister has consented to their registration under the laws of another country under section 21 of the 1955 Act
- ships owned by Irish citizens not ordinarily resident within the State
- sea-fishing boats of less than 15 metres in length overall and required to be registered in the Register of Fishing Boats maintained under section 74 of the Sea-Fisheries and Maritime Jurisdiction Act 2006 or exempt from such registration by regulations under section 76 of that Act.
The Mercantile Marine Act 1955 does not apply to ships of the Naval Service of the Defence Forces which are wholly manned by personnel of that Service.

The 1955 Act assigns a statutory role in relation to ship registration to the Revenue Commissioners who appoint Registrars of Ships to administer the registration process. Each Registrar maintains a Register Book to record details of all ships registered in the port for which the Registrar is responsible. A ship owner can choose a port of registry from 13 ports that are designated as such in accordance with section 32 of the 1955 Act. The existing ports of registry are: Arklow, Cork, Drogheda, Dublin, Dundalk, Galway, Limerick, Skibbereen, Sligo, Tralee, Waterford, Westport and Wexford.

The individual Registrars send details of entries in the Register Books to the General Register and Record Office of Shipping and Seamen which is located in the Department of Transport, Tourism and Sport’s Mercantile Marine Office, Leeson Lane, Dublin 2. The Local Registrars hold all of the original official records of registration of ships and registration fees collected are submitted to Revenue central funds. There are currently in excess of 3,200 ships registered in Ireland.

There are fundamental gaps in the existing ship registration legislation. For example, the Minister does not have the power to remove unsafe or unsuitable ships from the Register, there are no provisions to allow for categories of registration, there is no provision for ship registration renewal, a number of provisions in the existing Act may be viewed as unconstitutional having regard to modern drafting practices, and the penalty levels are outdated. Registration is not centralised and paper records make it difficult to access information, generate reports or gather and output statistical information.

Additionally, in recent years there has been a concerted effort by the International Maritime Organization and the European Union to enhance the safety of ships and prevent pollution from ships by addressing the issues of substandard ships and the obligations on flag States in relation to the ships that fly their flag. Several international organisations impose obligations on Ireland in relation to Irish registered ships including the United Nations through the Convention on the Law of the Sea, the International Maritime Organization (IMO), the International Labour Organisation (ILO), the Paris Memorandum of Understanding on port state control and the European Union (EU).

As Ireland is committed to having an Irish fleet which is safe, secure and seaworthy, it is essential that our Register of Irish Ships is updated to reflect this commitment by linking registration to the production of statutory certificates and other documentation where required under the obligations of international conventions.

In addition to obligations under the UN Conventions, Ireland is a Member State of the Paris Memorandum of Understanding on port state control\(^1\) (the Paris MOU) which consists of 27 national maritime administrations and covers the waters of the European coastal States and the North Atlantic basin from North America to Europe. Early in 2009 Ireland was admitted to the prestigious “White List” maintained by the Paris MOU of top performing shipping states in the world.

---

\(^1\) The Paris MoU consists of 27 participating maritime administrations and covers the waters of the European coastal States and the North Atlantic basin from North America to Europe. The Paris MoU aims at eliminating the operation of sub-standard ships through a harmonized system of port State control. Annually over 19,000 inspections take place on board foreign ships in the Paris MoU ports, ensuring that these ships meet international safety, security and environmental standards, and that crew members have adequate living and working conditions.
world in recognition of the significant improvement Ireland has made in recent years in safety standards aboard Irish registered ships.

Obtaining “White List” status from the Paris MoU is an international recognition that Ireland operates a quality shipping register. Arising from this, ships operating under the Irish flag have seen reductions in inspections and this will save operators time and money. Having reached this position Ireland wishes to maintain its “white list” status and considers that revisions to the existing registration legislation will support this.

These developments reinforce the view that the Mercantile Marine Act 1955, as amended, needs to be replaced with new legislation more suited to a modern maritime sector and providing a basis for extended mandatory registration with a facility for ship registration renewal and removal from the Register, as well as enhanced enforcement powers and a greater emphasis on safety, security and environmental protection considerations, rather than being primarily, as at present, a vehicle for the registration of ship ownership and any accompanying financial interests.

(ii) Statement of Objectives

The ultimate objective is to provide a legislative basis for the establishment and regulation of a modern and comprehensive ship registration system with a centralised, accessible Register at its core. It is the intention that this will be developed as an electronic system, including maximum online application. It is proposed that the new Irish ship registration system will not only provide a record of ships on the Irish flag, but will also facilitate a record of their compliance with national and international safety, security, living and working conditions and environmental requirements for ships. It will allow for more robust and accurate ship registration records as well as a flexibility and capacity for future expansion or restructuring of the Register in the event of new categories of ship being identified for mandatory registration.

It is proposed that most ships operating domestically (i.e. operating on any voyage which is wholly or partially in Irish waters other than an international voyage which does not originate or terminate in the State), will be required to be registered on the Register in accordance with the new Bill or to have a current valid registration conferring nationality from another country. The provisions of the Bill will facilitate an extension of mandatory registration to new categories of vessels and, in that regard, mandatory registration of fishing boats that hold sea-fishing boat licences (including those less than 15 metres in length overall), personal watercraft (jet skis), small fast powered craft and some small angling boats will be introduced. It is proposed to require the registration of personal watercraft (jet skis), small fast powered craft and certain small angling boats as they are considered to be high risk craft.

With regard to personal watercraft and small fast powered craft, it is considered that there is a need to exercise some degree of control over such craft for a number of reasons –

- Such craft can prove dangerous or a nuisance if operated without due care and attention to other persons using Irish waters

- Annual Reports from the Marine Casualty Investigation Board (MCIB) have identified continued incidents of marine casualties involving recreational craft, with recorded incidents involving jet skis giving rise to fatalities in 2003, 2006 and 2007, and a fast powered craft/RIB in 2010, 2011 and 2012. The MCIB has recommended the registration of jet skis on a number of occasions, for example, in MCIB reports MCIB/128, MCIB/131 and MCIB/141
Mandatory registration will assist in the identification of registered owners and thereby act as a support to general maritime law enforcement, as well as the enforcement of the Maritime Safety Act 2005 and bye-laws made by authorities under that Act to regulate and control the operation of jet skis and other recreational craft, in coastal waters, lakes and rivers.

To take account of the increase in the numbers of such craft in recent years and to regulate accordingly having regard to the risks that can be involved in the operation of such craft:

- To act as a support to the search and rescue operations of the Irish Coast Guard, particularly in relation to the identification of registered owners of such craft.

The immediate objectives are:

- to introduce a new Act to replace and update the substantive provisions of the Mercantile Marine Act 1955 as amended.
- to establish a new central ship register – “Irish Register of Ships”
- to facilitate a new Register structure incorporating different Parts for the registration of different types or descriptions of ships and for different registration purposes
- to provide a basis for an extension of mandatory registration to a range of additional ship categories including fishing boats less than 15 metres in length overall, personal watercraft (jet skis) and small fast powered craft
- to facilitate the control and regulation of ship registration requirements through secondary regulation
- to introduce the concept of renewal as part of the ship registration system whereby following initial registration there will be a requirement for renewal after a period of up to five years and at intervals of up to every ten years thereafter
- to facilitate the refusal of ship registration in certain circumstances
- to provide for the removal of ships from the Register in certain circumstances
- to provide for the appointment of authorised persons to enforce the legislation
- to provide ship detention powers for surveyors of ships
- to facilitate the introduction of a system of fixed payments for certain offences involving personal watercraft, small fast powered craft and smaller angling ships
- to improve the enforcement and penalty regime, providing for increased penalty levels
- to allow for immediate access to more robust and accurate ship registration and associated records and information.

The Bill provides for the establishment of the Irish Register of Ships consisting of different Parts as determined by the Minister who will also prescribe in regulations the types and particulars of ships
to be registered on each Part of the Register as well as the requirements, standards and conditions of registration that will apply to each Part.

3. **Identification and Description of Options**

**Option 1 – The no change option**
The existing ship registration regime is functioning and serving its purpose as a mechanism for Ireland to meet international obligations such as those under the United Nations Convention on the Law of the Sea (UNCLOS) to have in place conditions for the grant of its nationality to ships, for the registration of ships in its territory and for the right to fly the Irish flag. The legislation allows the State to exercise its jurisdiction and control in administration, technical and social matters over ships flying its flag.

Notwithstanding the above position, there are fundamental gaps in existing legislation as outlined in section 2(i) above. It is considered that continuation of the present system whereby registration is not linked in specific terms to safety, security and environmental standards, and where registration is not centralised or computerised, will not provide the most effective or efficient process for the Irish Maritime Administration and the deficiencies identified will not be addressed.

**Option 2 – Amend the Mercantile Marine Acts 1955 and 2006**
Further amending the Mercantile Marine Acts 1955 and 2006 could address and resolve some of the current concerns. However, the 1955 Act is lengthy and the changes required are numerous. Most amendments would require substantial revision or substitution of existing legislative provisions. This can be difficult to ensure that all aspects are correctly addressed and can lack transparency from an end-user perspective in that the primary ship registration provisions may continue to be spread across four pieces of primary legislation.

While this is an option, given the extent of amendment necessary to provide a comprehensive basis for the proposed new ship registration regime, it is considered that this approach would be confusing and it would be preferable to have one piece of primary legislation to provide the overarching principles and policies and enabling provisions from which a more flexible secondary code of regulation may flow.

**Option 3 – Replace the ship registration provisions of the Mercantile Marine Acts with a new Act and new secondary legislation**
Given the stated desire to provide a comprehensive, modernised legislative framework for the regulation and control of ship registration in Ireland, the preferred option is to replace the Mercantile Marine Act 1955, as amended, with a new Act and new secondary legislation. The new Bill will establish the enabling parameters of a framework for regulation in this area into the future, as well as a facility and flexibility to expand or restructure the Irish Register to respond to continuously evolving EU or international requirements relating to maritime safety, security and environmental considerations in the context of Irish registered ships. The replacement of the 1955 Act and the associated ICT project was one of the tasks identified in a Value For Money review of the Marine Survey Office (April 2012) as having the potential to give rise to efficiencies.

4. **Analysis of Costs, Benefits and Impacts**
The costs, benefits and impacts of each Option are set out below:
(i) Costs

Option 1 - There are no new costs involved in pursuing Option 1. However, to continue with the existing legal framework means the retention of an antiquated system for registration of ships that does not fully reflect current policy and operational concerns. The current system lacks flexibility for certain categories of ship that do not require such onerous registration requirements that exist in the Mercantile Marine Act 1955. The existing register will not be expanded to include the mandatory registration of craft that are considered high risk, there will be no powers for ship registration renewal, for the removal of unsuitable ships from the Register, nor a facility for more rigorous enforcement with updated financial penalties, and a more direct emphasis being placed on safety, security and environmental protection considerations.

Option 2 – Amending the Mercantile Marine Acts 1955 and 2006 would have the same cost implications as Option 3 which is the preferred option.

Option 3 – Costs are likely to arise for ship owners in terms of registration costs for the additional categories of ships that will be subject to mandatory registration, and for renewal of registration. It is proposed that registration of a ship will be for an initial period of up to five years and, following that renewal, subsequent renewals will be at intervals of up to every ten years. Irish ships that are registered under the current regime will be transferred free of charge to an appropriate part of the new Register for an initial period of up to five years and, subject to compliance with the requirements of the Bill, will then become eligible for consideration for renewal of their registration. All new ship registrations and ship registration renewals will involve payment of a fee, which will be prescribed by the Minister.

In addition to registration fees, commercial ships, passenger ships, fishing boats and recreational craft 24 metres in load line length and greater will have costs associated with the survey and tonnage measurement of the vessels, as is the situation currently. Such costs will not arise for the owners of personal watercraft, small fast powered craft or small angling boats operating domestically where a system of self-declaration of measurement is proposed.

As ship registration functions are not currently undertaken by staff of the Department of Transport, Tourism and Sport (DTTAS), there will be costs for a new IT project (initial investment and ongoing support and development) as well as new and ongoing administrative and staffing costs.

The Revenue Commissioners currently have the statutory role in relation to ship registration. The registrars of ships are Revenue officials in 11 locations around the country. In addition to individual ship registration paper file records, the registrars maintain manual Register Books to record all registration transactions that occur in relation to the port of registry for which the registrar is responsible and send details of entries in the Register Books to the Mercantile Marine Office of DTTAS. Ship registration forms a small part of the registrar’s role and the total time spent on ship registration duties equates to 3 full-time equivalent posts within the Revenue Commissioners, and the equivalent of 1 post within DTTAS involved in follow-on duties. Revenue sees ship registration as a non-core function.

The proposed transfer of the registration role to DTTAS, the introduction of the expanded registration regime and central Register with associated new functions, and an increased volume of mandatory ship registrations and ship registration categories, new ship registration renewals, management and recording of activity under the fixed payment regime and any prosecutions
arising, will have staffing implications for DTTAS. DTTAS will seek to leverage existing resources and infrastructure within the Department, and in discussions with the Revenue Commissioners, to meet the new and additional requirements. The Bill also provides, in section 10, that the Minister may enter into service agreements with a State agency for administration of all or part of the Register.

Ship registration will continue to generate revenue from fees, with potential for this to be increased in the future through registration renewal fees. However, the scope for full recovery of costs is limited given the fact that the majority of new ship registrations in the immediate term are likely to arise in the smaller recreational craft category.

(ii) Benefits

Option 1 – There are no long-term benefits resulting from the pursuit of Option 1.

Option 2 – The benefits associated with Option 2 would be similar to the benefits associated with Option 3 (the preferred option) in that the legislative framework could support the introduction of a new centralised electronic Register and associated modernised registration regime. However, the pursuit of Option 2 would mean that our national legislative provisions would be spread across four Acts which is not ideal. It is preferable and less confusing to have one piece of primary legislation to provide the overarching principles and policies and enabling provisions from which a more flexible secondary code of regulation can flow.

Option 3 – There are a number of benefits associated with Option 3. One of the main benefits is that the proposed Bill will be supported by a flexible framework of secondary legislation. This approach will provide greater flexibility for the maritime administration and facilitate a more immediate and appropriate regulatory response to change in the sector, including to any emerging policy concerns, requirements and operational priorities at national, EU or international level.

The new Irish ship registration system will not only provide an accurate record of ships on the Irish flag but will also facilitate a record of compliance with national and international safety, security, living and working conditions and environmental requirements for ships, and provide powers for the removal of unsuitable ships. An enhanced electronic ship record and management system will have broader benefits for the Irish Maritime Administration and potentially for other State agencies particularly in providing immediate up to date information on ship ownership.

Other important benefits include a new, electronic and comprehensive ship registration system with a centralised, accessible Register at its core and maximum on-line application facilities.

(iii) Other Impacts

Impacts on Jobs and Competitiveness
There are no negative impacts on jobs or national competitiveness. The implementation of the proposed new ship registration regime should be positive and enhance the perception of Irish ships which may lead to growth in the merchant fleet.

Impacts on the Socially Excluded or Vulnerable Groups, people with disabilities and rural communities
There are no negative impacts on the socially excluded, vulnerable or lower socio-economic groups, people with disabilities or rural communities. There will be a general public benefit
from the extension of mandatory ship registration and the repercussions of the associated enhanced safety requirements and processes.

**Impacts on the Environment**
The preferred option should have a positive impact on the environment by reinforcing national and international requirements to enhance the safety and environmental obligation compliance of ships on the Irish flag.

**Impacts on the Rights of Citizens**
The rights of citizens, including ship owners, passengers and crew on registered ships, are improved by the proposed legislation insofar as it sets out measures that should enhance general safety and living and working conditions on board Irish ships. Irish citizens who own vessels, in particular ships less than 24 metres in length, and who cannot prove ownership, will benefit from proposed extended declaration of ownership and registration entitlement provisions to allow them the opportunity in certain circumstances to register their vessel on the Register and thereby fly the Irish flag when travelling abroad. Currently there is no mechanism for such citizens to do so and they can have no option but to register under a foreign flag if travelling abroad.

**Whether the Proposal involves a significant compliance burden**
The extension of mandatory ship registration with its associated safety and environmental compliance requirements, and the introduction of new fees for the grant of registration will have an impact on ship owners and operators who wish to operate domestically in Irish waters. However, this will be offset in part by the development of a more responsive registration system. The proposed mandatory registration of fishing boats under 15 metres in length overall that hold a sea-fishing boat licence will necessitate the re-measurement of many of these vessels for registration purposes. Arrangements for this and the timing of the extension of mandatory registration to this type of ship will be decided in consultation with the Department of Agriculture, Food and the Marine. The compliance burden for existing registered ships will not be significantly changed. The proposed new legislation will require that appropriate safety, security and environmental obligations are met before registration is granted. It will also make provision to address in a positive manner the ownership issue for certain small domestic ships and recreational craft, an area where there are difficulties meeting the requirements under the current legislation.

All registered ships will be subject to renewal of registration up to 5 years after initial registration on the new Register and at intervals of up to every ten years thereafter. While these additional requirements for ship owners will increase their compliance burden somewhat, it is anticipated that this should be offset by the advantages of a more efficient, user-friendly and accessible registration system.

**Impacts on North-South and East-West Relations**
The new ship registration requirements may have implications insofar as there will be differences between the ship registration requirements in Ireland and the United Kingdom, which will mean that, under the Bill, visitor registration under section 24 may be required for certain UK craft when operating in Irish waters, including for example in the Shannon-Erne waterway.

This arises because section 11 requires, in general, that all relevant ship types operating within domestic waters must be registered unless registered in another state. In the UK certain recreational craft are not required to be registered, so provision is made for such visiting craft. The Bill provides in section 24 for visitor registration for up to 3 months for personal watercraft, small fast powered craft, recreational craft 24 metres in load line length and greater and certain
small commercial angling boats operating in Irish waters. It is envisaged that this will be a very simple form of registration and for a nominal fee.

5. Consultation

Public consultation on proposed revised arrangements for ship registration began in April 2008 with the publication of a consultation paper “Consultation on Proposals for the Registration of Vessels in Ireland”. This was circulated to various interested parties and representative groups in the maritime sector and advertised in national newspapers. A dedicated website, www.vesselregister.ie, linked to the then Department of Transport’s website www.transport.ie and an interactive facility for making submissions was provided. The consultation paper can be viewed on the Department’s website at www.dttas.ie.

Some 50 submissions were received in response to the consultation paper. A number of meetings were subsequently held to discuss submissions and various aspects of the proposals with a range of groups, e.g. the Revenue Commissioners, the Irish Sailing Association, Waterways Ireland, Inland Waterways Association of Ireland, the Heritage Council and the then Department of Agriculture, Fisheries and Food.

In general there were no objections to the introduction of a centralised register or the proposals to introduce categories of registration each with its own specific requirements. There were some concerns expressed about the possible costs to ship owners of mandatory registration and the proposed introduction of a renewable ship registration every five years (the timeframe initially proposed).

The following are some of the main issues raised in the submissions and subsequent meetings since the consultation paper:

- Concerns that all ships must be registered, including recreational craft under 24 metres in length, which some considered to be unreasonable. Some of the submissions that referred to the mandatory registration of these craft stated that voluntary registration was adequate for recreational craft less than 24 metres in length and argued that mandatory registration will not enhance safety or prevent pollution

- Concerns about the compliance burden, cost (particularly survey costs), complexity and proof of ownership aspects of the proposed mandatory registration scheme, particularly in relation to smaller ships, and its potential to deter vessel-owners from registering their vessels

- Disagreement with disallowing duplication of names for recreational craft on part C1 of the Register

- Seeking an increase in the number and location of ports named as ports of registry

- Disliking the idea that it would be a requirement of all registered ships to display the national colours of the country of the register to which they are affiliated, that all Irish registered ships would be required to fly the Irish flag and that ships registered elsewhere, whether operating commercially or non-commercially, would be required to fly the flag of the country of registry while operating in Irish waters

- Reservations were expressed on any requirement for houseboats to be registered considering they are stationary and are full-time domestic residences
There were concerns that defaced ensigns (a flag containing the Irish flag plus a club ensignia) would not be allowed under the new legislation

Wanting numbers only (no names) to be displayed on recreational craft

Disagreeing with any naming requirement for small recreational craft

Pointing out that the proposed size of names and numbers as laid out in the consultation document may be too big for smaller craft

Concerns that visitor registration would apply to ships entering events and regattas

Disagreeing with the then proposal that non-EU nationals resident in Ireland for less than 5 years would be prohibited from registering their ship on the Irish Register of Ships

Concerns were also expressed in relation to:

- the manner in which the proposals might impact on travel between the UK and Ireland both North-South and East-West
- potentially prohibitive costs of registration
- who will administer and enforce registration for visiting ships
- proposals to retain the existing ports of registry in name only and to remove the existing Registrars as agents for ship registration.

**Changes proposed following consultation**

In response to the practical insights and concerns of a number of parties, it was decided to revise the approach to some of the original proposals contained in the consultation paper as follows, and now contained in the Bill:

(i) The Minister may prescribe the categories or types of ships that will be required to register on specified Parts of the Register when operating domestically. With the exception of personal watercraft (jet skis), small fast powered craft and certain angling boats which are considered high risk craft, mandatory registration for all leisure craft less than 24 metres in length is no longer proposed at this time.

(ii) It is envisaged that a prohibition on the duplication of names will not apply in the case of some ships registered on certain Parts of the Register. The detail of these proposals will be laid out in the regulations that will be made by the Minister under the provisions of the new Bill when enacted.

(iii) The retention of the names of the existing ports of registry and the addition of new ports of registry is facilitated. However, low levels of activity and future streamlining will mean that some ports of registry will remain in name only.

(iv) The national colours (Irish flag) will only be required to be hoisted on an Irish ship on a signal being made to it by a ship of the Naval Service of the Defence Forces under the command of a commissioned officer of that Service and on entering or leaving a port outside the State and, if the ship is of 24 metres in load line length and greater, on
entering or leaving a port in the State. These requirements will not apply to fishing boats and, following a further revision of the Bill in May 2014, personal watercraft and small fast powered craft operating domestically.

(v) Permanently stationary houseboats will not be required to register on the Register.

(vi) There is provision for the authorised flying of special flags in lieu of or in addition to the national flag.

(vii) Regulatory provisions are included in relation to the naming and marking of ships including provision for exemptions from the marking requirements for specified ship types.

(viii) A non EEA national residing in the State will be entitled to register his/her ship, with the exception of fishing boats, on the Register.

(ix) The proposals in relation to visitor registration will only apply to personal watercraft, recreational craft 24 metres in load line length and greater, small fast powered craft and, following acceptance of an amendment by Seanad Éireann, certain small commercial angling boats, owned by a person visiting the State and operating domestically if the ship is not registered in another state. Provision is made for categories of visitor registration which may include such registration for groups or events.

The Department has engaged in further discussions and correspondence with the Departments of Defence, Communications, Energy and Natural Resources, Justice and Equality, Agriculture, Food and the Marine and Revenue on aspects of the proposals of particular concern to them. Following discussions with the Department of Agriculture, Food and the Marine, it is proposed not to bring into operation mandatory registration to fishing boats less than 15 metres in length overall at the same time as other mandatory registration provisions. Due to the large numbers of boats involved and the need to have these boats re-measured by the Marine Survey Office of the Department, it is considered that it would be more appropriate to introduce mandatory registration for these boats at a later stage. Arrangements in relation to the timing of this will be decided in consultation with the Department of Agriculture, Food and the Marine.

In relation to the continued involvement of their officials who are the existing Registrars of Ships, the Revenue Commissioners have indicated that its resources must be prioritised towards its core functions in the area of tax and duty compliance and collection. The introduction of the new ship registration regime and a central Irish Register of Ships presents an opportunity to consider further streamlining of service provision. The involvement of Revenue in ship registration will continue in the short term.

On 9 October 2012 the Government approved the drafting of the current Bill. The Oireachtas Joint Committee on Transport and Communications was consulted prior to the commencement of formal drafting and indicated in January 2013 that in view of the wide consultation already undertaken, it did not propose to make any comments on the proposals.

Following publication of the Bill on 23 December 2013, a further consultation and briefing of stakeholders took place in January 2014. The issues raised in the responses received were examined, following which the Department proposed a number of amendments to the Bill, which were considered and passed by Seanad Éireann on 14 May 2014. Amendments made to the Bill arising from the consultation include:
- Section 35 – Obligation to hoist national colours: An extension of the exemption from the requirements in subsection (1) to hoist the national flag on an Irish ship to include personal watercraft and small fast powered craft operating domestically.
- Section 37 – Prohibition on assuming Irish character: The non-application of the offence provisions of the section in the case of ships that display IRL sail numbers when being used for yacht racing or other such activities.
- Section 39 – Authorised persons: In view of the role of harbour masters in a port situation, the inclusion of a harbour master in the list of authorised persons for the purpose of the enforcement of the provisions of the Bill.

6. Enforcement and Compliance

The Marine Survey Office (MSO) of DTTAS is the primary enforcer of maritime safety legislation through its surveyors. However the MSO has no role in relation to the enforcement of the Mercantile Marine Act 1955, for which the main enforcement authorities are officers of the Revenue Commissioners, members of An Garda Síochána and officers of the Defence Forces. The proposed new legislation will enhance the ship registration enforcement capability by providing an enforcement role for the Marine Survey Office, sea-fishery protection officers, Inland Fisheries Ireland, harbour masters and officers of the Irish Coast Guard, as these are all persons or bodies who may come across breaches of ship registration requirements in the course of their normal duties. Authorised persons under the Bill will have an enforcement role in relation to a range of ship registration requirements, visitor registration, carving and marking requirements, registration documentation and issues around assuming or concealing Irish national character on ships.

Powers of detention are conferred on surveyors in relation to any ship that is in a port in the State or in Irish waters, and an Irish ship in a foreign port, in circumstances where there are breaches of requirements relating to registration, carving and marking of the ship, the certificate of registry of the ship and falsely assuming Irish nationality of a ship or intent to conceal Irish national character or assuming a foreign character. The costs of such detentions will be borne by the shipowner.

Provision is also made for a system of fixed payments in lieu of prosecution for owners of smaller vessels who fail to register under the Bill. The proposed scheme is consistent with existing fixed payment regimes under other maritime legislation such as the Maritime Safety Act 2005 and the Merchant Shipping Act 1992. Fixed payments of €150 or such other prescribed amount are provided for, to be paid within 21 days of the date of the notice. If payment is not made, prosecution may be brought by the relevant local authority, Inland Fisheries Ireland, or the Minister.

The penalties for a breach of the provisions of the Bill will in the main give rise on summary conviction to a Class A fine, i.e. a fine not exceeding €5,000. This approach is consistent with penalty levels for offences in other maritime legislation. In the case of a failure by the master of a ship to obey an order of a surveyor relating to the movement of a ship, a fine not exceeding €100,000 may arise on conviction on indictment. The existing monetary penalties under the 1955 Act relating to ship registration offences do not exceed €635 on successful prosecution. The table at Appendix A outlines the proposed offence and penalty framework under the Bill.

7. Review

The overall management, administration and operation of the new ship registration system will be kept under review. This is particularly important in circumstances where the single centralised electronic Register concept is new in an Irish context in relation to ship registration. It is envisaged that DTTAS, other relevant bodies and ship registration customers will be involved from time to
time as considered appropriate in reviews of the effectiveness of the new registration regime and processes introduced. It is considered that the proposal as presented contains sufficient flexibilities to facilitate modifications or regulatory change, if necessary, to ensure the effective administration, implementation and compliance with the new legislation to the satisfaction of all stakeholders.

8. **Publication**

The Regulatory Impact Analysis is published on the Department’s website [www.dttas.ie](http://www.dttas.ie).
<table>
<thead>
<tr>
<th>Offence</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>(Section 11(7))</em> Failure to comply with or contravention of regulations relating to the control and direction of ship operations from within the State.</td>
<td>Summary Conviction: Class A fine</td>
</tr>
<tr>
<td><em>(Section 11(11))</em> Failure to comply with ship registration requirements under the Bill.</td>
<td>Class A fine</td>
</tr>
<tr>
<td><em>(Section 11(13))</em> Registering a ship on the Irish Register of Ships where it is registered under the law of another state.</td>
<td>Class A fine</td>
</tr>
<tr>
<td><em>(Section 16(8))</em> Failure to comply with requirements relating to the appointment of a representative person by a qualified person not resident in the State or who does not have a registered office in the State.</td>
<td>Class A fine</td>
</tr>
<tr>
<td><em>(Section 20(7))</em> The owner makes a change to a ship that affects the measurement of the ship without the prior consent of the Minister.</td>
<td>Class A fine</td>
</tr>
<tr>
<td><em>(Section 20(9))</em> Altering, amending or stating as otherwise the particulars of a ship to be different to what is recorded on the certificate of measurement or making a statement of measurement to any third party that the particulars of a ship are other than those recorded on the certificate of registry.</td>
<td>Class A fine</td>
</tr>
<tr>
<td><em>(Section 20(11))</em> Contravention of the Tonnage or measurement regulations.</td>
<td>Class A fine</td>
</tr>
<tr>
<td><em>(Section 22(9))</em> When a ship is removed from the Register, failure by the owner to return the certificate of registry within 28 days.</td>
<td>Class D fine</td>
</tr>
<tr>
<td><em>(Section 23(9))</em> The owner or master of a ship fails to carry the certificate of registry of temporary registration on board the ship at all times.</td>
<td>Class C fine</td>
</tr>
<tr>
<td><em>(Section 24(6))</em> The owner or master of a ship fails to carry the certificate of registry of visitor registration on board the ship at all times.</td>
<td>Class C fine</td>
</tr>
<tr>
<td><em>(Section 25(14))</em> Contravening the provisions relating to the naming of a ship.</td>
<td>Class A fine</td>
</tr>
<tr>
<td><em>(Section 26(10))</em> The owner of a ship does not comply with carving and marking requirements.</td>
<td>Class A fine</td>
</tr>
<tr>
<td><em>(Section 27(2))</em> The owner or master of a foreign ship fails to carry the certificate of registry of the ship on board the ship at all times when operating domestically.</td>
<td>Class A fine</td>
</tr>
<tr>
<td><em>(Section 28(7) and (13))</em> Not carrying a certificate of registry (COR) on board at all times, using the COR for a purpose other than the lawful navigation of the ship, withholding the COR from the ship for any reason, not producing the COR on demand to an authorised person for inspection.</td>
<td>Class C fine</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
</tr>
<tr>
<td>28(8)</td>
<td>Misuse of a certificate of registry or a document that purports to be a certificate or registry.</td>
</tr>
<tr>
<td>28(12)(b)(i)</td>
<td>Failure to inform the Minister of a change in the registration particulars of a ship.</td>
</tr>
<tr>
<td>29(3)</td>
<td>Failure to notify the Minister when a registered ship is lost, taken by the enemy, burnt or broken up or ceases to be a registered ship by transfer to an unqualified person, and failure to deliver the certificate of registry to the Minister.</td>
</tr>
<tr>
<td>35(3)</td>
<td>The master of an Irish ship does not hoist the national colours where required.</td>
</tr>
<tr>
<td>36(3)</td>
<td>The master hoists a flag on an Irish ship that is not the national flag</td>
</tr>
<tr>
<td>37</td>
<td>Any person who uses the national colours or assumes Irish national character on board a ship which is not an Irish ship.</td>
</tr>
<tr>
<td>38</td>
<td>Master or owner does something- (a) to conceal Irish character of the ship from any person entitled by law to enquire into the ship's national character, or (b) to deceive any such person, or (c) to assume a foreign character.</td>
</tr>
<tr>
<td>40(5)</td>
<td>A person obstructing or interfering with an authorised person in the exercise of his or her functions under the Act, or who fails or refuses to comply with a request of an authorised person under the Act.</td>
</tr>
<tr>
<td>41(9)</td>
<td>Failure by the master of a ship to obey an order for the ship to be stopped or to be manoeuvred in accordance with directions, or an instruction for the ship to be taken to a specified port, given by a surveyor.</td>
</tr>
<tr>
<td>45(1), (2) and (5)</td>
<td>False declarations concerning ownership, etc., of a ship.</td>
</tr>
</tbody>
</table>