



MCIB

Marine Casualty Investigation Board
Bord Imscrúdú Taismí Muirí



**MCIB REPORT OF AN
INVESTIGATION INTO
A MARINE CASUALTY
INVOLVING A JET SKI
IN OR AROUND
SHANNON BRIDGE,
KILLALOE/BALLINA,
CO. CLARE
ON OR ABOUT
31 MAY 2023**

**REPORT NO. MCIB/328
(No.5 OF 2025)**

The Marine Casualty Investigation Board (MCIB) examines and investigates all types of marine casualties to, or on board, Irish registered vessels worldwide and other vessels in Irish territorial waters and inland waterways.

The MCIB objective in investigating a marine casualty is to determine its circumstances and its causes with a view to making recommendations for the avoidance of similar marine casualties in the future, thereby improving the safety of life at sea and inland waterways.

The MCIB is a non-prosecutorial body. We do not enforce laws or carry out prosecutions. It is not the purpose of an investigation carried out by the MCIB to apportion blame or fault.

The legislative framework for the operation of the MCIB, the reporting and investigating of marine casualties and the powers of MCIB investigators is set out in the Merchant Shipping (Investigation of Marine Casualties) Act, 2000.

In carrying out its functions the MCIB complies with the provisions of the International Maritime Organisation's Casualty Investigation Code and EU Directive 2009/18/EC governing the investigation of accidents in the maritime transport sector incorporated into Irish law by the European Communities (Merchant Shipping) (Investigations of Accidents) Regulations S.I. No 276 of 2011.

This report is published under and in accordance with the Merchant Shipping (Investigation of Marine Casualties) Act 2000 as amended by the Merchant Shipping (Investigation of Marine Casualties) (Amendment) Act 2022 and/or under and in accordance with the European Communities (Merchant Shipping) (Investigation of Accidents) Regulations 2011. It is not published under the Merchant Shipping (Investigation of Marine Accidents) Act 2025, Parts 1 and 5 of which were commenced by the Merchant Shipping (Investigation of Marine Accidents) Act 2025 (Commencement) Order 2025 S.I.188 of 2025 from 1 June 2025.



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Glossary of Abbreviations and Acronyms

AGS	An Garda Síochána
C	Celsius
CGU	Coast Guard Unit
CoP	Code of Practice
DoT	Department of Transport
GRP	Glass Reinforced Plastic/Fibreglass
MCIB	Marine Casualty Investigation Board
MN	Marine Notice
MSO	Marine Survey Office
MSPD	Maritime Safety Policy Division
OPW	Office of Public Works
PFD	Personal Flotation Device/Lifejacket
PWC	Personal Watercraft - jet skis and high-speed power boats
RNLI	Royal National Lifeboat Institution
SAR	Search and Rescue
S.I.	Statutory Instrument
UTC	Universal Co-ordinated Time
Horsepower	hp
Hour	hr
Kilogram	kg
Kilometre	km
Litre	lt
Metre	m
Miles per hour	mph

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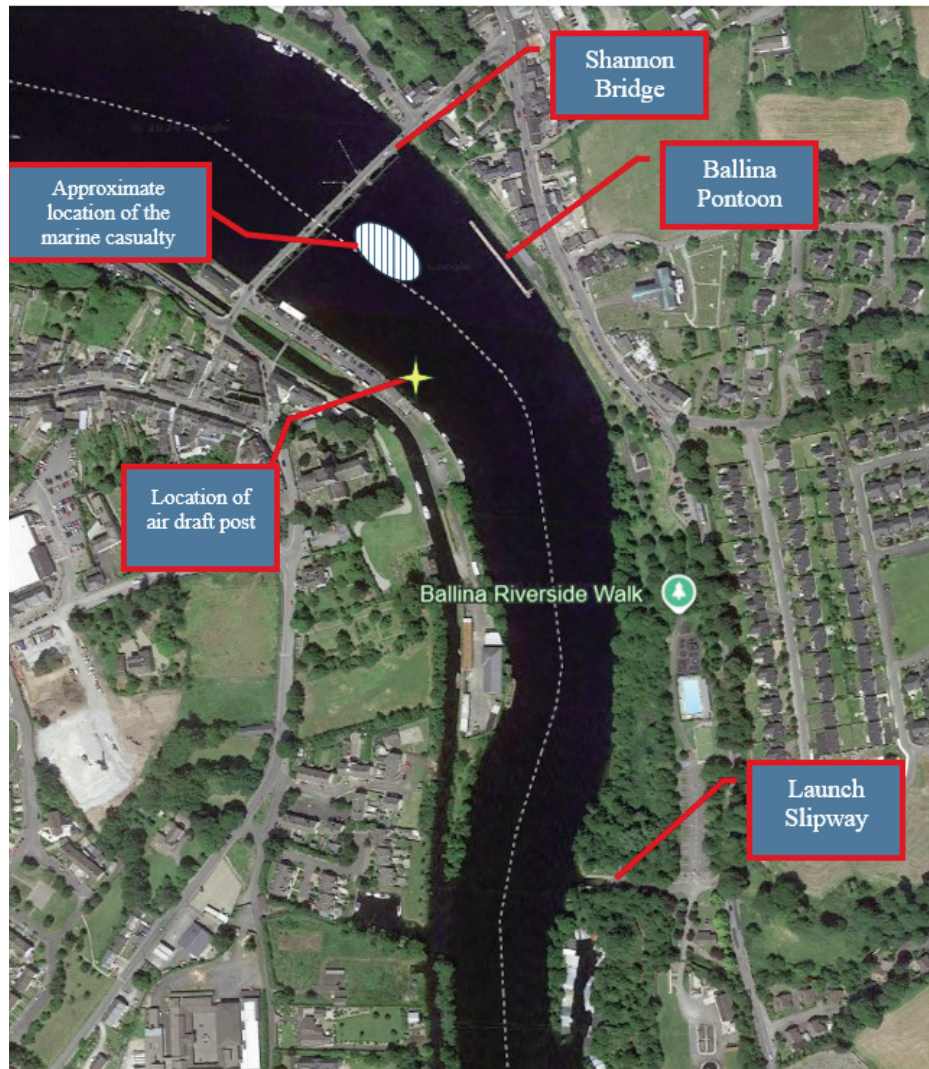
Republished on 21 November 2025 to correct references to the Office of Public Works whose functions were transferred and then taken over by Waterways Ireland under the British-Irish Agreement Act, 1999.

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SUMMARY

1. SUMMARY

- 1.1 On the afternoon of 31 May 2023 at around 16.00 hours (hrs) a Sea-Doo personal watercraft (PWC) was launched into the water from a trailer at the public slipway south of Ballina, Co. Tipperary.



Photograph No. 1 - Aerial view showing relevant locations to the marine casualty.

- 1.2 The PWC was being operated in the area between the launch slipway and the Killaloe Bridge, with some brief transits north of the bridge.
- 1.3 A notice displaying Shannon Bye-law 13 (2)(b) (*"A vessel or boat shall not be navigated at a speed in excess of 5 kilometres per hour when within 200 metres of a bridge, quay, jetty or wharf, when in a harbour or canal or when passing within 100 metres of a moored vessel or boat that a speed limit of five (5) kilometres per hour is in effect in the area of the incident."*) was located at the public slipway where the PWC was launched (Launch Slipway Photograph No. 1). A second notice stated and showed the speed limitation areas which included the entire area where the PWC was operated and the location of where the Casualty was found.

- 1.4 The Casualty was joined on his PWC by a passenger (“Passenger No. 1”) who was wearing a borrowed Personal Flotation Device (PFD) which she returned after the trip. Later, at approximately 16.30 hrs the Casualty was joined by Passenger No. 2 and then also just after that by Passenger No. 1 again from the Ballina pontoon. The Casualty gave Passenger No. 2 his PFD so only one of the three persons onboard the PWC was wearing a PFD during the final part of the incident.
- 1.5 At approximately 17.00 hrs the PWC and the three occupants passed the pontoon at speed and made a sharp left turn in an area that was approximately mid-river and just south of the bridge. All three persons fell off the PWC when it capsized during the sharp left turn. The two passengers, one of whom was wearing the Casualty’s PFD, recovered from the fall and swam ashore to the Ballina pontoon.
- 1.6 The driver of the PWC, who was not wearing a PFD, was not visible from the shore and was feared to have gone under the water. The alarm was raised by a member of the public and a search and rescue (SAR) operation commenced.
- 1.7 The Casualty was recovered from the water after a search involving local emergency services at approximately 18.45 hrs.
- 1.8 The marine casualty occurred due to a combination of the following causal factors:
 - Operating a high powered PWC at excess speed and at a speed in excess of the local speed limit while conducting various manoeuvres.
 - A fall overboard into cold water.
 - Inability to swim.
 - Lack of training in the operation of a high powered PWC.
 - Not wearing a suitable PFD.
 - Failure to follow the local area bye-laws relating to vessel speed.
- 1.9 The Marine Casualty Investigation Board (MCIB) has made recommendations addressed to the following regarding the safety recommendations contained within this report:
 - Waterways Ireland as the entity with responsibility for the Shannon Navigation.
 - Clare County Council and/or Clare County Council Municipal District of Killaloe and Tipperary County Council and Nenagh Municipal District Council.
 - An Garda Síochána (AGS).
 - Water Safety Ireland.
 - Minister for Transport, Department of Transport (including the Maritime Safety Policy Division (MSPD)).

These recommendations seek to avoid similar marine casualties in the future.

Note: Times are local time = UTC + 1 (Co-ordinated Universal Time + 1 hour).

2. FACTUAL INFORMATION

2.1 Personal Watercraft Specifications:

Vessel Type:	Sea-Doo RXT - X 300.
Year of Manufacture:	2018.
Length Overall:	3.5 metres (m) (11'4").
Beam:	1.3 m (4'1").
Dry Weight:	415 kilograms (kg) (915 lbs).
Fuel Tank:	60 litres (lts) (16 US gal).
Passenger Capacity:	Three.
Engine Maximum Horsepower (hp):	300 hp.
Base Engine:	Rotax 1630 ACE.
Drive/Propulsion:	Jet drive.
Displacement:	1.6 lts.
Power:	300 hp @ 8000 rpm.
Induction:	Supercharged.
Fuel Requirement:	Regular.
Speed:	Up to 67 miles per hour (mph).
Acceleration:	0-60 mph (0-96.6 kilometres per hour (km/h)) in 3.8 seconds.
Construction:	Glass Reinforced Plastic/Fibreglass (GRP).



Photograph No. 2 - PWC at An Garda Síochána storage facility.



Photograph No. 3 PWC transom.



Photograph No. 4 PWC dashboard.



Photograph No. 5 PWC bow.

- 2.2 PWCs range in size from 60 hp to 310 hp. The Sea-Doo RXT X 300 in this instance was a very powerful 300 hp machine. It is described in the manufacturer's literature as the 'Ultimate Offshore Performance Watercraft'. It has capacity for three passengers.

See Appendix 7.1 - Technical Specification of Sea-Doo RXT X 300.

- 2.3 The following definition of PWC is used in the European Union (Recreational Craft and Personal Watercraft) Regulations 2017 Statutory Instrument (S.I.) No. 65 of 2017 as amended. This transposed into Irish law Directive 2013/53/EU of the European Parliament on PWC:

““personal watercraft” means a watercraft intended for sports and leisure purposes of less than 4 metres in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;”

- 2.4 In the relevant legislation and bye-laws discussed, there are similar but slightly varying definitions for PWCs. None include the addition of “for sports and leisure purposes” that the Directive includes. In general, the definitions align with one another.

2.5 Crew Details

- 2.5.1 The manufacturers specification for this PWC states that the vessel has a rider capacity of three persons. At the latter stage of the incident three people were onboard the PWC. The operator of the PWC was not wearing a PFD at the time of the incident (having given his to Passenger No. 2) and was not able to swim.
- 2.5.2 Passenger No.2 was wearing the only available PFD at the time of the incident, while Passenger No.1 was not wearing a PFD. It is understood by the MCIB that both passengers were able to swim.

2.6 Regulatory Regime in Ireland which Apply to Personal Watercraft

- 2.6.1 While assessing the appropriate regulatory regime in place for PWCs in Ireland there are several intersecting regulatory provisions in place that should be considered in this report for the purpose of making safety recommendations. Due to the number of regulations involved for the varying types of waters, the MCIB undertook a separate and detailed review and report of those regulations to better communicate the safety implications of each on the safe operation of PWCs. That report is appended in full to this investigation report. The remainder of this main investigation report deals directly with the appropriate provisions of those regulations as they pertain to this investigation.

See Appendix 7.2 Marine Casualty Investigation Board Regulatory Report.

2.6.2 In Ireland there are various “jurisdictions” for regulating PWCs.

- The Maritime Safety Act, 2005 applies to all waters controlled by local authorities, Waterways Ireland, all types of harbour companies, Iarnród Éireann and, fishery harbour centres.
- The Local Government Act, 2001, No. 37 of 2001 as amended (“the 2001 Act”) allows for, amongst other things, powers for a local authority to make bye-laws for inland waters, and the foreshore and coastal waters in respect of objectives set out in that Act.
- Under the Shannon Navigation Act, 1990, as amended¹, Waterways Ireland have obligations and powers in respect of the Shannon Navigation as provided for in that legislation.

2.6.3 This marine incident occurred in part of the Shannon waterways, in the County of Clare, so all of the three aforementioned regimes have potential applicability.

The Maritime Safety Act, 2005

2.6.4 The Maritime Safety Act, 2005, (as amended) (“the 2005 Act”)² is “*an act to provide for the regulation and control of certain fast powered watercraft...*”. Part 2 (comprising sections 5 - 19) of the 2005 Act contains the main provisions for “*personal watercraft (defined in the Act as including PWC) and recreational craft*”.

2.6.5 The current edition of the Code of Practice for the Safe Operation of Recreational Craft³ was published in 2024 by the Department of Transport (“the COP”). Chapter 5 of the CoP gives specific guidance in relation to PWCs.

See Appendix 7.3 - Code of Practice for the Safe Operation of Recreational Craft - Chapter 5.

2.6.6 Section 1.7 of the 2024 CoP summarises key aspects of the 2005 Act:

“One of the primary purposes of this Act is to strengthen the law against improper use of certain recreational craft, to outlaw reckless behaviour in operating or onboard vessels and to promote good practice in operating vessels generally. The Act also updates safety regulation-making provisions for passenger boats, fishing vessels and pleasure craft, and updates penalty and other provisions of certain related Acts.

The main provisions of the Act which affect recreational craft are as follows:

Part 2 Personal Watercraft and Recreational Craft

The main provisions of this Part are:

1. Under the British-Irish Agreement Act, 1999, the functions of the then responsible Minister to Waterways Ireland. The Maritime Safety Act 2005 amended the Shannon Navigation Act 1990 and provided for the mechanism for Waterways Ireland to make bye-laws and to issue Fixed payment notices for breaches of said bye-laws.

2. <https://www.irishstatutebook.ie/eli/2005/act/1>

3. <https://assets.gov.ie/34644/e38c887e83324ab4bfef6ce145210bb3.pdf>

- *Clear powers for local authorities, Waterways Ireland, harbour companies, Iarnród Éireann and, in respect of the six fishery harbour centres, the Minister for Agriculture, Food and the Marine, to make bye-laws to regulate and control the use of jet skis and other fast powered recreational craft.*
- *The appointment by local authorities, Waterways Ireland, harbour companies, Iarnród Éireann and, in respect of the six fishery harbour centres, the Minister for Agriculture, Food and the Marine, of authorised persons to enforce the provisions of the Act. The Garda Síochána also play a key role in enforcement.*
- *The seizure, detention and forfeiture of craft involved in serious offences and the disqualification of serious offenders from operating the craft in question in the interest of public safety and heritage protection.*
- *Fines of up to €2,000 on summary conviction for Bye-law contraventions”*

2.6.7 The above summary reflects the complexities for the regulation of, and, most importantly, the enforcement of, the safety regulations applicable to PWC operators by the “Authorities”⁴ that have jurisdiction over different areas being: local authorities, Waterways Ireland, harbour companies, Iarnród Éireann and, in respect of the six fishery harbour centres, the Minister for Agriculture, Food and the Marine.

Regulatory Basis for the Making of Bye-laws Under the 2005 Act

2.6.8 The Act aims to unify the making of bye-laws by the various entities that have jurisdiction under that Act. As summarised in the CoP, Section 1.1:

“... a local authority, harbour authority and Waterways Ireland have powers under section 6 of the Maritime Safety Act 2005⁵ to make bye-laws to regulate or

4. “authority” means a local authority, a harbour authority or Waterways Ireland, as the case may require; “functional area” in the case of a local authority, includes—

- (a) inland waters, the foreshore and coastal waters adjoining its functional area, and
- (b) inland waters, the foreshore and coastal waters adjoining its functional area which adjoin the functional area of another local authority, with the agreement of that other local authority, but excluding waters under the control or management of a harbour authority or Waterways Ireland;

“harbour authority” means—

- (a) in the case of a harbour to which the Act of 1996 applies, a harbour company,
- (b) in the case of a harbour to which the Harbours Acts 1946 to 1976 apply, the harbour authority concerned,
- (c) in the case of a fishery harbour centre to which the Act of 1968 applies or any other harbour under the control or management of the Minister, the Minister,
- (d) in the case of a harbour under the control or management of a local authority, the local authority concerned,
- (e) in the case of a harbour under the control or management of Iarnród Éireann-Irish Rail, that company;

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

“local authority” means—

- (a) in the case of an administrative county, the council of the county, and
- (b) in the case of a city, the council of the city;

5. Section 6(1) states:

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

- (a) a local authority, in waters in its functional area, other than waters referred to in paragraph (b) (except where the harbour authority concerned agrees) or paragraph (c),
- (b) a harbour authority, in or on waters under its control or management, or
- (c) Waterways Ireland, in or on waters under its control or management,

control the operation of craft or craft of a specified class in waters in its functional area or under its control or management.”

The scope of the matters that can be regulated by bye-laws are set out and are widely defined.⁶ These include to ensure safety and avoid a nuisance being caused.

Legislative Detail and Scope

2.6.9 As well as providing a unifying regime for the making of bye-laws (by local authorities, Waterways Ireland, harbour companies, Iarnród Éireann and, in respect of the six fishery harbour centres, the Minister for Agriculture, Food and the Marine) the 2005 Act provides for safety rules that apply to PWC in Part 2, and vessels and ships in Part 3. The Act provides for enforcement by officers authorised by the various empowered entities and in particular by AGS.

2.6.10 Definitions of PWC and recreational craft: for the purposes of this legislation, a PWC is a “personal watercraft” rather than being included as a “recreational craft”:

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

whereas,

“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.

For both “recreational” and “personal” craft, the craft must be “operated by a mechanical means of propulsion”.

[Emphasis Added]

2.6.11 The provisions in Part 2 of the 2005 Act (relating to safety, enforcement etc) apply to “craft”, including PWC, because of the definition in the 2005 Act.⁷

6. Sec 6 ctdThe named entities can make Bye-laws “in respect of any or all of the following matters—

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

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

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

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

(A) a natural heritage area, or

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

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

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

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

7. The provisions of Part 3 of the 2005 Act only apply to a vessel, ship and Irish ship.

Requirements to Operate Craft at Reasonable Speed and with Reasonable Consideration of Others

2.6.12 Irrespective of the existence of any bye-laws, there are broad requirements on the operator of a craft (including PWC) in Section 10 of Part 2 of the 2005 Act to ensure that it is operated at a reasonable speed and with reasonable consideration of others. This is the only such section that prescribes behavioural standards and the remainder of the applicable part of the legislation relates to enforcement and penalties.⁸ Section 10 of the 2005 Act provides that:

“10. - (1) A person shall not operate a craft in Irish waters⁹ –

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

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

2.6.13 Where there has been a breach of these provisions, Section 8 of the 2005 Act permits either an authorised person or AGS to require the operator of the craft to cease and/or to remove the craft from the waters. Section 11 gives powers to stop, board and inspect for the purposes of enforcing Part 2 of the Act. It is an offence to obstruct an authorised person or AGS (Section 12). Section 13 permits arrest by AGS where an offence is suspected.

Powers of Enforcement in Relation to PWC

2.6.14 The Act creates an extensive enforcement regime in respect of the obligations under the Act, and in respect of bye-laws made under it by the listed entities not just for AGS but for officers authorised by the various specified bodies. There are provisions that allow an authorised person or a member of AGS to:

- Require a person to cease operating or remove the craft (Section 8)
- Seize the craft (Section 9)
- Stop, board and inspect the craft (Section 11)
- Creates an offence where there has been obstruction (Section 11)

8. While the provisions in Part 2 of the 2005 Act refer to a person ‘operating a craft’ (defined as including PWC), the provisions in Part 3 (including in particular sections 23 and 24) refer to a person ‘navigating or operating a vessel’:

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

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

9. The definition of Irish waters extends the legislation to cover craft operated on inland waters, as well as on sea: “Irish waters” include the territorial seas, the waters on the landward side of the territorial seas, and the estuaries, rivers, lakes, and other inland waters of the State (whether or not artificially created or modified) of the State.

- allow arrest without warrant by AGS (only) (Section 13)
- Require a person to cease operating or remove the craft (Section 8)
- Seize the craft (Section 9)
- Stop, board and inspect the craft (Section 11)
- Creates an offence where there has been obstruction (Section 11)
- allow arrest without warrant by AGS (only) (Section 13).

2.6.15 The CoP describes the overall position as follows:

“Under the Maritime Safety Act 2005, authorised persons or a member of the Garda Síochána have powers to take enforcement action in a range of circumstances, including when a person is operating a craft in a manner that poses a risk or danger to other persons. It is also an offence to operate a craft in Irish waters without reasonable consideration of other persons using those waters or at a speed that is unreasonable having regard to the circumstances and the place where the craft is operating.

A person who commits offences relating to the navigation or operation of a vessel without due care and attention to other persons is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding one month or to both. Offences also exist where a person navigates or operates a vessel in a manner, including at a speed, which, is dangerous to other persons in or on those waters. (See section 1.7).

A member of the Garda Síochána who reasonably suspects that a person is committing or has committed an offence under Part 2 of the Maritime Safety Act 2005 or section 23 or 24 of that Act involving careless or dangerous navigation or operation of a craft may arrest without warrant the person.”

2.6.16 The Maritime Safety Act, 2005, by contrast, is a significant piece of legislation in relation to the safe operation of PWC. This Act should be considered as the primary means of regulating and enforcing the safe operation of PWC, as it:

- Contains provisions for the safe operation of craft defined as including PWC, whether at sea or on inland waters.
- Contains provisions for enforcement actions in the event of the unsafe operation of PWC.
- Contains provisions for the making of bye-laws to further regulate and enforce the safe operation of PWC.
- Contains provisions that uniformly apply to the relevant entities.

2.6.17 The MCIB does not have information or data as to how the 2005 Act is operating in practice, or the extent to which there are authorised officers, or how many authorised officers have the additional arrest training as required for arrests under the legislation. It is possible that there are few or no authorised officers

who have the required arrest training, and if this is the case, this raises the question as to why this is the case.

The Local Government Act, 2001

- 2.6.18 The Local Government Act, 2001, S.I. No. 37 of 2001 as amended, allows for, amongst other things, powers for a local authority to make bye-laws for inland waters, and the foreshore and coastal waters in respect of objectives set out in that Act. The legislation empowering the entities given powers under the 2001 Act contain a variety of powers (including, commonly, a power to make bye-laws, and to enforce in a variety of ways). However, those provisions are varied and are on general interpretation aimed at different objectives where the actual or implied regulations that do, or might, apply to PWCs are more incidental. By contrast the provisions in the Maritime Safety Act, 2005 are far more specific to PWC and recreational craft and their users.

Shannon Navigation Acts, 1990 and 2005

- 2.6.19 The Shannon Navigation Act 1990¹⁰ was amended by Section 57 of the Maritime Safety Act 2005 (inter alia to allow for the establishment of Waterways Ireland) and is cited as the Shannon Navigation Acts 1990 and 2005. This provided originally for the Commissioners for Public Works to regulate and enforce the maintenance of, and operations on and in, the Shannon navigation area.
- 2.6.20 Waterways Ireland is one of the specified entities entitled to make bye-laws under the Maritime Safety Act 2005, and to appoint officers to regulate and enforce the provisions of the Act and any bye-laws made by Waterways Ireland under it.
- 2.6.21 Watercraft/personal or recreational watercraft are not defined in the Shannon Navigation Acts 1990 and 2005. The term used is “Boat”, “*“boat” includes any barge, vessel or other water-craft;*” and should therefore be read as including a PWC.
- 2.6.22 The Shannon Navigation Acts 1990 and 2005 and bye-laws made thereunder operate within the widely defined Shannon navigation and the navigation channel.¹¹

10. <https://www.irishstatutebook.ie/eli/1990/act/20>

11. “the Shannon navigation” means –

(a) *the river Shannon, the lakes from or through which it flows, and such of the rivers which flow into it or into those lakes as are or have been improved or made navigable by the Commissioners or by other persons under powers conferred by statute, within the limits standing fixed and determined for the time being under section 39 of the Shannon Act, and*

(b) *the canals, locks, harbours, wharfs, landing places, piers, quays, weirs and other works and land constructed by or vested in the Commissioners, whether before or after the passing of this Act, for the purpose of the use or improvement of any of those rivers or lakes, within the limits aforesaid, or the navigation thereof or any other purpose authorised by the Shannon Act;*

“the navigation channel” means the parts of the Shannon navigation referred to in paragraph (a) of the definition of “the Shannon navigation” in this subsection, the canals and locks referred to in paragraph (b) of that definition and the parts accessible to boats of the harbours referred to in that paragraph;”

2.6.23 Section 57 of the Maritime Safety Act, 2005 made amendments to Section 3 of the Shannon Navigation Act 1990 by inserting the provisions for Waterways Ireland and their making of bye-laws under the 1990 Act. As a result, Waterways Ireland now has powers to make the bye-laws allowed for in the Shannon Navigation Act 1990. This includes the following types of bye-laws of relevance set out in Section 3 (1) a, e, g, k, l, and m:

“3.—(1) The Commissioners may make bye-laws for the care, conservation, management, control and maintenance and the regulation of the use of the Shannon navigation and in relation to the restoration, repair, improvement, extension and development thereof and, without prejudice to the generality of the foregoing, in relation to any one or more of the following matters:

- (a) the regulation of the conditions (including conditions as to safety) under which boats may be used in the navigation channel.*
- (e) the regulation of bathing in the navigation channel.*
- (g) the prohibition of the use, save under and in accordance with a licence in that behalf granted by the Commissioners and containing such (if any) conditions as they consider necessary or expedient, of the Shannon navigation or any part of it...*
- (k) the removal from or the prohibition of the passage through or use in the navigation channel of, or the use of any of the facilities or installations of the Shannon navigation by, any boat or thing which is or may become a danger to life, health, navigation or fish stocks or would otherwise interfere with the proper use of the Shannon navigation or in relation to which a fee, toll or charge due and payable under the bye-laws has not been paid or arrangements for its payment, acceptable to the Commissioners, have not been made,*
- (l) the fixing, altering, charging and recovery of fees, tolls and charges in respect of—*
 - (i) the use by boats of the navigation channel or the facilities or installations of the Shannon navigation, whether for the purposes of their passage through the navigation or for the purposes of their being anchored, moored, tied up or laid up or for any other purpose, or...*

and the prohibition of the use referred to in subparagraph (i)... without payment of any fee, toll or charge payable under this paragraph in respect thereof or the making of arrangements, acceptable to the Commissioners, for its payment,

- (m) the establishment and maintenance by the Commissioners of a register in which entries containing specified information will be required to be made annually or at other specified times, on application in that behalf by their owners, in respect of boats or specified classes of boats using the Shannon*

navigation, the payment of fees by the owners of the boats concerned in respect of the entries and the prohibition of the use of the Shannon navigation by boats required to be, but not, registered in the register...”

- 2.6.24 Waterways Ireland can make bye-laws that could control, amongst other things, the safe operation of PWC on the Shannon navigation. In particular having regard to the provisions of Section 3 (a) and (k):

“(a) the regulation of the conditions (including conditions as to safety) under which boats may be used in the navigation channel...

(k) the removal from or the prohibition of the passage through or use in the navigation channel of, or the use of any of the facilities or installations of the Shannon navigation by, any boat or thing which is or may become a danger to life, health, navigation or fish stocks or would otherwise interfere with the proper use of the Shannon navigation or in relation to which a fee, toll or charge due and payable under the bye-laws has not been paid or arrangements for its payment, acceptable to the Commissioners, have not been made”.

Shannon Navigation Bye-laws, 1992 and 1994

- 2.6.25 The Shannon Navigation Bye-laws, 1992, S.I No. 80 of 1992¹² as amended by the Shannon Navigation (Amendment) Bye-laws, 1994 S.I. No. 66 of 1994¹³ collectively are cited as the Shannon Navigation Bye-laws, 1992 and 1994 (“the Shannon Bye-laws”).
- 2.6.26 The provisions in these bye-laws relating to the operation of craft are very similar to those in the Merchant Shipping (Collision Regulations) (Ships and Water Craft on the Water) Order, 2012.
- 2.6.27 A public consultation process commenced on 20 June 2023 and proposed changes to the Shannon Bye-laws. Revisions have been proposed and published by Waterways Ireland as the Draft Shannon Navigation Bye-laws, 2024.¹⁴
- 2.6.28 The current Shannon Bye-laws, and the Draft Shannon Navigation Bye-laws of 2024, have a number of specific requirements that contribute to ensuring the safe operation of PWC.
- 2.6.29 The current Shannon Bye-laws have the following definition: “*vessel*” means a ship or craft of any description but does not include a boat. Which means that for the purpose of these bye-laws a PWC falls within the definition of “vessel”.¹⁵

12. <https://www.irishstatutebook.ie/eli/1992/si/80>

13. <https://www.irishstatutebook.ie/eli/1994/si/66>

14. <https://www.waterwaysireland.org/getmedia/6ed43ade-1c30-4689-b5f5-e98f446e550c/Draft-Shannon-Navigation-Bye-Laws-2024.pdf>

15. The Draft Shannon Navigation Bye-laws, 2024 propose the following definition of PWC: “*personal watercraft*” (PWC) means a craft of less than 4 metres in length which uses an internal combustion engine or electric motor 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;

Register of Vessels

- 2.6.30 Section 5 and 6 of the current Shannon Bye-laws create the requirement that the Commissioners of Public Works “shall” create and maintain a register of vessels and prohibits the use of unregistered vessels:

“5.(1) The owner of a vessel shall not keep or navigate or cause to be navigated or authorise permit or assist in the navigation of the vessel unless the vessel is registered...”

“6.(1) (a) The Commissioners shall establish and maintain a register (referred to subsequently in these Bye-laws as “the register”) of the vessels in the navigation.

(b) An entry in the register in relation to a vessel shall contain such particulars, including particulars in relation to the vessel and its ownership, as the Commissioners may determine...”

“(6) Upon the registration of a vessel, the Commissioners shall issue to its owner a disc bearing an indication that the vessel is registered and the owner shall ensure that the disc is conspicuously displayed on the vessel during the period of registration but not if the vessel ceases (whether pursuant to paragraph (5) or (7)) to be registered...”

- 2.6.31 Sections 5 and 6 of the Draft Shannon Navigation Bye-laws, 2024¹⁶, are similarly worded, but with the authority for the register being vested in Waterways Ireland, significantly the requirement to register is to be extended from “vessels” to the newly defined “boat” (which would include PWCs) if the draft bye-laws are implemented. There is therefore no current legal requirement to register PWCs.

- 2.6.32 Section 13 of the Shannon Navigation Bye-laws state that:

“(1) A vessel or boat¹⁷ shall not be navigated at such a speed or in such a manner as to cause or be likely to cause injury or damage to persons or to other vessels or boats or any other property.

(2) (a) The propellers of a vessel or boat shall not be turned at such a speed as to cause damage to any part of the navigation or to any other vessel or boat or any other property.

16. “5. The owner of a boat shall not keep or navigate or cause to be navigated or authorise permit or assist in the navigation of the boat unless the boat is registered.”

“6. (1) (a) Waterways Ireland shall establish and maintain a register (referred to subsequently in these Bye-laws as “the register”) of the boats in the navigation.

(b) An entry in the register in relation to a boat shall contain such particulars, including particulars in relation to the boat and its ownership, as Waterways Ireland may determine...”

(6) Upon the registration of a boat, Waterways Ireland shall issue to its owner a disc, identification or boat number bearing an indication that the boat is registered and the owner shall ensure that the disc, identification or boat number is conspicuously displayed on the boat during the period of registration but not if the boat ceases (whether pursuant to paragraph (5) or (7)) to be registered...

17. “boat” means an open or undecked punt, canoe, skiff, scull, row boat or other such boat designed to be propelled primarily by oars or sail and not propelled by an engine of more than 15 horsepower;

(2) (b) A vessel or boat shall not be navigated at a speed in excess of 5 kilometres per hour when within 200 metres of a bridge, quay, jetty or wharf, when in a harbour or canal or when passing within 100 metres of a moored vessel or boat that a speed limit of five (5) kilometres per hour is in effect in the area of the incident.”

- 2.6.33 A notice displaying Bye-law 13 (2)(b) was clearly visible at the public slipway where the PWC was launched. A second notice stated and showed the speed limitation areas which included the entire areas where the PWC was operated and the location of the casualty.

Use of Alcohol and other Drugs

- 2.6.34 Section 10 of the current Shannon Bye-laws places restriction on a person’s use of alcohol and other drugs, in relation to their use of the Shannon navigation’s infrastructure or a vessel defined previously as including a PWC.

“10. Persons who are under the influence of alcohol or any other drug to such an extent as to have their capability to navigate or have proper control of a vessel or boat impaired shall not—

(a) navigate a vessel or boat, or

(b) make use of any equipment or installation in the navigation owned by the Commissioners.”

- 2.6.35 Section 10 of the Draft Shannon Navigation Bye-laws, 2024 places similar restrictions on a person’s use of alcohol and other drugs, in relation to their use of the Shannon navigation’s infrastructure or a boat defined previously as including a PWC.

“10. Persons who are under the influence of alcohol or any other drug to such an extent as to have their capability to navigate or have proper control of a boat impaired shall not—

(1) navigate a boat, or

(2) make use of any equipment or installation in the navigation owned by Waterways Ireland.”

Navigation

- 2.6.36 Section 12 of the current Shannon Bye-laws places obligations on a master (defined as the “person for the time being in charge of a vessel or boat”) to operate it safely.

“12.(1) The master of a vessel or boat underway shall keep, or arrange for the keeping of, a proper lookout and shall at all times navigate with care and caution, and with reasonable consideration for others, having due regard to the circumstances of weather, visibility, flood and other traffic...”

- 2.6.37 Section 12 of the Draft Navigation Bye-laws, 2024¹⁸ places similar restrictions on a master of a “boat” to operate it safely.

Speed Restrictions

- 2.6.38 Section 13 of the current Shannon Bye-laws has speed limits. The provisions of 13 (2)(b) limits the normal use of a PWC on those parts of the Shannon navigation which are subject to any of the following:

“13.(1) A vessel or boat shall not be navigated at such a speed or in such a manner as to cause or be likely to cause injury or damage to persons or to other vessels or boats or any other property.

(2) (a) The propellers of a vessel or boat shall not be turned at such a speed as to cause damage to any part of the navigation or to any other vessel or boat or any other property.

(2)(b) A vessel or boat shall not be navigated at a speed in excess of 5 kilometres per hour when within 200 metres of a bridge, quay, jetty or wharf, when in a harbour or canal or when passing within 100 metres of a moored vessel or boat.”

- 2.6.39 Section 13 of the Draft Shannon Navigation Bye-laws, 2024¹⁹ creates similar restrictions on speed, again effectively limiting the normal speed of a PWC. As with many of the draft Bye-laws the term “vessel or boat” is not substituted by “boat”.

Summary of Shannon Navigation Regulatory Regime

- 2.6.40 The current Shannon Bye-laws allow for the safe operation of PWC in the Shannon navigation. The Draft Shannon Navigation Bye-laws of 2024, if enacted, would do so in much clearer terms given the specific definition of “personal water-craft” and the definition of “boat” which includes “other water-craft”, (which includes PWC and the defined “pleasure craft”). There are specific rules governing issues such as maintaining a proper lookout, speed, consideration of other traffic, use of alcohol and other drugs etc. Some of these are very similar to those in the International Regulations for Preventing Collisions at Sea, 1972.
- 2.6.41 Enforcement of these rules is provided for in the bye-laws. Waterways Ireland authorised officers have significant powers of enforcement, including powers to give directions requiring compliance; to stop a vessel that is underway; and to board and inspect a vessel.

18. “12. (1) The master of a boat underway shall keep, or arrange for the keeping of, a proper lookout and shall at all times navigate with care and caution, and with reasonable consideration for others, having due regard to the circumstances of weather, visibility, flood and other traffic...”

19. “13. (1) A boat shall not be navigated at such a speed or in such a manner as to cause or be likely to cause injury or damage to persons or to other boats or any other property.

(2) (b) A boat shall not be navigated at a speed in excess of 5 kilometres per hour, and shall generate no wake and no wash, when within 200 metres of a bridge, quay, jetty or wharf, when in a harbour or canal or when passing within 100 metres of a moored boat except as necessary for safe navigation in conditions of fast flow.”

- 2.6.42 The current Shannon Bye-laws state that a register of vessels in the Shannon navigation shall be created and maintained and prohibits the use of unregistered vessels in the Shannon navigation. The draft bye-laws would require registration of “boats” and therefore PWCs. This would enhance regulation and enforcement.
- 2.6.43 As the draft bye-laws retain the existing speed/operational limits a question arises as to whether they have taken into consideration the normal use/speed of PWCs on the Shannon navigation, given how these craft are typically operated. Clarification is needed from Waterways Ireland as to whether the draft Shannon Bye-laws are intended to be their regime for the regulation and enforcement of PWCs in their territory. There is also available to Waterways Ireland the directly applicable provision of the Maritime Safety Act 2005, and any bye-laws made under that legislation (subject to their authorised officers being warranted under that Act).
- 2.6.44 The Jet Ski was launched from the Ballina slipway which is in the administrative area of Tipperary County Council, however the boundary with the administrative area of Clare County Council is mid-river. Clare County Council issued Beach Bye-laws in 2021 which address PWCs among other matters (Clare County Council Beach Bye-Laws 2021²⁰). The bye-laws cover the area at Ballycuggeran up river from the accident locus on the outskirts of Killaloe. There are also maps relating to each beach/lake area denoting speeds and or prohibitions on PWCs. These bye-laws are stated to be made, inter alia, under the Local Government Act, 2001, Local Government Act, 2001 (Bye-Laws) Regulations, 2006, the Maritime Safety Act 2005.²¹

20. <https://www.clarecoco.ie/services/sports-recreation/swimming/byelaws/>

21. 1.1 Clare County Council Beach Bye-Laws 2021 The Council of the County of Clare in pursuance of the powers conferred on it under the Local Government Act, 2001, Local Government Act, 2001 (Bye-Laws) Regulations, 2006, the Maritime Safety Act 2005, the Control of Dogs Act 1986, the Casual Trading Act 1995, the Control of Horses Act 1996, the Litter Pollution Act 1997 as amended, Local Government (Sanitary Services) Acts 1878-1964 and in the interests of the common good hereby makes the following bye-laws for the beaches, set out in the maps in schedule 3, in the County of Clare.

2.7 Personal Flotation Devices

Introduction

- 2.7.1 A person going afloat in a recreational craft in Irish waters has a statutory obligation to wear a PFD, as described in the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations, 2005. S.I. No. 921 of 2005 (as amended).²²

Requirements

- 2.7.2 Regulation 2 of S.I. No. 921 of 2005 contains the following relevant definitions (but did not define PWCs which were later defined):

“pleasure craft” includes personal watercraft and fast power craft;”

Where *“fast power craft”* is defined as including *“pleasure craft”* other than a PWC:

“fast power craft” means a pleasure craft, other than a personal watercraft, the principal means of propulsion of which is derived from a mechanical power source and which attains or can attain a speed through or over water equal to or exceeding 17 knots;

- 2.7.3 The addition made in the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) (Amendment) Regulations, 2012, S.I. No. 349 of 2012 (which made only this change) inserted the following definition of PWC (identical to that in the Maritime Safety Act, 2005) to ensure PWCs were captured in these Regulations:

“ ‘personal watercraft’ means a 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;”.

22. Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations, 2005, S.I. No. 921 of 2005 as amended by:

- Pleasure Craft (Personal Flotation Devices and Operation) (Safety) (Amendment) Regulations, 2012, S.I. No. 349 of 2012. The purpose of the 2012 Regulations was to define “personal watercraft”.
- Pleasure Craft (Personal Flotation Devices and Operation) (Safety) (Amendment) Regulations, 2018, S.I. No. 400 of 2018. The purpose of the 2018 Regulations was to define what a suitable PFD was and to require a CE conformity certification

Interestingly the regulations are made by powers inter alia under sections 20 (as amended by section 47 (1) of the Maritime Safety Act 2005 (No. 11 of 2005)) and 27 (as amended by section 47(2) of that Act) of the Merchant Shipping Act 1992 (No. 2 of 1992),

<https://www.gov.ie/en/publication/c1a570-lifejackets-and-personal-flotation-devices/#:~:text=400%20of%202018.,use%20of%20alcohol%20and%20drugs>

2.7.4 Regulation 7 requires the wearing of PFD²³ at all times on board a PWC which must be enforced by the master or owner:

“7. (1) Every person on a personal watercraft shall wear a personal flotation device at all times while on board, or being towed in any manner by a personal watercraft.

(2) The master or owner of a personal watercraft shall take all reasonable steps to ensure that a person who has not attained the age of 16 years complies with paragraph (1) of this Regulation.”

2.7.5 Regulation 8 prohibits a master/owner from permitting the operation of a PWC by anyone under the influence of alcohol or drugs. Regulation 9 prohibits alcohol or drugs *“to such an extent as to be incapable of having proper control of the craft”*.

2.7.6 Marine Notice (MN) No. 32 of 2019²⁴, updated on 07/02/2025, highlights the requirements for the carriage, certification, selection and wearing of PFDs for pleasure craft and PWC. The MN (as updated) also contains recommendations on correct use for users of PFDs.

Table A - Personal Flotation Devices: Certification, carriage, selection and wearing requirements

LENGTH OVERALL of craft	PFD CERTIFICATION AND CARRIAGE REQUIREMENTS <i>See notes (1) and (2)</i>	SELECTION OF PERSONAL FLOTATION DEVICES	REQUIRED WEARING OF PERSONAL FLOTATION DEVICE		
			PLEASURE CRAFT <i>see note (3)</i>		PERSONAL WATERCRAFT <i>See note (6)</i>
			OPEN CRAFT <i>See note (5)</i>	DECKED CRAFT <i>See note (4)</i>	
Less than 4 metres	 or  For all persons	Refer to Tables B, C and D.	All persons	All persons while on deck	All persons
Less than 7 metres	 or  For all persons	Refer to Tables B, C and D.	All persons	All persons while on deck	Not applicable
7 metres or greater	 or  For all persons	Refer to Tables B, C and D.	All persons under 16 years of age	All persons under 16 years of age while on deck	Not applicable
Over 13.7 metres	 For all persons <i>See note (7)</i>	Refer to Table C.	All persons under 16 years of age	All persons under 16 years of age while on deck	Not applicable
Notes:					
(1) Means lifejackets and buoyancy aids that are marked with the CE conformity marking consisting of the initials 'CE' taking the form shown in the specimen in Annex II of Regulation (EC) 765/2008 of 9 July 2008.					

Table continued on next page.

23. Regulation 2 of the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005 was amended by 2018 Regulations by the substitution of the following definition for the definition of “suitable personal flotation device”:

“ ‘suitable personal flotation device’ means a personal flotation device which—

(a) is sufficient to give a person using it a positive buoyancy in waters which are likely to be encountered where the vessel on which it is required to be used or to be available for use is reasonably likely to be,

(b) is appropriate to the body weight of the person who is to wear it, and

(c) has on it either—

(i) the CE conformity marking consisting of the initials ‘CE’ taking the form shown in the specimen in Annex II of Regulation (EC) 765/2008 of 9 July 2008¹, or

(ii) the mark of conformity in the form of the symbol set out in Annex I to Council Directive 2014/90/EU of 23 July 2014.”

24. Source: <https://assets.gov.ie/27201/9447a7ff27274709a765f866f661609e.pdf>

(2) Means lifejackets that have the mark of conformity in the form of the wheel mark symbol set out in Annex I to Council Directive 2014/90/EU of 23 July 2014.
(3) Does not apply to: - a person on board a pleasure craft (other than a personal watercraft), which is not under way, when the person is wearing, putting on, or taking off, scuba diving equipment, or is about to engage in, or has just completed swimming (including snorkelling) from the craft; - The PFD regulations do not apply to rowers in boats which are designed and specifically used for rowing in boat races and are capable of being entered into regattas or other events recognised by the Irish Amateur Rowing Union, and of a design and type in respect of which events are held in the Olympic Games or other international rowing regattas.
(4) "Decked craft" means a pleasure craft which is not an open craft.
(5) "Open craft" means a pleasure craft which does not have a cabin or below deck facilities for the use of persons and where seating, or any place on the craft used for seating, is exposed or partially exposed to the elements.
(6) "Personal watercraft" means a 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.
(7) Consideration to be given to the carriage of  marked lifejackets for use on deck in addition to  marked lifejackets.

Figure (a): Table A from the Marine Notice No. 32 of 2019 (updated version).

2.8 Water Safety Regime in Ireland: The Department of Transport

2.8.1 The Department of Transport's approach to the safety of recreational craft is described in the Irish Maritime Directorate Strategy 2021 - 2025²⁵ and includes work on policy development, statutory regulation, safety awareness promotion and enforcement. The Department of Transport publishes MNs. The Department of Transport published an updated version of the CoP for the Safe Operation of Recreational Craft in late 2024.

2.8.2 Water Safety Ireland is a statutory body that was established in 2019 under the aegis of the Department of Rural and Community Development. It has a statutory role that includes the promotion of both public awareness of water safety and measures to prevent accidents in water, and is defined in legislation as involving the following:

"(1) The Body shall provide the following services for or on behalf of the Minister:

- a) the promotion of public awareness of water safety;*
- b) the promotion of measures, including the advancement of education, related to the prevention of accidents in water;*
- c) the provision of instruction in water safety, rescue, swimming, resuscitation and recovery drills;*
- d) the promotion of efficiency of the service provided by lifeguards, including enhancing the standard of lifesaving through the promotion and development of lifesaving to international standards;*
- e) the establishment of, and provision of training in, national standards for lifeguards, lifesaving and water safety; the provision of instruction, training,*

25. <https://www.gov.ie/en/publication/a7b8d-irish-maritime-directorate-strategy-2021-2025>

assessment and certification in aquatic rescue for boat crews of independent voluntary community organisations for the time being known as the “Community Rescue Boats Service” and other organisations involved in aquatic rescue.”

2.8.3 Water Safety Ireland’s website²⁶ has specific guidance for jet skis, which includes several “Do’s and Don’ts” as follows:

Do;

- Keep a safe distance from other water users and do not endanger their lives
- Learn how to operate your machine
- Know your own and your machine’s capabilities/limitations
- Wear an approved lifejacket or buoyancy aid
- Check weather forecasts and tides
- Have a suitable means of attracting attention in an emergency
- Advise someone ashore of your expected departure and return times

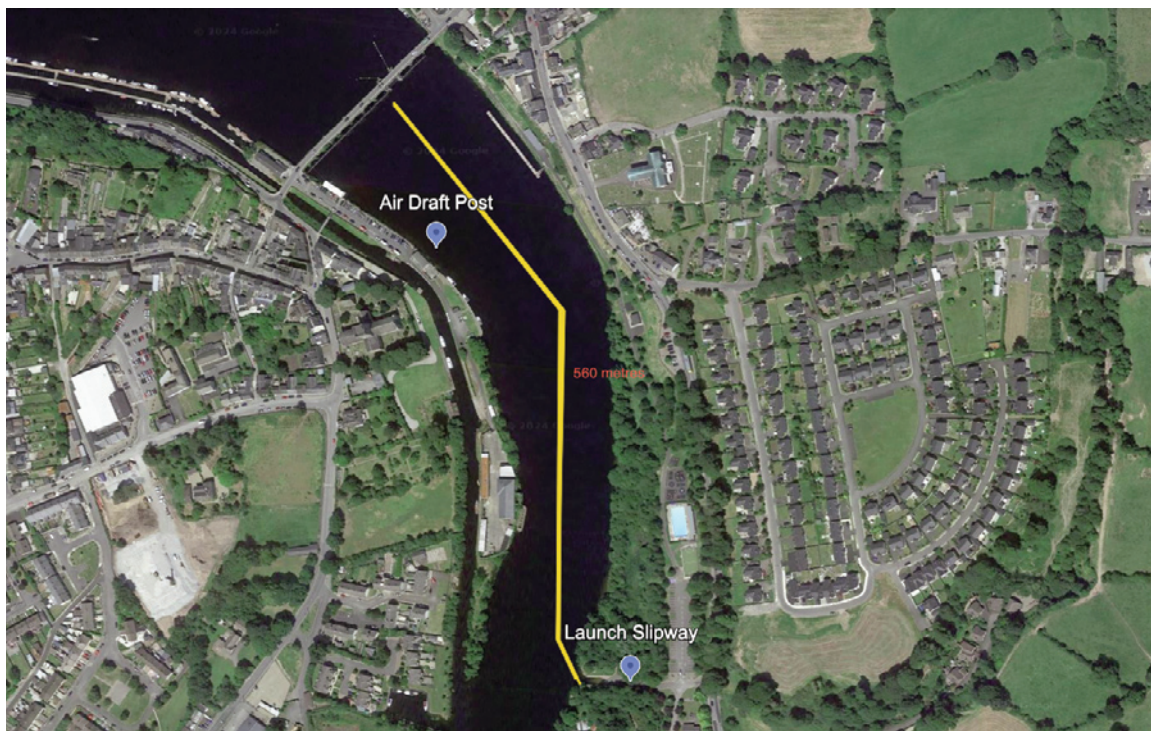
Don’t;

- Operate your machine in the vicinity of other water users e.g. swimmers, divers, craft such as angling boats, canoes, sailing boats etc.
- Cause a safety hazard by high speed use
- Create unnecessary noise and disturbance to other people or wildlife
- Drink and Drive

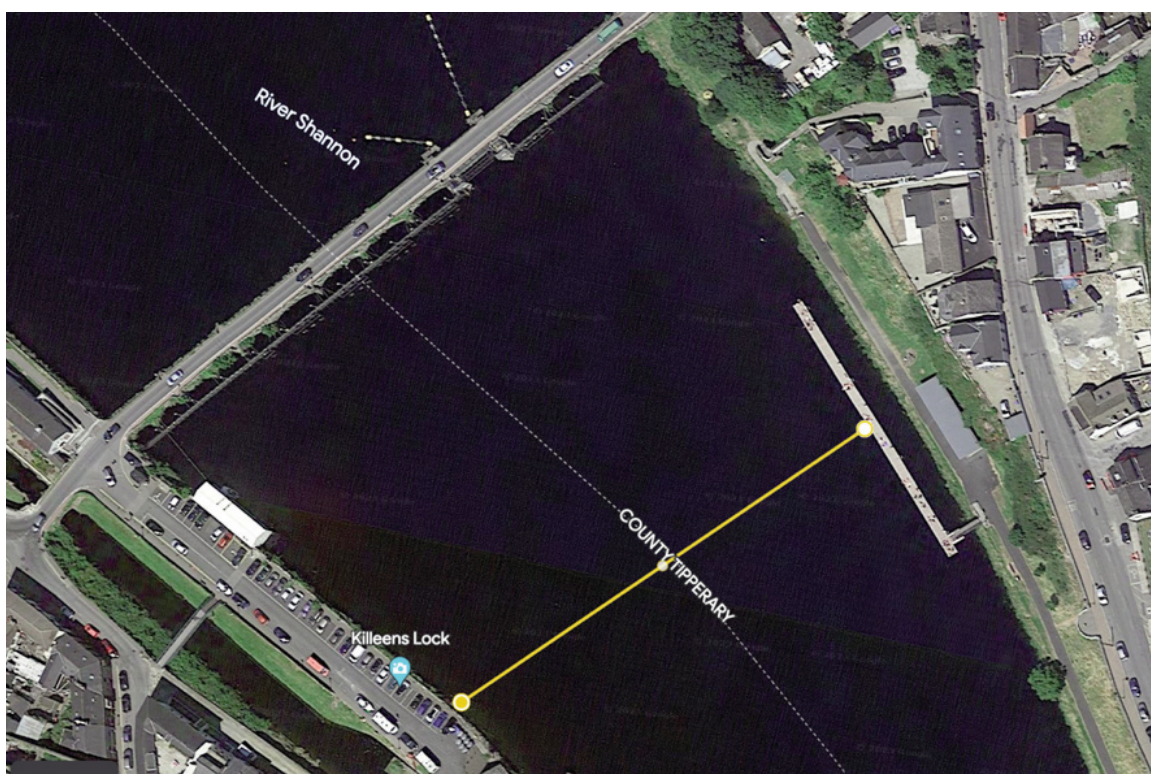
2.9 Incident Information and Location

2.9.1 The slipway for launching the PWC is approximately 550 m south of the Killaloe Bridge. The Jet Ski involved in the accident was launched from Ballina which comes under the local government administration of Tipperary County Council. The boundary between the administrative areas of Tipperary and Clare County Councils lies midway in the river. The width of the Shannon varies from approximately 80 m wide at the launch slipway, widening to approximately 120 m wide at the Ballina pontoon before reaching approximately 150 m wide at Killaloe Bridge. The PWC was being operated in the area between the launch slipway and the Killaloe Bridge, with some brief transits north of the bridge. The incident in which the PWC capsized occurred approximately mid-river just south of the bridge.

26. <https://watersafety.ie/boating/>



Photograph No. 6: Showing area of activity of the PWC and distance from the launch slipway to the Killaloe Bridge (560 m) which is all covered by the 5 km/h speed limit.



Photograph No. 7: Showing location of the Ballina Pontoon and Killaloe Bridge.

2.9.2 Incident Information

Type:	Marine casualty resulting in one fatality.
Date:	31 May 2023.
Time:	Between 17.00 hrs and 19.30 hrs (Local time).
Location:	In the vicinity of Killaloe Bridge Killaloe/Ballina Counties Tipperary and Clare. The Jet Ski was launched from Ballina which comes under the local government administration of Tipperary County Council. The boundary between the administrative areas of Tipperary and Clare County Councils lies midway in the river.

This incident resulted in a Marine Casualty as defined in Section 2 of the Merchant Shipping (Investigation of Marine Casualties) Act, 2000, which defines a marine casualty and a vessel in the following terms:

“marine casualty” means an event or process which causes or poses the threat of—

- (a) death or serious injury to a person;
 - (b) the loss of a person overboard;
 - (c) significant loss or stranding of, or damage to, or collision with, a vessel or property; or
 - (d) significant damage to the environment,
- in connection with the operation of—
- (i) a vessel in Irish waters;
 - (ii) an Irish registered vessel, in waters anywhere; or
 - (iii) a vessel normally located or moored in Irish waters and

under the control of a resident of the State, in international waters contiguous to Irish waters, and includes an accident or damage referred to in section 26(1)(b);

“vessel”, in relation to a marine casualty, means a vessel or craft (or part of a vessel or craft) which at the time of the casualty—

- (a) is registered in the State, or
- (b) is located in the State (including in Irish waters), or
- (c) being a vessel normally located or moored in Irish waters, is under the control of a resident of the State in international waters contiguous to Irish waters,

and capable of being used, or intended to be used, for navigation or transportation on water, but does not include a seaplane.

2.10 Weather Information Killaloe/Ballina Wednesday 31 May 2023

- Wind: NE 4
- Air Temperature: 19.2°C
- Visibility: Good
- Precipitation: No rain
- Sunset: 21.47 hrs.

WEATHER REPORT

<u>31-05-2023</u>	
<u>Meteorological Synopsis:</u>	A blocking high pressure of 1036 hPa was situated south of Iceland in the north Atlantic throughout the period with a mostly moderate east to northeast airflow over Ireland.
Estimated weather conditions around Shannon Bridge, Killaloe pontoon, Ballina, Co Clare (52 36.464°N 8 26.303°W) between 1200 GMT 31st May and 0000 GMT 1st June 2023	
<u>Wind:</u>	7 to 12 knots increasing 12 to 15 knots prior to the incident and easing 5 to 7 knots by midnight.
<u>Weather:</u>	Dry and mostly clear with just, isolated, brief, fair weather cumulus clouds through early afternoon, but predominantly sunny. 0.0mm of rainfall was recorded in the region through the period.
<u>Visibility:</u>	Visibility was good, remaining >30nm throughout the period.
<u>Temperature:</u>	Air temperatures of 19 to 21 deg C at midday rose to highs of 20.5 to 24 deg C between 3 and 4pm. Around 5pm temperatures ranged from 19 to 23 degrees, falling to between 17 to 21 degrees by 7pm.

Figure (b): Weather information: Met Éireann, Climate Services Division.

2.11 Cold Water Immersion

- 2.11.1 Cold water is defined²⁷ as water of 15 degrees Celsius (C) or less. There are known dangers associated with sudden immersion in cold water, and the effects of prolonged exposure to cold water. Without a PFD, cold incapacitation can lead to death by drowning as the individual loses the ability to maintain their airway above the water.

27. *Essentials of Sea Survival*, Golden & Tipton, 2002.

- 2.11.2 The water temperature around Killaloe varies slightly throughout the year. The temperature ranges from 7.6°C (45.8°F) in February up to 16.3°C (61.3°F) in the month of August. The average water temperature throughout the year is 12°C (53°F) and the best time for water activities is late summer. The average water temperature in May is 12.5°C (54.5°F).

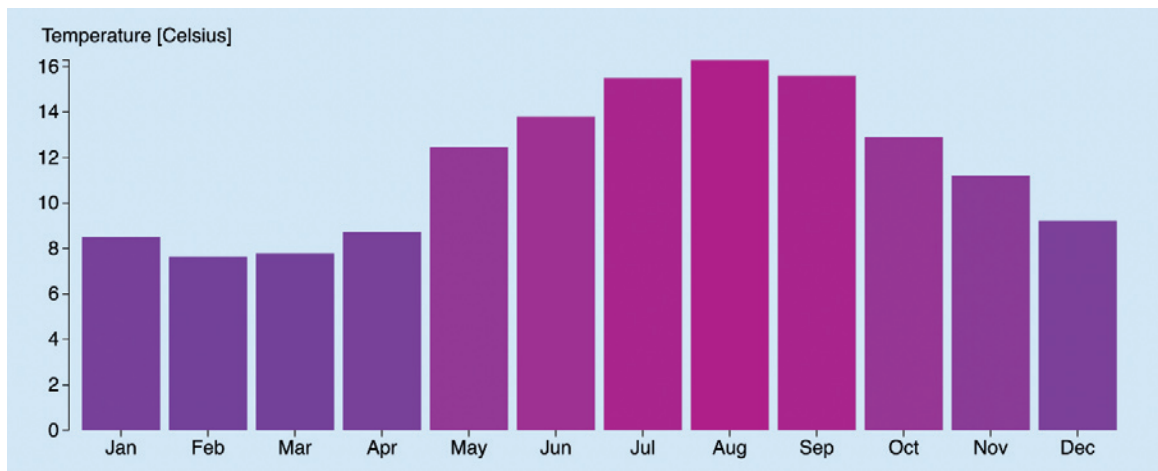


Figure (c): Average annual water temperatures in Killaloe (watertemperature.org).

- 2.11.3 Summarised below are important aspects from Chapters 4 and 6 of Essentials of Sea Survival dealing with the critical effects on the human body of the initial and short-term responses that occur following immersion in cold water, before the long-term onset of hypothermia:

- The initial response is known as cold shock. The cold water causes a sudden lowering of skin temperature, which has a significant effect on a person's circulation and breathing. The body's responses commence almost immediately upon immersion, peaks during the first 30 seconds, and lasts for 2-3 minutes. This effect is believed to be responsible for the majority of immersion deaths in cold water, not the later onset of hypothermia.
- The initial changes to the circulation system occur because of constriction of the skin's blood vessels. This increases the resistance to blood flow in the skin. Blood pressure rises dramatically. The heart works harder as it tries to pump blood through constricted blood vessels.
- In cold water an initial breathing gasp of up to 2 or 3 litres - close to the total lung capacity for an adult - is followed by uncontrollable rapid over-breathing (hyperventilation). The rapid over-breathing can result in a 10-fold increase of the volume of gas entering and leaving the lungs each minute, which can cause dizziness and confusion, and can create a sensation of breathing difficulty or suffocation. These are physiological effects that can contribute to the feelings of panic experienced by a person.
- The reduction in breath-hold time that occurs after initial immersion in water is a major danger for a person who is otherwise fit and healthy. While a person

may normally be able to hold their breath on average for over one minute, this reduces to less than ten seconds upon immersion in cold water. Consequently, in choppy or turbulent water where small waves may intermittently submerge the head or airway, a person is at risk of inhaling water during the first few minutes until they can regain control over their breathing. Breath-holding to facilitate escape from a capsized or submerged vessel may be difficult and can result in entrapment and drowning. Near drowning can occur after someone has inhaled only a small volume of water, of 0.25-0.5 lts for an average individual, which is a particularly small volume when compared with breathing volumes of over 150 lts recorded in the first minute after immersion in cold water.

- Many of the activities that are critical to survival require effective use of the hands. However, in some cases as short as just minutes, the ability to use the hands is impaired in cold water as they, and the muscles in the forearms that help control them, experience cooling. This can lead to a significant decrease in manual dexterity, handgrip strength, and speed of movement. This loss of ability can have serious consequences for activities such as righting or re-entering an overturned kayak, manipulating the inflation valve of a lifejacket or activating a manually inflating lifejacket, tightening straps, locating a whistle and other survival aids, holding onto a flotation aid or activating a signalling device such as a flare.
- Having survived the initial responses, those without a flotation aid will have to make swimming movements to remain afloat or swim to a safe refuge, but it has been shown to be extremely difficult to swim during the first minutes after immersion in cold water, even for those considered to be “good” swimmers in warm water, even to save their lives.
- As buoyant air within the clothing gradually escapes from within the fabric the person experiences a lowering in the water, which requires them to try and lift the head higher out of the water to breathe, which can further exacerbate the effects. Even small waves on the surface can have the effect of bringing the mouth close to water, thereby tending to cause inhalation of water.
- Rescuers have described how the sound of a rescue boat’s arrival sometimes prompts a person in the water to wave, but this can disturb the air trapped in and under clothing, which further reduces the person’s buoyancy in the water. A person who finds themselves immersed in water should try and remain as motionless as much as possible.

2.11.4 RNLI’s guidance²⁸ on the steps to take in the event of someone finding themselves in water in an emergency situation is shown in Figure (c) below which sets out their ‘Float to Live’ principles:

“a) Tilt your head back - with ears submerged.

28. <https://rnli.org/safety/float>

- b) Relax - and try to breathe normally.*
- c) Move your hands - to help you stay afloat.*
- d) It's OK if your legs sink - we all float differently.*
- e) Spread your arms and legs - to improve stability."*

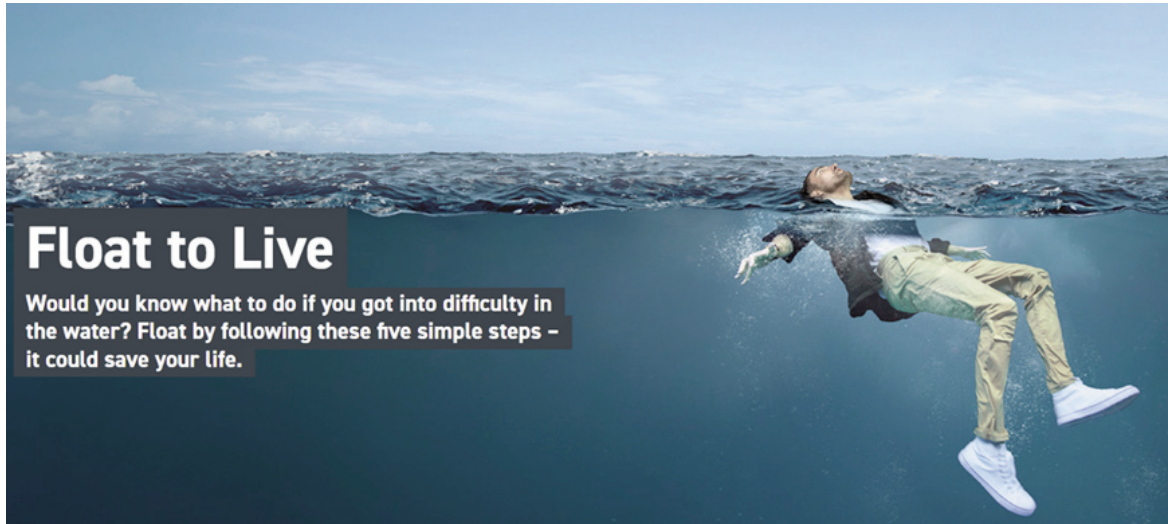


Figure (d): The RNLI's guidance on the posture to adopt by someone in difficulty in the water.

2.12 Emergency Response and Shore Authority Involvement/Timeline.

2.12.1 The SAR operation was jointly carried out and assisted by AGS, Killaloe Coast Guard Unit (CGU), Shannon SAR rescue helicopter 115, Killaloe Fire and Rescue, Killaloe/Ballina SAR Unit, Lough Derg Sub Aqua Club.

2.12.2 Timeline:

17.04 hrs	999 alert received reporting three persons in the water from a capsized PWC.
17.05 hrs	Killaloe CGU alerted. Rescue 115 tasked. Ambulance requested. Pan Pan message broadcast. Garda presence requested.
17.23 hrs	Rescue 115 arrives on the scene.
17.30 hrs	Killaloe CGU on scene, confirm two persons safe ashore, and one person still missing. The PWC is alongside the pontoon.

	Killaloe CGU has two boats on the water and a shore team on the scene.
17.48 hrs	Possible target identified on sonar. Local divers prepare for dive on target to investigate.
18.39 hrs	Rescue 115 released.
19.20 hrs	Casualty recovered to Killaloe CGU D Class Lifeboat and transferred to Killaloe Coast Guard Station. Death was pronounced by an advanced paramedic.

2.13 Post Mortem Report

- 2.13.1 The coroner's autopsy report opined that the cause of death was drowning. Determination of the cause of death is a matter for the coroner's inquest. The inquest was held on 15 July 2024 and the death was determined to be a drowning misadventure due to the behaviour of the deceased while operating the jet ski.

3. NARRATIVE

- 3.1 On the afternoon and early evening of 31 May 2023 the weather was calm, and the temperature was warm at Killaloe/Ballina. The average water temperature in May is 12.5°C (54.5°F) so the water was cold. Groups of people had gathered on both sides of the river, and on the pontoon at Ballina, as was usual during spells of fine weather.



Photograph No. 8 - Pontoon at Ballina.

- 3.2 At approximately 16.00 hrs a Sea-Doo 300 hp PWC was launched into the water at the public slipway south of Ballina by the Casualty. The slipway for launching the PWC is approximately 550 m south of the Killaloe Bridge. The width of the Shannon varies from approximately 80 m wide at the launch slipway, widening to approximately 120 m wide at the Ballina pontoon before reaching approximately 150 m wide at Killaloe Bridge. The PWC was being operated in the area between the launch slipway and the Killaloe Bridge, with some brief transits north of the bridge. The incident in which the PWC capsized occurred approximately mid-river just south of the bridge. It is understood from witness accounts that the Casualty had acquired the PWC within the previous 48 hours. PWC's range in size from 60 hp to 310 hp. The Sea-Doo RXT X 300 in this instance was a very powerful 300 hp machine. It is described in the manufacturer's literature as the 'Ultimate Offshore Performance Watercraft'. It is designed to be capable of carrying three persons.



Photograph No. 9 Killaloe Bridge Killaloe/Ballina.

- 3.3 The Casualty did not have a permit to operate the PWC on the Shannon, but registration for PWCs is only provided for in the draft Shannon Navigation Bye-laws, 2024 where the requirement to register is to be extended to the new definition of “boat” which would include PWCs. There is therefore no current legal requirement to register PWCs.
- 3.4 Section 13 of the Shannon Navigation Bye-laws state that:
- “(1) A vessel or boat shall not be navigated at such a speed or in such a manner as to cause or be likely to cause injury or damage to persons or to other vessels or boats or any other property.*
- (2) (a) The propellers of a vessel or boat shall not be turned at such a speed as to cause damage to any part of the navigation or to any other vessel or boat or any other property.*
- (2) (b) A vessel or boat shall not be navigated at a speed in excess of 5 kilometres per hour when within 200 metres of a bridge, quay, jetty or wharf, when in a harbour or canal or when passing within 100 metres of a moored vessel or boat that a speed limit of five (5) kilometres per hour is in effect in the area of the incident.”*
- 3.5 A notice displaying Bye-law 13 (2)(b) made by Waterways Ireland was clearly visible at the public slipway where the PWC was launched stating:

Shannon Navigation

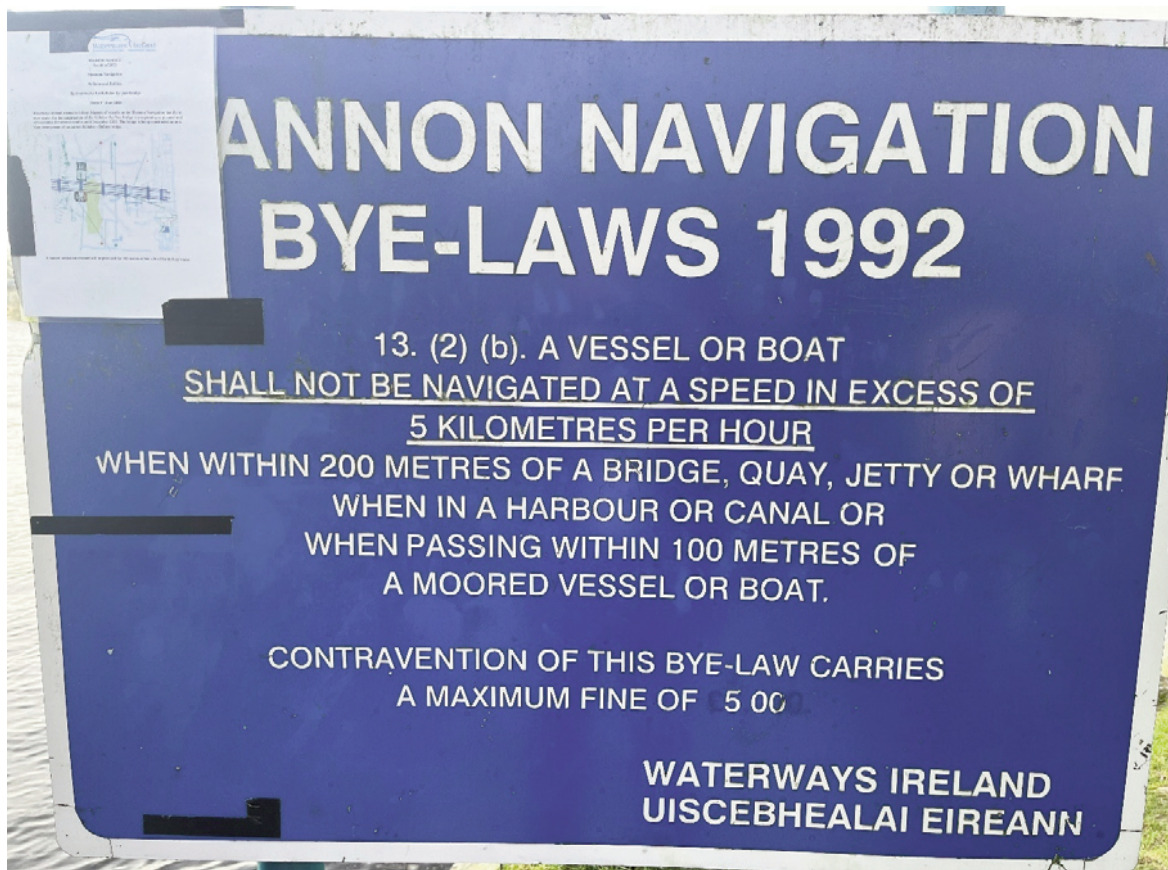
Bye-laws 1992

(2) (b) A vessel or boat shall not be navigated at a speed in excess of five km/h when within 200 m of a bridge, quay, jetty or wharf, when in a harbour or canal or when passing within 100 m of a moored vessel or boat that a speed limit of five km/h is in effect in the area of the incident.

Contravention of this Bye-law carries a maximum fine of 500.

Waterways Ireland, Uiscebhealai Eireann

A second Shannon Navigation notice stated and showed the speed limitation areas which included the entire area where the PWC was operated and the location of where the Casualty was recovered. Photographs No. 10 and No. 11 below show the displays, and Photograph No. 12 shows the signs in the slipway location.



Photograph No. 10: Notice with Bye-laws 13 (2) (b) at Ballina slipway.



Photograph No. 11: Second Notice with Bye-laws and speed limits at Ballina slipway.



Photograph No. 12: Location of signage at launch slipway.

- 3.6 The Shannon Bye-laws mandate the safe operation of PWCs in the Shannon Navigation. There are specific rules such as in Section 13 (set out above) about keeping to safe speed limits, in Section 10²⁹ on the prohibition on the use of a PWC when under the influence of alcohol and other drugs, Section 12³⁰ requires the maintaining of a proper lookout, and that a PWC must be navigated with care and caution, with consideration for others having due regard to the relevant circumstances.
- 3.7 According to witness statements the PWC was operated at speeds in excess of the local speed limit of 5 km/h in the narrow stretch between the launch slipway and the Killaloe Bridge with occasional transits north of the Killaloe Bridge. At this time the Casualty was wearing his own PFD.
- 3.8 At approximately 16.30 hrs the Casualty invited an individual who was on the pontoon to join him on the PWC as a passenger ("Passenger No. 1"). A friend of the Casualty gave Passenger No. 1 a PFD. At this time both PWC riders were wearing PFDs. The PWC carrying the Casualty and Passenger No. 1 proceeded to transit up and down the river several times at what witnesses described as high speed. The PWC then returned to the pontoon where Passenger No. 1 disembarked and handed the PFD back to the friend of the Casualty.
- 3.9 The Casualty then manoeuvred the PWC a short distance away from the pontoon. A few moments later a friend of Passenger No. 1 ("Passenger No. 2") entered the water from the pontoon and swam out to where the PWC was positioned and climbed onboard the PWC. The Casualty proceeded to give Passenger No. 2 his PFD. Passenger No. 1 then proceeded to swim out to the PWC, which was then located about 7 m from the pontoon, and climbed onboard sitting between the Casualty and Passenger No. 2. Accordingly, at this time of the three persons on the PWC, only Passenger No. 2 was wearing a PFD.
- 3.10 The PWC, operated by the Casualty and carrying the two passengers proceeded to move away from the pontoon at speed, transiting up and down the river several times between the bridge and the launching slipway. The entire area where the PWC was being operated was within the 5 km/h bye-law speed limit zone as highlighted on the Waterways Ireland signage. The PWC was observed by witnesses conducting several "trick manoeuvres" involving sharp turns at high speed. During one of these, the Casualty turned near the slipway and came back up towards the pontoon and drove past those on the lake side. After this sharp turn all three people onboard the PWC were observed to fall off the PWC entering the water. All three persons managed to reboard the PWC, and the Casualty continued to operate the PWC.

29. "10. Persons who are under the influence of alcohol or any other drug to such an extent as to have their capability to navigate or have proper control of a vessel or boat impaired shall not—

(a) navigate a vessel or boat, or

(b) make use of any equipment or installation in the navigation owned by the Commissioners."

30. Section 12 of the Shannon Bye-laws provides "12.(1) The master of a vessel or boat underway shall keep, or arrange for the keeping of, a proper lookout and shall at all times navigate with care and caution, and with reasonable consideration for others, having due regard to the circumstances of weather, visibility, flood and other traffic..."

- 3.11 Following this, at approximately 17.00 hrs the Casualty advised the passengers to hold on as he was going to execute another “trick”. The PWC passed the pontoon at speed and made another sharp left turn in an area that was approximately mid-river and just south of the bridge. All three persons fell off the PWC again when it capsized during the sharp left turn. The two passengers managed to swim ashore to the pontoon where they were assisted out of the water with a second life jacket being thrown in and another swimmer coming out to assist. Neither had any significant injuries and were later given the all-clear after being checked by paramedics.
- 3.12 The Casualty was initially observed by witnesses attempting to reach the PWC but disappeared under the water very quickly. He was not to be seen after the short time it took the passengers to be assisted ashore at the pontoon. An alert was raised, and a SAR operation commenced. The SAR operation was jointly carried out and assisted by AGS, Killaloe CGU, Shannon SAR rescue helicopter 115, Killaloe Fire and Rescue, Killaloe/Ballina SAR Unit, and Lough Derg Sub Aqua Club.
- 3.13 At 17.48 hrs a local search vessel identified a possible target on its sonar at the same location where the capsized had occurred. Local divers engaged in a dive in the area identified. The rescue helicopter 115 was released at 18.39 hrs.
- 3.14 At approximately 18.45 hrs the body of the Casualty was recovered. He was pronounced dead at the scene by an advanced paramedic. The PWC was recovered by AGS and taken to a secure storage unit where it was later inspected by the MCIB.
- 3.15 During the subsequent inspection by the MCIB no mechanical deficiencies were noted on the craft. However, it was noted that damage to the bow of the PWC (shown in Photograph No. 5) and corresponding damage to a navigation air draft post in the river suggest the possibility of an impact between the PWC and the post. The air draft post, on the Killaloe side of the river south of the bridge, had fresh impact damage consistent with the impact damage to the PWC. However, there is no eye-witness evidence available to the MCIB to support this possibility.



Photographs No.13 and No.14: Showing impact damage on the air draft post.

4. ANALYSIS

- 4.1 PWC's range in size from 60 hp to 310 hp. The Sea-Doo RXT X 300 in this instance was a very powerful 300 hp machine. It is described in the manufacturer's literature as the 'Ultimate Offshore Performance Watercraft'.
- 4.2 The area in which the PWC was being operated on this occasion is a relatively narrow and restricted body of water with a 5 km/h speed limit. From launch slipway to the Killaloe Bridge the distance is 550 m. The Shannon is only 80 m maximum width at the launch slipway, and 150 m maximum width at the bridge. The river is 120 m maximum width at the Ballina pontoon. There are shallow spots at both sides of the river and various obstructions such as the air draft post near to the bridge. This further limits the navigable part of the river. Fresh impact damage to the air draft post and to the bow of the PWC suggest the possibility of a collision at some point before the fatal incident, however there is no eye-witness evidence to support this possibility.
- 4.3 There is a 5 km/h speed limit on both sides of the Killaloe Bridge. Mobile phone footage observed by the MCIB shows the PWC travelling at speeds in excess of the stated speed limits as it passed the pontoon. Travelling at high speed with a powerful 300 hp PWC on this narrow and geographically restricted stretch of water could be considered very dangerous. Other water users are put at great risk. Boaters, kayakers, swimmers, and wildlife, run the risk of serious injury.
- 4.4 The Casualty had only just acquired the Sea-Doo PWC the day beforehand, and it was unlikely that he could have become familiar with its operation and handling characteristics. The Casualty had received no formal training on how to operate such a craft.
- 4.5 Irish Sailing is the national governing body for PWCs in Ireland and offer a Personal Watercraft Training Scheme at several training centres. However, the courses are not mandatory. There is no evidence to suggest that the Casualty had attended any Irish Sailing courses.
- 4.6 The Casualty was operating the PWC at a speed that from the observations reported would have probably been in breach of the bye-laws. Given the events that occurred he was certainly operating the PWC at a speed and in a manner that was too fast for the physical features of the river area. His ability to judge his speed and his surroundings may have been affected by the presence of toxic substances in his system (as found by the coroner's pathologists report). His ability to manoeuvre was probably also affected by having two passengers onboard. The operation and control of the PWC at high speed, proved to be causal factors in this marine casualty.
- 4.7 All passengers onboard a boat or watercraft of less than 23 feet (7 m) in length must wear a lifejacket (or PFD) as set out by the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005 as amended. This is restated very clearly in the CoP for the Safe Operation of Recreational Craft.

- 4.8 Only Passenger No. 2 was wearing a PFD during the final operations of the PWC. Neither the Casualty, nor Passenger No. 1 were wearing PFDs as mandated by the Regulations.
- 4.9 It was reported that the Casualty was unable to swim. The Casualty's inability to swim combined with the fact that he was not wearing his PFD was a causal factor in this marine casualty.
- 4.10 In the circumstances where the Casualty could not swim and was not wearing a PFD, the temperature of the water, although cold enough to cause cold water shock (average water temperature throughout the year is 12°C (53°F)) was probably not a relevant factor.

5. CONCLUSIONS AND SAFETY HISTORY

- 5.1 The outcome of this fatal marine casualty was the death of the young male operator of the PWC. The marine casualty occurred because the operator was proceeding at an unsafe speed in excess of the local area bye-law speed limit of 5 km/h while conducting unsafe manoeuvres in an area unsuitable for such a powerful machine. The execution of unsafe manoeuvres at an excessive speed by an untrained driver resulted in a capsize of the PWC, which led to the Casualty being in the water, out of his depth and where he was unable to swim while not wearing a PFD. It is possible that the presence of intoxicant in the system of the deceased may have impaired his judgement with regard to the operation of the PWC.
- 5.2 The Casualty was a young male who had only just acquired the PWC in the days before this fatal accident and with no evidence of having been given training before operating it on his own. The lack of the Casualty having any experience with operating such a powerful machine and not having the skills, knowledge, and experience that are obtained through training for a PWC was a contributory factor in this marine casualty.
- 5.3 MCIB Report No.131 entitled “Report into a collision between two jet skis in Cashla Bay, Co. Galway on 2nd October 2006, resulting in serious injury to one individual”, made the following safety recommendations that are pertinent to this investigation. During the course of this investigation the MCIB invited the Department of Transport (“DoT”) to advise on actions taken in response to these safety recommendations. The replies setting out the position as of October 2024 are set out after each safety recommendation:

RECOMMENDATIONS (from MCIB Report No.131)

- *Due to the escalating incidence of jet ski accidents, it is recommended that the Department of Transport explore the feasibility of mandatory training. This should be developed with the Marine Survey Office and provided by properly authorised bodies that would be subject to regular auditing. The course should provide practical training in all aspects of handling jet skis, a clear understanding of the operational controls of the jet ski and a limited knowledge of maintenance of the craft. The course should also incorporate instruction on the following aspects of legislation:*

Collision Regulations

Solas Chapter V

Personal Floatation Devices and Operational Safety Regulations 2005

Recreational Craft Directive 94/25/EC and amendment 2003/44/EC

Investigation of Marine Casualties Act 2000

Harbours Act 1946 and 1996

Fisheries Harbour Act 1980

Maritime Safety Act 2005.

DoT reply: There are no current plans to introduce mandatory training for recreational craft users. The Code of Practice for the Safe Operation of Recreational Craft is the primary educational tool promoted by the Department to encourage personal responsibility and safety awareness for all those who take to the water. The Code of Practice provides information on applicable legislation in a user-friendly manner. As well as encouraging recreational craft users to get training from an approved training provider in the correct use of the type of craft they intend using, it also provides contact information for relevant course providers. Chapter 5 of the Code is focused on the safe operation of personal watercraft including jet skis and, as well as including a Think and Prepare Checklist of Basic Requirements and Advice to be followed both before going on the water and while on the water, it provides safety advice and guidance in relation to equipment, pre-launch checks, emergency procedures and operation on the water. The Code of Practice is widely used by training providers.

- *The MCIB recommends that all jet skis be registered and that any person wishing to operate a jet ski should complete a recognised training course.*

DoT reply: The Merchant Shipping (Registration of Ships) Act 2014 provides a basis for the establishment of a new Irish Register of Ships consisting of different Parts for the registration of different types of ships and for different purposes. The Act also provides for the extension of mandatory registration to jet skis. The requirements and conditions of registration for each Part of the new Register will vary depending on the type, size, use, etc., of the craft involved and it is envisaged that less onerous requirements will apply to non-commercial recreational craft. As outlined in Section 1.4.2 of the Code of Practice, full commencement of the Act requires the establishment of a new electronic Irish Register of Ships and ship registration regime, which will be progressed under a separate IT project, and new ship registration regulations to complement the IT project. The timeframe for this work has yet to be determined having regard to competing priorities in the maritime sector.

It is worth noting that jet skis are easily transported within the State and from the UK as well as from continental Europe, typically by holiday makers. There are many waterways including inland lakes and rivers as well as coastal locations which border Northern Ireland, meaning that jet skis can be operated across jurisdictions, which makes practical implementation and enforcement of different requirements for registration and training difficult.

- *A further recommendation is that all such craft should be regularly serviced and carry a minimum of life saving equipment on board as outlined in the Department of Transport's "Code of Practice for the Safe Operation of Recreational Craft". In addition, the MCIB strongly recommend the*

compulsory wearing of safety helmets by all persons on jet skis.

DoT reply: As the MCIB will be aware, the Code of Practice for the Safe Operation of Recreational Craft contains useful information, advice and guidance on the safe use of recreational craft. This includes information on the statutory requirements in relation to the wearing and carriage of personal flotation devices (PFDs)/lifejackets as well as more general lifesaving, safety and fire-fighting equipment depending on the size of the craft. Operational safety and maintenance are addressed in Chapter 10 of the Code. A personal watercraft safety checklist, which includes a reference to a helmet, is set out at section 5.7, while section 5.3 recommends the wearing of a suitable helmet by the operator of personal watercraft, preferably fitted with facial protection, if operating offshore or involved in wave jumping.

It is understood that the compulsory wearing of safety helmets by all persons on jet skis was explored a number of years ago in light of MCIB recommendations on the matter. At that time, various relevant organisations, both national and international, were contacted to ascertain the feasibility of introducing the compulsory wearing of safety helmets. MSPD was unable to source any country that had legislative requirements for the wearing of safety helmets for jet ski users. From some recent web research on the matter, it appears that this continues to be the situation in many countries. Similar to Ireland, some countries seem to have requirements in relation to the wearing of PFDs, age restrictions and the capacity to introduce operational controls such as speed limits.

- *Under the provisions of the Maritime Safety Act of 2005, Local Authorities, Harbour Authorities and Fishery Harbours have been granted clear powers to make bye-laws to regulate and control the use of jet skis and other fast powered recreational craft. These powers should be exercised and enforced.*

DoT reply: As mentioned by the MCIB, the Maritime Safety Act 2005 strengthened the law against improper use of certain personal watercraft and recreational craft and promotes good practice in the operation of vessels generally. Related information is provided at section 1.7 of the Code of Practice. Section 6 of the Act allows local authorities, harbour authorities and Waterways Ireland to make bye-laws to regulate or control the operation of craft or specified classes of craft, including mechanically propelled personal watercraft such as jet skis, in waters in their functional areas. The prohibition or restriction on such craft may be general or in specified places and for a range of purposes, including to address the maximum speed limits at which craft may be operated. Section 6 also includes a penalty regime for persons who operate a craft in contravention of a bye-law. Section 7 sets out the procedure for making the bye-laws and guidance has issued to the authorities on the available powers. As conditions and issues can vary in different parts of the country, it is a matter for the individual bye-law making authorities to assess the particular circumstances in their area and decide the appropriate response. In addition to the powers set out in the 2005 Act,

Waterways Ireland have their own bye-laws for the stretches of water under their remit.

The 2005 Act also contains a range of provisions that allow AGS to take action in particular circumstances. These include in circumstances where a person is operating a craft in contravention of bye-laws, where the craft poses a risk or danger to persons or property or a serious nuisance to persons in, on or adjacent to waters, or where a person is operating a craft without reasonable consideration for other persons using or adjacent to waters or at a speed which is unreasonable in the circumstances or place concerned. Part 3 of the Act contains prohibitions relating to vessels in Irish waters, including prohibitions on the careless or dangerous navigation or operation of a vessel.

It is noted that on 2 June 2021 there was a multi-agency water safety plea in relation to the operation of jet skis - see following link:

<https://www.gov.ie/en/press-release/4115b-multi-agency-water-safety-plea-as-number-of-jet-ski-incidents-on-the-increase/>

In November 2015 the then Minister for Transport held a discussion forum in Leeson Lane which considered the lack of prosecutions under the Maritime Safety Act 2005 (with particular reference to lifejackets). The discussion was entitled Maritime Safety Strategy-Enforcement Forum. The speakers were from the Attorney General's Office, the Marine Survey Office (MSO) and Waterways Ireland. The MCIB sought information from the MSPD in respect of the forum's assessment of enforcement issues and outcomes. The MCIB was advised that the forum was convened on 20 November 2015 under Action 27 of the Maritime Safety Strategy 2015-2019. The following documents related to the forum are held on file by the Department:

- Agenda and list of stakeholders
- Enforcement Forum questionnaire
- Enforcement Forum discussion points

See Appendix 7.4: Enforcement Forum Questionnaire and Enforcement Forum Discussion Points.

- 5.4 In June 2021, Water Safety Ireland, Irish Sailing, Waterways Ireland, the RNLI and the Irish Coast Guard issued a multi-agency water safety plea as a number of jet ski incidents were on the increase, encouraging the public to familiarise themselves with safety measures before using a PWC/Jet Ski.³¹ The MCIB are aware of another jet ski fatality in May 2023 in Carlingford, Co. Louth, where from the limited information available to it, speed was a factor.

31. <https://www.gov.ie/en/press-release/4115b-multi-agency-water-safety-plea-as-number-of-jet-ski-incidents-on-the-increase/>

- 5.5 In March 2023 the United Kingdom's Minister for Transport on the recommendation of their Marine Casualty Authority, introduced new legislation which put the responsibility on users, operators and owners of powered watercraft to make sure they protect not just themselves but other water users from harm.³² In July 2024 a jet skier who forced an Isle of Wight ferry to take evasive action after steering across its path, has become the first to be cautioned by the Maritime and Coastguard Agency under the new water safety law.³³
- 5.6 The European Union (Recreational Craft and Personal Watercraft) (Amendment) Regulations 2023 S.I. No. 288 of 2023 were made on the 6 June 2023, after the incident. The Regulations update the definitions and additional actions that may be taken by the MSO as the relevant market surveillance authority, to require the economic operator to affix suitable warning of the risks to the product, or to alert end users at risk immediately in an appropriate form, including by publication of special warnings.
- 5.7 For the purpose of considering recommendations arising out of this fatality, the MCIB engaged with AGS, Waterways Ireland, Irish Sailing, Clare County Council, Tipperary County Council, the Department of Transport and the Irish Coast Guard. The MCIB wishes to extend its thanks to those organisations for engaging in that valuable process. The recommendations set out in part 6 were largely, although not entirely supported. It is not intended to refer to all of that engagement, save where it is useful and relevant to clarify certain aspects.
- 5.8 The incident location was in the Shannon River over which Waterways Ireland has responsibility, as do the two adjoining county councils of Clare and Tipperary as their boundary lies in the middle of the river in this area. It is a popular area for water activities with a slipway on the Ballina, Tipperary side on which the Waterways Ireland safety notices were erected.
- 5.9 Tipperary County Council advised the MCIB that their current bye-laws for this location do not cover water activities such as jet-skiing, therefore, Tipperary County Council does not have authorised officers for this function. They advised that it was not proposed to commence the process to make bye-laws, for the following reasons:
- They believe that it is clear from the correspondence/report and the attached CoP for the Safe Operation of Recreational Craft issued by the Department of Transport, that Waterways Ireland has bye-laws in place covering related water recreational activities (and have further draft bye laws to strengthen their position).

32. <https://www.gov.uk/government/news/warning-for-powered-watercraft-users-as-new-legislation-comes-into-force>. Since 31 March 2023, parts of the UK Merchant Shipping Act apply to jet skiers (under the Merchant Shipping (Watercraft) Order 2023), which enables those who endanger others by using powered watercraft of any size in a dangerous manner to be prosecuted.

33. The jet skier admitted breaching Rule 9 of the International Regulations for the Prevention of Collision at Sea (IRPCS), contrary to Section 4 of The Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996.

- Waterways Ireland has bye-laws in place for the Shannon Navigation and it is Tipperary County Council's understanding that they and AGS are the authorised officers for enforcement on the Shannon Navigation, and not Tipperary County Council.
- 5.10 In response to a request for Observations on a draft of the MCIB report, Waterways Ireland noted the feedback received by the MCIB in relation to the jurisdiction of the various authorities in respect of the regulation and enforcement of legislation designed to improve the safe operation of jet skis. They advised the MCIB that they fully support the safety recommendations outlined in the Section 36 Draft Report and welcomed every opportunity to strengthen the systems that protect individuals using the inland waterways.
- 5.11 Waterways Ireland confirmed that they did not themselves conduct an investigation in respect of this fatality but co-operated fully with the investigation conducted by AGS and the MCIB.
- 5.12 Waterways Ireland confirmed (as set out in this report) that they propose to update the 30 years old Shannon Bye-laws and Canal Bye-laws. The draft bye-laws were submitted to the Department of Housing, Heritage and Local Government for consideration on 17 June 2024. In response to a request from the Department, Waterways Ireland submitted a further revised draft of the bye-laws to the Department on 27 September 2024 for detailed consideration and legal review. They advise that this process would need some time to complete. The proposed bye-laws would grant Waterways Ireland enforcement powers regarding unsafe operation of vessels, use of safety equipment including life jackets, and vessel registration. It is the Body's intention to utilise the bye-laws legislation for that purpose.
- 5.13 The position of the Department of Transport which has a MSPD appears to be that it does not agree with the recommendation addressed to it because the recommendation seeks to ensure that mandatory registration is considered by the safety forum referred to. The Department stated that its position with regard to marine accidents involving PWC is to emphasise the importance of personal responsibility underpinned by information and education. It says that it relies on the voluntary features of the CoP for the Safe Operation of Recreational Craft. This is clear in its responses to the Cashla Bay Recommendations that are set out above. In paragraph 5.3 above in respect of recommendation 7.2 in the MCIB Cashla Bay report, the Department referred to the plan to advance the electronic register as a step to commencing the Merchant Shipping (Registration of Ships) Act 2014: *"The Act also provides for the extension of mandatory registration to jet skis. The requirements and conditions of registration for each Part of the new Register will vary depending on the type, size, use, etc., of the craft involved and it is envisaged that less onerous requirements will apply to non-commercial recreational craft."* It would appear that the Department may not now plan to commence the 2014 Act with regard to the registration of jet skis.
- 5.14 The importance of Waterways Ireland's role in safety within its jurisdictional area

of the Shannon Navigation is illustrated by the locational features of this marine casualty with county administrative areas applying to a line midway in the river in an important recreational area. It is easy to see the complexities for all three entities and AGS in respect of regulation and enforcement.

6. SAFETY RECOMMENDATIONS

6.1 Recommendations to Waterways Ireland being the authority responsible for the Shannon Navigation area to:

- i) consider the contents of this report and introduce the draft 2024 bye-laws (which includes the important requirement for the mandatory registration of PWCs).
- ii) consider the contents of this report and consider their bye-laws with regard to their effective communication with regard to the use and operation of PWCs in the Shannon Navigation area and in particular in a recreational areas where jet skis are in use.
- iii) consider the carrying out of engagement with their authorised officers who have powers of enforcement and with An Garda Síochána on the regulation and enforcement of all legislation for the applicable area that has potential to improve safety and provide effective compliance.
- iv) make available details of their authorised officers and of enforcement action, including any authorised to carry out arrests, and consider how making available that information might assist better regulation and enforcement.

6.2 Recommendations to Clare County Council and/or Clare County Council Municipal District of Killaloe being the local authority responsible for Killaloe to the mid-point in the river to:

- i) consider the contents of this report and consider their bye-laws (in particular their current Beach Bye-laws) with regard to the use, operation, and enforcement with regard to PWCs, and the communication of those bye-laws.
- ii) consider the carrying out of internal communication of the safety lessons to its water safety officers.
- iii) consider the carrying out of engagement with their authorised officers and with An Garda Síochána and Waterways Ireland on the regulation and enforcement of all safety legislation for the applicable area.
- iv) make available details of their authorised officers and of enforcement action, including any authorised to carry out arrests, and consider how making available that information might assist better regulation and enforcement.

6.3 Recommendations to Tipperary County Council and/or Nenagh Municipal District Council being the local authority responsible for Killaloe to the mid-point of the river from the Tipperary side to:

- i) consider the contents of this report and consider the effectiveness of their water safety arrangements which rely on Waterways Ireland and An Garda Síochána with regard to the use, and operation, of PWCs and the enforcement of applicable safety regulations.
- ii) consider the carrying out of internal communication of the safety lessons to its water safety officers.
- iii) consider the carrying out of engagement with An Garda Síochána and Waterways Ireland on the regulation and enforcement of all safety legislation for the applicable area.

6.4 Recommendations to An Garda Síochána to:

- i) consider the contents of this report in the context of enforcement of the legal regime applicable to the use and operation of PWCs in the Shannon area of Killaloe and in particular in a recreational area where jet skis are in use.
- ii) consider whether the carrying out of consultation and engagement with Waterways Ireland and with Clare County Council and/or Clare County Council Municipal District of Killaloe on the regulation and enforcement of all legislation applicable to the use and operation of PWCs has potential to improve safety and provide effective compliance.
- iii) consider whether there are learnings for An Garda Síochána, in other areas where PWCs are used with regard to the regulation and enforcement of all legislation applicable to the use and operation of PWCs.

6.5 Recommendations to Water Safety Ireland to:

- i) consider the contents of this report and consider whether a review of initiatives to raise awareness of the laws that ensure the safe operation of PWC, and the training available might improve safety both in the use of PWCs and in respect of other water users.

6.6 Recommendations to the Minister of Transport, the Department for Transport (and in particular its Maritime Safety Policy Division which is described by the Department as responsible for maritime safety policy):

To consider the contents of this report and the Marine Casualty Investigation Board Report No.131 entitled “Report into a collision between two jet skis in Cashla Bay, Co. Galway on 2nd October 2006”, and its safety recommendations; with a view to carrying out an information sharing and consultation process

focussed on the enforcement of the provisions in legislation and bye-laws for the safe operation of PWC (as took place at the safety forum on enforcement in 2015). This should include the consideration of a national mandatory PWC registration system.

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¹⁷ Indirectly herding rendered land resources.

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¹⁹ The month is a very hot and time to the month is 3 p. The month is 3 p. The month is 3 p.

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Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

REVIEW OF THE REGULATORY PROVISIONS FOR THE USE OF JET SKIS / PWCs



Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

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1. Executive Summary

1.1 The purpose of this Review is to set out the intersecting regulatory provisions in Ireland for the safe operation of personal watercraft (PWC).

1.2 In Ireland there are various ‘jurisdictions’ for regulating PWC.

- The Maritime Safety Act, 2005 applies to all waters controlled by local authorities, Waterways Ireland, all types of harbour companies, Iarnród Éireann, and fishery harbour centres.
- The Local Government Act, 2001 as amended allows for powers for a local authority to make bye-laws for inland waters, and the foreshore and coastal waters, in respect of objectives set out in that Act.
- Under the Shannon Navigation Act, 1990 (as amended) Waterways Ireland have obligations and powers in respect of the area defined as the Shannon Navigation as provided for in that Act.
- The position in relation to harbours is complicated as their governance depends on the type of harbour they are. The Harbours Act, 1996 provides for the creation of harbour companies which include commercial semi-state ports. The Harbours Acts, 1946 to 1976 no longer apply to harbours and harbour companies. The Fishery Harbour Centre Act, 1968 creates specially designated harbours to develop and support the fishing industry. Section 89 of the Harbours Act, 1996¹ enables local authorities to also make bye-laws under the 1991 Act in respect of the harbours, marinas and related lands under its control management and custody within its administrative area.

¹ “89.(1) In this section “the Act of 1994” means the Local Government Act, 1994.

(2) (a) The Minister may make regulations with respect to the safety of navigation in harbours under the control or management of local authorities or a specified class or classes of harbours under such control or management.

(b) A person who contravenes a provision of regulations under this subsection shall be guilty of an offence.

(3) (a) Without prejudice to the generality of subsections (1), (2) and (7) of section 37 of the Act of 1994, but subject to subsection (8) of that section, the power of a local authority to make bye-laws under Part VII of the Act of 1994 includes the power to make bye-laws, in relation to a harbour under its control or management—

(i) for all the purposes that a company may make bye-laws under section 42 in relation to its harbour, and

(ii) for the purpose of enabling it to impose charges in like circumstances to those in which a company may impose charges under section 13.

(b) Notwithstanding subsection (2) and section 37 (2) (b) of the Act of 1994, the power aforesaid of a local authority includes a power to make bye-laws with respect to the safety of navigation in a harbour under its control or management:

Provided that any provision of bye-laws made by a local authority with respect to that matter shall, to the extent that the provision is inconsistent with regulations under subsection (2), not have effect for so long as such regulations remain in force.”

Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

- 1.3 There are waters that lie outside the jurisdictional areas of local authorities, Waterways Ireland, harbour companies, Iarnród Éireann, and fishery harbour centres, which generally fall to be regulated by authorised officers and persons under the Merchant Shipping Act 1992. This Review does not address possible regulation and enforcement of PWC under that legislation.
- 1.4 This Review concludes that there is adequate legislative provision in Ireland for the safe operation of PWC, and adequate legislative provision for the enforcement needed to ensure this. If there are opportunities for improvements to be made to the safe operation of PWC, in the first instance this should be through enforcement of the existing provisions in the Maritime Safety Act, 2005 and local bye-laws made under that legislation.
- 1.5 The MCIB does not have information or data about the extent of incidents caused by the misuse of jet ski issues nor is there available data about the frequency and effectiveness of enforcement. Anecdotally, there seems to be inadequate awareness of existing regulation and enforcement options.
- 1.6 The Maritime Safety Act, 2005 should be considered as the primary means of regulating and enforcing the safe operation of PWC, in the rivers, lakes and sea that comprise Irish waters in the areas that those entities have responsibility for. It applies to all waters controlled by local authorities, Waterways Ireland, all types of harbour companies, Iarnród Éireann and, fishery harbour centres, and contains provisions for:
 - The safe operation of craft including PWC.
 - Enforcement actions in a variety of situations and including in the event of alleged unsafe operation of PWC.
 - The making of bye-laws to further regulate and enforce the safe operation of PWC.
- 1.7 Other legislation establishing and empowering entities given powers under the Maritime Safety Act, 2005 themselves contain a variety of powers (including, commonly, a power to make bye-laws under those particular Acts, and to enforce in a variety of ways). However, those provisions are varied and are, in general, aimed at different objectives, with the result that the actual or implied regulations applying to PWC are more incidental. In contrast, the provisions in the Maritime Safety Act, 2005 are far more specific to PWC and recreational craft, and their users.
- 1.8 The Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations, 2005 (as amended) provides that any person going afloat in a recreational craft in Irish waters has a statutory obligation to wear a PFD. The definition of “authorised officer”² does not extend power to enforce the PFD

² “authorised officer” under the Merchant Shipping Act 1992 means—

- (a) any person authorised in writing by the Minister to exercise the powers conferred on an authorised officer by this Act,
- (b) a person holding commissioned naval rank in the Permanent Defence Forces, while in uniform,
- (c) a member of the Garda Síochána, while in uniform, or
- (d) as respects the harbour of which he or she is the harbour master or is in charge of, a person appointed to be such by one of the following, that is to say:

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regulations to all the entities who are empowered by the Maritime Safety Act, 2005 (local authorities, harbours and Waterways Ireland, the Minister) for the same geographical territory, as it only permits the authorising of officers from local authorities, harbours and Waterways Ireland, the Minister in respect of the harbour areas they are in charge of. Therefore, the enforcement of PFD regulations in respect of PWC does not align with the same regulation and enforcement regime as the Maritime Safety Act 2005 and its Bye-laws.

- 1.9 The Shannon Navigation Act 1990 was amended by section 57 of the Maritime Safety Act 2005 *inter alia* to allow for the establishment of Waterways Ireland. It provides for the regulation and enforcement, and maintenance and operations on and in the Shannon Navigation area. Waterways Ireland has powers to make bye-laws and to enforce provisions in this Act. Waterways Ireland has published the Draft Shannon Navigation Bye-laws, 2024 but they remain at draft stage. These draft bye-laws contain useful additions to the safety aspects that are addressed in the Shannon Navigation Act, 1990 – 2005.
- 1.10 The European Union (Recreational Craft and Personal Watercraft) Regulations 2017 (as amended) contribute to other existing measures that seek to support the safe operation of PWC. The Regulations place an emphasis on ensuring design and construction is safe and to CE standards. In addition, the Regulations ensure that the PWC is accompanied by information essential to the operator's safe use of the craft, drawing particular attention to the set-up, maintenance, operation, and the prevention and management of risks.
- 1.11 The Merchant Shipping (Collision Regulations) (Ships and Water Craft on the Water) Order, 2012 provides the statutory basis in Ireland for the International Regulations for Preventing Collisions at Sea, 1972 (as amended). However, the Collision Regulations do not apply to PWC, as PWC do not come within the definition of vessels in those regulations. Enactment of the mandatory registration system allowed for in the Merchant Shipping (Registration of Ships) Act, 2014 is required to extend the Collision Regulations to PWC.
- 1.12 Opportunities for improvements to be made to the safe operation of PWC include:
 - Enforcing existing provisions in the Maritime Safety Act, 2005 and local bye-laws made under that legislation.
 - Enhancing the availability, skills and training of authorised officers and members of An Garda Síochána.
 - Creating and maintaining a register of authorised officers under the Maritime Safety Act, 2005 that can be accessed by members of the public.

(i) a harbour authority within the meaning of the Harbours Act, 1946,
(ii) the Commissioners of Public Works in Ireland,
(iii) the Minister for the Marine,
(iv) a local authority, and
(v) Iarnród Éireann—Irish Rail.”

Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

- Implementing the proposed electronic Irish Register of Ships and its provisions for including PWC. This is allowed for in the sections of the Merchant Shipping (Registration of Ships) Act published in 2014, but these have not yet been enacted.
- Aligning the definitions of PWC in existing and new provisions and allowing for the impact of new technology. Existing legislation typically defines PWC as having an internal combustion engine as the means of propulsion, whereas electric powered PWC are currently being marketed.

Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

2. Introduction

Background

- 2.1 This Review considers in particular the regulatory provisions for the use of Jet Skis / PWC, including those applicable to Shannon Bridge, Co. Clare on 31 May 2023.
- 2.2 This Review considers the following legislation:
- The Maritime Safety Act, 2005
 - Shannon Navigation Acts, 1990 and 2005
 - Shannon Navigation Bye-laws, 1992 and 1994
 - Local Government Act, 2001
 - Harbour Acts
 - Fishery Harbour Centre Acts
 - European Union (Recreational Craft and Personal Watercraft) Regulations, 2017
 - The Merchant Shipping (Collision Regulations) (Ships and Water Craft on the Water) Order, 2012
 - The Merchant Shipping (Registration of Ships) Act, 2014
 - Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations

Nomenclature and Definitions

- 2.3 PWC are small craft intended for sports and leisure purposes, which are propelled and steered by a directionally controlled water jet. PWC are typically designed with seating for one or two persons, but certain models have a capacity of three.
- 2.4 A jet ski is a colloquial name for a PWC. The name Jet Ski is a registered trademark of the Kawasaki group of companies³. Other brand names include WaveRunner by Yamaha and Sea-Doo by Bombardier Retail Products. In this Review, reference to PWC shall also mean a jet ski.
- 2.5 The following definition of PWC is used in the European Union (Recreational Craft and Personal Watercraft) Regulations 2017, S.I. No. 65 of 2017 as amended. This transposed into Irish law Directive 2013/53/EU of the European Parliament on personal watercraft.

““personal watercraft” means a watercraft intended for sports and leisure purposes of less than 4 metres in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;”

³ <https://kawasakienginesusa.com/kawasaki-trademarks>

Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

- 2.6 In the relevant legislation and bye-laws discussed, there are similar but slightly varying definitions for PWC. None include the addition of *“for sports and leisure purposes”* that the Directive includes. In general, the definitions align with one another. The various definitions are set out in the schedule to this review for ease and comparison.
- 2.7 There is reference to an internal combustion engine in most of the definitions, which appears to be means of distinguishing between other small craft used for sports and leisure purposes such as a kayak or rowing boat. Older definitions refer to PWC as being propelled by a water jet pump via *“an internal combustion engine”* (such as the Maritime Safety Act, 2005). Other sources limit their definition to the means of propulsion being simply a *“water jet”* (such as Fingal County Council’s Bye-laws, 2006, or Cavan County Council’s Bye-laws, 2008). Newer definitions provide in the definition for the means of propulsion being a water jet pump via *“an internal combustion engine or electric motor”* (such as the Draft Shannon Navigation Bye-laws, 2024). Future amendments could broaden the definition of PWC to take account of changes in technology in particular given that electric motor PWCs are currently being marketed⁴.
- 2.8 The emphasis in Ireland on using local bye-law powers remains valid. Local bye-laws have the benefit of being focused in their remit; for example, by including maps that clearly highlight to the operators of PWC where their craft can / cannot be operated.

⁴ <https://jetsurf.com/products/electric-2-ski>

Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

3. The Maritime Safety Act, 2005

Introduction

- 3.1 The Maritime Safety Act, 2005, S.I. No. 11 of 2005 (as amended)⁵ (“the 2005 Act”) is “an act to provide for the regulation and control of certain fast powered watercraft...”. Part 2 (comprising sections 5 – 19) of the 2005 Act contains the main provisions for “personal watercraft and recreational craft”, with the term personal watercraft being defined in the Act as including PWC.
- 3.2 The current edition of the Code of Practice for the Safe Operation of Recreational Craft⁶ was published in 2024 by the Department of Transport (“the 2024 COP”). Section 1.7 of the 2024 CoP summarises key aspects of the 2005 Act:

“One of the primary purposes of this Act is to strengthen the law against improper use of certain recreational craft, to outlaw reckless behaviour in operating or on board vessels and to promote good practice in operating vessels generally. The Act also updates safety regulation-making provisions for passenger boats, fishing vessels and pleasure craft, and updates penalty and other provisions of certain related Acts.

The main provisions of the Act which affect recreational craft are as follows:

Part 2 Personal Watercraft and Recreational Craft

The main provisions of this Part are:

- *Clear powers for local authorities, Waterways Ireland, harbour companies, Iarnród Éireann and, in respect of the six fishery harbour centres, the Minister for Agriculture, Food and the Marine, to make Bye-laws to regulate and control the use of jet skis and other fast powered recreational craft.*
- *The appointment by local authorities, Waterways Ireland, harbour companies, Iarnród Éireann and, in respect of the six fishery harbour centres, the Minister for Agriculture, Food and the Marine, of authorised persons to enforce the provisions of the Act. The Garda Síochána also play a key role in enforcement.*
- *The seizure, detention and forfeiture of craft involved in serious offences and the disqualification of serious offenders from operating the craft in question in the interest of public safety and heritage protection.*
- *Fines of up to €2,000 on summary conviction for Bye-law contraventions”*

⁵ <https://www.irishstatutebook.ie/eli/2005/act/11>

⁶ <https://assets.gov.ie/34644/e38c887e83324ab4bfef6ce145210bb3.pdf>

Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

- 3.3 The above summary reflects the complexities for the regulation, and, most importantly, the enforcement of the regulations, of PWC operators. Multifarious entities have jurisdiction over different areas, being local authorities, Waterways Ireland, harbour companies, Iarnród Éireann and, in respect of the six fishery harbour centres, the Minister for Agriculture, Food and the Marine. The definitions of authority, local authority, local authority functional area, harbour authority/company⁷, are required to align the existing legislation and jurisdiction of those entities to ensure clarity on the jurisdiction of the powers set out in the 2005 Act.

Regulatory basis for the making of Bye-laws under the 2005 Act

- 3.4 The 2005 Act aims to unify the making of Bye-laws by the various entities that have jurisdiction. As summarised in section 1.1 of the 2024 CoP:

“... a local authority, harbour authority and Waterways Ireland have powers under section 6 of the Maritime Safety Act 2005 to make Bye-laws to regulate or control the operation of craft or craft of a specified class in waters in its functional area or under its control or management...”

- 3.5 The scope of the matters that can be regulated by Bye-laws are set out and are widely defined in section 6 of the 2005 Act⁸ and include ensuring safety and avoiding a nuisance being caused.

⁷ **“authority”** means a **local authority, a harbour authority or Waterways Ireland**, as the case may require;

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

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

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

“harbour authority” means—

- (a) in the case of a harbour to which the Act of 1996 applies, a **harbour company**,
- (b) in the case of **a harbour to which the Harbours Acts 1946 to 1976 apply**, the harbour authority concerned,
- (c) in the case of a fishery harbour centre to which the Act of 1968 applies or any other harbour under the control or management of the Minister, the Minister,
- (d) in the case of **a harbour under the control or management of a local authority**, the local authority concerned,
- (e) in the case of **a harbour under the control or management of Iarnród Éireann-Irish Rail**, that company;

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

“local authority” means—

- (a) in the case of an administrative county, the council of the county, and
- (b) in the case of a city, the council of the city;

⁸ Section 6(1) of the Maritime Safety Act, 2005 states:

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

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

Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

Common offences for a breach of Bye-laws made under the 2005 Act

- 3.6 Section 6 subsections (2) to (4)⁹ of the 2005 Act provides for the offences applicable if a Bye-law has been breached (as distinct from different penalties if the Act has been breached):

Legislative detail and scope

- 3.7 As well as providing a unifying regime for the making of Bye-laws¹⁰, the 2005 Act provides for safety rules that apply to PWC in Part 2, and vessels and ships in Part 3. The Act provides for enforcement by an officer authorised by the various empowered entities, and in particular by An Garda Síochána.

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

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

“in respect of any or all of the following matters—

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

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

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

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

(A) a natural heritage area, or

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

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

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

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

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

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

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

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

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

¹⁰ By local authorities, Waterways Ireland, harbour companies, Iarnród Éireann and, in respect of the six fishery harbour centres, the Minister for Agriculture, Food and the Marine.

Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

- 3.8 Definitions of **personal watercraft** and **recreational craft**: For the purposes of the 2005 Act, a PWC is not a “recreational craft”, as:

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

whereas,

“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;

For both “recreational craft” and “personal craft”, the craft must be “operated by a mechanical means of propulsion”.

[Emphasis Added]

- 3.9 The provisions in Part 2 of the 2005 Act (relating to safety, enforcement etc) are written as applying to “craft” including PWC because of the definition in the 2005 Act.¹¹

Requirements for reasonable speed and consideration of others

- 3.10 Irrespective of the existence of any Bye-laws, there are broad requirements on the operator of a craft (including PWC) in Section 10 of Part 2, to ensure that it is operated at a reasonable speed and with reasonable consideration of others. This is the only such section, and the remainder of the applicable part of the legislation relates to enforcement and penalties¹². Section 10 of the 2005 Act provides that:

“10.—(1) A person shall not operate a craft in Irish waters¹³—

¹¹ The provisions of **Part 3 of the 2005 Act** only apply to a **vessel, ship** and **Irish ship**.

¹² While the provisions in **Part 2 of the 2005 Act** refer to a person ‘**operating a craft**’ (defined as including PWC), the provisions in Part 3 (including in particular sections 23 and 24) refer to a person “navigating or operating a vessel”:

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

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

¹³ The definition of **Irish waters** is extended in Section 2 of the 2005 Act to include craft operated on inland waters and at sea:

“Irish waters” include the territorial seas, the waters on the landward side of the territorial seas, and the estuaries, rivers, lakes, and other inland waters of the State (whether or not artificially created or modified) of the State.”

Appendix 7.2 Marine Casualty Investigation Board Review Report on the Regulatory Provisions for the use of PWCs

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whereas,

“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;

For both “recreational craft” and “personal craft”, the craft must be “operated by a mechanical means of propulsion”.

[Emphasis Added]

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“10.—(1) A person shall not operate a craft in Irish waters¹³—

¹¹ The provisions of **Part 3 of the 2005 Act** only apply to a **vessel, ship** and **Irish ship**.

¹² While the provisions in **Part 2 of the 2005 Act** refer to a person ‘**operating a craft**’ (defined as including PWC), the provisions in Part 3 (including in particular sections 23 and 24) refer to a person “navigating or operating a vessel”:

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

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

¹³ The definition of **Irish waters** is extended in Section 2 of the 2005 Act to include craft operated on inland waters and at sea:

“Irish waters” include the territorial seas, the waters on the landward side of the territorial seas, and the estuaries, rivers, lakes, and other inland waters of the State (whether or not artificially created or modified) of the State.”

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

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

3.11 Where there has been a breach of these provisions, Section 8 of the 2005 Act permits either an authorised person or An Garda Síochána to require the operator of the craft to cease and/or remove the craft from the waters. Section 11 gives powers to stop, board and inspect for the purposes of enforcing Part 2 of the Act. Section 12 make it an offence to obstruct an authorised person or An Garda Síochána. Section 13 permits arrest by An Garda Síochána where an offence is suspected.

Powers of enforcement in relation to PWC

3.12 The 2005 Act creates an extensive enforcement regime in respect of the obligations under the Act, and in respect of Bye-laws made under it by the listed entities, not just for An Garda Síochána, but for officers authorised by the various specified bodies. There are provisions that allow an authorised person or a member of An Garda Síochána to:

- Require a person to cease operating or remove the craft (Section 8).
- Seize the craft (Section 9).
- Stop, board and inspect the craft (Section 11).

3.13 There are further provisions that:

- Create the offence of obstruction (Section 11).
- Allow for arrest without warrant by An Garda Síochána only (Section 13).

3.14 The 2024 CoP summarises the overall position in the following way:

"Under the Maritime Safety Act 2005, authorised persons or a member of the Garda Síochána have powers to take enforcement action in a range of circumstances, including when a person is operating a craft in a manner that poses a risk or danger to other persons. It is also an offence to operate a craft in Irish waters without reasonable consideration of other persons using those waters or at a speed that is unreasonable having regard to the circumstances and the place where the craft is operating.

A person who commits offences relating to the navigation or operation of a vessel without due care and attention to other persons is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding one month or to both. Offences also exist where a person navigates or operates a vessel in a manner, including at a speed, which, is dangerous to other persons in or on those waters. (See section 1.7).

A member of the Garda Síochána who reasonably suspects that a person is committing or has committed an offence under Part 2 of the Maritime Safety Act 2005 or section 23 or 24 of that Act involving careless or dangerous navigation or operation of a craft may arrest without warrant the person."

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Authorised person and their powers

- 3.15 Section 17 subsections (1)-(8) of the 2005 Act allows for an authority to appoint an authorised person¹⁴ to enforce the provisions in Part 2 of the 2005 Act.

“17–(1) An authority may appoint in writing such persons or persons of such classes as it sees fit to be authorised persons for the purposes of this Act.

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

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

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

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

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

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

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

- 3.16 Section 17 subsections (9)-(12) allows for provisions common to all authorised persons irrespective of the appointing authority. This requires that an authorised person is appointed in writing and provided with a warrant of their appointment; may be assisted in the exercise of their functions by such persons as the authorised person considers necessary; and, may enter upon any Irish waters, or land adjoining the waters with the consent of the controlling other authority:

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

¹⁴ “authorised person” means a person or class of persons appointed under section 17 as an authorised person or authorised persons for the purposes of this Part;

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

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

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

Powers to require cessation of activity

3.17 Section 8 of the 2005 Act¹⁵ states that an authorised person or a member of An Garda Síochána may require a person to cease operating a craft, or remove the craft from the water, if they have reasonable grounds for believing that the person is operating a craft in situations that include:

- a. In contravention of a Bye-law made under this Act.
- b. In a manner that poses a risk or danger to persons, or property or a serious nuisance to persons.
- c. In contravention of the mandatory behavioural provisions set out in Section 10 (and in the case of "vessels", sections 23 and 24) of this Act; or

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

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

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

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

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

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

he or she may require the person to—

(I) cease operating the craft, or

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

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Powers of seizure of a craft

- 3.18 Under Section 9 of the 2005 Act¹⁶ an authorised person or An Garda Síochána may seize a craft in circumstances where there is a reasonable belief that there is (or was) an offence under the Bye-laws made under section 6, or of the mandatory behavioural rules of Section 10 (or those in respect of “vessels” under Sections 23 and 24) . There must also be a reasonable belief that this is necessary for public safety, to prevent a danger to either persons or property or a nuisance to a person. This action requires a lesser standard than is required to stop and seize under Section 8, which requires a danger to a person or property and not simply “*in the public interest*”, and a “*serious*” nuisance. However, Section 8 does not require reasonable belief that an offence has been or could be committed.

Powers to stop, board and inspect a craft

- 3.19 Under Section 11 of the 2005 Act¹⁷, an authorised person or a member of An Garda Síochána has powers to stop, board and inspect a craft in certain circumstances, and to require the operator to provide their name and address where they are seeking to enforce the provisions of Part 2 of the Act. It also sets out the offence and penalties for failing to comply.

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

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

(b) to prevent—

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

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

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

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

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

(3) A person who—

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

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

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

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

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

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The offence of obstructing or impeding

- 3.20 Section 12 of the 2005 Act¹⁸ makes it an offence to obstruct or impede an authorised person or a member of An Garda Síochána in the exercise of their functions under Part 2 of the 2005 Act.

Powers of arrest by An Garda Síochána

- 3.21 There is a power of arrest provided for under Section 13 subsection (1) of the 2005 Act¹⁹, reserved to a member of An Garda Síochána. An arrest may be carried out where there is a reasonable belief that there is a breach of Part 2 (or of the provisions of Sections 23 and 24 that apply to “vessels”) which must involve careless or dangerous navigation or operation of a craft. Section 1.2.7 of the current, 2024 edition of the Code of Practice of the Safe Operation of Recreation Craft describes the provision:

“A member of the Garda Síochána who reasonably suspects that a person is committing or has committed an offence under Part 2 of the Maritime Safety Act 2005 or section 23 or 24 of that Act involving careless or dangerous navigation or operation of a craft may arrest without warrant the person.” [Emphasis Added]

Powers of arrest by an authorised person

- 3.22 Section 13 subsection (2) of the 2005 Act²⁰ provides for arrest by an authorised person in their functional area (or in the functional area of another authority with their consent). An arrest may be

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

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

²⁰ “13(2) (a) Subject to paragraph (b), an authorised person who reasonably suspects that a person has committed or is committing an offence under this Part or section 23 or 24 involving the careless or dangerous navigation or operation of a craft may—

(i) within the functional area of the authority which appointed him or her, or
(ii) in the functional area of another authority, with the agreement of that other authority,

arrest without warrant the person.

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

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

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

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

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carried out where there is a reasonable belief that there is a breach of Part 2 (or of the provisions of Sections 23 and 24 that apply to “vessels”) which must involve careless or dangerous navigation or operation of a craft. However, of significance are the provisions in paragraph (b) of subsection 2, which limits the power of arrest to an authorised person who has received the required training and has had their warrant so certified. The arrested person must be handed to An Garda Síochána as soon as practicable.

Forfeiture

- 3.23 Section 14 of the 2005 Act²¹ allows for the forfeiture of the craft following the conviction for the offence of dangerous navigation or operation of the craft, under Section 24 of the Act.

Prohibition from operating a craft

- 3.24 Section 15 of the 2005 Act²² allows for a person to be prohibited from operating a craft for up to 2 years for a second offence if they had previously been convicted (within 2 consecutive years) of an offence relating to *careless* navigation or operation of a craft under Section 23, or, for such period as the judge consider appropriate, where a person has been convicted under Section 24 for the more serious offence of the *dangerous* navigation or operation of a craft.

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

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

(a) seize and detain the craft,

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

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

²² “15.—(1) A person who is convicted of—

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

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

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

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

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

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Fixed payment notice

- 3.25 Section 16 of the 2005 Act²³ allows an authorised person or a member of An Garda Síochána to issue a fixed payment notice for certain defined offences, which is designed to operate similar to fixed penalty driving notices.

Fines for the operation of a craft in contravention of a Bye-law

- 3.26 Sections 6(2) – 6(4) of the 2005 Act²⁴ sets out fines where the operation of a craft is in contravention of a Bye-law made under the Act. It also allows for fines payable by a person who allows themselves be carried or towed by a person who is operating the craft in contravention of a bye-law.

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

- (a) the person is alleged to have committed the offence, and
- (b) the person may during the period of 21 days beginning on the date of the notice make to the authority concerned at the address specified in the notice a payment of—
 - (i) €150, for a contravention of section 6(2), 8(2), 11(3), or 12, or
 - (ii) €50, for a contravention of section 6(3) or (4) or 10(2), or such other amount that, for the time being, stands prescribed, in lieu of any of those amounts, and accompanied by the notice, and
- (c) a prosecution in respect of the alleged offence will not be instituted during the period specified in the notice and, if the payment specified in the notice is made during that period, no prosecution in respect of the alleged offence will be instituted.

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

- (a) a person to whom the notice applies may, during the period specified in the notice, make to the authority concerned at the address specified in the notice the payment specified in the notice accompanied by the notice,
- (b) the authority specified in the notice may receive the payment, issue a receipt for it and retain the money paid, and any payment received shall not be recoverable in any circumstances by the person who made it,
- (c) a prosecution in respect of the alleged offence shall not being instituted in the period specified in the notice, and if the payment specified is made during that period, no prosecution in respect of the alleged offence shall be instituted.

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

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

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

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

- (a) €1,000, in the case of a first offence, or
- (b) €2,000, in the case of a second or subsequent offence.

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Prosecution of an offence by an authority

- 3.27 Section 19 of the 2005 Act²⁵ allows the relevant authority to commence proceedings for a summary offence under Part 2 of the 2005 Act.

Seizure of unseaworthy vessels

- 3.28 Section 20 (1) of the 2005 Act²⁶ makes it an offence for any vessel to go to sea, or attempt to go to sea, when it is unseaworthy to an extent that life is endangered. Subsection (2) sets out provisions in respect of fines and subsection (3) provides for specified defences. In conjunction with Section 20, Section 21²⁷ sets out a mechanism for the seizure of vessels, personal watercraft or recreational craft

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

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

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

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

²⁷ "21.—(1) Where—

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

(b) an authorised person appointed under Part 2 by an authority (within the meaning of Part 2) has reasonable grounds for believing that a personal watercraft or recreational craft (within the meaning of Part 2), is unseaworthy and is going out or has gone out to sea or into waters and he or she considers that the vessel is liable to founder or be in such a defective condition as to be unsafe for persons on board or other users of Irish waters, he or she may order the vessel to go to a port or harbour or a place of refuge or seize (using reasonable force, if necessary) and detain the vessel in the interest of safety of persons, until—

(i) such time as the vessel—

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

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

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

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

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that are unseaworthy. In the case of personal watercraft or recreational craft (as defined) the seizure can be carried out by an authorised person, who can also detain the craft until it is made seaworthy.

Conclusions

- 3.29 The Maritime Safety Act, 2005 is a significant piece of legislation in relation to the safe operation of PWC. This Act should be considered as the primary means of regulating and enforcing the safe operation of PWC, as it:
- Contains provisions for the safe operation of craft defined as including PWC, whether at sea or on inland waters.
 - Contains provisions for enforcement actions in the event of the unsafe operation of PWC.
 - Contains provisions for the making of bye-laws to further regulate and enforce the safe operation of PWC.
 - Contains provisions that uniformly apply to the relevant entities.
- 3.30 The MCIB does not have information or data as to how the 2005 Act is operating in practice, or the extent to which there are authorised persons, or how many authorised persons have the additional arrest training as required for arrests under the legislation. Is it possible that there are few or no authorised persons who have the required arrest training, and if this is the case, this raises the question as to why this is.
- 3.31 The legislation establishing and empowering other entities given powers under the 2005 Act contains a variety of powers (including, commonly, a power to make bye-laws under those particular Acts, and to enforce in a variety of ways). However, those provisions are varied, and on a general interpretation aimed at different objectives so the regulations that do, or might, apply to PWCs are more incidental, whereas the provisions in the Maritime Safety Act, 2005 are far more specific to PWC and recreational craft, and their users.

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

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

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4. Shannon Navigation Acts, 1990 and 2005

Introduction

- 4.1 The Shannon Navigation Act, 1990, S.I. No. 20 of 1990²⁸ (“the 1990 Act”) was amended by section 57 of the Maritime Safety Act, 2005 (*inter alia* to allow for the establishment of Waterways Ireland) and is now cited as the Shannon Navigation Acts, 1990 and 2005. The 1990 Act provided originally for the Commissioners for Public Works to regulate and enforce the maintenance of, and operations on and in, the Shannon navigation area. Waterways Ireland is one of the specified entities that are entitled to make Bye-laws under the Maritime Safety Act, 2005, and to appoint officers to regulate and enforce the provisions of the 1990 Act and any Bye-laws made by Waterways Ireland under it.

Definitions

- 4.2 Watercraft, personal watercraft or recreational craft are not defined in the Shannon Navigation Acts, 1990 and 2005. The term used is “boat”, which is defined as including “any barge, vessel or other water-craft” and should therefore be read as including PWC.
- 4.3 The Shannon Navigation Acts 1990 and 2005, and the Bye-laws made thereunder, operate within the widely-defined **Shannon navigation** and the **navigation channel**²⁹.

Powers

- 4.4 Sections 1 and 2 of the 1990 Act refer to the powers being held by the “Commissioners of Public Works” (“the OPW”). Section 57 of the Maritime Safety Act, 2005 made amendments to certain parts of the 1990 Act to take account of the subsequent formation of Waterways Ireland³⁰ in 1999.

²⁸ <https://www.irishstatutebook.ie/eli/1990/act/20>

²⁹ “the Shannon navigation” means—

(a) the river Shannon, the lakes from or through which it flows, and such of the rivers which flow into it or into those lakes as are or have been improved or made navigable by the Commissioners or by other persons under powers conferred by statute, within the limits standing fixed and determined for the time being under section 39 of the Shannon Act, and

(b) the canals, locks, harbours, wharfs, landing places, piers, quays, weirs and other works and land constructed by or vested in the Commissioners, whether before or after the passing of this Act, for the purpose of the use or improvement of any of those rivers or lakes, within the limits aforesaid, or the navigation thereof or any other purpose authorised by the Shannon Act;

“the navigation channel” means the parts of the Shannon navigation referred to in paragraph (a) of the definition of “the Shannon navigation” in this subsection, the canals and locks referred to in paragraph (b) of that definition and the parts accessible to boats of the harbours referred to in that paragraph;”

³⁰ **Waterways Ireland** was established in 1999, after the Shannon Navigation Act came into effect in 1990. Waterways Ireland describes itself as being responsible for the management, maintenance, development, and restoration of inland navigable waterways, primarily for recreational purposes, including the Shannon Navigation.

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- 4.5 Section 3 of the 1990 Act was amended by Section 57 of the Maritime Safety Act, 2005 to insert provisions for Waterways Ireland and their making of bye-laws under the 1990 Act. As a result, Waterways Ireland has the powers to make the Bye-laws allowed for in the 1990 Act. This includes the following types or scope of Bye-laws of relevance:

“3.—(1) The Commissioners may make Bye-laws for the care, conservation, management, control and maintenance and the regulation of the use of the Shannon navigation and in relation to the restoration, repair, improvement, extension and development thereof and, without prejudice to the generality of the foregoing, in relation to any one or more of the following matters:

(a) the regulation of the conditions (including conditions as to safety) under which boats may be used in the navigation channel,

...

(e) the regulation of bathing in the navigation channel,

...

(g) the prohibition of the use, save under and in accordance with a licence in that behalf granted by the Commissioners and containing such (if any) conditions as they consider necessary or expedient, of the Shannon navigation or any part of it,

...

(k) the removal from or the prohibition of the passage through or use in the navigation channel of, or the use of any of the facilities or installations of the Shannon navigation by, any boat or thing which is or may become a danger to life, health, navigation or fish stocks or would otherwise interfere with the proper use of the Shannon navigation or in relation to which a fee, toll or charge due and payable under the Bye-laws has not been paid or arrangements for its payment, acceptable to the Commissioners, have not been made,

l) the fixing, altering, charging and recovery of fees, tolls and charges in respect of—

(i) the use by boats of the navigation channel or the facilities or installations of the Shannon navigation, whether for the purposes of their passage through the navigation or for the purposes of their being anchored, moored, tied up or laid up or for any other purpose...

and the prohibition of the use referred to in subparagraph (i)... without payment of any fee, toll or charge payable under this paragraph in respect thereof or the making of arrangements, acceptable to the Commissioners, for its payment,

(m) the establishment and maintenance by the Commissioners of a register in which entries containing specified information will be required to be made annually or at other specified times, on application in that behalf by their owners, in respect of boats or specified classes of boats using the Shannon navigation, the payment of fees by the owners of the boats concerned in respect of the entries and the prohibition of the use of the Shannon navigation by boats required to be, but not, registered in the register...”

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- 4.6 Waterways Ireland can make Bye-laws that could control, amongst other things, the safe operation of PWC on the Shannon navigation, in particular having regard to the provisions of Section 3 (a) and (k) of the 1990 Act:

“(a) the regulation of the conditions (including conditions as to safety) under which boats may be used in the navigation channel,

...

(k) the removal from or the prohibition of the passage through or use in the navigation channel of, or the use of any of the facilities or installations of the Shannon navigation by, any boat or thing which is or may become a danger to life, health, navigation or fish stocks or would otherwise interfere with the proper use of the Shannon navigation or in relation to which a fee, toll or charge due and payable under the Bye-laws has not been paid or arrangements for its payment, acceptable to the Commissioners, have not been made....”

[Emphasis Added]

Penalties

- 4.7 Section 3 of the 1990 Act was amended by Section 57 of the Maritime Safety Act, 2005 by inserting penalties for contravention of a Bye-law made under the 1990 Act and to give Waterways Ireland the authority to serve fixed payment notices³¹ for breaches of bye-laws made under the Shannon Navigation Acts, 1990 and 2005.
- 4.8 Subsection 5 of Section 3 of the 1990 Act was substituted by Section 57(b) of the Maritime Safety Act, 2005. The 1990 Act as amended provides for the offence of contravening a bye-law made under the 1990 Act, and includes provisions for Waterways Ireland in this regard³².
- 4.9 In summary, there is a statutory basis for Waterways Ireland to enforce the penalties allowed for in the Shannon Navigation Acts 1990 and 2005, and the Bye-laws made under those Acts. This reflects the similar structure legislated for in the Maritime Safety Act, 2005 for the specified entities and Bye-laws made by them.

³¹ “3A. —(1) Where an authorised officer of Waterways Ireland has reasonable grounds for believing that a person is committing or has committed an offence under section 3, he or she may serve the person with a notice, in the form specified by Waterways Ireland in bye-laws under section 3, stating that—

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

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

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

³² “3(5) A person who contravenes a Bye-law under subsection (1) (other than paragraph (l)) is guilty of an offence and is liable on summary conviction to a fine not exceeding €5,000.

3(5A) Waterways Ireland may recover as a simple contract debt in any court of competent jurisdiction from any person by whom it is payable any amount due and owing under Bye-laws made under subsection (1)(l).”

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5. Shannon Navigation Bye-laws, 1992 and 1994

Introduction

- 5.1 The Shannon Navigation Bye-laws, 1992, S.I. No. 80 of 1992³³ as amended by the Shannon Navigation (Amendment) Bye-laws, 1994 S.I. No. 66 of 1994³⁴ collectively are cited as the Shannon Navigation Bye-laws, 1992 and 1994 (“the Shannon Bye-laws”).
- 5.2 The provisions in the Shannon Bye-laws relating to the operation of craft are very similar to those in the Merchant Shipping (Collision Regulations) (Ships and Water Craft on the Water) Order, 2012, S.I. No. 507 of 2012³⁵.
- 5.3 A public consultation process commenced on 20 June 2023 about proposed changes to the Shannon Bye-laws. Revisions have been proposed and published by Waterways Ireland as the Draft Shannon Navigation Bye-laws, 2024³⁶.
- 5.4 The current Shannon Bye-laws, and the similarly worded Draft Shannon Navigation Bye-laws of 2024, have a number of specific requirements that contribute to ensuring the safe operation of PWC.
- 5.5 The current Shannon Bye-laws have the following relevant definitions:

“vessel” means a ship or craft of any description but does not include a boat.

“boat” means an open or undecked punt, canoe, skiff, scull, row boat or other such boat designed to be propelled primarily by oars or sail and not propelled by an engine of more than 15 horsepower;

which means that, for the purpose of the current Shannon Bye-laws, a PWC falls within the definition of “vessel”. It should be noted that the definition of “boat” differs from the definition in the 1990 Act (*“boat” includes any barge, vessel or other water-craft*).

- 5.6 The Draft Shannon Navigation Bye-laws, 2024 propose the following separate definitions for PWC and pleasure craft:

“personal watercraft” (PWC) means a craft of less than 4 metres in length which uses an internal combustion engine or electric motor 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;

“pleasure craft” includes any yacht, launch, radon, wherry, tender, skiff, gig, dinghy, shallop, punt, canoe, float, or other ship, boat, vessel, or craft (including amphibious craft) but does not include any commercial boat or houseboat or personal watercraft; [Emphasis Added]

³³ <https://www.irishstatutebook.ie/eli/1992/si/80>

³⁴ <https://www.irishstatutebook.ie/eli/1994/si/66>

³⁵ <https://www.irishstatutebook.ie/eli/2012/si/507>

³⁶ <https://www.waterwaysireland.org/getmedia/6ed43ade-1c30-4689-b5f5-e98f446e550c/Draft-Shannon-Navigation-Bye-Laws-2024.pdf>

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- 5.7 In the Draft Shannon Navigation Bye-laws, 2024 the definition of boat reverts to the statutory definition used in the 1990 Act:

“boat” includes any barge, vessel or other water-craft.

Powers of an authorised officer

- 5.8 Section 3 of the current Shannon Bye-laws provide broad powers for an authorised officer to ensure the safe operation of craft including PWC:

“3–(2) An authorised officer may—

- (a) for the purposes of these Bye-laws, board and inspect a vessel or boat and may, for the purpose of boarding it, stop a vessel or boat that is under way,*
- (b) request a person in the navigation (whether or not in a vessel or boat) to give to him such information within the knowledge of the person as the officer may reasonably require for the purposes of these Bye-laws,*
- (c) give to a person in the navigation (whether or not in a vessel or boat) such directions as he considers reasonable for the purposes of these Bye-laws or for the purpose of ensuring compliance with these Bye-laws or the safety of persons or property,*
- (d) direct a person whom he sees contravening a provision of these Bye-laws to give to the officer his name and address,*
- (e) direct a person whom he sees contravening a provision of these Bye-laws to leave the navigation.*

(3) A person to whom a request or direction is made or given under paragraph (2) shall comply with the request or direction as soon as may be.

(4) A person shall not in pursuance of a request or direction under paragraph (2) give to an authorised officer information that is to the knowledge of the person false or misleading or a false name or address.

(5) A person shall not obstruct or hinder or otherwise interfere with an authorised officer in the performance of his functions under these Bye-laws.”

- 5.9 Section 3 of the Draft Shannon Navigation Bye-laws, 2024 effectively retains these same powers, save that the term *“vessel or boat”* is now changed to *“boat”*. The definition of authorised officer has been amended to omit reference to the Commissioners of Public Works, so these powers would now clearly vest in an authorised officer of Waterways Ireland.

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- 5.10 Section 4 of the current Shannon Navigation Bye-laws provides for the giving of any reasonable instructions to the owner of a vessel or boat for the purposes of their functions. Section 4 of the Draft Shannon Navigation Bye-laws, 2024³⁷ is in the same terms with the exception that it is addressed solely to the owner of a boat.

Register of Vessels

- 5.11 Sections 5 and 6 of the current Shannon Bye-laws created the requirement that the Commissioners of Public Works “shall” create and maintain a register of vessels and prohibits the use of unregistered vessels:

“5.(1) The owner of a vessel shall not keep or navigate or cause to be navigated or authorise permit or assist in the navigation of the vessel unless the vessel is registered...”

“6.(1) (a) The Commissioners shall establish and maintain a register (referred to subsequently in these Bye-laws as “the register”) of the vessels in the navigation.

(b) An entry in the register in relation to a vessel shall contain such particulars, including particulars in relation to the vessel and its ownership, as the Commissioners may determine.

...

(6) Upon the registration of a vessel, the Commissioners shall issue to its owner a disc bearing an indication that the vessel is registered and the owner shall ensure that the disc is conspicuously displayed on the vessel during the period of registration but not if the vessel ceases (whether pursuant to paragraph (5) or (7)) to be registered...”

- 5.12 Sections 5 and 6 of the Draft Shannon Navigation Bye-laws, 2024³⁸ are similarly worded, but with the authority for the register being vested in Waterways Ireland. Significantly the requirement to register is to be extended from only “vessels” to the newly defined “boat”.

³⁷ “4. Waterways Ireland may give to the owner of a boat such directions as it considers reasonable for the purpose of their powers, functions and duties under the Act and these Bye-laws and the owner shall comply with any such direction.”

³⁸ “5. The owner of a boat shall not keep or navigate or cause to be navigated or authorise permit or assist in the navigation of the boat unless the boat is registered.”

“6. (1) (a) Waterways Ireland shall establish and maintain a register (referred to subsequently in these Bye-laws as “the register”) of the boats in the navigation.

(b) An entry in the register in relation to a boat shall contain such particulars, including particulars in relation to the boat and its ownership, as Waterways Ireland may determine.

...

(6) Upon the registration of a boat, Waterways Ireland shall issue to its owner a disc, identification or boat number bearing an indication that the boat is registered and the owner shall ensure that the disc, identification or boat number is conspicuously displayed on the boat during the period of registration but not if the boat ceases (whether pursuant to paragraph (5) or (7)) to be registered...”

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Use of alcohol and other drugs

- 5.13 Section 10 of the current Shannon Bye-laws places restrictions on a person's use of alcohol and other drugs, in relation to their use of the Shannon navigation's infrastructure or a vessel defined previously as including a PWC:

"10. Persons who are under the influence of alcohol or any other drug to such an extent as to have their capability to navigate or have proper control of a vessel or boat impaired shall not—

(a) navigate a vessel or boat, or

(b) make use of any equipment or installation in the navigation owned by the Commissioners."

- 5.14 Section 10 of the Draft Shannon Navigation Bye-laws, 2024 places similar restrictions on a person's use of alcohol and other drugs, in relation to their use of the Shannon navigation's infrastructure or a boat defined previously as including a PWC³⁹.

Navigation

- 5.15 Section 12 of the current Shannon Bye-laws places obligations on a master (defined as the "person for the time being in charge of a vessel or boat" to operate it safely.

"12.(1) The master of a vessel or boat underway shall keep, or arrange for the keeping of, a proper lookout and shall at all times navigate with care and caution, and with reasonable consideration for others, having due regard to the circumstances of weather, visibility, flood and other traffic..."

- 5.16 Section 12 of the Draft Shannon Navigation Bye-laws, 2024⁴⁰ places similar restrictions on a master of a "boat" to operate it safely.

³⁹ "10. Persons who are under the influence of alcohol or any other drug to such an extent as to have their capability to navigate or have proper control of a boat impaired shall not—

(1) navigate a boat, or

(2) make use of any equipment or installation in the navigation owned by Waterways Ireland."

⁴⁰ "12. (1) The master of a boat underway shall keep, or arrange for the keeping of, a proper lookout and shall at all times navigate with care and caution, and with reasonable consideration for others, having due regard to the circumstances of weather, visibility, flood and other traffic..."

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Speed Restrictions

- 5.17 Section 13 of the current Shannon Bye-laws has speed limits. The provisions of 13(2)(b) limits the normal use of a PWC on those parts of the Shannon navigation which are subject to any of the following:

“13.(1) A vessel or boat shall not be navigated at such a speed or in such a manner as to cause or be likely to cause injury or damage to persons or to other vessels or boats or any other property.

(2)(a) The propellers of a vessel or boat shall not be turned at such a speed as to cause damage to any part of the navigation or to any other vessel or boat or any other property.

(2)(b) A vessel or boat shall not be navigated at a speed in excess of 5 kilometres per hour when within 200 metres of a bridge, quay, jetty or wharf, when in a harbour or canal or when passing within 100 metres of a moored vessel or boat.”

- 5.18 Section 13 of the Draft Shannon Navigation Bye-laws, 2024⁴¹ creates similar restrictions on speed, again effectively limiting the normal speed of PWC. As with many of the draft Bye-laws the term “vessel or boat” is now substituted by “boat”.

Conclusions

- 5.19 The current Shannon Navigation Bye-laws allow for the safe operation of PWC in the Shannon navigation. The Draft Shannon Navigation Bye-laws of 2024, if enacted, would do so in much clearer terms given the broad definition of “boat” and the specific definition of “personal watercraft” (defined as including PWC). There are specific rules governing issues such as maintaining a proper lookout, speed, consideration of other traffic, use of alcohol and other drugs, etc, which are very similar to those in the International Regulations for Preventing Collisions at Sea, 1972.
- 5.20 Enforcement of these rules is provided for in the Shannon Navigation Bye-laws. Waterways Ireland’s authorised officers have significant powers of enforcement, including powers to give directions requiring compliance; to stop a vessel that is underway; and to board and inspect a vessel.
- 5.21 The current Shannon Navigation Bye-laws state that a register of vessels in the Shannon navigation shall be created and maintained and prohibits the use of unregistered vessels in the Shannon navigation. The draft Bye-laws would require registration of “boat” and therefore PWC, which would enhance regulation and enforcement.

⁴¹ “13. (1) A boat shall not be navigated at such a speed or in such a manner as to cause or be likely to cause injury or damage to persons or to other boats or any other property...

(2) (b) A boat shall not be navigated at a speed in excess of 5 kilometres per hour, and shall generate no wake and no wash, when within 200 metres of a bridge, quay, jetty or wharf, when in a harbour or canal or when passing within 100 metres of a moored boat except as necessary for safe navigation in conditions of fast flow.”

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- 5.22 As the draft Shannon Navigation Bye-laws retain the existing speed/operational limits a question arises as to whether they have taken into consideration the normal use/speed of PWC on the Shannon navigation, given how these craft are typically operated. Clarification is needed from Waterways Ireland as to whether the draft Shannon Navigation Bye-laws are intended to be their regime for the regulation and enforcement of PWC in their territory. There is also available to Waterways Ireland the directly applicable provisions of the Maritime Safety Act, 2005, and any Bye-laws that they make under that legislation (subject to their authorised officers being warranted under that Act).

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6. Intersection of the Shannon Navigation Act and Maritime Safety Act

Review

- 6.1 This chapter discusses briefly the Shannon Navigation Act, 1990 and the Maritime Safety Act, 2005, and highlights where an intersection occurs in relation to the safe operation of craft including PWC.
- 6.2 The Maritime Safety Act, 2005 was introduced 15 years after the Shannon Navigation Act, 1990. It is therefore a more modern piece of legislation, which specifically includes PWC in its definitions of craft, instead of the use of the broader term of “boat” in the Shannon Navigation Act, 1990.
- 6.3 The Shannon Navigation Act, 1990 allowed for the creation of the Shannon Navigation Bye-laws, 1992. The Bye-laws have specific provisions for the safe operation of craft which probably include PWC in the Shannon navigation, including the powers of authorised officers to enforce these Bye-laws. Waterways Ireland has employees present in the Shannon navigation, therefore they are likely to have relevant local and practical knowledge that would assist with effective operation of these provisions.
- 6.4 The Maritime Safety Act, 2005 has provisions that expressly seek to ensure the safe operation of PWC. These provisions apply to the sea and rivers, lakes, and other inland waters including the Shannon navigation. These provisions require that PWC are operated: at reasonable speed; with reasonable consideration of others; and, in a manner that does not pose a risk or danger or cause interference. There are significant powers of enforcement in the Act, including powers to: give directions requiring compliance; stop a vessel that is underway; and, board and inspect a vessel. Enforcement is provided for by authorised persons of Waterways Ireland and An Garda Síochána.
- 6.5 In summary, there is an intersection between the two Acts in relation to the safe operation of PWC. In this regard, the Maritime Safety Act, 2005 has provisions that are more clearly defined than those in the Shannon Navigation Acts, 1990 and 2005.

Conclusions

- 6.6 There is potential for confusion and weakness in regulation and enforcement in respect of PWC at a local and national level, if the entities given powers under the 2005 Act⁴² do not use that Act for regulation and enforcement, and instead rely on their own particular legislation.
- 6.7 The Maritime Safety Act, 2005 appears to be the more effective means of regulating and enforcing the safe operation of PWC, whether specifically in the Shannon navigation or more broadly in the rivers, lakes and sea that comprise Irish waters.
- 6.8 There is a statutory basis for Waterways Ireland to make bye-laws that control the safe operation of PWC on the Shannon navigation, either under the Shannon Navigation Acts 1990 and 2005 or the Maritime Safety Act 2005. There is also a statutory basis for Waterways Ireland to enforce the penalties for contravention of a bye-law made under the Shannon Navigation Acts 1990 and 2005 for contravention of a bye-law made under this Act, and under the Maritime Safety Act, 2005.

⁴² Local authorities, Waterways Ireland, harbour companies, Iarnród Éireann and, in respect of the six fishery harbour centres, the Minister for Agriculture, Food and the Marine.

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7. Local Government Act, Harbours Acts and Fishery Harbour Centre Acts

Introduction

7.1 Of these three pieces of legislation:

- The Local Government Act, 2001, S.I. No. 37 of 2001 as amended⁴³ (“the 2001 Act”) is “*an act to make further and better provision in relation to local government*”. This allows for, amongst other things, powers for a local authority to make Bye-laws.
- The Harbours Act, 1996, S.I. No. 11 of 1996⁴⁴ provides for the creation of harbour companies which include commercial semi-state ports with similar powers to make bye-laws. The Harbours Acts, 1946 to 1976 no longer apply to harbours and harbour companies created by the Harbours Act of 1996. Section 89 of the Harbours Act, 1996⁴⁵ enables local authorities to make Bye-laws in respect of the harbours, marinas and related lands under its control or management.
- The Fishery Harbour Centres Act, 1968, S.I. No. 18 of 1968⁴⁶ creates specially designated harbours to develop and support the fishing industry.

⁴³ Local Government Act, 2001 <https://revisedacts.lawreform.ie/eli/2001/act/37/revised/en/html>
(This Revised Act is an administrative consolidation of the Local Government Act, 2001, prepared by the Law Reform Commission in accordance with its function under the Law Reform Commission Act 1975 (3/1975)).

⁴⁴ <https://www.irishstatutebook.ie/eli/1996/act/11>

⁴⁵ “89.(1) In this section “the Act of 1994” means the Local Government Act, 1994 .

(2) (a) *The Minister may make regulations with respect to the safety of navigation in harbours under the control or management of local authorities or a specified class or classes of harbours under such control or management.*

(b) *A person who contravenes a provision of regulations under this subsection shall be guilty of an offence.*

(3) (a) *Without prejudice to the generality of subsections (1), (2) and (7) of section 37 of the Act of 1994, but subject to subsection (8) of that section, the power of a local authority to make bye-laws under Part VII of the Act of 1994 includes the power to make bye-laws, in relation to a harbour under its control or management—*

(i) for all the purposes that a company may make bye-laws under section 42 in relation to its harbour, and

(ii) for the purpose of enabling it to impose charges in like circumstances to those in which a company may impose charges under section 13 .

(b) *Notwithstanding subsection (2) and section 37 (2) (b) of the Act of 1994, the power aforesaid of a local authority includes a power to make bye-laws with respect to the safety of navigation in a harbour under its control or management:*

Provided that any provision of bye-laws made by a local authority with respect to that matter shall, to the extent that the provision is inconsistent with regulations under subsection (2), not have effect for so long as such regulations remain in force.”

⁴⁶ <https://www.irishstatutebook.ie/eli/1968/act/18>

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Definition of local authority

7.2 Section 2 of the 2001 Act defines a local authority as meaning a county council or city council.

““local authority” means—

(a) in relation to a municipal district, the county council or the city and county council in which the municipal district is situated, and

(b) in every other case—

(i) a county council,

(ii) a city council,

(iii) a city and county council;”

7.3 Section 199(6) of the 2001 Act somewhat indirectly extends the functional area of a local authority to its foreshore and coastal waters adjoining that functional area, for the purpose of making bye-laws under the 1991 Act.

7.4 By way of contrast, the definitions in the Maritime Safety Act, 2005 provides that an “authority” within the meaning of that Act means *“a local authority, a harbour authority or Waterways Ireland, as the case may require”* and the 2005 Act also has definitions that capture all the various harbour authorities and their harbours⁴⁷. The 2005 Act therefore extends its bye-law making powers to all the specified authorities.

Making of Bye-laws

7.5 Section 199 subsections (1) to (3) of the 2001 Act create broad powers for a local authority to make Bye-laws subject to the specified jurisdictional limits:

“199.—(1) Subject to subsection (7), a local authority may make a Bye-law for or in relation to the use, operation, protection, regulation or management of any land, services, or any other matter provided by or under the control or management of the local authority, whether within or without its functional area or in relation to any connected matter.

(2) (a) Subject to this subsection and subsection (7), a local authority may make a Bye-law where in its opinion it is desirable in the interests of the common good of the local community—

⁴⁷ *“Harbour Authority means*

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

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

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

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

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

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- (i) that any activity or other matter should be regulated or controlled by Bye-law, or*
 - (ii) that any nuisance should be controlled or suppressed by Bye-law.*
- (b) A Bye-law may not be made under this subsection for a purpose as respects which provision for that particular purpose is made by or under any other enactment or may be made under such enactment.*
- (3) Any bye-law may include such provisions as the local authority considers appropriate for its effective application, operation and enforcement and generally to achieve the purposes for which it is made, including—*
 - (a) its application at all times or at specified times;*
 - (b) its application throughout the functional area of the local authority or in any specified part of that functional area;*
 - (c) the prohibition of any activity, matter or thing;*
 - (d) the prescription of specified standards or requirements for, or in relation to, specified activities, matters or things;*
 - (e) the exception of classes of persons or things from the bye-law either subject to or without compliance with specified conditions;*
 - (f) the conduct of persons at specified places or in specified circumstances;*
 - (g) the issue of licences or other authorisations by the local authority subject to or without condition and to have effect permanently or for a specified period;*
 - (h) the payment of a fee or charge at a specified time by any person in respect of any specified matter governed by a bye-law;*
 - (i) the specification of a fine for a contravention of a specified provision of a bye-law as provided by section 205;*
 - (j) the specification of a fixed payment as an alternative to a prosecution for a contravention of a specified provision of a bye-law as provided for by section 206.”*

7.6 Of particular relevance is section 199(6) dealing with the foreshore and coastal waters:

“(6) The power of a local authority to make a Bye-law in respect of its functional area includes a power to make a Bye-law in respect of the foreshore and of coastal waters adjoining that functional area and with the agreement of any other local authority, of the coastal waters adjoining the functional area of that other local authority...” [Emphasis Added]

7.7 The Maritime Safety Act, 2005 has a similar definition but with the significant, express addition of “inland waters” within the local authority’s “functional area”. It delimits the local authorities’ powers from waters under the control of a harbour authority or Waterways Ireland. Section 5 of the 2005 Act defines the functional area of a local authority as that area that:

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“includes—

- (a) inland waters, the foreshore and coastal waters adjoining its functional area, and*
- (b) inland waters, the foreshore and coastal waters adjoining its functional area which adjoin the functional area of another local authority, with the agreement of that other local authority,*
- but excluding waters under the control or management of a harbour authority or Waterways Ireland;”*

Regulation and Enforcement

- 7.8 Section 204 of the 2001 Act⁴⁸ allows an authorised officer to request a person who appears to be contravening a Bye-law made under that Act to *“leave such land”* or to *“refrain from any activity”* and, in addition may *“remove any person failing to comply with such request”*. They can also demand the person’s name and address if they think an offence has been committed. So while there are extensive powers under Section 199 to make Bye-laws that limit and regulate behaviour, the enforcement options for their authorised officers are limited (and are far more limited than available under the Maritime Safety Act, 2005) and are also much less focussed on water-based conduct.

⁴⁸ “204. —(1) In this section “authorised person” means a person authorised in writing by a local authority for the purpose of this section or, except in the case of subsection (4), a member of the Garda Síochána.

- (2) An authorised person may request any person who appears to be contravening or to have contravened a provision of a Bye-law relating to any land, service or any other thing provided by or under the control or management of the local authority to leave such land or to refrain from any activity and may remove any person failing to comply with such request.
- (3) (a) A person who obstructs or impedes or refuses to comply with a request of an authorised person acting in the exercise of the functions conferred on an authorised person by this Part is guilty of an offence.
- (b) Where an authorised person is of the opinion that a person is committing or has committed an offence to which this section or section 205 relates, the authorised person may demand the name and address of such person and if that demand is refused or the person gives a name or address which is false or misleading, that person is guilty of an offence.
- (c) A person who is convicted of an offence under this subsection is liable on summary conviction to a fine not exceeding £1,500 [€2,500].
- (d) Where a member of the Garda Síochána is of the opinion that a person is committing or has committed an offence to which this section or section 205 relates, that member may arrest the person without warrant.
- (4) A person is not bound to comply with a request of an authorised person under this section unless the authorised person produces, if requested by the person, evidence of appointment as an authorised person for the purpose of this Part.”

[Emphasis Added]

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- 7.9 It is an offence under the 2001 Act to instruct or impede, or refuse to comply with, a request from an authorised officer. Section 204 provides for the enforcement of Bye-laws by an authorised officer or a member of An Garda Síochána, including the power of arrest without warrant by a member of An Garda Síochána.
- 7.10 Section 205 of the 2001 Act⁴⁹ makes it an offence to contravene a Bye-law, and imposes a fine for a single event, and a daily fine for a continuing event. Section 206⁵⁰ provides for powers to make Bye-laws that can impose a fixed penalty as an alternative to prosecution.
- 7.11 The power to make Bye-laws in respect of the foreshore and adjoining coastal waters is limited to the powers and objectives set out in the 2001 Act. It pre-dates the enactment of the Maritime Safety Act, 2005, which also allows powers for a local authority to make Bye-laws more relevant to PWCs under that legislation.

⁴⁹ “205.—(1) A person who contravenes a provision of any bye-law is guilty of an offence and is liable on summary conviction to a fine not exceeding £1,500 or such lesser amount as may be specified in the bye-law in respect of such contravention.

(2) If the contravention of a provision of a bye-law is continued after conviction, the person causing the contravention is guilty of an offence on each day on which that contravention continues and is liable on summary conviction for each such offence to a fine not exceeding £100 or such lesser amount as may be specified in the bye-law in respect of such contravention.”

⁵⁰ “206.—(1) A bye-law may provide for a person to be served with a notice, specifying a fixed payment, not exceeding such amount as may be prescribed by regulations made by the Minister, in respect of a contravention of a bye-law as an alternative to a prosecution for the contravention and where the bye-law so provides it shall specify—

(a) the amount of the fixed payment, and

(b) the period within which it must be paid in order to avoid prosecution.

(2) A notice referred to in subsection (1) shall specify—

(a) the name and address of the alleged offender,

(b) in general terms the nature of the contravention alleged to have been committed,

(c) the date and place of the alleged contravention,

(d) the amount of the payment,

(e) the period within which and the place where the fixed payment may be made, and

(f) that the alleged offender is entitled to disregard the notice and defend a prosecution of the alleged contravention in court.

(3) A fixed payment shall not exceed the maximum fine duly provided for in respect of the alleged contravention concerned.

(4) Where a fixed payment has been duly paid in respect of an alleged contravention by a person, no proceedings shall be instituted against the person in respect of the alleged contravention.”

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Use of Bye-laws

7.12 An example of the 2001 Act's Bye-law provisions is the Cork County Council (Regulation and Control of Certain Beaches) Bye-laws, 2011⁵¹ ("the 2011 bye-laws"). The 2011 Bye-laws were published in exercise of the powers conferred by section 199(1) of the Local Government Act, 2001.

7.13 The 2011 Bye-laws apply to 45 specified "beaches", which are defined as the "...foreshore... and every area contiguous thereto together with the foreshore waters for a distance of 300 metres seaward from the low water mark...".

7.14 The definitions in the 2011 Bye-laws apply to the use of PWC as:

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

"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."

The definition for Personal Watercraft in the 2011 Bye-laws is the same definition used in the Maritime Safety Act, 2005 to regulate PWC.

7.15 Section 7(d) of the 2011 Bye-laws is a general prohibition on causing nuisance, undue interference or a danger:

"7. A person shall not:

...

(d) Cause a nuisance, undue interference or cause a danger to the public safety of other beach users or local residents while partaking or engaging in behaviour or activity (sporting or otherwise) on the beach."

7.16 Section 13 of the 2011 Bye-laws specifically deals with PWC and creates a general prohibition on causing nuisance, undue interference or a danger in relation to PWC:

"13.(i.) The Council may designate areas of the beach where access to or egress from the sea may be obtained by persons using recreational craft and personal watercraft.

(ii.) The Council may designate areas of any inland waterway where access to or egress from the waterway may be obtained by persons using recreational craft and personal watercraft.

(iii.) The launching of recreational craft and personal watercraft is prohibited on all beaches listed in Schedule One of these Bye-laws, save at areas which may be designated by the Council for this purpose.

⁵¹ <https://www.corkcoco.ie/en/resident/environment/beaches>
<https://www.corkcoco.ie/sites/default/files/2022-06/beach-bye-laws-2011-pdf.pdf>

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- (iv.) The use of recreational craft and personal watercraft within 300 metres seaward of the waters edge of the beaches listed in Schedule One is prohibited, except for the purpose of rescue or while obtaining access to or egress from the sea at a designated area as referred to at (i) above.*
- (v.) The launching of recreational craft and personal watercraft is prohibited on all inland waterways listed in Schedule Two of these Bye-laws, save at areas which may be designated by the Council for this purpose.*
- (vi.) Every person in charge of a recreational craft or personal watercraft shall act in such a manner as not to cause annoyance or injury to any person using a beach or inland waterway or swimming in the sea or to disturb naturally occurring flora and fauna.*
- (vii.) Every person bringing a recreation craft or personal watercraft onto the beach area or an inland waterway shall be responsible and liable for any damage or injury to property or persons which may be caused by it.*
- (viii.) Every person bringing a recreational craft or personal watercraft onto the beach area or an inland waterway must remove it from the beach area or waterway is so directed by an authorised person.*
- (ix.) Operators of recreational craft and personal watercraft shall observe a speed restriction of 5 Knots in the area from the water line to 300m to seaward from all beaches and should not operate in proximity to bathers, except in the event of an emergency..."*

7.17 Section 17 deals with the penalties for contravention of the 2011 Bye-laws. This makes it an offence to contravene these Bye-laws, and allows for enforcement of this by an authorised person or a member of An Garda Síochána. It also allows for the issuing of fixed payment notice and fines upon conviction.

7.18 A potential limitation of these particular Bye-laws (with respect to the safe operation of PWC) is that they only apply during the summer season, defined therein as the 15th May until the 31st August.

Harbours

7.19 The position in relation to harbours is complicated as their governance depends on the type of harbour they are. In respect of the regulatory regime that applies- or has potential to apply- to PWC, it is necessary to work out the precise legislative framework.

- The Fishery Harbour Centre Act, 1968 created specially designated harbours to develop and support the fishing industry.
- The Harbours Act of 1996 provides for the creation of harbour companies which include commercial semi-state ports. The Harbours Acts, 1946 to 1976 no longer apply to harbours and harbour companies created by the Harbours Act of 1996.

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- Section 89 of the Harbours Acts, 1996⁵² enables local authorities to make Bye-laws under the Local Government Act 2001 in respect of the harbours, marinas and related lands under its control management and custody within its administrative area.

7.20 It is not intended to detail here each legislative jurisdiction of relevance for each type of harbour. By way of illustration only, under Section 42 of the Harbours Acts 1996, the harbour company can make Bye-laws for the purposes specified in that Act, a breach of which is an offence⁵³. Part III of the Harbours Acts 1996 has general provisions with regard to “*Safety of Navigation and Security in Harbour*” and includes some parts of Section 52⁵⁴ that could be applied to a PWC when it is within the

⁵² “89.(1) In this section “the Act of 1994” means the Local Government Act, 1994.

(2) (a) The Minister may make regulations with respect to the safety of navigation in harbours under the control or management of local authorities or a specified class or classes of harbours under such control or management.”

⁵³ “42.(1) (a) Without prejudice to section 71, (which concerns pilotage bye-laws), a company may make bye-laws with respect to the use of, and the safety of navigation within, its harbour and generally with respect to the regulation of its harbour and property.

(b) Without prejudice to the generality of paragraph (a), a company may, in relation to its harbour, make bye-laws for all or any of the purposes mentioned in Part I of the Sixth Schedule .

(2) A person who contravenes a provision of bye-laws made under this section shall be guilty of an offence.

(3) A bye-law made under—

(a) section 60 of the Act of 1946, or

(b) any enactment relating to Dún Laoghaire Harbour,

that is in force immediately before the relevant vesting day and relates to a company's harbour shall continue in force in relation to that harbour as if made under this section and may be amended or revoked accordingly by the said company.”

⁵⁴ “52.(1) Subject to this section, the harbour master of a harbour may refuse entry into the harbour of a ship, vehicle or other conveyance if by reason of its nature or the condition of any of the goods being carried on it such entry or its presence in the harbour thereafter would, in the opinion of the harbour master, pose a danger to persons or property.

...

(7) Where a ship, vehicle or other conveyance having been refused entry to a harbour under subsection (1) or in contravention of subsection (3) enters a harbour, the owner and master of the ship or the owner of the vehicle or conveyance or the person to whom the conveyance is hired at the time of the entry shall each be guilty of an offence.

(8) The harbour master of a harbour may at any time, by notice affixed in a prominent place at the harbour, prohibit the bringing within the harbour, or any specified part of the harbour, of any article of a kind or class which is specified in the notice as being, in the opinion of the harbour master, likely to endanger persons or property.

(9) When and so long as a notice is affixed under subsection (8) at a harbour, the notice shall have effect according to the terms thereof and—

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harbour (if it could come within the definition of “*vehicle or other conveyance*”). There are also different provisions for regulation depending on the applicable legislation. For example, Section 54 of the Harbours Act 1996⁵⁵ creates “*harbour police*” for Dublin Port Company and Dun Laoghaire Harbour Company.

7.21 Section 8 and 9 of the Harbours Act, 1996 also has certain provisions that apply to harbours under the control or management of local authorities, which extended their pre-existing powers to make bye-laws under the Local Government Act, 1994 “*to make bye-laws with respect to the safety of navigation in a harbour under its control or management*”. So the jurisdiction for local authorities to make bye-laws for harbours rests on the extension of their remit, coupled with their later bye-law creating powers under Part 19 of the Local Government Act, 2001 (which includes section 199).

7.22 An illustration of the complex legislative basis is the preamble to the 2020 Wexford Harbours Bye-laws:

“The County Council of the County of Wexford in exercise of the powers conferred on it by Part 19 of the Local Government Act 2001 and Section 89 of the Harbours Act 1996, hereby makes the following Harbour and Pier Bye-Laws in respect of its harbours, marinas and related lands under its control management and custody within the administrative area of the County Council of County Wexford...”

Fishery Harbour Centres

7.23 The Fishery Harbour Centres Act, 1968⁵⁶ creates another sub category of harbours with distinct regulation under that legislation, where the Minister for Agriculture and Fisheries has designated certain harbours for the “*establishment and operation at certain harbours of centres in which to promote, develop and carry on sea fishing, the processing, packing and selling of fish, the manufacture of products derived from fish and related activities*”. The current Bye-laws are the Fishery Harbour

(a) a person who contravenes the notice shall be guilty of an offence,

(b) the harbour master of the harbour may remove any article brought by such person, in contravention of the notice, and place or store it elsewhere (whether within or outside the harbour) or have the article destroyed, and

(c) the expenses of such removal and placing, storage or destruction, as the case may be, shall be paid by such person to the company whose harbour the notice aforesaid relates to and, in default of payment, shall be recoverable by that company from such person as a simple contract debt in any court of competent jurisdiction...”

⁵⁵ “54(1) Each of the following companies, namely, Dublin Port Company and Dún Laoghaire Harbour Company shall appoint the members of its staff referred to in subsection (2) and may, if it thinks fit, appoint such other members of its staff as it determines, to police its harbour and exercise the powers referred to in subsection (3) and references in this section to a company's harbour police shall be construed as references to persons appointed by the company under this subsection.”

⁵⁶ <https://www.irishstatutebook.ie/eli/1968/act/18>

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Centre (Management, Control, Operation and Development) Bye Laws, 1979⁵⁷. While the latter contains a definition of “vessel”⁵⁸ that could include a PWC, it is clear from the provisions of the Bye-laws that they are intended to apply to vessels in relation to fish and fishing operations, and therefore the Bye-laws do not contribute to any potential regulation for PWC in those fishery harbours.

Conclusions

- 7.24 In relation to the making of Bye-laws for the safe operation of PWC, the Local Government Act, 2001 contains provisions similar to those in the Maritime Safety Act, 2005. However as can be seen from the legislation that applies to different harbours, there is little that could be relied upon to efficiently regulate and enforce safe conduct of PWC.
- 7.25 The Maritime Safety Act, 2005 applies to all the defined authorities, being local authorities (with the inclusion of their inland waters, foreshore and coastal waters), all the various harbour authorities and Waterways Ireland (in respect of the Shannon navigation).
- 7.26 The Maritime Safety Act, 2005 is clearly drafted to provide a comprehensive, common legislative base to avoid what would otherwise be an overly complex situation for the regulation and enforcement of PWC in the various waters. This Act should be considered as the primary means of regulating and enforcing the safe operation of PWC, as it contains specific provisions for these objectives and mixed or optional responsibility between authorised persons and An Garda Síochána.

⁵⁷<https://www.gov.ie/en/publication/be00f-fishery-harbours/#fishery-harbour-centre-management-control-operation-and-development-bye-laws-1979>

⁵⁸“vessel” means a waterborne craft of any type whatsoever whether self-propelled or not and includes air cushion craft;

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8. European Union (Recreational Craft and Personal Watercraft) Regulations, 2017

Introduction

- 8.1 This chapter discusses the European Union (Recreational Craft and Personal Watercraft) Regulations, 2017, S.I. No. 65 of 2017 (as amended)⁵⁹ (“the 2017 Regulations”). The 2017 Regulations transposed into Irish law Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft.
- 8.2 The 2017 Regulations were amended again in 2023 by the European Union (Recreational Craft and Personal Watercraft) (Amendment) Regulations 2023, S.I. No. 288 of 2023⁶⁰, primarily to provide for the regulations to apply to an extended definition of economic operators and to set out extensive powers to prevent/withdraw/recall/destroy a product coming within the meaning of the Regulations.
- 8.3 The 2017 Regulations outline the obligations when making a PWC available on the European Union (EU) market for the first time, after 18 January 2017.
- 8.4 Directive 94/25/EC, amended by Directive 2003/44/EC, continues to apply to all PWC made available on the EU market for the first time in the period between 1 January 2006 and 18 January 2017.
- 8.5 A PWC that is sold as a second hand product is not required to comply with the EU Directives if it was already on the market or in use in the EU prior to the implementation dates of the EU Directives.
- 8.6 Marine Notice No. 10 of 2017⁶¹ and Marine Notice No. 23 of 2017⁶² provide summary information on the 2017 Regulations. Marine Notice No. 10 of 2017: outlined the main provisions of the Regulations; drew attention to the issues to consider when purchasing watercraft products; and, elaborated on the Watercraft Design Categories. Marine Notice No. 23 of 2017: advised on the amendments to S.I. No. 65 of 2017 as regards the rules on the assignment and administration of the Unique Code of the Manufacturer (UCM) formerly known as the Manufacturer's Identification Code (MIC); and, formally appointed the Marine Survey Office of the Department of Transport as the competent authority for assigning the UCM.
- 8.7 Recreational craft and PWC are defined in section 2 of the 2017 Regulations in the following terms:
- “personal watercraft” means a watercraft intended for sports and leisure purposes of less than 4 metres in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;”*
- “recreational craft” means any watercraft of any type, excluding personal watercraft, intended for sports and leisure purposes, of hull length from 2.5 metres to 24 metres, regardless of the means of propulsion.”* [Emphasis Added]

⁵⁹ <https://www.irishstatutebook.ie/eli/2017/si/65>

⁶⁰ <https://www.irishstatutebook.ie/eli/2023/si/288/>

⁶¹ <https://www.gov.ie/pdf/21762/?page=1&lang=en>

⁶² <https://www.gov.ie/ga/bailiuchan/239860-marine-notice-2017/>

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8.8 The 2017 Regulations prohibit the supply of PWC within the EU for the first time after 18 January 2017, unless the PWC: satisfies the essential safety requirements; has been subject to conformity assessment procedures; has had the CE marking affixed to it; and, when used for its intended purpose, does not endanger the safety of persons. The safety standards for PWC are premised on the basis that the PWC itself, when used for its intended purpose, will not endanger the safety of persons.

8.9 The 2017 Regulations provide for a regime of design and manufacturing standards, and certification of same by manufacturers, importers and vendors. An International Standard⁶³ EN ISO 13590 exists to meet the requirements of the EU Directive, by specifying:

“construction and system installation requirements for PWC. It addresses the builder’s plate, watercraft identification, permanently installed petrol fuel systems, electrical systems, steering systems, ventilation, hull structure and floatation, stability, mooring and towing, flooding, off-throttle steering and the owner’s manual.”

This International Standard was first published in 2003 and then revised to the current version published in 2022. The Marine Survey Office is designated as the relevant market surveillance authority (in relation to products that present a risk to the health and safety of the public, to property or to the environment).

8.10 As summarised in Marine Notice No. 10 of 2017 dealing with the 2017 Regulations:

“Each product... must be accompanied by an Owner's Manual providing information essential to the safe use of the product, drawing particular attention to the set-up, maintenance, regular operation of the product, and the prevention of risks and risk management. It should also contain all the instructions and manuals for any equipment fitted.”

“Each watercraft design category (A, B, C and D) covers a range of wind forces and significant wave heights as follows -

- *Category C – Watercraft designed for a wind force up to and including 6, and significant wave height up to and including 2 m.*
- *Category D – Watercraft designed for a wind force up to and including 4, and significant wave height up to and including 0.3 m, with occasional waves of 0.5 m maximum height.”*

“Anyone considering purchasing a watercraft product should check for the following:

- 1. in the case of a watercraft, that it is affixed with a Watercraft Builder’s Plate;*
- 2. in the case of a propulsion engine, that it is marked with a Propulsion Engine Identification;*
- 3. in the case of an imported product, that it is labelled with the importer’s contact details, and that all products are:*
- 4. affixed with the CE marking;*

⁶³ EN ISO 13590, *Small craft — Personal watercraft — Construction and system installation requirements*
<https://www.iso.org/standard/76684.html>

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5. identified, by a type, batch or serial number, or a Watercraft Identification Number (WIN);

6. accompanied by an Owner's Manual(s), and

7. accompanied by a Declaration."

Conclusions

- 8.11 The European Union (Recreational Craft and Personal Watercraft) Regulations 2017 (as amended) contribute to measures for PWC safety, through a focus on design and manufacturing standards. The Regulations require that the PWC is accompanied by information essential to the operator's safe use of the craft, drawing particular attention to the set-up, maintenance, operation, and the prevention and management of risks. Enforcement is by the Marine Survey Office of the Department of Transport.

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9. Collision Regulations and Vessel Registration

Introduction

9.1 The Merchant Shipping (Collision Regulations) (Ships and Water Craft on the Water) Order 2012, S.I. No. 507 of 2012⁶⁴ ("the 2012 Order") provides the statutory basis in Ireland for the International Regulations for Preventing Collisions at Sea, 1972 as amended⁶⁵ ("the Collision Regulations").

9.2 The Collision Regulations do not currently apply to PWC as the State has not commenced the already enacted legislation that provides for the mandatory registration of PWC, which is a necessary prerequisite to the application of the Collision Regulations.

- Section 4 of the 2012 Order states that the Collision Regulations apply to *"to Irish ships and Irish water craft on or above the surface of the water, wherever such ships⁶⁶ or water craft may be"*⁶⁷. However, the 2012 Order has definitions for the terms *"water craft"* and *"Irish water craft"*:

"water craft" includes non-displacement craft, WIG craft and seaplanes, used or capable of being used as a means of transport on water.

"Irish water craft" means a water craft registered in the State.

- PWC appear to fall within the definition of *"water craft"* within the meaning of the Collision Regulations, but under Section 4 of the 2012 Order, they would apply only if the PWC is an *"Irish water craft"*, which requires a PWC to be registered in Ireland. However, the provisions of the Merchant Shipping (Registration of Ships) Act, 2014 (S.I. No. 43 of 2014)⁶⁸ ("the 2014 Act") have not been commenced.

⁶⁴ <https://www.irishstatutebook.ie/eli/2012/si/507>

⁶⁵ <https://treaties.un.org/doc/publication/unts/volume%201050/volume-1050-i-15824-english.pdf>

⁶⁶ The term *"ship"* includes *"every description of vessel used in navigation not propelled by oars"*.

"Irish ship" means a ship, other than a ship of war, known as such under section 9 of the Mercantile Marine Act 1955.

Section 9 of the 1955 Act defines an *"Irish Ship"* as a State owned ship, or a vessel used in navigation and wholly owned by an Irish citizen, or other ships registered (or deemed to be registered) under that Act.

A PWC is not a *"ship"* as it is not *"used in navigation"*.

⁶⁷ The Regulations do extend to non-Irish vessels as they apply to ships or watercraft:

"which are ships or water craft of the foreign countries which are included in the countries set out in Schedule 2, whether such ships or water craft are within the jurisdiction of the State or not, and such ships or water craft shall, for the purposes of the Collision Regulations, be treated as if they were Irish ships and water craft, respectively."

⁶⁸ <https://www.irishstatutebook.ie/eli/2014/act/43>

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9.3 The Collision Regulations do recognise the distinction between high seas/navigable waters and harbours and inland waters, and allow for special rules for those areas⁶⁹. The Collision Regulations regulate the conduct of vessels. The rules that could be of relevance to the safer operation of PWC include:

- Rule 5 requiring that every vessel shall at all times maintain a proper look-out.
- Rule 6 requiring that every vessel shall at all times proceed at a safe speed.
- Rule 7 requiring that every vessel shall determine if a risk of collision exists.
- Rule 8 requiring that every vessel take appropriate action to avoid collision.
- Rule 9 requiring that every vessel operating in a narrow channel shall operate in accordance with the Collision Regulations.
- Rule 10 requiring that every vessel shall navigate traffic lanes in accordance with the Collision Regulations.
- Rule 13 requiring that every vessel shall overtake in accordance with the Collision Regulations and keep clear of the overtaken vessel.
- Rule 14 requiring that every power-driven vessel at risk of head-on collision shall alter course in accordance with the Collision Regulations.
- Rule 15 requiring that power-driven vessels crossing one another shall do so in accordance with the Collision Regulations to avoid a risk of collision.
- Rule 16 requiring that every vessel required to give-way shall do so in accordance with the Collision Regulations.
- Rule 17 requiring that every vessel required to stand-on shall do so in accordance with the Collision Regulations.

⁶⁹ Part A, Rule 1 of the Collision Regulations states:

“(a) These Rules shall apply to all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels.

“(b) Nothing in these Rules shall interfere with the operation of special rules made by an appropriate authority for roadsteads, harbours, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels. Such special rules shall conform as closely as possible to these Rules...”

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Registration of ships and PWC

- 9.4 The Mercantile Marine Act, 1955, S.I. No. 29 of 1955⁷⁰ (“the 1955 Act”) has provided the basis for the Irish Register of Ships since its enactment. The Merchant Shipping (Registration of Ships) Act, 2014 was enacted with the stated intention of replacing and updating the 1955 Act. This included provisions for amendments to the definition of Irish ships and the requirements for registration of vessels. However, bar one section, this Act has not been commenced. Section 11 of the 2014 Act provides as follows for the requirement to register vessels [with the various definitions added in square brackets for ease]:

*“11. (1) Subject to subsections (2), (9)⁷¹ and (10)⁷², all **ships** [which “includes every description of vessel used in navigation not propelled exclusively by oars and includes personal watercraft and small fast powered craft] operating domestically, including—*

(a) a fishing boat in respect of which a sea-fishing boat licence has been granted or is required to be held under section 4 (inserted by section 97 of the Act of 2006) of the Act of 2003

*(b) **personal watercraft** [which “means a ship (other than a recreational craft) of less than 7 metres in length overall 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, or as prescribed under section 11(5)] and small fast powered craft, and*

(c) a ship carrying not more than 3 passengers for the purposes of angling as exempted in the Licensing of Passenger Boats (Exemption) Regulations 2002 (S.I. No. 274 of 2002) from the requirement to be licensed under section 14 of the Merchant Shipping Act 1992,

are required to be registered on the Register in accordance with this Act...”

(2) This section does not apply to—

*(a) a **recreational craft** which is less than 24 metres in load line length [which means a “ship not engaged in trade and intended for sports and leisure purposes, but does not include personal watercraft and small fast powered craft” (which means a “ship (other than a recreational craft or a fishing boat) of less than 7 metres length overall with a total propulsion engine power of equal to or greater than 150 kW, or as prescribed under section 11 (5)”), or*

(b) a warship.

[Emphasis and definitions added]

⁷⁰ <https://www.irishstatutebook.ie/eli/1955/act/29>

⁷¹ “11(9) The Minister may prescribe certain ships or types of ships to be exempt from the requirement under subsection (1) to be registered on the Register.”

⁷² “11(10) The requirements of subsection (1) do not apply in circumstances where ships are commandeered and used for periods of time of short duration, not exceeding one month, by a member of the Defence Forces, the Revenue Commissioners, the Irish Coast Guard or the Garda Síochána for law enforcement or emergency response purposes.”

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- 9.5 The mandatory registration requirements are therefore specifically worded to exclude recreational craft, but to include PWC and small fast powered craft.
- 9.6 Section 1.4 of the current, 2024 edition of the Code of Practice for the Safe Operation of Recreational Craft explains the 2014 legislation (which it notes has not been commenced) and refers to a plan to also provide for voluntary registration of recreational craft other than personal watercraft and small fast powered craft (for which registration will be mandatory):

“With the exception of section 69 [of the 2014 Act, dealing with the International Convention for the Safety of Life at Sea], the Merchant Shipping (Registration of Ships) Act 2014 has not yet been commenced. The main purpose of the Act is to replace and update the Mercantile Marine Act 1955, as amended, and provide a basis for the establishment and regulation of a modern and comprehensive ship registration system that will be more efficient, user friendly and accessible for ship owners. Among the changes and improvements that will be facilitated under the Act are the following:

- *A new centralised, electronic and accessible Irish Register of Ships consisting of different Parts for the registration of different types of ships and for different registration purposes;*
- *An extension of mandatory ship registration to additional ship categories including fishing boats less than 15 metres in length overall, personal watercraft such as jet skis, small fast powered craft and some small commercial angling boats so that, subject to a number of exemptions, ships operating domestically will be required to be registered on the Register or to have a current valid registration conferring nationality from another country...*

Regulations to be made under the Act will in due course set out the detail of the new Register structure and the different registration requirements for each Part of the Register...

It is envisaged that the Part of the Register for personal watercraft and small fast powered craft will also accommodate the voluntary registration of most other types of recreational craft less than 24 metres in length if an owner wishes to register such craft.

The new ship registration regime will not come into operation until the necessary regulations are made under the 2014 Act and the new Irish Register of Ships and registration system are established under a separate IT project. Pending the establishment of the new Irish Register of Ships, the current arrangements under the 1955 Act for the registration of ships by officers of the Revenue Commissioners will continue.” [Emphasis Added]

- 9.7 In summary, while the Code of Practice states that the Collision Regulations apply to all recreational craft, it seems clear that the Collision Regulations do not currently apply to PWC, due to the definition of “Irish water craft” in the 2012 Order. Due to that definition, registration of PWC would be required before the Collision Regulations apply to PWC. When the 2014 Act is commenced, given that registration will then be mandatory, PWC will then fall within the definition, and will then be subject to the Collision Regulations.

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- 9.8 Having regard to the specificity of the Collision Regulations in relation to lights, sound apparatus, signalling, and traffic management rules, many aspects of it will not apply to PWC. That said, the Collision Regulations are general safety principles of very real importance that could usefully be taken into consideration by authorities creating Bye-laws that apply to PWC.
- 9.9 From a regulation and enforcement perspective, it is obviously preferable that PWC are registered as this, at the least, enables their owners to be traced. The fact of there being a register would assist enforcement, which might of itself thereby improve behaviours. Given the extensive and more directed provisions of the Maritime Safety Act 2005, it is not clear what substantive added value the safety rules in the Collision Regulations themselves would contribute to those authorities whose waterways fall within the ambit of that legislation, where Bye-laws have been passed specific to PWC safety-related issues. The Collision Regulations would however assist where there are no– or no relevant– Bye-laws and they would also add value to water areas outside the jurisdiction of the 2005 Act.

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10. Personal Floatation Devices

Introduction

- 10.1 A person going afloat in a recreational craft in Irish waters has a statutory obligation to wear a Personal Flotation Device (PFD), as described in the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations, 2005, S.I. No. 921 of 2005 (as amended)⁷³ (“the PFD Regulations”).

Requirements

- 10.2 Regulation 2 of the PFD Regulations contains the following relevant definitions, which did not specifically define what constitutes a PWC:

“ ‘pleasure craft’ includes personal watercraft and fast power craft;”

(where “fast power craft” is defined as including “pleasure craft” other than a PWC).

“fast power craft” means a pleasure craft, other than a personal watercraft, the principal means of propulsion of which is derived from a mechanical power source and which attains or can attain a speed through or over water equal to or exceeding 17 knots;

- 10.3 The addition the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) (Amendment) Regulations, 2012, S.I. No. 349 of 2012 (which made only this change) inserted the following definition of PWC (identical to that in the Maritime Safety Act, 2005) to ensure that PWC are captured in the PFD Regulations:

“ ‘personal watercraft’ means a 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;”.

⁷³ Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations, 2005, S.I. No. 921 of 2005 as amended by:

- Pleasure Craft (Personal Flotation Devices and Operation) (Safety) (Amendment) Regulations, 2012, S.I. No. 349 of 2012. The purpose of the 2012 Regulations was to define “personal watercraft”.
- Pleasure Craft (Personal Flotation Devices and Operation) (Safety) (Amendment) Regulations, 2018, S.I. No. 400 of 2018. The purpose of the 2018 Regulations was to define what a suitable PFD was and to require a CE conformity certification

<https://www.gov.ie/en/publication/c1a570-lifejackets-and-personal-flotation-devices/#:~:text=400%20of%202018,use%20of%20alcohol%20and%20drugs>

The regulations are made by powers *inter alia* under section 20 (as amended by section 47 (1) of the Maritime Safety Act 2005 (No. 11 of 2005)) and section 27 (as amended by section 47(2) of the 2005 Act) of the Merchant Shipping Act 1992 (No. 2 of 1992).

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- 10.4 Regulation 7 requires⁷⁴ the wearing of a PFD at all times on board a PWC, which must be enforced by the master or owner:

“7. (1) Every person on a personal watercraft shall wear a personal flotation device at all times while on board, or being towed in any manner by a personal watercraft.

(2) The master or owner of a personal watercraft shall take all reasonable steps to ensure that a person who has not attained the age of 16 years complies with paragraph (1) of this Regulation.”

- 10.5 Regulation 8 prohibits a master/owner from permitting the operation of a PWC by anyone under the influence of alcohol or drugs. Regulation 9 prohibits the use of alcohol or drugs *“to such an extent as to be incapable of having proper control of the craft”*.

- 10.6 Under the Merchant Shipping Act, 1992, prosecutions for summary offences may be brought by the Minister. Enforcement of the PFD regulations by means of a fixed penalty notice is by any *“authorised officer”* under section 27 the Merchant Shipping Act, 1992 (as amended by the Maritime Safety Act, 2005):

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

- 10.7 The current, 2024 edition of the Code of Practice for the Safe Operation of Recreational Craft sets out concisely at 1.2.6 that:

“Violation of any of the provisions of the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations 2005 may result in a fixed payment notice for €150 issued by an Authorised Officer, or prosecution in the District Court and, on summary conviction, a fine of up to €5,000. Authorised Officers include members of the Garda Síochána, Naval Service, Harbour Masters and members of the Irish Maritime Administration who are authorised by the Minister.”

⁷⁴ Regulation 2 of the Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations, 2005 was amended by the 2018 Regulations by the substitution of the following for the definition of *“suitable personal flotation device”*:

“ ‘suitable personal flotation device’ means a personal flotation device which —

(a) is sufficient to give a person using it a positive buoyancy in waters which are likely to be encountered where the vessel on which it is required to be used or to be available for use is reasonably likely to be,

(b) is appropriate to the body weight of the person who is to wear it, and

(c) has on it either—

(i) the CE conformity marking consisting of the initials ‘CE’ taking the form shown in the specimen in Annex II of Regulation (EC) 765/2008 of 9 July 2008, or

(ii) the mark of conformity in the form of the symbol set out in Annex I to Council Directive 2014/90/EU of 23 July 2014.”

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10.8 The definition of “*authorised officer*”⁷⁵ in the Merchant Shipping Act, 1992 does not extend power to enforce the PFD regulations to all the entities who are empowered by the Maritime Safety Act, 2005 (local authorities, harbours and Waterways Ireland, the Minister) for the same geographical territory, as it only permits the authorising of officers from local authorities, harbours and Waterways Ireland, the Minister in respect of the harbour areas they are in charge of. Therefore, the enforcement of PFD regulations in respect of PWC does not align with the same regulation and enforcement regime as the Maritime Safety Act 2005 and its Bye-laws.

In November 2015 the then Minister for Transport held a discussion forum in Leeson Lane, which considered the lack of prosecutions under the Maritime Safety Act, 2005 (with particular reference to lifejackets). The discussion was entitled Maritime Safety Strategy- Enforcement Forum. The speakers were from the Attorney General’s Office, the Marine Survey office and Waterways Ireland. **Conclusions**

10.9 There is legislation in effect that requires every person on a PWC to wear a personal flotation device at all times while on board, or while being towed in any manner by a PWC. The MCIB has reported regularly on fatalities that have resulted from the non-wearing of PFDs. Data does not appear to be available as to enforcement actions.

10.10 The enforcement of the PFD regulations in respect of PWC, permits An Garda Síochána, the Naval Service, Harbour Masters and members of the Irish Maritime Administration who are authorised by the Minister to enforce the regulations. The fact that there is not identical geographical jurisdictional reach between the PFD regulations and the Maritime Safety Act 2005 is unfortunate, as it adds to the legal complexities with regard to enforcement and, it means that most non Garda Síochána authorised officers under the 2005 Act could not take steps with regard to the non-wearing of a PFD by the user of a PWC.

⁷⁵ “*authorised officer*” under the Merchant Shipping Act 1992 means—

- (e) any person authorised in writing by the Minister to exercise the powers conferred on an authorised officer by this Act,
- (f) a person holding commissioned naval rank in the Permanent Defence Forces, while in uniform,
- (g) a member of the Garda Síochána, while in uniform, or
- (h) as respects the harbour of which he or she is the harbour master or is in charge of, a person appointed to be such by one of the following, that is to say:
 - (vi) a harbour authority within the meaning of the Harbours Act, 1946,
 - (vii) the Commissioners of Public Works in Ireland,
 - (viii) the Minister for the Marine,
 - (ix) a local authority, and
 - (x) Iarnród Éireann—Irish Rail,”

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11. Irish Sailing

- 11.1 Irish Sailing is the national governing body for sailing, powerboating and windsurfing in Ireland. According to its website it promotes sailing in all its forms including the promotion of windsurfing, powerboating and personal watercraft (PWC). Among its other activities is maintaining and communicating safety and safeguarding standards. It says of itself that *“Irish Sailing, manages all safety frameworks and standards and provides this information to all member clubs and sailors”*.
- 11.2 Irish Sailing’s website currently shows limited general content of particular relevance to PWC, with the exception of two news items originally published in June 2021⁷⁶. The content of that news item is of interest in corroborating the anecdotal information available to the MCIB about many on-going issues with the operation and policing of PWC, and is included here in full to illustrate the wide range of interested parties, from the general public to Search and Rescue personnel.

“Multi-Agency water safety plea as number of Jet Ski incidents on the increase

A recent spate of jet ski (Personal Watercraft) infringements into swimming areas, resulting in a greater risk to members of the public, and increased demands on Search and Rescue organisations has prompted five organisations to issue a joint appeal to jet ski users. Personal watercrafts are an enjoyable form of water-based activity. Users must however in addition to their own safety, respect the safety and wellbeing of other water users and remain vigilant at all times to any unnecessary encroachment into other activities particularly swimming areas.

During the months of April & May the Coast Guard coordinated responses to 18 Jet Ski related incidents 12 of which related to complaints pertaining to encroachments into swimming areas.

Roger Sweeney from Water Safety Ireland said : “Just as the public expects road users to comply with laws that keep people safe, Personal Watercraft users should ensure that they are compliant with local bye-laws, approved zones and speed limits. Responsible behaviour is essential for people’s safety and peace of mind.”

Dave Garvey, Training Development Officer with Irish Sailing: “Irish Sailing promote the safe and responsible participation in a wide range of activities on Irelands coastal and inland waters. Irish Sailing offer a range of training courses for Jet Skis (PWC) and other watercraft to educate operators in responsible good practice ensuring their own safety as well as the safety of other water users around them”.

Waterways Ireland encourages the safe and responsible use of the inland waterways by all. They ask jet ski operators to comply with the Bye Laws and speed zones when on the water and to ensure that behaviour does not affect other people’s safety and enjoyment. They are calling on users to respect the waterways, wildlife and environment.

Lisa Hollingum, Water Safety Delivery – RNLI added “With our waterways and coastlines busier this summer we urge all personal watercraft users to have consideration for everyone in or on the water, including local wildlife. Act responsibly and familiarise yourself with the relevant bye-laws and behaviours permitted. Get trained and enjoy the water safely”.

⁷⁶ <https://www.sailing.ie/News/id/11551> and the related publication at <https://www.sailing.ie/News/id/11573>

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Coast Guard's Operations Manager Micheál O'Toole said : 'We would like to thank all members of the public for their continued safety efforts on or near the water as we approach what is expected to be another busy June bank holiday weekend. Please at all times take time to plan your activity, ensure that it is safe to do so and ensure that somebody ashore is either monitoring your activity or knows what time to expect you back'.

The public are requested to familiarise themselves with the following key safety measures before using a PWC / Jet Ski...⁷⁷

- 11.3 What is of note is that, of the five agencies contributing to this safety forum, only Waterways Ireland has regulation and enforcement powers.
- 11.4 Irish Sailing's PWC training scheme forms part of their role as the national governing body for PWC. The syllabus for this training scheme⁷⁸ is similar to that of the National Powerboat Training Scheme while taking account of the specifics of the craft. The National Powerboat Training Scheme is thorough, effective and relatively well known. Irish Sailing has instructors who are specifically qualified to safely operate PWC, and to teach others in the safe operation of PWC, through their accredited Training Centres.
- 11.5 It appears that a gap exists in the promotion and uptake of the national PWC training scheme. More effort is required to get PWC users onto Irish Sailing's training course. If or when mandatory registration of PWC comes into effect, this could also be used to ensure owners/users undertake Irish Sailing's PWC course. It could be a requirement of registering a PWC to have undertaken Irish Sailing's PWC course. A not dissimilar regime exists for anyone seeking a MMSI number / callsign for their vessel from the Department of Transport, as a VHF Certificate of Competence has to be presented first, demonstrating completion of their required training course.

⁷⁷ Do

- Keep a safe distance from other water users
- Learn how to operate your machine
- Know your own and your machine's capabilities/limitations
- Wear an approved lifejacket or buoyancy aid
- Always use a kill chord
- Check weather forecasts and tides
- Have a suitable means of attracting attention in an emergency
- Advise someone ashore of your expected departure and return times

Don't

- Operate your machine in the vicinity of other water users e.g. swimmers, divers, craft such as angling boats, canoes, sailing boats etc.
- Cause a safety hazard by high-speed use
- Create unnecessary noise and disturbance to other people or wildlife
- Allow those under 16yrs of age to operate PWCs or other Fast Powered Craft
- Drink and Drive

⁷⁸[https://www.sailing.ie/Portals/0/adam/Library/btQmwRQO1kOz6ByM4g98qA/LinkOrDocument/Personal%20Watercraft%20\(Jetski\)%20Sailing%20course%20outline%20-%20Copy.pdf](https://www.sailing.ie/Portals/0/adam/Library/btQmwRQO1kOz6ByM4g98qA/LinkOrDocument/Personal%20Watercraft%20(Jetski)%20Sailing%20course%20outline%20-%20Copy.pdf)

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12. Overall Conclusions

Summary

- 12.1 There is adequate legislative provision in Ireland for the safe operation of PWC, and adequate legislative provision for the enforcement needed to ensure this. The legislative provision applies to all waters controlled by local authorities, Waterways Ireland, all types of harbour companies, Iarnród Éireann, and fishery harbour centres, and contains provisions for:
- The safe operation of craft including PWC.
 - Enforcement actions in a variety of situations including in the event of alleged unsafe operation of PWC.
 - The making of Bye-laws to further regulate and enforce the safe operation of PWC.
- 12.2 The Maritime Safety Act, 2005 should be considered as the primary means of regulating and enforcing the safe operation of PWC, in the rivers, lakes and sea that comprise Irish waters, in the areas that those entities have responsibility for. If there are opportunities for improvements to be made to the safe operation of PWC, in the first instance this should be through enforcement of the existing provisions in the Maritime Safety Act, 2005 and local Bye-laws made under that legislation.
- 12.3 Other legislation, establishing and empowering entities who have been given powers under the Maritime Safety Act 2005, themselves contain a variety of powers (including, commonly, a power to make Bye-laws under the other legislation, and to enforce those in a variety of ways). However, those provisions are varied and are, in general, aimed at different objectives. The actual regulations that do, or might, apply to PWC are more incidental, whereas the provisions in the Maritime Safety Act, 2005 are far more specific to PWC and recreational craft and their users.

The Pleasure Craft (Personal Flotation Devices and Operation) (Safety) Regulations, 2005 (as amended) provides that any person going afloat in a recreational craft in Irish waters has a statutory obligation to wear a PFD. The fact that regulation of one of the most basic safety obligations when afloat – to provide and wear a functioning PFD – is subject to a separate regime under these regulations is not helpful to better enforcement. The enforcement of the PFD regulations in respect of PWC use, permits the authorising of officers from local authorities, harbours, Waterways Ireland, and the Minister but but only in respect of harbours they are in charge of and not in respect of other waters in their jurisdiction. The MCIB has reported regularly on fatalities that have resulted from the non-wearing of PFDs. This issue should be assessed and addressed by the relevant authorities.

Definitions

- 12.4 As can be seen from the content of this Review, the variety and difference in definitions of PWC has made regulation and enforcement more complex. The various definitions have been appended to this Review for ease of comparison. Alignment of the PWC definitions in existing and new provisions could be beneficial. Any new definitions of PWC should allow for the impact of new technology. Existing legislation typically defines PWC as having an internal combustion engine as the means of propulsion, whereas electric powered PWC are currently being marketed.

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Improvements in enforcement

12.5 The existing regulations have broad requirements for a person operating a PWC to do so:

- With care and caution;
- With reasonable consideration for others;
- At a speed that is reasonable in the circumstances or place, and not in excess of a defined limit;
- In a manner that does not create a risk or danger to persons or property, or a serious nuisance to persons;
- In a manner that has regard to the circumstances of weather, visibility, flood and other traffic;
- Without being under the influence of alcohol or any other drug, to such an extent as to impair their capability to have proper control of the craft; and
- In a manner that complies with the local bye-laws, in particular as to speed and location of use.

12.6 By extension, successful enforcement requires authorised persons and members of An Garda Síochána to have the skills and equipment needed to determine that such a contravention of these requirements has occurred. For example:

- Determination of the influence of alcohol or drugs;
- Measurement of a PWC's speed;
- Knowledge of the local water and related features and of the applicable Bye-laws;
- In the case of arrests by an authorised officer under the Maritime Safety Act, a warrant certified that such training has been carried out.

Enforcement therefore requires persons trained and suitably equipped.

12.7 The MCIB does not have access to data from the various authorities as to whether they have authorised officers under the Maritime Safety Act 2005, or maintain a register of those officers, or how many authorised officers have had training in the use of arrest powers as required under the legislation. It is not known what enforcement actions have been taken. Anecdotally, it appears that there is understandable confusion and/or a lack of knowledge about enforcement options and responsibilities. There appears to be a commonly held belief that only An Garda Síochána can enforce, and only if a complaint is made to them that an offence has been committed. However, the powers under the 2005 Act clearly permit precautionary steps to be taken, such as impounding a PWC.

12.8 The fact that both authorities and An Garda Síochána have regulation and enforcement powers may result in regulation and enforcement not happening as it should, if it falls between various organisations. There is provision for enforcement in all of the legislation and Bye-laws. All of the enforcement provisions refer to the powers of authorised officers and members of An Garda Síochána. Improvements in the enforcement of existing provisions lies with those entities. This requires communication between the responsible entities. The aforementioned may well require an increase in the availability, skills and training of authorised officers and members of An Garda Síochána.

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Other contributing legislation

12.9 The following legislation also contributes to the safe operation of PWC:

- The European Union (Recreational Craft and Personal Watercraft) Regulations 2017 (as amended). The Regulations place an emphasis on ensuring that the PWC itself does not endanger safety, when used for its intended purpose, by ensuring it is safely designed and manufactured to a CE standard. In addition, the Regulations ensure that the PWC is accompanied by information essential to the operator's safe use of the craft, drawing particular attention to the set-up, maintenance, operation, and the prevention and management of risks.
- The Merchant Shipping (Registration of Ships) Act, 2014 includes provisions for amendments to the definition of an Irish ship and the requirements for registration of vessels including PWC. With the exception of one section, this Act has not been commenced. Mandatory registration of PWC would assist regulation and is likely to indirectly improve behaviours given that owners could be identified. Registration could also be linked with more safety training under the aegis of Irish Sailing in their existing role as the national governing body for PWC.
- The commencement of the Merchant Shipping (Registration of Ships) Act, 2014 would make PWCs subject to the Collision Regulations in accordance with the Merchant Shipping (Collision Regulations) (Ships and Water Craft on the Water) Order 2012.

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13. Safety Recommendations made in respect of Investigation MCIB 328

The Safety Recommendations made in respect of Investigation MCIB 328 are set in the body of the report

Schedule

Various definitions of PWC

The following sets out the varying definitions of PWC in the legislation considered in this report:

a. From paragraph 2.5 of the Review:

Definition of PWC is used in the **European Union (Recreational Craft and Personal Watercraft) Regulations 2017** as amended. This transposed into Irish law Directive 2013/53/EU of the European Parliament on personal watercraft.

“personal watercraft” means a watercraft intended for sports and leisure purposes of less than 4 metres in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;”

b. From paragraph 3.8 of the Review:

Definition of PWC in the **Maritime Safety Act, 2005**.

“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;

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

For both “recreational” and “personal “ craft, the craft must be “operated by a mechanical means of propulsion”.

c. From paragraph 4.3 of the Review:

Watercraft/personal or recreational water craft are not defined in the **Shannon Navigation Acts 1990 and 2005**. The term used is “boat” (“boat” includes any barge, vessel or other water-craft) and should therefore be read as including PWC.

d. From paragraph 5.5 – 5.6 of the Review:

The **current and draft Shannon Bye-laws** have the following different definitions:

“vessel” means a ship or craft of any description but does not include a boat.

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"boat" means an open or undecked punt, canoe, skiff, scull, row boat or other such boat designed to be propelled primarily by oars or sail and not propelled by an engine of more than 15 horsepower;

Which means that, for the purpose of these Bye-laws, a PWC falls within the definition of "vessel". It should be noted that the definition of "boat" differs from the definition in the 1990 Act ("boat" includes any barge, vessel or other water-craft;).

The **Draft Shannon Navigation Bye-laws, 2024** propose the following definition of PWC:

"personal watercraft" (PWC) means a craft of less than 4 metres in length which uses an internal combustion engine or electric motor 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;

It reverts to the 1990 statutory definition of "boat" ("boat" includes any barge, vessel or other water-craft);

"pleasure craft" includes any yacht, launch, radon, wherry, tender, skiff, gig, dinghy, shallop, punt, canoe, float, or other ship, boat, vessel, or craft (including amphibious craft) but does not include any commercial boat or houseboat or personal watercraft;

e. From paragraph 7.14 of the Review:

The **Cork County Council (Regulation and Control of Certain Beaches) Bye-laws, 2011** published in exercise of the powers conferred by section 199(1) of the Local Government Act, 2001 and apply to beaches as defined. The definitions in the Bye-laws apply to the use of PWC as:

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

"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."

The definition used for Personal Watercraft is the same definition used in the Maritime Safety Act, 2005.

f. From paragraph 8.7 of the Review:

The **European Union (Recreational Craft and Personal Watercraft) Regulations, 2017, S.I. No. 65 of 2017**(as amended) define personal watercraft and recreational watercraft in the following terms:

"personal watercraft" means a watercraft intended for sports and leisure purposes of less than 4 metres in hull length which uses a propulsion engine having a water jet pump as its primary source of propulsion and designed to be operated by a person or persons sitting, standing or kneeling on, rather than within the confines of, a hull;"

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“recreational craft” means any watercraft of any type, excluding personal watercraft, intended for sports and leisure purposes, of hull length from 2.5 metres to 24 metres, regardless of the means of propulsion.”

- g. From paragraph 9.2 of the Review:

The **Merchant Shipping (Collision Regulations) (Ships and Water Craft on the Water) Order 2012, S.I. No. 507 of 2012**, the Collision Regulations apply to “*Irish ships and Irish water craft on or above the surface of the water, wherever such ships or water craft may be*”. The 2012 Order defines “*water craft*” and “*Irish water craft*” as follows:

“water craft” includes non-displacement craft, WIG craft and seaplanes, used or capable of being used as a means of transport on water.

“Irish water craft” means a water craft registered in the State.

- h. From paragraph 9.4 of the Review:

The **Merchant Shipping (Registration of Ships) Act, 2014, S.I. No. 43 of 2014** (which has not been commenced):

“personal watercraft” means a ship (other than a recreational craft) of less than 7 metres in length overall 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, or as prescribed under section 11(5);”

“recreational craft” means a ship not engaged in trade and intended for sports and leisure purposes, but does not include personal watercraft and small fast powered craft;

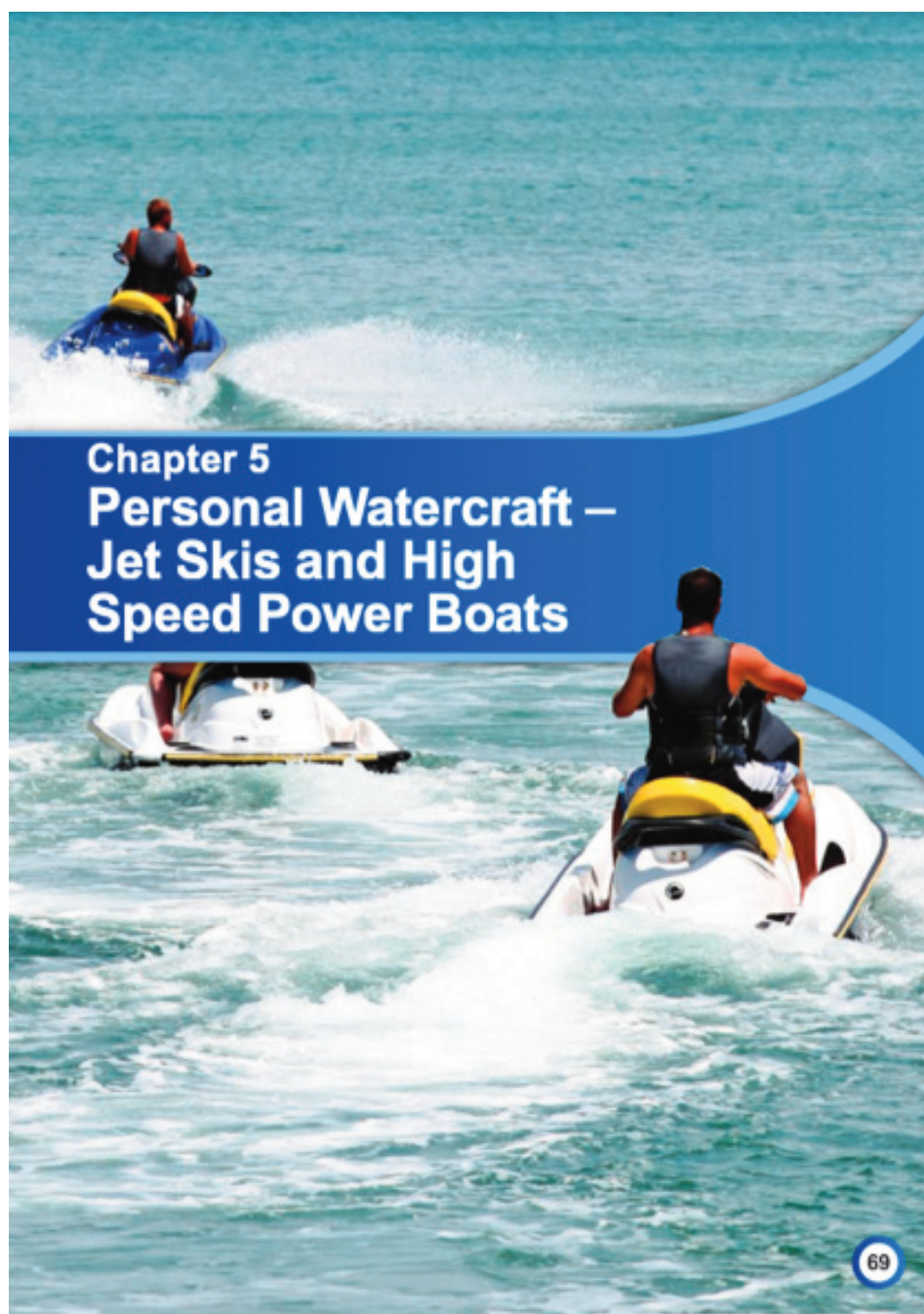
- i. From paragraph 10.3 of the Review:

The **Pleasure Craft (Personal Flotation Devices and Operation) (Safety) (Amendment) Regulations, 2012** defines personal watercraft in the following terms:

“ ‘personal watercraft’ means a 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;”.

The definition used for Personal Watercraft is the same definition used in the Maritime Safety Act, 2005.

Appendix 7.3 Code of Practice for the Safe Operation of Recreational Craft -
Chapter 5.



Appendix 7.3 Code of Practice for the Safe Operation of Recreational Craft - Chapter 5.

Personal Watercraft (PWC) such as jet skis or water/wet bikes are a rapidly growing segment of the recreational craft market.

A PWC is a watercraft that is less than 4.88 metres (16 feet) long, propelled by a two stroke petrol engine directly powering a water jet pump and designed to be operated by a person who sits, stands or kneels on it. They are capable of speeds exceeding 100 km/hr and are highly manoeuvrable in competent hands.

5.1 Training

It is recommended that persons operating a PWC undertake appropriate training. There are a number of training schemes and approved courses available and information can be obtained directly from course providers (see Appendix 9 for details of course providers).

5.2 Recommended equipment for personal watercraft (PWC)

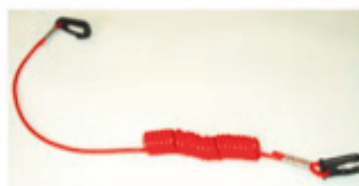
- Rope (5 m x 8 mm Nylon) for use in towing and mooring.



- A flare pack should be carried containing a minimum of 1 x pinpoint red, 2 x orange smoke in a watertight container.
- Carry a suitable folding anchor.



- A collapsible paddle, which can be stowed on board for use in the event of engine failure.
- Basic first aid kit.
- PWC should be equipped with a lanyard/kill cord to cut out the engine; the lanyard/kill cord must be attached to the operator's body, clothing, or PFD/lifejacket. A spare lanyard/kill cord should always be carried on board.



- Knife.
- Torch.
- Basic Tool Kit.
- Fire Extinguisher.

Appendix 7.3 Code of Practice for the Safe Operation of Recreational Craft - Chapter 5.

5.3 Personal equipment to be worn/carried by operator of the PWC

- Suitable PFD/lifejacket (see Appendix 5).
- A whistle, fitted to each PFD/lifejacket to attract attention in the event of an emergency or entering the water.
- Suitable clothing, including a wetsuit and hand/foot protection.
- A suitable helmet, preferably fitted with facial protection, if operating offshore or involved in wave jumping.
- Goggles are recommended, especially for salt water riding.

5.4 Personal watercraft operations

5.4.1 Prior to entering the water (Pre-Launch Checks)

- To protect other water users and due to high noise levels generated, PWC may be subject to specific local bye-laws issued by harbour or local authorities to restrict speed or the areas of operation. It is the responsibility of PWC operators to be familiar with the relevant bye-laws in force in the waters they use.
- Check the weather/sea condition forecast before starting out.
- Always complete a safety checklist (see section 5.7) prior to departure. A waterproof laminated copy of the checklist should be permanently attached

to the PWC and located inside the door of the storage compartment.

- Ensure all engine access and storage doors are correctly secured and sealed.
- Be aware of correct procedures for launching and recovery of a PWC using a trailer.
- Operators should be familiar with and have practiced the procedure for righting a capsized boat. Rolling a craft over the wrong way may result in water entering into the engine, causing serious damage to it and rendering the PWC inoperative.

5.4.2 Emergency Procedures

- In the event of falling off the craft into cold water, re-board immediately. Immersion in cold water can result in a life-threatening drop in body temperature (hypothermia). Hypothermia can also be caused by wind chill, rain and perspiration. To avoid this danger, prepare by dressing correctly including wetsuit/drysuit, hand/foot protection. Wearing your PFD/lifejacket affords additional protection against the cold.
- If in difficulty, remain with your PWC. Do not try to swim to shore in cold water unless you are very close to safety and you have no expectation of speedy

Appendix 7.3 Code of Practice for the Safe Operation of Recreational Craft - Chapter 5.

assistance. Swimming and treading water use up valuable energy and produce rapid heat loss. If it is not possible to get out of the water, wearing your PFD/lifejacket will help increase your survival time by keeping your head out of the water.

5.4.3 On the water

- Do not drink alcohol or take drugs when riding a PWC: it is illegal to do so and your ability to make quick decisions is impaired. This is critical when operating a fast and manoeuvrable PWC.
- Study the manufacturer's manual. Practice the handling of your PWC under experienced supervision in open water and well away from other boaters.
- Be alert for the wave, wind, cloud changes that may signal weather changes.
- Avoid skiing alone, especially at sea.
- A high incidence of accidents with PWCs involve collisions with other craft. Operators should exercise the utmost caution when approaching or overtaking other boats and should never manoeuvre at speed in close proximity to other PWC, boats or swimmers (see Appendix 1).
- Where applicable, use buoyed channels and designated zones.
- If engaged in waterskiing or

towing a float, it is essential to carry an observer. This should only be done on craft with a carrying capacity of 3 or more persons.

- Always ensure sufficient fuel is on board for any intended trip. Plan to return with the fuel tank one third full thereby allowing for any possible emergencies.
- Additional petrol should not be carried on board and no fuel transfer should be attempted once the vessel is afloat.

5.5 Offshore Cruising

Subject to suitable weather and sea conditions, these craft are capable of undertaking coastal or offshore passages.

- Such passages should be undertaken in company with other PWCs or suitable support boats.
- A nominated person ashore should be aware of departure times, destinations and expected arrival/return times.

It is recommended that the following are carried on board:

- Compass.
- Waterproof VHF Radio.
- Passage Plan.
- Chart of sea area.

The majority of PWCs are not fitted with navigation lights, which the law requires for operating at night.

Appendix 7.3 Code of Practice for the Safe Operation of Recreational Craft - Chapter 5.

Therefore the use of such PWCs is restricted to a period between sunrise and sunset.

5.6 National Association

The Irish Sailing Association (ISA) is the national governing body for PWCs in Ireland (see Appendix 10 for contact details).

5.7 Personal Watercraft Safety Checklist

Personal Gear	Tickbox
PFD/Lifejacket	
Whistle	
Wetsuit	
Gloves	
Helmet	
Goggles	
PWC Equipment	Tickbox
Tow Rope	
Flare Pack	
Anchor	
Collapsible Paddle	
First Aid Kit	
Engine Kill Cord	
Spare Engine Kill Cord	
Knife	
Torch	
Basic Tool Kit	
Fire Extinguisher	

Pre-Launch Checks	Tickbox
Local Bye-laws/speed restrictions	
Weather Forecast	
Tides	
Local Chart	
Fuel and oil tank full	
Seats/Hatches sealed	
External hull check	
Engine test run	
Engine Stops tested	
Offshore Cruising	Tickbox
Cruise in company	
Passage Plan	
Nominated Person Ashore	
VHF Radio	
Compass	

Appendix 7.3 Code of Practice for the Safe Operation of Recreational Craft - Chapter 5.

5.8 High Speed Power/Sports Boats – Operation and handling

A high-speed power/sports boat is generally regarded as one capable of achieving speeds in excess of 17 knots. There are a variety of craft designed as high speed power/sports boats, including rigid GRP Vee profile hulls, RIBs, Cathedral type dory hulls, etc. The high speeds that can be attained by these craft place specific demands on the skills and capabilities of their operators. These craft allow a much shorter reaction time to an incident than conventional motor craft.

It is recommended that persons participating in power/sports boat activities undertake appropriate training. A number of training schemes and approved courses are available and information can be obtained directly from course providers (see Appendix 9).

Persons under 16 years of age are not allowed to be in command of a fast power/sports craft, i.e. a craft that can attain a speed through or over water of 17 knots or more

5.8.1 Pre-departure Checks

- All persons on board any boat under 7 metres in length must wear a PFD/lifejacket – it's the law;

- Check engine oil levels, etc;
- Ensure all on board wear suitable clothing. Be aware of the effects of wind chill at speed;
- Carry sunscreen protection – factor 15+;
- If using an inflatable boat or RIB, ensure all tubes are correctly inflated;
- Engine kill cord – Always wear one, and test it prior to departing the berth;
- Competency and Skills – Ensure you have received adequate training in the operation and handling characteristics of the boat type you are using.

5.8.2 On the water

- Maintain a good all round lookout, particularly when in main shipping channels;
- Observe designated speed limits, particularly on passage through anchorages, marina approaches and areas used by swimmers;
- Be aware of the wash generated by your boat, in particular when close to or passing other boats;
- Know your limits – be aware of your ability and capability;
- Know the boat's limits;
- Check fuel reserves regularly;
- Do not overload the craft – these craft are designed for a maximum number of persons. If the boat is CE marked, this number will be indicated on the CE plate on the transom;
- Secure all boat equipment correctly;

Appendix 7.3 Code of Practice for the Safe Operation of Recreational Craft - Chapter 5.

- Ensure all occupants are secure and use the supplied seating and handgrips;
- If intending to swim from your boat, consider its freeboard. Check beforehand and make sure there is a suitable means to reboard from the water.

5.9 Waterskiing, Wakeboarding and towed rides

Persons involved in towed activities such as waterskiing, wakeboarding and the towing of inflatable doughnuts, etc., should be aware of the following:

- A suitable PFD/lifejacket must be worn.
- There should always be an observer in addition to the boat

driver aboard the towing craft.

- Towing rides should only be undertaken in areas either specifically designated or in areas clear of other shipping and water users.
- Ensure your Insurance Company is aware of these activities.

When waterskiing, both observer and skier should be aware of the correct procedures and signals required. It is recommended that individuals undertake suitable training and coaching.

The Irish Waterski and Wakeboard Federation is the national body for waterskiing in Ireland (see Appendix 10 for contact details).



Appendix 7.3 Code of Practice for the Safe Operation of Recreational Craft - Chapter 5.

5.10 Competitive use – Power Boats

The Irish Sailing Association is the National Authority for powerboat racing in Ireland. Racing is organised by clubs affiliated to the Association. All racing is run in accordance with the rules and procedures of the Union Internationale Motonautique (UIM), which is the world governing body. The UIM set out requirements for vessel safety, skipper qualification, scrutiny requirements and safety management during a race.

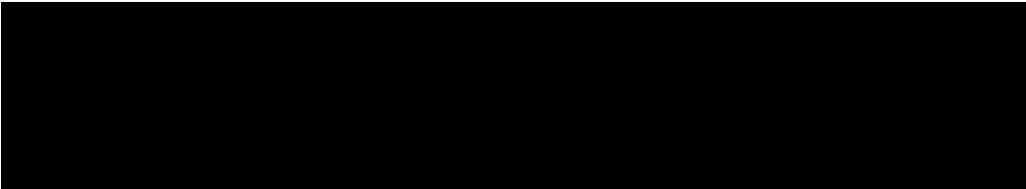
Appendix 7.4 Enforcement Forum Questionnaire, Enforcement Forum Discussion Points

MARITIME SAFETY ACT 2005 – Part 2

Questionnaire on the Introduction of Bye-Laws to Regulate and Control Personal Watercraft and Recreational Craft

	Question	Answer
Q1	Are you aware of the provisions of Part 2 of the Maritime Safety Act 2005 regarding the regulation and control of recreational craft and personal watercraft?	
Q2	Are you aware of the guidelines on the powers available to local authorities and other relevant authorities on regulating recreational craft and personal watercraft issued by the Maritime Safety Directorate?	
Q3	Have you made bye-laws under Section 6 of the Maritime Safety Act 2005?	
Q4	If the answer to Q3 is yes, have you prohibited any craft from operating in your functional area or waters under your control or management?	
Q5	If the answer to Q4 is yes, what classes of craft have you prohibited?	
Q6	Have you put any restrictions on craft in your functional area or waters under your control or management?	
Q7	If the answer to Q6 is yes, what classes of craft have you restricted?	
Q8	What type of restrictions have you put in place?	
	• Area	
	• Speed	
	• Times	
	• Periods	
	• Launching, mooring or berthing craft	
Q9	For which purpose(s) have you introduced bye-laws?	
	• In the interests of the safety	
	• To prevent nuisance or injury	
	• To protect a natural heritage area	
	• To protect a monument or wreck protected under the National Monuments Acts	
Q10	Have you followed the procedures for making bye-laws in Section 7 of the Maritime Safety Act 2005?	
Q11	Have you appointed authorised persons for the purposes of Part 2 of the Maritime Safety Act 2005?	
Q12	Have you prosecuted anyone for contravention of a bye-law or other offences under Part 2 of the Maritime Safety Act 2005?	
Q13	If the answer to Q12 is yes, how many prosecutions did you initiate in 2014?	
Q14	How many of the prosecutions were successful?	
Q15	Have you served any fixed payment notices? If so, how many?	

Appendix 7.4 Enforcement Forum Questionnaire, Enforcement Forum Discussion Points



Good morning

Our meeting last Friday we were to come back with suggestions for questions (4) the forum.

As a start I'm suggesting four topics as follows, questions can follow from the topics,

1. Bye-Laws relating to the regulation and control of specified craft

Application of bye-laws: prohibition or restriction in relation to

- a) in the interests of Safety
- b) to prevent nuisance or injury to persons or damage to property
- C) to protect natural heritage areas, monuments, wrecks.

2. Public awareness

How have Authorities made the public aware of the existence of bye-laws?

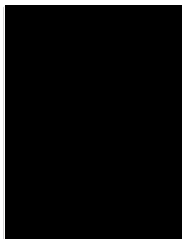
Safety on the Water campaign, signage at relevant locations etc

3. Appointment and training for authorised officers

Have authorised officers been appointed and has a training programme been developed?

4. Record of offences prosecuted

Is there a forum amongst Authorities for sharing information on offences prosecuted, lessons learnt etc.



Colleagues,

Please find attached the latest invitation list for the upcoming Enforcement Forum on 20th November 2015.

SECTION 36 PROCESS

Section 36 of the Merchant Shipping (Investigation of Marine Casualties) Act, 2000

It is a requirement under Section 36 that:

- (1) Before publishing a report, the Board shall send a draft of the report or sections of the draft report to any person who, in its opinion, is likely to be adversely affected by the publishing of the report or sections or, if that person be deceased, then such person as appears to the Board best to represent that person's interest.
- (2) A person to whom the Board sends a draft in accordance with subsection (1) may, within a period of 28 days commencing on the date on which the draft is sent to the person, or such further period not exceeding 28 days, as the Board in its absolute discretion thinks fit, submit to the Board in writing his or her observations on the draft.
- (3) A person to whom a draft has been sent in accordance with subsection (1) may apply to the Board for an extension, in accordance with subsection (2), of the period in which to submit his or her observations on the draft.
- (4) Observations submitted to the Board in accordance with subsection (2) shall be included in an appendix to the published report, unless the person submitting the observations requests in writing that the observations be not published.
- (5) Where observations are submitted to the Board in accordance with subsection (2), the Board may, at its discretion -
 - (a) alter the draft before publication or decide not to do so, or
 - (b) include in the published report such comments on the observations as it thinks fit.

The Board reviews and considers all observations received whether published or not published in the final report. When the Board considers an observation requires amendments to the report, those amendments are made. When the Board is satisfied that the report has adequately addressed the issue in the observation, then no amendment is made to the report. The Board may also make comments on observations in the report.

Response(s) received following circulation of the draft report (excluding those where the Board has agreed to a request not to publish) are included in the following section.

The Board has noted the contents of all observations, and amendments have been made to the report where required.

8. MSA 2000 - SECTION 36 OBSERVATIONS RECEIVED

8.1 Correspondence from Waterways Ireland and MCIB response 129

8.2 Correspondence from Tipperary County Council and MCIB response. 131

Note: The names and contact details of the individual respondents have been obscured for privacy reasons.

Correspondence 8.1 Correspondence from Waterways Ireland and MCIB response.



Sent by Email

[REDACTED]
Chairperson,
Marine Casualty Investigation Board,
Leeson Lane,
Dublin.
D02 TR60

21st May 2025

RE: Safety Recommendations addressed to Waterways Ireland arising out of Draft Report of an Investigation into a marine casualty involving a Jet Ski in or around Shannon Bridge, Killaloe/Ballina, Co Clare on or about the 31st May 2023.

[REDACTED]

Waterways Ireland acknowledge with thanks receipt of your letter dated 14th April 2025 attaching Section 36 draft Report from the Marine Casualty Investigation Board.

I wish to address the issue raised in your letter regarding an investigation in respect of this fatality. Waterways Ireland did not conduct any investigation of any nature in respect of this fatality. However, Waterways Ireland co-operated fully with the investigation conducted by An Garda Síochána. I am not aware of the outcome of this investigation or whether it is concluded.

Waterways Ireland have noted the feedback received by the Marine Casualty Investigation Board in relation to the jurisdiction of the various authorities in respect of the regulation and enforcement of legislation designed to improve the safe operation of jet skis. Waterways Ireland fully supports the safety recommendations outlined in the Section 36 Draft Report and we welcome every opportunity to strengthen the systems that protect individuals using the inland waterways.

Waterways Ireland proposes to update the Shannon Bye-laws and Canal Bye-laws which are more than 30 years old. The draft Bye-laws were submitted to the Department of Housing, Heritage and Local Government for consideration on 17th June 2024. In response to a request from the Department, Waterways Ireland submitted a further revised draft of the Bye-laws to the Department on 27th September 2024 for detailed consideration and legal review. This process will need some time to complete.

The proposed Bye-laws would grant Waterways Ireland enforcement powers regarding unsafe operation of vessels, use of safety equipment including life jackets, and vessel registration. It is the Body's intention to utilise the Bye-laws legislation for that purpose.

Correspondence 8.1 Correspondence from Waterways Ireland and MCIB response.

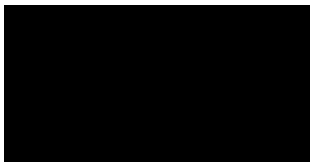


In the interim, Waterways Ireland will continue to promote safe on water behaviours under the current Bye-laws.

Waterways Ireland consent to Observations being included in the Published Report.

Finally, I would like to thank you and the Marine Casualty Investigation Board for the valuable work you undertake on behalf of the State.

Yours Sincerely,



MCIB RESPONSE: The MCIB notes the contents of this observation.

Correspondence 8.2 Correspondence from Tipperary County Council and MCIB response.

JetSki Killaloe Response

To: Marine Casualty Investigation Board, [REDACTED]

21 July 2025 at 10:17

[Details](#)

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Dear [REDACTED]

Further to your letter to on the 10th July 2025, copy attached, and the invitation to make comments on the safety recommendation 6.2 in the report provided, extracted hereunder:

6.2 Recommendations to Clare County Council and/or Clare County Council Municipal District of Killaloe being the local authority responsible for Killaloe and Tipperary County Council being the local authority responsible for Ballina, to:

- i) consider the contents of this report and consider their Bye-laws with regard to the use and operation of PWCs and the communication of those Bye-laws.
- ii) consider the carrying out of internal communication of the safety lessons to its water safety officers.
- iii) consider the carrying out of engagement with their Authorised Officers and with An Garda Síochána on the regulation and enforcement of all safety legislation for the applicable area.
- iv) make available details of their authorised officers and of enforcement action, including any authorised to carry out arrests, and consider how making available that information might assist better regulation and enforcement.

It is understood that Tipperary County Council (TCC) does not fall within the category of persons identified in Section 36.

It is noted that the recommendation combines both local authorities, which you might decide to separate in the final report as there are distinctions, which I will set out hereunder, and also please consider including reference to Nenagh Municipal District, given that Killaloe MD is referred to.

The current TCC Bye-laws for this location do not cover water activities such as jet-skiing, therefore, as such TCC do not have Authorised Officers for this function, and it not proposed to commence the process to make Bye-laws, for the following reasons:

- It is clear from the correspondence/report and the attached *Code of Practice for the Safe Operation of Recreational Craft issued by the Department of Transport*, that Waterways Ireland has Bye-laws in place covering related water recreational activities, and indeed have further draft bye laws to strengthen their position. Section 1.6 it states that 'In Ireland, Waterways Ireland are responsible for the Shannon Navigation...'
- Waterways Ireland has Bye-laws in place for the Shannon Navigation and it is TCC's understanding that they and An Garda Síochána are the authorised officers for enforcement on the Shannon Navigation, and not Tipperary County Council.

I would like to thank you for the opportunity to provide commentary on the Recommendations and trust that the aforementioned will assist in finalising the report, and I would appreciate a copy of the final report once finalised.

Regards

[REDACTED]

MCIB RESPONSE: The MCIB notes the contents of this observation.



Leeson Lane, Dublin 2.
Telephone: 01-678 3485/86.
email: info@mcib.ie
www.mcib.ie

