

**FORESHORE AND DUMPING AT SEA  
(AMENDMENT) BILL 2009**

**REGULATORY IMPACT ANALYSIS**

**November 2009**

**Prepared by the Department of Agriculture, Fisheries, and Food**



### **Note**

The Department of Agriculture, Fisheries and Food has prepared this Regulatory Impact Assessment to accompany the Foreshore and Dumping at Sea (Amendment) Bill 2009, which allocates certain foreshore consent responsibilities to the Minister for the Environment, Heritage and Local Government and to the Minister for Agriculture, Fisheries and Food and transfers responsibility for Dumping at Sea to the Environmental Protection Agency. This RIA has been prepared under the terms of the Revised RIA Guidelines *How to Conduct a Regulatory Impact Analysis* (Dept. of the Taoiseach, 2009).

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## 1.0 BACKGROUND AND CONTEXT

Following the General Election in 2007, the Government decided to transfer responsibility for sea fisheries, aquaculture, marine engineering, marine research, foreshore licensing for all aquaculture developments, and foreshore licensing for certain activities other than those identified below to the Department of Agriculture, Fisheries and Food.

The Government also decided that responsibility for foreshore licensing functions related to harbours listed in the Harbour Acts 1946 to 1996, developments in respect of commercial ports, offshore energy developments, aggregate and mineral extraction, and coastal policy will transfer to the Minister for the Environment, Heritage and Local Government. Responsibility for the Dumping at Sea Acts will transfer to the Environmental Protection Agency at the request of the Department of the Environment, Heritage and Local Government.

The division of responsibility for the foreshore function between two Ministers was not envisaged in the drafting of the Foreshore Act 1933 and subsequent amendments. The purpose of the Bill which this RIA accompanies is to apportion Ministerial responsibility for the operation of the Foreshore Acts, in so doing, the Government intend that the goal of this policy:

*“is both to secure the development of the potential of the inland fisheries and aquaculture sector and equally to protect the quality of water to the standard required by law”.*

### 1.1 Legal Context

The Foreshore Acts 1933 to 2005 require that a lease or licence must be obtained from the Minister for Agriculture, Fisheries and Food prior to undertaking any works or placing structures or material on, or for the occupation of, or removal of material from, state-owned foreshore. The consent of the Minister is also required for development on privately owned foreshore (by far the major portion of foreshore is State-owned). The Foreshore Acts apply to the seabed and shore below the line of high water of ordinary or medium tides and extending outwards to the limit of the territorial seas by 12 nautical miles (22.224 kilometres). Leases and licences are granted subject to the payment of fees and/or rent. Valuation is currently carried out by use of tender for commercial valuation services.

Section 227(8) of the Planning & Development Act, 2000 exempts developments from environmental consideration under the Foreshore Acts where they are by, on behalf of or in partnership with a planning authority but requires An Bord Pleanála to consult with the Minister for Agriculture, Fisheries and Food on such developments. The property management issues associated with these developments such as lease conditions and rent remain the responsibility of the Minister for Agriculture, Fisheries and Food. Developments on the foreshore generally require planning permission in addition to the appropriate consent

under the Foreshore Acts, if the foreshore concerned is contiguous to the functional area of a planning authority.

The Foreshore Acts, 1933 to 2005, comprise 5 Acts, namely:

- Foreshore Act 1933
- Foreshore (Amendment) Act 1992
- Fisheries and Foreshore (Amendment) Act 1998 [section 5]
- Fisheries (Amendment) Act 2003 (Part 5)
- Maritime Safety Act 2005 No. 11 (Part 6)

Certain developments on foreshore are subject to the European Communities (Environmental Impact Assessment) Regulations 1989 to 2006, and require the preparation of an environmental impact statement (EIS) which must be provided to the consultative organisations specified in the European Communities (Foreshore) Regulations 2009 (S.I. No. 404 of 2009).

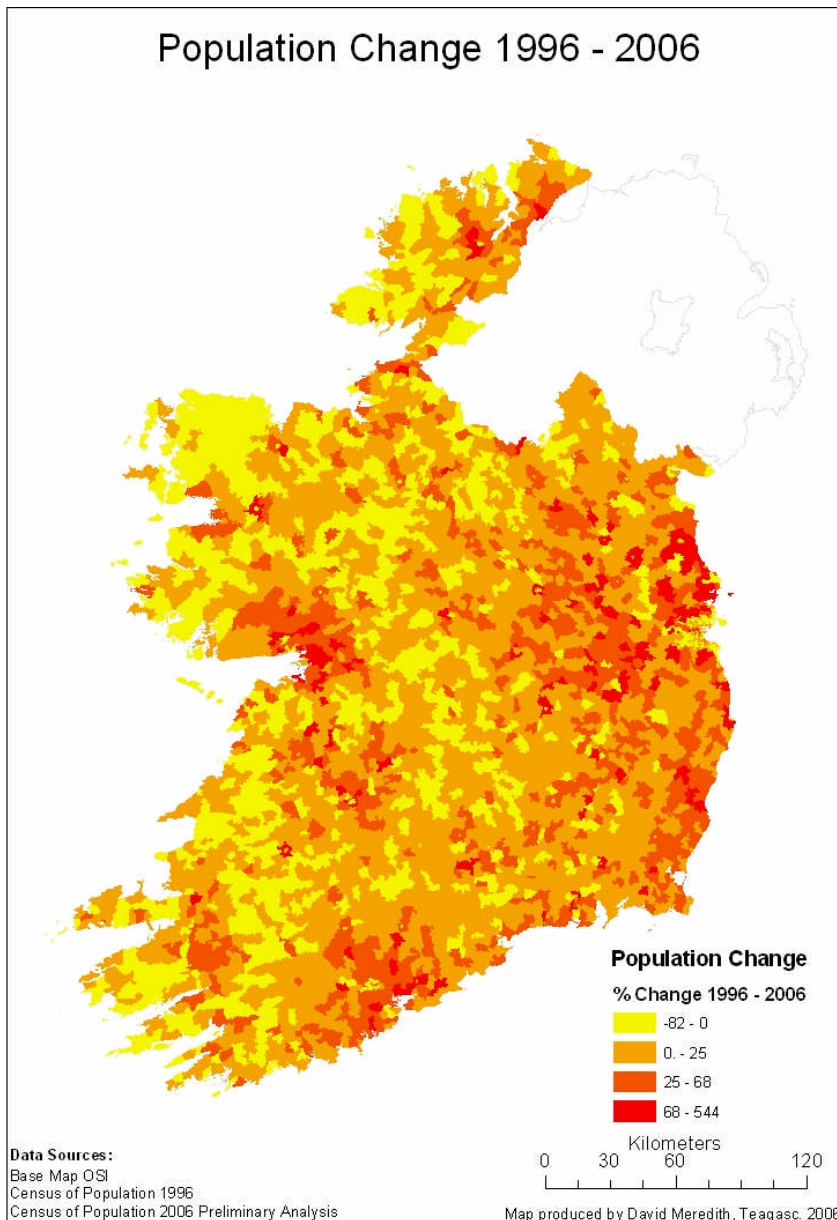
The division of foreshore responsibilities in accordance with the Government Decision is to be accomplished on a functional basis. This means that it is necessary to identify the Minister to which an application will be made based on the nature of the project. There is considerable complexity in developing a sound legal footing for the division of the functions between Ministers in the existing Foreshore Act.

The foreshore licensing process is also closely integrated with the aquaculture licensing process. Aquaculture activities below the high water mark require both a foreshore licence and an aquaculture licence under the Fisheries (Amendment) Act 1997. Section 82 of the Fisheries (Amendment) Act 1997 stipulates that the Minister for Agriculture, Fisheries and Food must have regard to the decision of the licensing authority for aquaculture in deciding on an accompanying foreshore licence. Government Decision S180/20/10/0996 allocates sole responsibility for foreshore licensing functions relating to aquaculture to the Minister for Agriculture, Fisheries and Food.

## 1.2 Policy Context

### Foreshore

The foreshore extends from the High Water Mark out to 12 Nautical Miles. The area covered is 39,000 square kilometres or equivalent to approximately 57% the size of the land mass of the 26 counties. Over 60% of the population of Ireland lives within 10 km of the coast and in some locations, such as the South and East coasts, there is a visible trend of movement to the coastal zone (Meredith, 2006 – see Figure 1.1). As the population continues to grow, additional pressures are placed on the coast and its resources.



**Figure 1.1 Population Change 1996-2006 (from Meredith, 2006)**

The central elements of foreshore management concern the control of foreshore development and the licensing and regulation of aquaculture below the high water mark. The focus of foreshore management in Ireland is the sustainability of the licensed activity or development with regard to the environment and sound marine spatial planning. In addition there is a need to ensure a fair return to the State for the permitting activities or developments licensed on this State property resource.

The foreshore is a unique and important ecologically sensitive resource which supports various economic activities, public infrastructure and recreational uses. The rising population together with the growth in economic development of the past decade has caused an increase in activities on the foreshore and a demand for further development. In order to fully support these demands, an integrated and coordinated approach to planning for and managing the foreshore is essential in order to balance development with the need for conservation. The stated policy for managing these conflicting demands is the development of a system of forward marine spatial planning as set out in Sea Change Strategy for Ireland 2007-2013.

### **Dumping at Sea**

The Dumping at Sea Acts 1996 to 2006 are grounded in the framework of the Convention on the Protection of the Marine Environment of the North-East Atlantic. The Acts effectively outlaw dumping other than by permit from the Minister for Agriculture, Fisheries and Food. There are extensive consultation procedures, including electronic publication. The Minister may only waive consultation in circumstances of urgent navigational safety.

Permits are only issued for dumping of dredge spoil, i.e. sand, silt, etc. The Department reviews applications to determine the type of dredging and the area for deposition. Conditions are inserted in the permit to specify these details. A nominal fee is charged.

### 1.3 Administrative Context

The administration of the foreshore is currently the responsibility of the Coastal Zone Management Division of the Department of Agriculture, Fisheries and Food. The Division's role is that of landlord's agent (foreshore is State property within the meaning of the State Property Act and therefore the property of the Minister for Finance) and of regulatory authority of development in the marine environment.

Where a development is proposed on the foreshore both (1) the property element and (2) the regulatory element must be dealt with in the consent process. The latter is similar to planning permission in an onshore development. Both elements are dealt with in one document through a Foreshore Lease or Licence issued permitting the development (generally subject to specified conditions) and setting out the rent payable. In the case of privately-owned foreshore there is no payment due but Ministerial consent is required. The Minister's power to grant leases, licences or consents is not, generally speaking, delegated and the Minister makes the decision personally.

Some examples of the type of activities and developments for which foreshore consents are given include:

**Table 1.1 Examples of various activities requiring a foreshore consent**

Licence	Lease	Permission
Aquaculture	Piers, Marinas	Private Housing
Waste Water Discharge Pipes	Bridges	Slipways on private foreshore
Horse Racing	Offshore Windfarm	
Site Investigations		

A foreshore lease is used where there is long term and virtually exclusive use of the foreshore in question (e.g. a pier, marina, etc.) while a foreshore licence is used where there is short-term non-exclusive use (e.g. racing, laying of a pipeline under the foreshore, etc.). In addition to covering the area from ordinary high water to the limit of territorial seas, the Foreshore Acts also apply in certain circumstances to cliffs beaches and areas contiguous to the foreshore, defined in the Act as 'seashore'.

In carrying out its functions the Division consults with various experts within the Department and other State agencies, ensures that public consultation is carried out and following full consideration, makes a submission to the Minister.



The Marine Licence Vetting Committee (MLVC) is a non-statutory body of technical, scientific and marine safety and engineering experts which advises the Minister regarding the appropriateness of issuing a lease, licence or consent in respect of cases referred to it. It also advises on the conditions to be attached in the event that the Minister agrees with its recommendation.

The submission to the Minister outlines the approval sought, the objections, if any, to the proposal, the responses of the applicant to any objections, the views of the experts available to advise the Department and a recommendation. If the recommendation is to grant a lease, licence or consent it will also contain information on the rental to be charged, as suggested by the valuation services and draft site-specific lease/licence/consent conditions will accompany the submission.

### **Non Standard Procedures**

Where the proposed development on the foreshore is by, on behalf of, or in partnership with, a local authority and a mandatory Environmental Impact Statement (EIS) is required, the Foreshore Acts do not apply for environmental considerations. Application is made to An Bord Pleanála and copies of the application and accompanying EIS are made available to the Minister at the same time that application is made to the Board. The Minister is a Statutory Consultee and has a minimum of 8 weeks in which to respond to a request from the Board for observations. This situation may also occur where an Bord Pleanála agrees to deal with a local authority application which is below the EIA thresholds.

In the case of offshore renewable energy consents, applications are now being dealt with on a case-by-case basis so as to expedite consideration of licence applications to investigate the availability of the wind, wave or tidal resource in an area. Lease applications are being dealt with in the context of the obligation on the Minister to act in the “public interest” in considering applications under the Foreshore Acts. In 2001 a guideline document entitled “Offshore Electricity Generating Stations – Notes for Intending Developers” was published by the Department of Communications, Marine & Natural Resources which dealt in some detail with offshore windfarm applications. However, this guideline is no longer in operation as it does not facilitate best practice consideration of applications having regard to recent rapid changes in technology and regulatory regimes.

### **Unauthorised developments**

From time to time, the Department becomes aware of unauthorised developments on the foreshore, which may vary from unauthorised land reclamation to construction of a slipway or pier. Where such complaints are received and, on investigation by the Department’s Engineering Division, found to be substantiated, the following courses of action may be appropriate:

- Where the developer is known and the development is on State-owned foreshore, the developer may be requested to remove the structure and reinstate the foreshore.
- Where the developer fails to or refuses to remove the structure, section 12 of the 1933 Act will apply and the Chief State Solicitor may seek an Order from the District Court having jurisdiction in the area, requiring the developer to remove the structure within a specified period of time.
- Where the developer, after the grant of such an Order, fails to comply with the Order, the Minister may remove the structure and recover the costs as a civil debt.
- Where the developer is unknown and the development is on State-owned foreshore notice of the Minister's intention to seek such an Order is placed in a prominent position adjacent to the illegal structure for a period of one month prior to the date of the court case. On the grant of an Order the Minister may then remove the structure at his/her own expense and reinstate the foreshore.

In the case of unauthorised development on privately-owned foreshore, the Minister may only intervene where s/he is satisfied that there is interference with navigation or fishing or there is an unacceptable environmental impact. In accordance with section 10 of the Act the Minister may request that the offending structure be removed in such circumstances and does not need a Court Order to do so.

### **Aquaculture and the Foreshore**

The Coastal Zone Management Division, which administers the foreshore licence application process, also separately administers the aquaculture licence application process. The processes are identical in terms of the application conditions. Aquaculture of any kind cannot be carried out without an aquaculture licence. Where an application for an aquaculture licence below the high water mark is deemed to comply with all the necessary procedures, that application is accepted as meeting the conditions of application for the accompanying foreshore licence.

## **2.0 OBJECTIVES AND OPTIONS**

### **2.1 Ultimate Objective**

The ultimate objective of this regulatory proposal is to reassign certain functions presently held by the Minister for Agriculture, Fisheries and Food to both the Minister for the Environment, Heritage and Local Government and the Environmental Protection Agency. The Minister for Agriculture, Fisheries and Food will retain Foreshore responsibilities where the foreshore consent relates to a Fishery Harbour Centre or where the consent required is for the use, development or support of the sea-fishing or aquaculture industries. In all other cases, an application for a Foreshore Consent or the administration of a function under the Foreshore Acts will be the responsibility of the Minister for the Environment Heritage and Local Government. The Bill also provides for the transfer of the Dumping at Sea functions to the Environmental Protection Agency.

### **2.2 Immediate Objectives**

The immediate objective is firstly to achieve an appropriate division of responsibility for the foreshore functions as envisaged by Government in a manner which will provide a sound legal basis for the effective and efficient administration of the foreshore by each Department and secondly to transfer the Dumping at Sea function to the Environmental Protection Agency so as to provide for coherent management of water quality issues in the coastal zone.

### **2.3 Consideration of Alternatives**

#### **Option 1 'Do Nothing' Scenario**

The do nothing option is primarily included for benchmarking purposes. Therefore it will not be examined in detail as part of this RIA. To take no action would mean a failure to comply with the Government decision which clearly states that primary legislation is needed to effect the transfer.

#### **Option 2 Alternative to Regulation**

As advised by the Office of the Attorney General, the implementation of the Government Decision may only be accomplished by introducing an amendment to the Foreshore Acts and the Dumping at Sea Acts. Therefore, there is not a viable non-regulatory solution to the division of foreshore responsibilities.

## 2.4 Options

### **Option 1 - Apportion Ministerial responsibility throughout each section of the Foreshore Act.**

To implement this approach to the division of responsibilities would require that each section of the Foreshore Act is redrafted to specify the relevant Minister for each function. While this is a plausible approach, it would significantly increase the complexity of drafting the current Bill and any future Foreshore Bill should the Government decide that the powers should reside with a single authority at some point in the future. Such an approach would be counter to Government policy on regulatory reform.

### **Option 2 - Dual Definition of 'Minister' in Act - Proposed Option**

The mechanism used to effect the main changes is to amend the interpretation of "Minister" to mean a specified Minister with respect to specific functions. The option chosen in the bill is to divide responsibility for the administration of the foreshore in accordance with the criteria specified by the Government.

The proposed approach seeks to divide Ministerial responsibility in a manner which requires the minimum number of changes to the Foreshore Act. Of necessity a small number of amendments have been made to the Act in order to ensure that it is coherent with current legislative standards concerning use of language etc.

Ministerial responsibility for Foreshore consents is divided on a functional basis within the Bill. However, the Foreshore Acts contain a number of other powers, in sections 6, 7, 9, 11, 12, 13 and 14 and sections 5 and 6 of the Foreshore (Amendment) Act 1992, not related to foreshore consents which are in effect powers to manage the coastal zone and therefore sole responsibility for these sections is being assigned to the Minister for the Environment, Heritage and Local Government. These sections contain powers to take action for the purposes of coastal management and protection. The allocation of these responsibilities is in line with the Government policy on the functions transferring and is consistent with the functions of the Department of the Environment, Heritage and Local Government since these functions closely match that Department's mission statement which is "*to pursue sustainable development*".

It will prove necessary for the Ministers to consult each other prior to determining foreshore consents so as to ensure that there is optimum use of the foreshore resource having regard to relevant national policies and sustainable development. Such a provision is necessary in the interest of good public management. Accordingly, the Bill contains such a provision.

The approach taken which divides Ministerial responsibility based on the definition of Minister in the Act is the simplest mechanism to give full effect to the division of responsibilities. An

amendment to section 32 of the Fisheries (Amendment) Act 2003 is also necessary to allow each Minister to set fees for applications and for consents.

### **Consultees and Time limits**

The Department of the Environment, Heritage and Local Government has indicated that the requirement by Government to seek the advice of the Environmental Protection Agency on all foreshore licence and lease applications will be implemented by regulations. The Bill contains a provision to give the Minister for the Environment, Heritage and Local Government the power to make regulations to define bodies for consultation and to set time limits for the receipt of responses. At present, there is a statutory period of 8 weeks allowed for consultation with a list of prescribed bodies where an application requires Environmental Impact Assessment (EIA).

The Minister for the Environment, Heritage and Local Government has signalled his intent to review the operation of the Foreshore Acts 'to ensure that they are tightly integrated with the modern planning processes available under the 2000 Planning Act and the 2006 Strategic Infrastructure Act' (to the Joint Oireachtas Committee on Environment, Heritage and Local Government on 1 July 2008). The introduction of regulations prescribing consultees and time limits for consultations will greatly assist in this integration

### **Dumping at Sea Amendment**

Responsibility for the Dumping at Sea Act 1996 will transfer to the Environmental Protection Agency at the request of the Department of the Environment, Heritage and Local Government (DEHLG). The Bill assigns responsibility for the administration of the Dumping at Sea Acts to the EPA. In addition to this the Bill amends the sections of the Acts which deal with:

consultation arrangements ;authorised officers; legal proceedings , publication of registers; and the making of regulations to set fees etc.

As appropriate, the Minister for Agriculture, Fisheries and Food will now be consulted when an application for a Dumping at Sea permit is being considered, to enable the effects on fishing, aquaculture or related activities on foreshore to be examined, in accordance with the general considerations in Schedule 1 Part C of the Dumping at Sea Act.

A further amendment is that the threshold for the dumping of below low level radioactive material is to be set by the Radiological Protection Institute of Ireland rather than the Minister.

## 2.5 Impact and Benefits

### Benefits

The Department of the Environment, Heritage and Local Government will be in a position to apply its Mission Statement “*To pursue sustainable development*” to coastal management. That Department’s expertise in the management of planning and development can now be applied to the coastal zone and in particular to the foreshore consent process for significant development projects such as public infrastructure, offshore energy and marine aggregate extraction.

It has long been recognised that the foreshore consent process needs to develop a strategic focus to planned development. The former Department of Communications, Marine and Natural Resources which held responsibility for marine functions prior to July 2007 intended to carry out a review of the foreshore legislation and framework. The transfer of these functions to the Department of the Environment, Heritage and Local Government will allow a possible review to focus on a greater integration of coastal developments with the Planning and Development system. This would assist in the development of a system of marine spatial planning taking into account obligations under the Aarhus Convention, the Marine Strategy Directive and the EU Recommendations on Integrated Coastal Zone Management.

### Impacts

The Foreshore Acts do not define how the administration of the foreshore should take place. For example time limits and fees are not defined within the Acts and most actions are at the Minister’s discretion. If separate administration systems evolve under the responsibility of each Minister the risk exists that there will not be an equitable consideration process for foreshore consents for varying activities. Such a scenario may pose challenges when attempting to provide for Marine Spatial Planning, as set out in the Department’s Strategy Statement and the Sea Change research programme. It will be important to put in place mechanisms which anticipate and prevent such an outcome.

The requirement to consult the Environmental Protection Agency for every foreshore licence/lease application will increase the number of bodies consulted in the processing of applications. The consideration of advice received from the EPA may increase the time taken to process a foreshore application. This will affect all foreshore applications, including those for aquaculture purposes. The aquaculture licence process is currently subject to a considerable backlog due to issues surrounding the receipt of observations from a range of consultees.

However, the Bill contains a provision to allow the Minister for the Environment, Heritage and Local Government to bring forward regulations regarding consultation on foreshore consents. This provision may affect, in the event of regulations being proposed, any named organisations which will be required to respond within a defined timeframe. Such

organisations may need to be appropriately resourced to fulfil this role. Since the Bill requires each Minister to consult with each other, the application of such regulations would likely impact on both departments. At present a number of bodies are consulted in line with the European Communities (Foreshore) Regulations 2009 where an application is accompanied by an Environmental Impact Statement and are given 8 weeks to respond. Additionally, a range of bodies are presently consulted on foreshore applications on a non-statutory basis.

### **3.0 CONSULTATION**

The Government Decisions of 2 and 9 October, 2007 set out the parameters of the transfer of functions. The affected Departments have been aware of these decisions since October 2007 and have engaged in extensive discussions on the impacts. As there is no change proposed to the consent processes, other than the division of responsibility, a public consultation is not deemed necessary.

#### **3.1 Interdepartmental/agency Consultation**

Officials from both the Department of the Environment, Heritage and Local Government (DEHLG) and the Department of Agriculture, Fisheries and Food (DAFF) have met on several occasions and have given careful consideration to the issues presented by the Bill. The Departments have shared information on the legal, administrative and financial operations of the functions transferring to ensure that DEHLG officials are well briefed on the incoming responsibilities.

Relevant Departments were invited to make submissions on the Heads of the Bill and RIA at submission stage. Departments were provided a further opportunity to submit observations on the proposed legislative changes during the circulation of the Scheme of the Bill prior to seeking Cabinet approval.

#### **3.2 Consultation with Government**

The memorandum seeking the agreement of the cabinet to the Heads of Bill together with the RIA were circulated to the relevant Departments. No observations were received.

#### **3.3 Consultation with Stakeholders**

The proposed Bill is designed to give effect to the transfer of functions as requested by Government. As such, the proposed text is not an attempt to significantly review the existing operation of the Foreshore and Dumping at Sea Acts. The Minister for the Environment, Heritage and Local Government has signalled his intention to conduct a review of Foreshore legislation (to the Joint Committee on the Environment, Heritage and Local Government on 1 July 2008). This review and any subsequent legislative proposals will present a more appropriate and effective mechanism to engage in wider stakeholder consultation.



## **4.0 COSTS**

### **4.1 Introduction**

It is proposed to achieve the effective division of foreshore administration on an Exchequer neutral basis.

### **4.2 Costs**

The costs associated with the implementation of this Bill are as follows:

#### **Environmental Protection Agency**

DEHLG has discussed with the EPA the possible impacts and any potential cost implications arising from its consultative role on foreshore applications and the transfer of responsibility for the Dumping at Sea Acts. It is the intention of the EPA that the costs arising from the administration of the Dumping at Sea Acts will be self-financing from fees charged for Dumping at Sea permits. A separate Regulatory Impact Analysis will be prepared to accompany the regulations which set the level of fees.

#### **Application Processing in Departments**

The division of responsibilities for the foreshore between two departments requires a high level of co-ordination and co-operation between the departments. Managing the foreshore is a very complex role which involves reaching determinations on major projects, involvement in legal cases and enforcement proceedings and the efficient management of the application process, including appropriate consultation. For this reason it is essential that each department has the appropriate staffing complement to provide these functions. In addition it is clear that a co-ordination mechanism between departments will need to be put in place. At this stage in the legislative process it is not possible to quantify the resources, if any, necessary for this purpose. However these resources are not expected to be significant.

#### **Resources transferring between Departments**

In order to address the transfer of functions, the Department of Agriculture, Fisheries and Food, will make a number of staff available who will transfer to the Department of the Environment, Heritage and Local Government on enactment of the Bill. Agreement between the Departments has been reached on the total number of administrative and engineering staff to transfer. It is intended that the necessary scientific support of the Marine Institute will be made available to the Department of the Environment, Heritage and Local Government through a Service Level Agreement between the Institute and that Department.

### **4.3 Costs of Enforcement**

There are no additional enforcement provisions contained in this Bill; hence no additional costs arise.

### **4.4 Potential Impacts**

#### **Administrative Processes and Structures**

This Bill provides for the division of functions under the Foreshore Acts. In doing so it does not prescribe how each Department should carry out these functions. There is the potential, over time, for each department to develop divergent administrative systems for this function. Indeed given that the majority of large commercial applications will fall to be determined by the Minister for the Environment, Heritage and Local Government certain differences in the administrative procedures may be required. However, in the interests of equitable treatment of applicants these differences will need to be kept to a minimum, and any such changes should have a sound legal basis. There are no provisions within this Bill to modify the foreshore licensing process other than to apportion responsibility for its administration.

#### **Review of Foreshore Legislation and Processes**

The former Department of Communications, Marine and Natural Resources issued a tender on 5 April 2007 seeking a consultancy to undertake a strategic review of the legislative framework, structures, and procedures in place to manage the State-owned foreshore. The object of the review was to outline the options, informed by best international practice, for putting in place a modernised legislative framework and improved systems and procedures for Coastal Zone Management, which will best fit the medium to long term requirements in this area. The review was intended to be strategic in nature encompassing legal, marine planning/environmental and economic considerations.

In view of the Government Decision to transfer functions, it was deemed inappropriate to advance the proposed review which would be of such fundamental strategic importance to both departments. Consideration will have to be given by both Departments to the question of how the proposed review should be progressed.

The review was intended to:

- Identify and examine the current legislative and procedural arrangements for coastal zone management in Ireland
- Outline a Strategic Vision for improved Coastal Zone Management
- Review and recommend options for the development of a modernised legislative framework for Coastal Zone Management
- Recommend new and improved procedures and practices which will ensure improved Coastal Zone Management and improved customer service

The scope of the review was intended to encompass:

- Legislative and other arrangements in place in selected EU Member States
- Legislative provisions currently in force in Ireland
- Current Lease processing arrangements, including existing skills base and support structures
- The current valuation of foreshore leases
- Other related administrative structures
- Existing involvement of other public bodies (outside the Department) in the Coastal Zone Management process

### **National Competitiveness**

Offshore energy projects are both physically, in terms of space occupied, and financially the largest type of projects dealt with through the foreshore consents process. Two large offshore windfarm leases have been granted and a number of wind, wave and tidal projects are at application stage. These projects have the potential to provide a significant contribution to the national energy infrastructure, subject to receiving the appropriate consents. There are also many other major projects including proposed port developments which require foreshore consents

The impact of the Bill on these projects will see the responsibility for these applications transfer to the Minister for the Environment, Heritage and Local Government. It is not foreseen that this transfer of responsibility will negatively impact the assessment of these projects.

The legislative proposal does not contain any provisions which would affect employment.

### **The Environment**

The Departments have agreed on mechanisms to provide access to the Marine Institute and to transfer a certain number of Engineers. This will enable each Minister to avail of scientific and technical expertise and thereby ensure that the protection of the environment is given fullest consideration in the foreshore consent process.

### **Significant Policy Change**

There is no significant policy change proposed in the Bill.

### **Consumers**

There are no impacts on consumers.

### **Rights of Citizens**

There are no impacts on the rights of citizens.

### **Vulnerable Social Groups**

There are no impacts on vulnerable social groups.

### **Transboundary Issues**

Transboundary consultation takes place as a matter of course where when processing relevant foreshore applications. This consultation is not affected by the transfer of the stated functions.

## **4.5 Conclusion**

The Foreshore and Dumping at Sea (Amendment) Bill 2009 provides for the transfer of foreshore and dumping at sea functions as requested by the Government.

The proposed amendment alters the definition of 'Minister' in the Foreshore Acts to divide responsibility for the licensing of projects and leasing of the foreshore between the Ministers as directed by Government. Responsibility for the Dumping at Sea Acts will also transfer to the EPA. There are no changes to the administrative process within the Bill and the only expected impacts will be within the Departments concerned and the EPA.

## **5.0 ENFORCEMENT AND COMPLIANCE**

The proposed Bill does not contain any proposals to amend the existing enforcement and compliance provisions. Responsibility for post-consent compliance will rest with the Minister who carries responsibility for the activity to which the consent relates and with the EPA in the case of Dumping at Sea. For example, the Minister for the Environment, Heritage and Local Government will be responsible for ensuring post-consent compliance for offshore energy projects, while the Minister for Agriculture, Fisheries and Food will fulfil this obligation for consents relating to aquaculture. Responsibility for functions under the Foreshore Acts which relate to coastal management issues will be enforced by the Minister for the Environment, Heritage and Local Government. The Environmental Protection Agency will carry sole responsibility for the Dumping at Sea Acts.

## **6.0 REVIEW**

The function of this Bill is to transfer responsibility for the Dumping at Sea Acts to the EPA and to transfer certain functions under the Foreshore Acts from the Minister of Agriculture, Fisheries and Food to the Minister for the Environment, Heritage and Local Government. The Foreshore Acts currently require that an annual financial statement be laid before the Houses of the Oireachtas. An annual review of the administration of the transfer of foreshore functions set out in this Bill should take place to ensure that the foreshore licensing system is effective, proportionate and fair. It is proposed that an interdepartmental Foreshore Administration Committee will be formed to facilitate the administration of the foreshore consent process between the two functional departments.

## **7.0 REFERENCES**

Meredith D, 2006. CHANGING DISTRIBUTION OF IRELAND'S POPULATION 1996 – 2006: URBAN / RURAL ANALYSIS Working Paper 06-WP-RE15 Teagasc.

Marine Institute, 2007. Sea Change – A Marine Knowledge, Research & Innovation Strategy for Ireland (2007-2013),

Marine Institute, 2007. Sea Change (2007-2013) Part II – A Marine Foresight Exercise for Ireland