



Statutory Document No. 804/04

THE SUBMARINE CABLES ACT 2003

THE SUBMARINE CABLES (SAFETY) REGULATIONS 2004

Approved by Tynwald: 15 December 2004

Coming into operation: 28 January 2005

In exercise of the powers conferred on the Department of Transport by sections 3 and 10(2) of the Submarine Cables Act 2003¹ and after consulting persons whom the Department of Transport considers will be thereby affected, the following Regulations are hereby made:—

1. Citation, commencement and interpretation

(1) These Regulations may be cited as the Submarine Cables (Safety) Regulations 2004 and, subject to section 10(4) of the Act, shall come into operation on the 28 January 2005.

(2) In these Regulations —

"the Act" means the Submarine Cables Act 2003;

"cable" means a cable laid or to be laid in, under or over territorial waters;

"cable works" means any works for the laying, repair, alteration or removal of a cable;

"the Department" means the Department of Transport;

"pipeline" has the same meaning as in Part III of the Petroleum Act 1998 (an Act of Parliament)², as it has effect in the Island³;

"the responsible person", in relation to any cable works, means —

- (a) in the case of works authorised by an authorisation, the holder of the authorisation;
- (b) in any other case, the person by whom the works are carried out or to be carried out;

¹ 2003 c.5

² 1998 c.17

³ SD 562/00

"salvage purposes" means the preservation or recovery of vessels wrecked, stranded or in distress, or their cargo or apparel, or the recovery of any other property from the water and includes the removal of wrecks;

"seabed works" means any works for dredging or otherwise disturbing the bed of the sea within territorial waters.

2. Certain works not to be carried out near cables

(1) Subject to paragraphs (2) to (4), any person who carries out, or causes to be carried out, any seabed works within 250 metres of a cable is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or custody for a term not exceeding 6 months, or both.

(2) Paragraph (1) does not apply to works carried out in accordance with —

- (a) an authorisation under section 1(1) of the Act,
- (b) an authorisation under section 14 of the Petroleum Act 1998 (an Act of Parliament), as it has effect in the Island,
- (c) a licence under section 19 of the Water Pollution Act 1993⁴, or
- (d) a consent under section 15 of the Harbours (Isle of Man) Act 1961⁵.

(3) In proceedings for an offence under paragraph (1) it is a defence for the person accused to show that —

- (a) the works were necessary for —
 - (i) the maintenance or repair of a cable or pipeline, or
 - (ii) salvage purposes, and
- (b) either —
 - (i) written notice of the works was given to the Department not less than 14 days before they commenced, or
 - (ii) they were necessary to prevent the death of or serious injury to persons or serious damage to the environment and written notice of them was given to the Department as soon as practicable after they commenced.

(4) In proceedings for an offence under paragraph (1) it is a defence for the person accused to show that —

- (a) he did not know of the position of the cable, and
- (b) its position was not shown or indicated on —
 - (i) any published chart, or
 - (ii) a current Admiralty Notice to Mariners published by the Hydrographer of the Navy.

⁴ 1993 c.14

⁵ XIX p.538

3. Notice of commencement of cable works

(1) Not less than 14 days before the commencement of any cable works the responsible person shall give to the Department written notice describing the works and specifying the time and place where they are to be carried out.

(2) Where the responsible person fails to comply with paragraph (1), he is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(3) In proceedings for an offence under paragraph (2) it is a defence for the person accused to show that either —

- (a) written notice of the works was given to the Department not less than 14 days before they commenced, or
- (b) they were necessary to prevent the death of or serious injury to persons or serious damage to the environment and written notice of them was given to the Department as soon as practicable after they commenced.

4. Inspection of cable works

(1) Where any cable works are carried out, an authorised person shall from time to time carry out such inspections of the works and the site of them as he considers reasonable for the purpose of determining the measures to be taken to ensure —

- (a) the safety of the cable and of any other structures or apparatus associated with it; and
- (b) safety while the cable works are being carried out.

(2) An inspection under this regulation may be carried out at any time before or after the cable works are carried out or while they are being carried out.

MADE 27 October 2004

J P Shimmin
Minister for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations make provision for the safety of submarine cables within territorial waters. Regulation 2 makes the unauthorised disturbance of the seabed within 250 metres of a cable an offence. The definition of ‘seabed works’ is not intended to cover fishing, either by dredging or nets. Instead the definition covers dredging for aggregate, dredging a trench for a pipeline or installing a platform. Regulation 3 requires prior notice to be given to the Department of Transport of any works for the

laying, repair, alteration or removal of cable, and regulation 4 provides for the inspection of such works. Other regulation-making powers are not curtailed by these Safety Regulations, in particular powers under health and safety legislation and shipping legislation.