

# MARINE INFRASTRUCTURE MANAGEMENT BILL 2015

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## Explanatory Memorandum

1. This Bill is promoted by Mr Gawne on behalf of the Council of Ministers. In this memorandum “the Act” means the Act which will result if the Bill is passed.
2. *Clauses 1 to 3* deal with preliminary matters, providing the resulting Act with its short title (*clause 1*), its commencement (*clause 2*) and the interpretation of certain terms used in it (*clause 3*).
3. *Clause 4* states the purpose of the Act, namely—
  - (a) to provide a streamlined decision-making process for consent to development proposals within the territorial sea;
  - (b) to ensure a sustainable approach to marine development within the territorial sea;
  - (c) to provide a decision-making process that is clear for applicants and decision-makers; and
  - (d) to provide power to adapt the law to reflect emerging technologies and developing approaches to marine activities.
4. *Clause 5* defines the Act’s scope of application, so that it applies to controlled marine activities which occur within the controlled marine area. These two key concepts are then defined in *clauses 6 and 7* respectively.
5. *Clause 8* explains what is meant by marine infrastructure consent (referred to below simply as “consent”), and *clause 9* defines the circumstances in which it is required.
6. *Clause 10* sets out the timetable for the various steps which may or must be taken in determining an application for consent.
7. *Clauses 11 to 15* set out the steps which must be taken before an application for consent is made.
8. *Clause 16* requires the Department of Infrastructure (“**the Department**”) to make regulations about the provision of advice and assistance to prospective applicants for consent.
9. *Clause 17* enables the Department to authorise a prospective applicant for consent to serve a notice requiring a third party to give the prospective applicant—
  - (a) details of any interest which may be affected by the proposed controlled marine activities; or

- (b) details of an individual who might be able to give the details required under paragraph (a).
10. *Clause 18* permits the Department to authorise a person to exercise a right of entry for purposes connected with an actual or proposed application for consent. Such powers might be needed, for example, for the purposes of a survey.
  11. *Clause 19* deals with the form of an application for consent, and *clause 20* provides for the keeping by the Department of a register of applications and for access to it. *Clause 21* imposes a requirement upon an applicant for consent to confirm that the application complies with the requirements of *clause 19*.
  12. *Clauses 22 and 23* deal with the initial processing by the Department of an application for consent.
  13. *Clauses 24 to 27* deal with public consultation on an application for consent (*clause 24*), the reference of an application to one or more examiners for examination (*clause 25*) the appointment of examiners (*clause 26*) and the composition of panels of examiners (*clause 27*).
  14. *Clauses 28 to 35* detail the procedural rules for the examination of an application. *Clause 28* deals with procedure, *clause 29* with the requirement to hold a preliminary meeting, *clause 30* with the consideration by an Examiner or a Panel of written representations about an application for consent. *Clause 30* also makes it clear that, unless a hearing is directed in respect of an application or part of it, the application will be determined on written representations. *Clause 31* enables an Examiner or a Panel to conduct a hearing in respect of a particular issue which falls to be determined, *clause 32* deals with the power of an Examiner or a Panel to hold a public meeting about an application if they consider that appropriate, and *clause 33* permits them to request the Council of Ministers to appoint assessors to assist them in the consideration of an application. *Clause 34* permits the Examiner or Panel to request the Council of Ministers to appoint a suitably qualified person to provide them with legal advice. It further provides that fees regulations under *clause 53* may make provision about the legal adviser's costs. *Clause 35* deals with the procedural steps which the Examiner or Panel must take on the conclusion of their examination. If they recommend the grant of a consent under the Act, they must include a draft of the consent with their report to the Council of Ministers.
  15. *Clause 36* deals with the procedure to be adopted by the Council of Ministers in reaching a decision on an application for consent in the light of the report delivered under *clause 35*.
  16. *Clauses 37 to 39* deal with the content and form of a consent: *clause 37 and Schedule 1* deal with the content of a consent, *clause 38* sets out limitations on the provision which may be made by a consent relating to the interaction with other requirements for consent especially in the context of discharge into the marine environment or substrata, and *clause 39* sets out rules on the publication of

- consents, their delivery to the General Registry, and their transmission by the Council of Ministers to the Department for inclusion in the register.
17. *Clauses 40 to 44* deal with matters once the decision on an application has been made. *Clause 40* makes it clear that the only way in which a challenge may be mounted against a consent which has been granted is by petition of doleance to the High Court. *Clause 41* provides a mechanism for the Council of Ministers to correct errors in a decision if requested to do so by the applicant and if the Department and the Department of Environment, Food and Agriculture consent. *Clause 42* provides a mechanism for making changes to a consent if the changes are not material, and *clause 43* provides on for those changes which are material. *Clause 44* provides for the maintenance by the Department of the register of consents.
  18. *Clauses 45 to 49* deal with the implementation of the works authorised by a consent and the enforcement of its terms. *Clause 45* deals with the production of implementation plans and *clause 46* with the duration of a consent. *Clause 47* provides a right of entry to monitor compliance with a consent, and *clause 18* is applied for the purposes of this clause. *Clause 48* confers a power on an undertaker carrying out works under a consent to request confirmation from the Department that the work being undertaken is in conformity with a consent. If requested to do so, the Department must provide a response to the request. *Clause 49* confers power on the Department to enter land and arrange for modifications to be made to any works undertaken in purported compliance with a consent if an undertaker has been notified under *clause 48(8)* that the works do not comply with the consent, a reasonable time has elapsed and the works have not been done. The clause also applies if someone has been convicted of an offence of undertaking works requiring a consent but for which no consent has been granted.
  19. *Clause 50* confers a power on the Department to make regulations exempting specified marine activities or classes of marine activities from the application of the Act.
  20. *Clauses 51 to 54* deal with miscellaneous matters. *Clause 51* enables the Department to issue Marine Plans and Policy Statements. *Clause 52* enables procedural regulations, and *clause 53* enables fees regulations to be made by the Department in connection with the Act. *Clause 54* provides that if something might be authorised by a consent or under one of the consenting regimes (as defined in *clause 9*) it may only be authorised by a consent, unless regulations under *clause 54(2)* provide otherwise. *Clause 55* deals with the application of the Act to cross-jurisdiction works.
  21. *Clauses 56 to 58* deal with offences, prescribing the penalties for offences under provisions elsewhere in the Act (*clause 56*), offences by corporations (*clause 57*) and defences (*clause 58*).
  22. *Clause 59* deals with the application of the Act to the Crown.

23. *Clause 60* deals with the Tynwald procedures which apply to secondary legislation.
24. *Clause 61* empowers the Department to make regulations dealing with the transition from the existing consenting regimes to the regime created by the Bill.
25. *Clause 62 and Schedule 2* make amendments consequential on the new regime created by the Act.
26. An assessment of the impact of the financial implications of the Bill has been prepared by the Department. The intention is that the Bill will be cost-neutral.
27. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



*Ellan Vannin*

## MARINE INFRASTRUCTURE MANAGEMENT BILL 2015

### Index

Section	Page
1 Short title .....	9
2 Commencement .....	9
3 Interpretation.....	9
4 Purpose of Act.....	10
<i>Scope of Act</i> .....	<b>10</b>
5 Basic principle .....	10
6 Controlled marine activities .....	10
7 Controlled marine area .....	11
<i>Marine infrastructure consents</i> .....	<b>11</b>
8 Nature of consent.....	11
9 Requirement for consent.....	11
10 Timetable for applications .....	12
<i>Pre-application requirements</i> .....	<b>17</b>
11 Consultation .....	17
12 Publication .....	17
13 Environmental impact assessment.....	17
14 Guidance .....	18
15 Scoping Opinions.....	18
<i>Assistance</i> .....	<b>19</b>
16 Advice and assistance .....	19
<i>Obtaining information</i> .....	<b>19</b>
17 Power to require information .....	19
18 Powers of entry .....	19
<i>Making of application</i> .....	<b>21</b>
19 Form of application .....	21
20 Register of applications.....	22
21 Confirmation of submission of information .....	22
<i>Initial processing</i> .....	<b>22</b>
22 Acceptance of application for examination.....	22
23 Notification of accepted application .....	23

	<b><i>Handling of application</i></b>	<b>23</b>
24	Public consultation and interested parties.....	23
25	Reference for examination .....	24
26	Examiners .....	24
27	Panels .....	24
	<b><i>Examination of application</i></b>	<b>25</b>
28	Procedure for examination.....	25
29	Preliminary meeting .....	26
30	Written representations.....	26
31	Specific-issue hearings.....	26
32	Public meeting .....	27
33	Assessors .....	27
34	Legal advice and assistance .....	27
35	Completion of examination .....	28
	<b><i>Determination of application</i></b>	<b>28</b>
36	Decision on Examiner's or Panel's recommendations .....	28
	<b><i>Content and form</i></b>	<b>30</b>
37	Content.....	30
38	Limitations .....	31
39	Formalities.....	31
	<b><i>Post-decision</i></b>	<b>32</b>
40	Review .....	32
41	Correction of errors.....	32
42	Non-material changes.....	32
43	Material changes and revocation .....	33
44	Register of consents.....	34
	<b><i>Implementation and enforcement</i></b>	<b>35</b>
45	Implementation plan.....	35
46	Duration of consent.....	36
47	Powers of entry .....	36
48	Confirmation of compliance .....	36
49	Remedial works.....	37
	<b><i>Exemptions</i></b>	<b>38</b>
50	Power to exempt.....	38
	<b><i>Miscellaneous</i></b>	<b>39</b>
51	Marine Plan and Policy Statements .....	39
52	Procedural regulations .....	39
53	Fees.....	39
54	Disapplication of other consenting regimes.....	40
55	Cross-jurisdiction works .....	40
	<b><i>Offences</i></b>	<b>41</b>
56	Penalties.....	41
57	Offences by body corporate .....	41

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58	Defence .....	41
	<i>General</i> .....	42
59	Crown application .....	42
60	Orders and regulations .....	42
61	Transitional provisions .....	42
62	Consequential amendments .....	43
<b>SCHEDULE 1</b> .....		<b>45</b>
PROVISION THAT MAY BE INCLUDED IN A MARINE INFRASTRUCTURE CONSENT NOTICE .....		45
<b>SCHEDULE 2</b> .....		<b>47</b>
CONSEQUENTIAL AMENDMENTS .....		47







*Ellan Vannin*

## MARINE INFRASTRUCTURE MANAGEMENT BILL 2015

1 **A BILL** to make provision for a consenting process for certain activities in the  
2 Island marine environment; and for connected purposes.

**BE IT ENACTED** by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows: —

3 **1 Short title**

4 The short title of this Act is the Marine Infrastructure Management Act 2016.

5 **2 Commencement**

6 The following provisions of this Act come into operation on such day or days as  
7 the Department may by order appoint.

8 **3 Interpretation**

9 In this Act —

10 “**associated marine activities**” has the meaning given by section 6(2);

11 “**consenting regimes**” has the meaning given by section 9(5);

12 “**controlled marine activities**” has the meaning given by section 6(1);

13 “**controlled marine area**” has the meaning given by section 7;

14 “**the Department**” means the Department of Infrastructure;

15 “**Examiner**” has the meaning given by section 26;

16 “**implementation plan**” has the meaning given by section 45;

17 “**interested parties**” has the meaning given by section 24;

18 “**prescribed**” has the meaning given by section 60(1);

19 “**submission date**” has the meaning given by section 19; and

20 “**working day**” means any day other than a Saturday, a Sunday, Christmas Day,  
21 Good Friday or, a bank holiday under the *Bank Holidays Act 1989* or a day

1 declared to be a non-business day under a Treasury order under section  
2 1 of the *Banking and Financial Dealings (Isle of Man) Act 1973*.

#### 3 4 Purpose of Act

4 The purpose of this Act is —

- 5 (a) to provide a streamlined decision-making process for consent to  
6 development proposals within the territorial sea;
- 7 (b) to ensure a sustainable approach to marine development within  
8 the territorial sea;
- 9 (c) to provide a decision-making process that is clear for applicants  
10 and decision-makers; and
- 11 (d) to provide power to adapt the law to reflect emerging  
12 technologies and developing approaches to marine activities.

#### 13 *Scope of Act*

#### 14 5 Basic principle

15 This Act applies to controlled marine activities and associated marine activities  
16 (see section 6) taking place or proposed to take place in the controlled marine  
17 area (see section 7).

#### 18 6 Controlled marine activities

- 19 (1) The following are controlled marine activities —
- 20 (a) offshore renewable energy generation;
- 21 (b) aggregate extraction;
- 22 (c) laying of submarine cables;
- 23 (d) laying of submarine pipelines;
- 24 (e) gas drilling;
- 25 (f) carbon capture and storage; and
- 26 (g) exploration for and exploitation of natural gas and petroleum  
27 (within the meaning given by section 9 of the *Petroleum Act 1986*  
28 (interpretation)).
- 29 (2) Activities are “**associated marine activities**” for the purposes of this Act  
30 if they are required in connection with any of the activities in subsection  
31 (1).
- 32 (3) The Department may by order —
- 33 (a) add an entry to subsection (1);
- 34 (b) remove an entry from subsection (1);
- 35 (c) amend an entry in subsection (1);

- 1 (d) make provision for defining an expression in subsection (1).
- 2 (4) The Department may by order specify classes of activity that are, or are
- 3 not, to be treated as associated marine activities for the purposes of
- 4 subsection (2).
- 5 (5) The Department may give guidance as to the meaning of an expression
- 6 in subsection (1) or (2); and any person exercising a function under this
- 7 Act must have regard to the guidance.

## 8 **7 Controlled marine area**

- 9 (1) The controlled marine area is the area between —
- 10 (a) mean high water mark; and
- 11 (b) the seaward boundary of the Isle of Man territorial sea (within the
- 12 meaning of the *Territorial Sea Act 1987* (an Act of Parliament)).
- 13 (2) But an area within harbour limits determined in accordance with the
- 14 *Harbours Act 2010* is not part of the controlled marine area.
- 15 (3) The Department may by order provide for specified areas or classes of
- 16 area —
- 17 (a) to be excluded from the controlled marine area; or
- 18 (b) to be included in the controlled marine area,
- 19 and an order under this subsection may provide for specified enactments
- 20 to apply (with or without specified modifications) to areas excluded from
- 21 the controlled marine area, or to apply with specified modifications, or
- 22 not to apply, to areas included in the controlled marine area (and
- 23 subsection (2) is subject to this subsection).

## 24 *Marine infrastructure consents*

### 25 **8 Nature of consent**

- 26 (1) Marine infrastructure consent is a consent granted for the carrying out of
- 27 controlled marine activities in the controlled marine area.
- 28 (2) A marine infrastructure consent may be granted only in pursuance of an
- 29 application under this Act.
- 30 (3) A marine infrastructure consent may include consent for the carrying out
- 31 of associated marine activities.

### 32 **9 Requirement for consent**

- 33 (1) Controlled marine activities may not be carried out in the controlled
- 34 marine area except in accordance with a marine infrastructure consent.
- 35 (2) A person who contravenes subsection (1) is guilty of an offence.

- 1 (3) Subsection (2) applies to contravention of subsection (1) —
- 2 (a) by carrying out activities to which no consent applies; or
- 3 (b) by carrying out activities without complying with the terms and
- 4 conditions of a consent.
- 5 (4) Carrying out controlled marine activities or associated marine activities
- 6 in the controlled marine area, in accordance with a marine infrastructure
- 7 consent, does not require permission, consent or approval under any of
- 8 the consenting regimes.
- 9 (5) The consenting regimes are —
- 10 (a) the *Town and Country Planning Act 1999*;
- 11 (b) the *Harbours Act 2010*;
- 12 (c) the *Water Pollution Act 1993*;
- 13 (d) the *Submarine Cables Act 2003*;
- 14 (e) the *Minerals Act 1986*;
- 15 (f) the *Petroleum Act 1986*;
- 16 (g) the *Wildlife Act 1990*;
- 17 (h) the *Fisheries Act 2012*;
- 18 (i) the *Electricity Act 1996*;
- 19 (j) the *Petroleum Act 1998* (an Act of Parliament) (as applied by the
- 20 *Petroleum Act 1998 (Application) Order 2000*); and
- 21 (k) the Ramsey Bay (Marine Nature Reserve) (No. 2) Byelaws 2011.
- 22 (6) The Department may by order —
- 23 (a) add an entry to the list of consenting regimes; or
- 24 (b) remove an entry from the list of consenting regimes.
- 25 (7) Section 50 enables exemptions from the requirement for consent to be
- 26 created by regulation.

## 27 10 Timetable for applications

- 28 (1) The steps required by this Act in relation to the making of applications
- 29 for marine infrastructure consent are to be taken at the time, or within
- 30 the period, specified in the table below.

	(i) Action to be taken	(ii) Section of Act	(iii) Timing
1.	Notice of intention to request Scoping Opinion	15	At least 10 working days before requesting Scoping Opinion.
2.	Request for Scoping Opinion	15	Not before the end of the period of 10

			working days beginning with the date of the notice of intention to request a Scoping Opinion.
3.	Scoping Opinion	15	To be issued before the end of the period of 30 working days beginning with the date of receipt of the request for a Scoping Opinion.
4.	Pre-application consultation	11	Consultation must — (a) begin after the issue of the Scoping Opinion; and (b) allow at least 40 working days for responses.
5.	Environmental impact assessment	13	To be completed before the end of the pre-application consultation period.
6.	Notice of intention to make an application	19	At least 5 working days before making application.
7.	Decision whether to accept application for examination	22	<ol style="list-style-type: none"> <li>1. Decision to be made within the period of 10 working days beginning with date of application.</li> <li>2. Applicant to be notified as soon as is reasonably practicable.</li> <li>3. Challenge to rejection of application to be instituted within the period of 30 working days beginning with the date of the</li> </ol>

			decision.
8.	Notice of decision to accept application for examination	23	To be given as soon as is reasonably practicable.
9.	Registration of interested parties	24	Register to be opened immediately after notification of acceptance of application for examination.
10.	Public consultation	24	Consultation must – (a) be opened as soon as reasonably practicable after notification of acceptance of application for examination; and (b) remain open for responses for a period of not less than 30 working days.
11.	Reference for examination	25	To be referred as soon as reasonably practicable after close of the public consultation.
12.	Initial assessment of issues	28	Within the period of 15 working days beginning with the close of the public consultation.
13.	Determination of procedure for examination	28	Within the period of 10 working days beginning with the completion of the initial assessment of issues.
14.	Preliminary meeting	29	To be held on the first working day after the end of the period of 50 working days beginning with

			<p>the date of the notice of acceptance of application for examination.</p> <p>But the Council of Ministers may at any time specify a later date in relation to a specified application.</p>
15.	Examination of application	30 - 34	<p>To be completed by the end of the period of 130 working days beginning with the preliminary meeting.</p> <p>But the Council of Ministers may at any time extend the period in relation to a specified application.</p>
16.	Recommendations and report	35	<p>To be submitted before the end of the period of 60 working days beginning with the date on which the examination is completed.</p> <p>But the Council of Ministers may at any time extend the period in relation to a specified application.</p>
17.	Decision on application	36	<p>To be made before the end of the period of 30 working days beginning with the date on which the Examiner's or Panel's recommendations</p>

			are submitted.  But the Council of Ministers may at any time extend the period in relation to a specified application.
18.	Review	40	To be instituted within the period of 30 working days beginning with the date of the decision on the application.
19.	Correction of errors: request for	41	Must be made within the period of 30 working days beginning with the date of the marine infrastructure consent.
20.	Correction of errors: making correction	41	As soon as is reasonably practicable.
21.	Deposit at the General Registry	39, 41	Without delay.
22.	Submission of implementation plan	45	Before carrying out works in reliance on a marine infrastructure consent.
23.	Response by Department to implementation plan	45	Within 21 working days of receipt of implementation plan.
24.	Implementation	46	Within the period specified in section 46.

- 1 (2) The Department may by order amend the timetable in subsection (1).
- 2 (3) An order under subsection (2) may enable the Council of Ministers to
- 3 alter timings for specified applications or consents (which may include
- 4 applications in process and consents already granted).



1

*Pre-application requirements*

2

**11 Consultation**

3

(1) Before making an application for marine infrastructure consent the prospective applicant must consult —

4

5

(a) the Department;

6

(b) the Department of Environment, Food and Agriculture;

7

(c) the Department of Economic Development; and

8

(d) any other prescribed persons.

9

(2) The prospective applicant must —

10

(a) analyse responses received;

11

(b) prepare a consultation report; and

12

(c) publish the report.

13

(3) The Department may make regulations about —

14

(a) the procedure to be followed on pre-application consultation;

15

(b) the form, content and publication of the consultation report.

16

(4) Row 4 of the Table in section 10 specifies the timetable for this section.

17

**12 Publication**

18

(1) Before making an application for marine infrastructure consent the prospective applicant must publicise the proposed application.

19

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(2) The Department must make regulations about publication under subsection (1).

21

22

**13 Environmental impact assessment**

23

(1) Before making an application for marine infrastructure consent the prospective applicant must carry out an environmental impact assessment.

24

25

26

(2) The Department must make regulations about the process, form and content of environmental impact assessments.

27

28

(3) The regulations may allow the assessment to use data obtained before the application was accepted.

29

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(4) In making regulations under this section the Department must aim to ensure that an environmental impact assessment is prepared in accordance with a process that is —

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33

(a) rigorous and authoritative; and

(b) appropriate and proportionate having regard to the nature and scale of the controlled marine activities (and any associated marine activities) proposed to be carried out.

(5) Row 5 of the Table in section 10 specifies the timetable for this section.

## 14 Guidance

(1) The Department may give guidance about pre-application —

(a) consultation;

(b) publication; and

(c) environmental impact assessment.

(2) A prospective applicant must have regard to the guidance.

## 15 Scoping Opinions

(1) Before carrying out an environmental impact assessment under section 13 in respect of a proposed application for marine infrastructure consent, the prospective applicant must request the Department to provide a Scoping Opinion.

(2) An applicant for a Scoping Opinion must give the Department notice of the intention to apply for a Scoping Opinion.

(3) A request for a Scoping Opinion must be accompanied by any fee prescribed in accordance with section 53.

(4) A request for a Scoping Opinion must be accompanied by a Scoping Report; and the Department must by regulations specify the information to be included in a Scoping Report.

(5) Before issuing a Scoping Opinion the Department must consult —

(a) the Department of Environment, Food and Agriculture;

(b) the Department of Economic Development;

(c) Manx National Heritage (Manx Museum and National Trust); and

(d) any other person the Department thinks appropriate.

(6) Rows 1 to 3 of the Table in section 10 specify the timetable for this section.

(7) A Scoping Opinion has effect for the purposes of this Act for the period of 2 years beginning with the date of issue.

(8) The register of consents under section 44 must include a register of Scoping Opinions (whether or not they result in a consent).

(9) The Department must make regulations about —

(a) the content of Scoping Opinions; and

(b) the handling of requests for a Scoping Opinion.

1

*Assistance*

2

**16 Advice and assistance**

3

(1) The Department must make regulations about the provision of advice and assistance to —

4

5

(a) actual and prospective applicants for marine infrastructure consent; and

6

7

(b) persons who are or may be interested in an actual or prospective application for marine infrastructure consent.

8

9

(2) The regulations must include provision about publication or disclosure of advice and assistance given.

10

11

(3) The regulations may include provision allowing persons to apply to the Department for an opinion as to whether particular activities would require a marine infrastructure consent; and the regulations —

12

13

14

(a) may make provision about the processing of requests;

15

(b) may create exceptions from a provision made by virtue of subsection (2);

16

17

(c) must be limited to allowing the Department to provide indicative opinions, which do not affect the application or interpretation of this Act.

18

19

20

*Obtaining information*

21

**17 Power to require information**

22

(1) The Department may authorise a prospective applicant for marine infrastructure consent to serve a notice on a person requiring the person —

23

24

25

(a) to give details of any interests that may be affected by the proposed controlled marine activities; or

26

27

(b) to give details of a person who might be able to give details under paragraph (a).

28

29

(2) It is an offence to fail without reasonable excuse to comply with a notice.

30

**18 Powers of entry**

31

(1) A person authorised in writing by the Department may at any reasonable time enter land or a vessel for the purpose of carrying out a survey or inspection, or obtaining information, in connection with an actual or prospective application for marine infrastructure consent.

32

33

34

- 1 (2) The power in subsection (1) includes, in particular, the power to do  
2 anything permitted by section 60 of the *Fisheries Act 2012* (powers in  
3 respect of boats).
- 4 (3) An authorisation under this section —  
5 (a) must specify the purposes for which it is granted; and  
6 (b) may impose conditions.
- 7 (4) A person exercising a power of entry under this section —  
8 (a) must produce the authorisation on request;  
9 (b) must comply with any conditions;  
10 (c) may take persons or equipment necessary for the purpose for  
11 which the authorisation was granted (subject to any conditions);  
12 (d) must give at least 24 hours' notice before entering occupied land  
13 or an occupied vessel;  
14 (e) must leave unoccupied land, or an unoccupied vessel, as  
15 effectually secured against trespassers as before the power of  
16 entry was exercised; and  
17 (f) may not enter a dwelling otherwise than in accordance with a  
18 warrant under subsection (5).
- 19 (5) A justice of the peace may issue a warrant authorising a person to enter  
20 land or a vessel, by force if need be, if satisfied that there is reasonable  
21 ground for entry under subsection (1) and —  
22 (a) admission to the land or vessel has been refused;  
23 (b) refusal of admission is likely;  
24 (c) the land or vessel is unoccupied;  
25 (d) the occupier of the land or vessel is temporarily absent; or  
26 (e) an application for admission would defeat the object of the entry.
- 27 (6) A justice may not issue a warrant under subsection (5)(a) or (b) unless  
28 satisfied that notice of the intention to apply for the warrant has been  
29 given to the occupier of the land or vessel.
- 30 (7) A warrant continues in force until —  
31 (a) the expiration of one month from the date it is issued; or  
32 (b) if earlier, the purpose for which entry is necessary has been  
33 satisfied.
- 34 (8) Section 36 of the *Local Government Act 1985* (offences in connection with  
35 entry) applies to entry by virtue of this section as it applies to entry by  
36 virtue of section 35 of that Act.

*Making of application***19 Form of application**

- (1) An application for a marine infrastructure consent must be made to the Department.
- (2) An application must specify —
  - (a) the controlled marine activities for which it is required; and
  - (b) any associated marine activities for which it is required.
- (3) An application must be accompanied by —
  - (a) a draft marine infrastructure consent;
  - (b) a statement summarising the pre-application action taken in compliance with the preceding provisions of this Act, and showing to the Department's satisfaction that those provisions have been complied with;
  - (c) the consultation report prepared by the applicant;
  - (d) a statement of how the applicant has taken account of the consultation responses (including, any particular, any modifications of the proposed controlled marine activities and of any proposed associated marine activities);
  - (e) the environmental impact assessment;
  - (f) the Scoping Opinion;
  - (g) any other documents or information that may be prescribed;
  - (h) any fee prescribed in accordance with section 53.
- (4) An application must comply with any prescribed requirements.
- (5) The Department may publish guidance about compliance with this section and any order under this section; and an applicant must have regard to the guidance.
- (6) The Department may publish technical standards for any document or information required by order under this section; and an applicant must comply with those standards.
- (7) In this Act a reference to "**the submission date**" of an application is a reference to the date on which it is made to the Department under this section.
- (8) Before making an application the applicant must give notice to —
  - (a) the Department;
  - (b) the Department of Economic Development;
  - (c) the Department of Environment, Food and Agriculture; and
  - (d) any other prescribed person.

- 1 (9) The Department may make regulations about —  
2 (a) the content of a notice under subsection (8);  
3 (b) information which must be provided together with a notice; and  
4 (c) steps which are to be taken to inform third parties about the  
5 prospective application before notice is given.  
6 (10) Row 6 of the Table in section 10 specifies the timetable for this section.

## 7 **20 Register of applications**

- 8 (1) The Department must maintain a register of applications for marine  
9 infrastructure consent.  
10 (2) The Department must make arrangements for access to the register by  
11 the public without charge, whether by way of —  
12 (a) publication; or  
13 (b) arrangements for inspection by the public.  
14 (3) Arrangements under subsection (2) must include access to documents  
15 and information submitted with applications, except where the  
16 Department otherwise directs.

## 17 **21 Confirmation of submission of information**

- 18 (1) An application for marine infrastructure consent must be accompanied  
19 by a declaration signed by the applicant that the application complies  
20 with the provisions of section 19.  
21 (2) Where a declaration is signed under subsection (1) and it becomes clear  
22 to the Department that the application does not comply with the  
23 provisions of section 19, the Department may —  
24 (a) discard the application; or  
25 (b) vary the timetable that would otherwise apply in relation to it,  
26 allowing time for the completion of compliance with the  
27 provisions of section 19.

### 28 *Initial processing*

## 29 **22 Acceptance of application for examination**

- 30 (1) When the Department receives an application for marine infrastructure  
31 consent —  
32 (a) the Department must refer the application to the Council of  
33 Ministers without delay (subject to section 21(2)); and  
34 (b) the Council of Ministers must refer it for examination in  
35 accordance with section 25(1).

- 1 (2) The Council of Ministers must notify the applicant in writing either —  
2 (a) that the application has been accepted for examination; or  
3 (b) that the application has not been accepted for examination.
- 4 (3) An application may be accepted only if the Council of Ministers are  
5 satisfied that —  
6 (a) the application relates to controlled marine activities taking place  
7 or proposed to take place in the controlled marine area; and  
8 (b) the requirements of section 19 have been complied with.
- 9 (4) A notice under subsection (2)(b) must include reasons for rejecting the  
10 application.
- 11 (5) A decision to reject an application may be challenged by way of judicial  
12 review by petition of dolence.
- 13 (6) Row 7 of the Table in section 10 specifies the timetable for this section.

14 **23 Notification of accepted application**

- 15 (1) This section applies where an application has been accepted for  
16 consideration under section 22.
- 17 (2) The Council of Ministers must notify —  
18 (a) the Department of Infrastructure;  
19 (b) the Department of Economic Development;  
20 (c) the Department of Environment, Food and Agriculture; and  
21 (d) any other prescribed person.
- 22 (3) The notification must state the date of the preliminary meeting in respect  
23 of the application.
- 24 (4) Row 8 of the Table in section 10 specifies the timetable for this section.

25 *Handling of application*

26 **24 Public consultation and interested parties**

- 27 (1) Following acceptance of an application for examination the Council of  
28 Ministers must —  
29 (a) make arrangements under which persons with an interest in the  
30 application can register with the Council of Ministers as interested  
31 parties for the purposes of this Act; and  
32 (b) arrange a public consultation on the application.
- 33 (2) The Council of Ministers may issue guidance about the application of  
34 this section.

- 1 (3) The Department must make regulations about public consultations; and  
2 the regulations may, in particular, include provision about —  
3 (a) the giving of notice;  
4 (b) the procedure to be followed;  
5 (c) representation at or in connection with a public consultation;  
6 (d) the recording of the results of a public consultation.
- 7 (4) Rows 9 and 10 of the Table in section 10 specify the timetable for this  
8 section.

## 9 **25 Reference for examination**

- 10 (1) The Council of Ministers must refer the application to —  
11 (a) a single Examiner; or  
12 (b) a Panel of Examiners.
- 13 (2) If a single Examiner to whom an application is referred under subsection  
14 (1) requests that the application be referred to a Panel of Examiners, the  
15 Council of Ministers must comply with the request.
- 16 (3) Before or during the examination of an application by a single Examiner,  
17 the Council of Ministers may refer it instead to a Panel (which may, but  
18 need not, include the original Examiner).
- 19 (4) Row 11 of the Table in section 10 specifies the timetable for this section.

## 20 **26 Examiners**

- 21 (1) In this Act “**Examiner**” means a person whose name appears on a list  
22 approved for that purpose by the Council of Ministers.
- 23 (2) The Department may make regulations about the resignation, removal  
24 and replacement of Examiners.

## 25 **27 Panels**

- 26 (1) Where an application is referred to a Panel, the Council of Ministers must  
27 appoint —  
28 (a) 3, 4 or 5 Examiners as members of a Panel; and  
29 (b) one of those Examiners as Chair.
- 30 (2) The Department must make regulations about the constitution and  
31 procedure of a Panel; and the regulations must include provision for —  
32 (a) the resignation of Examiners;  
33 (b) the removal of Examiners;  
34 (c) the replacement of Examiners; and  
35 (d) the consequences of changes to the Panel (designed to ensure  
36 continuity).



- 1 (3) Decisions of a Panel require majority agreement; and in the event of an  
2 equality of votes, the Chair has a second (or casting) vote.
- 3 (4) A Panel may allocate part of its consideration of an application to one or  
4 more members; and —
- 5 (a) anything done or decided by members in accordance with an  
6 allocation is to be treated as having been done or decided by the  
7 Panel;
- 8 (b) decisions of members to whom a function has been allocated must  
9 be unanimous; and
- 10 (c) other terms or conditions may be attached to an allocation.

11 *Examination of application*

12 **28 Procedure for examination**

- 13 (1) Regulations under section 24 must include provision for the delivery of  
14 responses received in the course of the public consultation to the  
15 Examiner or Panel.
- 16 (2) The Examiner or Panel must —
- 17 (a) make an initial assessment of the principal issues arising in  
18 relation to the application;
- 19 (b) identify the principal stakeholders for the purposes of the  
20 application, in addition to persons who have registered as  
21 interested parties;
- 22 (c) determine the procedure for examining the application (subject to  
23 provisions of or under this Act); and
- 24 (d) set a provisional timetable for the examination.
- 25 (3) The Examiner or Panel must consider the application and any written  
26 submissions made with respect to it.
- 27 (4) An irregularity in relation to the appointment of an Examiner or Panel,  
28 or in relation to the procedure for examining an application, shall not  
29 affect the validity of the examination proceedings.
- 30 (5) The Examiner or Panel may at the request of the applicant make changes  
31 to the application if satisfied that the changes are not material; and the  
32 Department must make regulations about the application of this  
33 subsection.
- 34 (6) Rows 12 and 13 of the Table in section 10 specify the timetable for this  
35 section.

**1** **29 Preliminary meeting**

- 2** (1) The Examiner or Panel must hold a preliminary meeting in respect of the  
**3** application.
- 4** (2) The Examiner or Panel must invite to the preliminary meeting any  
**5** person who the Examiner or Panel think likely to wish to participate.
- 6** (3) At the preliminary meeting the Examiner or Panel must explain —  
**7** (a) the process determined for the examination of the application;  
**8** (b) the timetable proposed for the examination; and  
**9** (c) the principal issues expected to arise in relation to the application.
- 10** (4) Row 14 of the Table in section 10 specifies the timetable for this section.
- 11** (5) The Department may make regulations about the nature and procedure  
**12** of preliminary meetings.

**13** **30 Written representations**

- 14** (1) The Examiner's or Panel's examination of the application is to take the  
**15** form of consideration of written representations about it, unless —
- 16** (a) they hold a hearing into any aspect of the application in  
**17** accordance with this Act; or
- 18** (b) they decide to conduct part of the examination otherwise than by  
**19** considering written representations.
- 20** (2) The Council of Ministers may make regulations about —
- 21** (a) which written representations are to be considered, are not to be  
**22** considered, or may be considered;
- 23** (b) the consideration of written representations;
- 24** (c) information that is or may be of relevance to national security or  
**25** defence.
- 26** (3) The Examiner or Panel may disregard representations which they  
**27** consider to be frivolous or vexatious.

**28** **31 Specific-issue hearings**

- 29** (1) The Examiner or Panel must hold a hearing into a specific issue if they  
**30** think it necessary to ensure that —
- 31** (a) the issue is properly examined; and
- 32** (b) the principal stakeholders have an adequate opportunity to state  
**33** their case.
- 34** (2) At the hearing the applicant and principal stakeholders may make oral  
**35** representations, in accordance with any procedural directions of the  
**36** Examiner or Panel.

- 1 (3) The Examiner or Panel may disregard representations which they  
2 consider to be frivolous or vexatious.
- 3 (4) The Department may make regulations about the nature and procedure  
4 of specific-issue hearings; and the regulations may, in particular –  
5 (a) require specified persons to give specified notice of a hearing;  
6 (b) confer discretionary functions on the Examiner or Panel;  
7 (c) make provision for the prevention of disruption;  
8 (d) make provision about costs and expenses;  
9 (e) make provision about information that is or may be of relevance  
10 to national security or defence.

### 11 **32 Public meeting**

- 12 (1) The Examiner or Panel may hold a public meeting about the application.
- 13 (2) At a public meeting the Examiner or Panel must provide such  
14 opportunities as they think appropriate –  
15 (a) for anyone who wants to speak about the application to do so;  
16 and  
17 (b) for the applicant to make presentations about the application or to  
18 respond to comments and questions from the public or  
19 stakeholders.
- 20 (3) The Department may make regulations about the nature and procedure  
21 of public meetings (including provision requiring notice to be given of  
22 meetings).

### 23 **33 Assessors**

- 24 (1) The Examiner or Panel may ask the Council of Ministers to appoint an  
25 assessor to assist in the examination of the application.
- 26 (2) The Council of Ministers may appoint as assessor only a person who  
27 they are satisfied has suitable expertise.
- 28 (3) The Examiner or Panel may invite any Government Department  
29 (including any Division of the Department) or any other body or person  
30 to provide technical advice.
- 31 (4) The fees regulations under section 53 may require the applicant to pay  
32 specified fees (which may be calculated or determined by reference to  
33 prescribed factors) in respect of the appointment of an assessor.

### 34 **34 Legal advice and assistance**

- 35 (1) The Examiner or Panel may ask the Council of Ministers to appoint a  
36 legal adviser to advise and assist in the examination of the application.

- 1 (2) The Council of Ministers may appoint as legal adviser only a person who  
2 they are satisfied has suitable expertise.
- 3 (3) Assistance under subsection (1) may include oral questioning of a person  
4 making representations.
- 5 (4) The fees regulations under section 53 may require the applicant to pay  
6 specified fees (which may be calculated or determined by reference to  
7 prescribed factors) in respect of the appointment of a legal adviser.

### 8 **35 Completion of examination**

- 9 (1) On completing their examination the Examiner or Panel must —
- 10 (a) notify the Council of Ministers without delay; and
- 11 (b) submit a report to the Council of Ministers as soon as is  
12 reasonably practicable.
- 13 (2) The report —
- 14 (a) must include recommendations about the determination of the  
15 application; and
- 16 (b) if it recommends that a marine infrastructure consent should be  
17 granted, must include a draft consent.
- 18 (3) The Council of Ministers must inform the applicant as soon as is  
19 reasonably practicable that the examination has been completed.
- 20 (4) Row 16 of the Table in section 10 specifies the timetable for this section.

#### 21 *Determination of application*

### 22 **36 Decision on Examiner's or Panel's recommendations**

- 23 (1) This section applies where an Examiner or Panel has made  
24 recommendations to the Council of Ministers about an application for a  
25 marine infrastructure consent.
- 26 (2) The Council of Ministers must publish the Examiner's or Panel's report  
27 as soon as is reasonably practicable.
- 28 (3) The Council of Ministers must decide whether to accept the  
29 recommendations.
- 30 (4) In making a decision the Council of Ministers must have regard to —
- 31 (a) any Marine Plan adopted by the Department (see section 51(2));
- 32 (b) any relevant Marine Policy Statement adopted by the Department  
33 (see section 51(1)) and subsection (5));
- 34 (c) any prescribed matters; and

- 1 (d) any other matter which the Council of Ministers consider relevant  
2 and important (so far as consistent with any Marine Plan or  
3 Marine Policy Statement).
- 4 (5) The Council of Ministers must make their decision in accordance with  
5 any relevant Marine Plan or Marine Policy Statement, and in accordance  
6 with any relevant policy statement about controlled marine activities in  
7 the controlled marine area laid before Tynwald by the Department,  
8 unless satisfied that –
- 9 (a) it would be incompatible with an international obligation of, or  
10 applicable to, the Isle of Man;
- 11 (b) it would be incompatible with a duty imposed on the Council of  
12 Ministers by or under an enactment;
- 13 (c) it would be unlawful by virtue of an enactment;
- 14 (d) the adverse impact of the proposed activities would outweigh  
15 their benefits; or
- 16 (e) that a prescribed condition is met,
- 17 (and the fact that a Marine Policy Statement identifies a location as  
18 suitable (or potentially suitable) for a particular description of activity  
19 does not prevent this subsection from applying).
- 20 (6) The Council of Ministers may disregard representations which they  
21 consider frivolous or vexatious.
- 22 (7) If the Council of Ministers accept a recommendation to grant a marine  
23 infrastructure consent, they must issue the consent –
- 24 (a) in the form of the draft in the report of the Examiner or Panel; or  
25 (b) with modifications.
- 26 (8) The Council of Ministers must publish a statement of their reasons for –
- 27 (a) granting a marine infrastructure consent;
- 28 (b) refusing an application;
- 29 (c) (in either event), departing from the recommendations of the  
30 Examiner or Panel.
- 31 (9) Where the Council of Ministers issue a statement of reasons they must –
- 32 (a) send a copy to the applicant;
- 33 (b) send a copy to each registered interested party; and  
34 (c) publish the statement.
- 35 (10) The Department may make regulations about the procedure to be  
36 followed in determining an application.
- 37 (11) Row 17 of the Table in section 10 specifies the timetable for this section.

*Content and form*

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2

**37 Content**

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(1) The Department may make regulations about the content of a marine infrastructure consent.

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(2) A marine infrastructure consent may impose requirements in connection with the controlled marine activities or associated marine activities for which consent is granted.

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(3) The requirements may in particular include —

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(a) requirements corresponding to conditions which could have been imposed on the grant of any permission, consent or approval under any of the consenting regimes which would have been required for the controlled marine activities or associated marine activities;

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(b) requirements to obtain the approval of the Council of Ministers or any other person.

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(4) A marine infrastructure consent may make provision relating to, or to matters ancillary to the controlled marine activities or associated marine activities to which it relates; and that provision may, in particular include provision, for or relating to any of the matters listed in Schedule 1.

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(5) A marine infrastructure consent may —

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(a) apply, modify or exclude a statutory provision which relates to any matter for which provision may be made in the consent;

22

23

(b) make amendments, repeals or revocations of statutory provisions of local application in consequence of or in connection with the consent;

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(c) include any provision that appears to the Council of Ministers to be necessary or expedient for giving full effect to any other provision of the consent;

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(d) include provision for the entry into agreements between the applicant and the Department;

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(e) include provision for the transfer of all or part of the benefit of the consent (together with associated obligations);

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(f) include provision for the transfer of specified assets or liabilities in connection with the consent;

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(g) include provision in respect of the decommissioning of anything established under the consent;

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(h) include incidental, consequential, supplementary, transitional or transitory provisions and savings.

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(6) A marine infrastructure consent may not (subject to Schedule 1) include —

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- 1 (a) provision creating offences;
- 2 (b) provision conferring power to create offences; or
- 3 (c) provision changing an existing power to create offences.
- 4 (7) A marine infrastructure consent has effect for the benefit of the land in
- 5 respect of which it is made and all persons for the time being interested
- 6 in the land.
- 7 (8) The Department may enter into agreements with the applicant for a
- 8 marine infrastructure consent, or any other person, imposing liabilities
- 9 on the applicant or other person or otherwise dealing with matters
- 10 arising out of or in connection with the consent; and an agreement may
- 11 make provision for its enforcement by way of legal proceedings or
- 12 otherwise.

### 13 **38 Limitations**

- 14 (1) A marine infrastructure consent may include provision removing or
- 15 modifying a requirement for permission only if the person responsible
- 16 for giving permission agrees to the inclusion of the provision.
- 17 (2) In subsection (1) the reference to permission includes a reference to any
- 18 kind of consent or authorisation, by whatever name.
- 19 (3) A marine infrastructure consent may not include provision authorising
- 20 the discharge of water into inland waters or underground strata unless
- 21 the person authorised to make the discharge has statutory responsibility
- 22 for discharges into those waters or strata.

### 23 **39 Formalities**

- 24 (1) The Council of Ministers must publish a marine infrastructure consent as
- 25 soon as reasonably practicable.
- 26 (2) A marine infrastructure consent must be made by order if it includes
- 27 provision made by virtue of section 37(5)(a) or (b) or paragraph 10 or 11
- 28 of Schedule 1.
- 29 (3) As soon as practicable after a marine infrastructure consent is made the
- 30 Council of Ministers must deposit at the General Registry a copy of —
- 31 (a) the marine infrastructure consent;
- 32 (b) the latest version of any plan supplied by the applicant in
- 33 connection with the application for the marine infrastructure
- 34 consent; and
- 35 (c) the statement of reasons under section 36.
- 36 (4) As soon as practicable after a marine infrastructure consent is made the
- 37 Council of Ministers must send a copy to the Department, for inclusion
- 38 in the register under section 44.

- 1 (5) Row 21 of the Table in section 10 specifies the timetable for this section.

2 *Post-decision*

3 **40 Review**

- 4 (1) A marine infrastructure consent (including a change or revocation) and  
5 any decision in relation to an application for or in connection with a  
6 marine infrastructure consent, may be challenged or questioned in court  
7 only by way of judicial review by petition of doléance.
- 8 (2) Row 18 of the Table in section 10 specifies the timetable for this section.

9 **41 Correction of errors**

- 10 (1) The Council of Ministers may correct an error in a marine infrastructure  
11 consent if —
- 12 (a) the applicant for the consent requests the correction or agrees to it;  
13 and
- 14 (b) the Department of Infrastructure, the Department of Economic  
15 Development, the Department of Environment, Food and  
16 Agriculture, and any other prescribed person agree to the  
17 correction.
- 18 (2) The Council of Ministers must —
- 19 (a) deposit a copy of any correction at the General Registry; and  
20 (b) send a copy of any correction to the Department.
- 21 (3) An error in a marine infrastructure consent that was made by order must  
22 also be corrected by order.
- 23 (4) Rows 19 to 21 of the Table in section 10 specify the timetable for this  
24 section.

25 **42 Non-material changes**

- 26 (1) The Council of Ministers may make a change to a marine infrastructure  
27 consent if satisfied that the change is not material.
- 28 (2) A change may be made only —
- 29 (a) on the application of the applicant, a beneficiary or a successor;  
30 and
- 31 (b) having regard to the effect of the change, together with any  
32 previous changes, on the consent as originally granted.
- 33 (3) A change may —
- 34 (a) impose new requirements;  
35 (b) remove or vary existing requirements.



- 1 (4) The Department must make regulations about changes; and the  
2 regulations may include provision —  
3 (a) about applications for change;  
4 (b) about publication of requests for changes;  
5 (c) about publication of changes;  
6 (d) about consultation;  
7 (e) about timing;  
8 (f) conferring a discretion on the Department or another specified  
9 person.
- 10 (5) If the original consent is made by order, changes must be made by order.
- 11 (6) The Council of Ministers must —  
12 (a) deposit a copy of any change at the General Registry; and  
13 (b) send a copy of any change to the Department.
- 14 (7) A change must specify when it comes into effect (and may contain  
15 transitional provision).
- 16 (8) In this section —  
17 “**applicant**” means the person who applied for the marine infrastructure  
18 consent;  
19 “**beneficiary**” means a person for whose benefit the marine infrastructure  
20 consent has effect; and  
21 “**successor**” means a person to whom all or any of the benefit of the marine  
22 infrastructure consent has been transferred.

### 23 **43 Material changes and revocation**

- 24 (1) The Council of Ministers may —  
25 (a) make a change to a marine infrastructure consent (other than a  
26 non-material change within section 42);  
27 (b) revoke a marine infrastructure consent.
- 28 (2) A change may be made only —  
29 (a) on the application of the applicant, a beneficiary or a successor  
30 (subject to subsection (3)); and  
31 (b) having regard to the effect of the change, together with any  
32 previous changes, on the consent as originally granted.
- 33 (3) A change may be made on the Council of Ministers’ own initiative if they  
34 think it essential to correct a significant error in the consent.
- 35 (4) A change may —  
36 (a) impose new requirements;  
37 (b) remove or vary existing requirements.

- 1 (5) The Department must make regulations about changes and revocations;  
2 and the regulations may include provision —
- 3 (a) about applications for change and revocations;  
4 (b) about publication of requests for changes and revocations;  
5 (c) about publication of changes and revocations;  
6 (d) about publication of reasons for decisions;  
7 (e) about consultation;  
8 (f) about timing;  
9 (g) conferring a discretion on the Department or another specified  
10 person.
- 11 (6) If the original consent is made by order, a change or revocation must be  
12 made by order.
- 13 (7) The Council of Ministers must —
- 14 (a) deposit a copy of any change or revocation at the General  
15 Registry; and  
16 (b) send a copy of any change or revocation to the Department.
- 17 (8) A change or revocation must specify when it comes into effect (and may  
18 contain transitional provision).
- 19 (9) The Council of Ministers may pay compensation to a person if they  
20 consider that the person is unfairly prejudiced by a change or revocation  
21 under this section (for which the person did not apply); and regulations  
22 under subsection (5) may include provision about the procedure for  
23 applying for, determining and paying compensation.
- 24 (10) In this section —
- 25 “**applicant**” means the person who applied for the marine infrastructure  
26 consent;
- 27 “**beneficiary**” means a person for whose benefit the marine infrastructure  
28 consent has effect; and
- 29 “**successor**” means a person to whom all or any of the benefit of the marine  
30 infrastructure consent has been transferred.

#### 31 **44 Register of consents**

- 32 (1) The Department must maintain a register of marine infrastructure  
33 consents.
- 34 (2) The Department must make arrangements for access to the register by  
35 the public without charge, whether by way of —
- 36 (a) publication; or  
37 (b) arrangements for inspection by the public.

- 1 (3) Arrangements under subsection (2) must include access to documents  
2 and information submitted with the applications for the consents, except  
3 where the Department otherwise directs.
- 4 (4) The register must include details of —  
5 (a) corrections;  
6 (b) changes;  
7 (c) revocations; and  
8 (d) any other prescribed matters.
- 9 (5) The register must also include details of refusals of applications for  
10 marine infrastructure consent, and details of reasons given in connection  
11 with applications for or in connection with marine infrastructure  
12 consent.

13 *Implementation and enforcement*

14 **45 Implementation plan**

- 15 (1) Before undertaking any work in reliance on a marine infrastructure  
16 consent, the person proposing to carry out the work must submit to the  
17 Department a detailed plan of the work to be carried out (“**an**  
18 **implementation plan**”).
- 19 (2) The Department may make regulations about the form and content of  
20 implementation plans.
- 21 (3) The Department must either —  
22 (a) confirm that the works described in the implementation plan are  
23 within the marine infrastructure consent and comply with any  
24 conditions of the consent; or  
25 (b) notify the person submitting the plan of any changes that would  
26 be required in order to bring the works within the marine  
27 infrastructure consent or to comply with its conditions.
- 28 (4) A person who received a notice under subsection (3)(b) may submit a  
29 revised plan (or, if necessary, more than one).
- 30 (5) The offence in section 9(2) is committed by a person who carries out  
31 controlled marine activities in the controlled marine area without  
32 confirmation of an implementation plan for the works (and this  
33 subsection is without prejudice to the generality of that subsection).
- 34 (6) Rows 22 and 23 of the Table in section 10 specify the timetable for this  
35 section.

**46 Duration of consent**

- (1) The controlled marine activities authorised by a marine infrastructure consent must be commenced before the end of —
- (a) the prescribed period; or
  - (b) another period (shorter or longer) specified in the consent.
- (2) If the controlled marine activities have not commenced before the end of that period, the consent ceases to have effect.
- (3) The Department may make regulations specifying what is to be treated, or not to be treated, as commencement of controlled marine activities for the purposes of this section.

**47 Powers of entry**

- (1) A person authorised by the Department may exercise powers of entry for the purposes of —
- (a) inspecting the implementation of a marine infrastructure consent;
  - (b) ensuring that any terms, conditions or limitations of the consent are observed;
  - (c) carrying out remedial work;
  - (d) investigating whether an offence under this Act has been committed.
- (2) The provisions of section 18 apply for the purposes of this section with any necessary modifications.
- (3) The Department may make regulations about the exercise of the powers under this section; and the regulations may include provision about the modifications required in accordance with subsection (2).

**48 Confirmation of compliance**

- (1) In this section “**the undertaker**” means a person who —
- (a) is carrying out controlled marine activities or associated marine activities in the controlled marine area in reliance on a marine infrastructure consent;
  - (b) has carried out controlled marine activities or associated marine activities in the controlled marine area in reliance on a marine infrastructure consent; or
  - (c) proposes to carry out controlled marine activities or associated marine activities in the controlled marine area in reliance on a marine infrastructure consent.
- (2) The undertaker need not be the person who applied for the consent.

- 1 (3) The undertaker may by notice in writing ask the Department to confirm  
2 that the activities are or will be in compliance with the terms and  
3 conditions of the consent.
- 4 (4) The Department must issue a response to the notice.
- 5 (5) For the purposes of issuing the response the Department may —  
6 (a) require the undertaker to make arrangements for one or more  
7 visits of inspection;  
8 (b) require the undertaker to provide specified information and  
9 documents.
- 10 (6) If the Department is not satisfied that the activities are not or may not be  
11 in compliance with the terms and conditions of the consent (whether  
12 because the information supplied by the undertaker is insufficient or for  
13 any other reason) the Department must refuse to issue the confirmation  
14 sought.
- 15 (7) If the Department is satisfied that the activities are or will be in  
16 compliance with the terms and conditions of the consent, it must issue  
17 the confirmation sought.
- 18 (8) If the Department thinks that the activities would have been, or will be,  
19 in compliance with the terms and conditions of the consent only if the  
20 activities or proposed activities are modified, the Department must  
21 specify the required modifications.
- 22 (9) An undertaker who receives a notice of required modifications under  
23 subsection (8) and who has taken action in respect of the notice may  
24 issue a new notice under subsection (3).
- 25 (10) The Department may make regulations about the exercise of the powers  
26 under this section.

27 **49 Remedial works**

- 28 (1) This section applies where —  
29 (a) the Department has issued a notice of modifications to an  
30 undertaker under section 48(8) in respect of controlled marine  
31 activities or associated marine activities already carried out;  
32 (b) the notice specifies a period within which the modifications must  
33 be carried out;  
34 (c) the period has expired and in the opinion of the Department the  
35 modifications have not been carried out in such a way as to bring  
36 the controlled marine activities or associated marine activities into  
37 compliance with the marine infrastructure consent.
- 38 (2) This section also applies where —  
39 (a) a person is convicted of an offence under section 9(2); and

1 (b) the Department has served a notice on the person requiring  
2 specified works to be undertaken which in the Department's  
3 opinion would remedy the failure to act under a marine  
4 infrastructure consent or in compliance with its terms and  
5 conditions.

6 (3) The Department may —

7 (a) take any steps reasonably necessary (including entering land) to  
8 make arrangements for the carrying out of the modifications or  
9 works; and

10 (b) recover the costs of the arrangements from the undertaker or  
11 convicted person (as a civil debt).

12 (4) A person who without reasonable excuse obstructs a person carrying out  
13 modifications or works in pursuance of this section commits an offence  
14 and is liable on summary conviction to a fine not exceeding £5,000.

15 (5) The Department may make regulations about the exercise of the powers  
16 under this section.

### 17 *Exemptions*

## 18 **50 Power to exempt**

19 (1) The Department may by regulation exempt specified activities or classes  
20 of activity from the requirement for marine infrastructure consent in  
21 section 9(1).

22 (2) In particular, the Department may provide for an exemption for —

23 (a) survey work;

24 (b) work in relation to some or all outfall pipelines;

25 (c) repairs and emergency works;

26 (d) decommissioning works.

27 (3) Regulations creating an exemption may —

28 (a) specify terms or conditions;

29 (b) include provision about the operation of another consenting  
30 regime in relation to activities that would require marine  
31 infrastructure consent but for the exemption;

32 (c) provide for an exemption to apply only in relation to things done  
33 or structures created before the commencement of this Act or  
34 some other specified date;

35 (d) provide for an exemption to apply only in relation to things done  
36 or equipment operated by a specified person or class of person.

*Miscellaneous*

1

2 **51 Marine Plan and Policy Statements**

3

(1) The Department may make regulations about the preparation and adoption of one or more policy statements in respect of controlled marine activities in the controlled marine area (“**Marine Policy Statements**”).

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(2) The Department may make regulations about the preparation and adoption of a plan for controlled marine activities in the controlled marine area (a “**Marine Plan**”); and in adopting a Marine Plan the Department must take account of any relevant Marine Policy Statement.

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(3) The regulations must include such provision as the Department thinks appropriate for —

12

13

(a) independent expert involvement;

14

(b) public consultation; and

15

(c) the holding of a public inquiry.

16

(4) A Marine Plan is to be —

17

(a) adopted by order; and

18

(b) laid before Tynwald.

19

(5) A Marine Policy Statement is to be laid before Tynwald.

20

(6) Regulations under this section may include provision about amendment and withdrawal of a Marine Policy Statement or Marine Plan.

21

22 **52 Procedural regulations**

23

(1) The Department may make regulations about the exercise of functions under this Act.

24

25

(2) The regulations may, in particular —

26

(a) make provision about service of notices and other documents (whether by the Department, on the Department or otherwise);

27

28

(b) confer a discretion on the Department or another specified person.

29

(3) This section is without prejudice to the generality of any specific provision for regulations.

30

31 **53 Fees**

32

(1) The Department may make regulations providing for the charging of fees in connection with the performance of functions under this Act.

33

34

(2) In particular, the regulations may require a fee —

35

(a) for the making of an application for or in respect of a marine infrastructure consent;

36

- 1 (b) in connection with any part of the process of considering an  
2 application.
- 3 (3) The regulations may in particular make provision —
- 4 (a) about when a fee (including a supplementary fee) may, and may  
5 not, be charged;
- 6 (b) about the amount which may be charged;
- 7 (c) about what may, and may not, be taken into account in  
8 calculating the amount charged;
- 9 (d) about who is liable to pay a fee charged;
- 10 (e) about when a fee charged is payable;
- 11 (f) about the recovery of fees charged;
- 12 (g) about waiver, reduction or repayment of fees;
- 13 (h) about the effect of paying or failing to pay fees charged;
- 14 (i) for the supply of information for any purpose of the regulations.
- 15 (4) The regulations may provide for the amount of fees to be calculated by  
16 reference to costs incurred by or on behalf of —
- 17 (a) the Department; or
- 18 (b) another public authority.
- 19 (5) The regulations may provide for the recovery of costs incurred in the  
20 performance of, or in connection with (including activities designed to  
21 facilitate), functions under this Act.

## 22 54 Disapplication of other consenting regimes

- 23 (1) Provision that could be made by marine infrastructure consent may not  
24 be included in a permission, consent or approval under any of the  
25 consenting regimes.
- 26 (2) The Department may by regulations disapply subsection (1) in specified  
27 cases or classes of case.

## 28 55 Cross-jurisdiction works

- 29 (1) The Department may by regulations make provision in relation to works  
30 or proposed works which are carried out, or are proposed to be carried  
31 out, partly in the controlled marine area and partly outside it.
- 32 (2) The regulations may, in particular —
- 33 (a) provide for a provision of this Act or another enactment to apply,  
34 with or without modifications;
- 35 (b) provide for a provision of this Act or another enactment not to  
36 apply.



- 1 (3) The Department of Environment, Food and Agriculture may by  
2 regulations make provision for the application of consenting regimes to  
3 seismic survey works which will or may affect the controlled marine  
4 area; and the regulations may —
- 5 (a) make provision defining seismic survey works;
- 6 (b) make provision for determining classes of cases in which the  
7 controlled marine area will or may be affected;
- 8 (c) provide for the application of a consenting regime with or without  
9 specified modifications; and
- 10 (d) make incidental or consequential provision.

11 *Offences*

12 **56 Penalties**

- 13 (1) A person who is guilty of an offence under section 9(2) is liable on  
14 summary conviction to a fine not exceeding £50,000.
- 15 (2) A person who is guilty of an offence under section 17 is liable on  
16 summary conviction to a fine not exceeding £5,000.

17 **57 Offences by body corporate**

- 18 (1) This section applies where an offence under this Act is committed by a  
19 body corporate and it is proved that the offence —
- 20 (a) was committed with the consent or connivance of an officer of the  
21 body; or
- 22 (b) was attributable to neglect on the part of an officer of the body.
- 23 (2) The officer, as well as the body, is guilty of the offence and liable to the  
24 same penalty as the body.
- 25 (3) In this section “**officer**” includes —
- 26 (a) a director or secretary;
- 27 (b) a person purporting to act as a director or secretary;
- 28 (c) if the affairs of the body are managed by its members, a member;
- 29 (d) in relation to a limited liability company constituted under the  
30 *Limited Liability Companies Act 1996*, a member, the company’s  
31 manager and its registered agent.

32 **58 Defence**

- 33 It is a defence for a person charged with an offence under section 9(2) to prove  
34 that —
- 35 (a) the controlled marine activities in respect of which the offence is  
36 alleged would have been within the terms and conditions of a

1 marine infrastructure consent but for a provision of or omission  
2 from the consent; and

- 3 (b) the consent has been changed or corrected under section 41, 42 or  
4 43 so that the controlled marine activities would now come within  
5 its terms.

6 *General*

7 **59 Crown application**

8 This Act binds the Crown.

9 **60 Orders and regulations**

10 (1) In this Act “**prescribed**” means specified by the Department by order or  
11 regulations.

12 (2) An order or regulations under this Act may —

- 13 (a) make provision that applies generally or for specified purposes;  
14 (b) make different provision for different purposes;  
15 (c) include transitional, consequential or incidental provision.

16 (3) An order under section 6(3), 6(4), 7(3), 9(6), 10(2), 39(2), 41(3), 42(5), 43(6)  
17 or 62 or regulations under section 61 may not come into operation unless  
18 approved by Tynwald.

19 (4) Any other order or regulations under this Act must be laid before  
20 Tynwald as soon as practicable after being made, and if Tynwald, at the  
21 sitting before which the public document is laid or the next following  
22 sitting, resolves that it should be annulled, it ceases to have effect.

23 (5) Subsection (4) does not apply to an order under section 2.

24 **61 Transitional provisions**

25 (1) The Department may by regulations make transitional provision in  
26 connection with the commencement of this Act.

27 (2) In particular, the regulations shall aim to ensure continuity of process so  
28 far as possible; and for that purpose the regulations may —

- 29 (a) provide for anything done under a consenting regime to have  
30 effect as if done under this Act;  
31 (b) provide for anything done in preparation for or in connection  
32 with anything done or to be done under a consenting regime to  
33 have effect as if done for a similar purpose in connection with this  
34 Act.

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## **62 Consequential amendments**

- (1) The enactments specified in Schedule 2 are amended in accordance with that Schedule.
- (2) The Department may by order amend an enactment to reflect its inclusion in, addition to or removal from the list of consenting regimes for the purposes of this Act.



## SCHEDULE 1

[Section 37]

PROVISION THAT MAY BE INCLUDED IN A MARINE INFRASTRUCTURE  
CONSENT NOTICE

1. The creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement.
2. The abrogation or modification of agreements relating to land.
3. The protection of the property or interests of any person.
4. The imposition or exclusion of obligations or liability in respect of acts or omissions.
5. Carrying out surveys or taking samples.
6. The removal, disposal or re-siting of apparatus.
7. Carrying out marine engineering or other works.
8. Charging tolls, fares (including penalty fares) and other charges.
9. Entering into an agreement for the provision of police services.
10. The making of byelaws by any person and their enforcement.
11. (1) The creation of offences within sub-paragraph (2) in connection with —
  - (a) non-payment of charges; or
  - (b) enforcement of byelaws.(2) An offence is within this sub-paragraph if —
  - (a) it is triable only summarily;
  - (b) a person guilty of the offence is not liable to imprisonment; and
  - (c) any fine to which a person guilty of the offence may be liable cannot be higher than level 3 on the standard scale £5,000.
12. The transfer of property, rights, liabilities, or functions.
13. The transfer, leasing, suspension, discontinuance and revival of undertakings.
14. The payment of contributions.
15. The payment of compensation.
16. The submission of disputes to arbitration.



## SCHEDULE 2

[Section 62]

## CONSEQUENTIAL AMENDMENTS

**1 Minerals Act 1986 [c.46]**

At the beginning of Part II of the *Minerals Act 1986* (miscellaneous) insert —

**“28A Controlled marine area**

Nothing in this Act applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”

**2 Petroleum Act 1986 [c.47]**

After section 7 of the *Petroleum Act 1986* (texts of applied legislation) insert —

**“7A Controlled marine area**

Nothing in this Act applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”

**3 Wildlife Act 1990 [c.2]**

At the beginning of Part III of the *Wildlife Act 1990* (miscellaneous) insert —

**“33A Controlled marine area**

Nothing in this Act applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”

**4 Water Pollution Act 1993 [c.14]**

At the beginning of Part 3 of the *Water Pollution Act 1993* (supplemental) insert —

**“27A Controlled marine area**

Nothing in this Act applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area

within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”.

## 5 Electricity Act 1996 [c.14]

After section 15A of the *Electricity Act 1986* (power to lay gas pipes etc.) insert —

### “15B Controlled marine area

Nothing in this Act applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”.

## 6 Town and Country Planning Act 1999 [c.9]

In section 47 of the *Town and Country Planning Act 1999* (extent of Act) after subsection (2) add —

“(3) This Act shall not extend to the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act (and subsections (1) and (2) are subject to this subsection).”.

## 7 Petroleum Act 1998 (Application) Order 2000

At the end of Article 2 of the *Petroleum Act 1998 (Application) Order 2000* (application to the Island of certain provisions of the *Petroleum Act 1998*) (the existing text of which becomes paragraph (1)) insert —

“(2) Nothing in the 1998 Act applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”.

## 8 Submarine Cables Act 2003 [c.5]

After section 1 of the *Submarine Cables Act 2003* (requirement for the authorisation of submarine cables) insert —

### “1A Controlled marine area

Nothing in this Act applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”.



**9 Harbours Act 2010 [c.9]**

After section 81 of the *Harbours Act 2010* (application of United Kingdom legislation) insert —

**“81A Controlled marine area**

Nothing in this Act applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”.

**10 Ramsey Bay (Marine Nature Reserve) (No. 2) Byelaws 2011**

In the Ramsey Bay (Marine Nature Reserve) (No. 2) Byelaws 2011 —

(a) after byelaw 17 insert —

**“17A Controlled marine area**

Nothing in these byelaws applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”;

(b) in the heading to Part 4 for “and offences” substitute “, offences and general”.

**11 Fisheries Act 2012 [c.5]**

After section 4 of the *Fisheries Act 2012* (definitions of waters, etc.) insert —

**“4A Controlled marine area**

Nothing in this Act applies to the carrying out of controlled marine activities or associated marine activities in the controlled marine area within the meaning of the *Marine Infrastructure Management Act 2016*, subject to any contrary provision made under that Act.”.

IN THE KEYS

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**MARINE INFRASTRUCTURE MANAGEMENT BILL  
2015**

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A **BILL** to make provision for a consenting process for certain activities in the Island marine environment; and for connected purposes.

Approved by the Council of Ministers  
for introduction in the House of Keys.

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MR GAWNE

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DECEMBER 2015