



Statutory Document No. 803/04

SUBMARINE CABLES ACT 2003

THE SUBMARINE CABLES (AUTHORISED PERSONS) 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 7 and 10(2) of the Submarine Cables Act 2003¹, and after consulting the 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 (Authorised Persons) 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;

"authorisation" means an authorisation under section 1(1) of the Act;

"cable" includes a proposed cable;

"marine structure" means a platform or other man-made structure at sea, other than a pipeline;

"operator", in relation to a cable, means the person by whom the cable is, or is intended to be, used;

"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;

"vessel" means a ship, boat, raft or other craft of any description, and includes —

(a) an aircraft constructed or adapted for floating on or being submerged in water;

¹ 2003 c.5

² 1998 c.17

³ SD 562/00

- (b) a hovercraft;
- (c) any other amphibious vehicle;
- (d) any other thing constructed or adapted for floating on or being submerged in water (whether permanently or temporarily);

but does not include a marine structure or pipeline.

2. Application of Regulations

- (1) These Regulations apply to the following functions of authorised persons —
- (a) the enforcement of the Act and any regulations under the Act; and
 - (b) the overseeing and inspection of —
 - (i) any works in, under or over territorial waters for the laying of the cable;
 - (ii) any works or other matters for which provision is made by an authorisation; and
 - (iii) any seabed works to which the Submarine Cables (Safety) Regulations 2004⁴ apply.
- (2) Accordingly the powers conferred by these Regulations may be exercised for the purpose of performing any of those functions in relation to any cable.

3. Assistance of authorised person

- (1) An authorised person may take with him, to assist him in performing any functions to which these Regulations apply, any other person and any equipment or materials.
- (2) A person whom an authorised person takes with him to assist him may perform any of the authorised person's functions, but only under the authorised person's supervision.
- (3) An authorised person may require the operator of a cable, or the holder of an authorisation, —
- (a) to convey any authorised person and any equipment required by him and any person, equipment or materials referred to in paragraph (1) to or from any vessel or marine structure used or intended to be used in connection with —
 - (i) any works referred to in regulation 2(b), or
 - (ii) any other activities relating to a cable; and
 - (b) to provide the authorised person, and any person mentioned in paragraph (1), with reasonable accommodation and means of

⁴ SD /04

subsistence while on, or in transit to or from, such a vessel or marine structure.

- (4) An authorised person may require —
 - (a) the operator of a cable,
 - (b) the holder of an authorisation, or
 - (c) any person engaged in any works or activities mentioned in paragraph (3)(a),

to afford the authorised person such facilities, assistance and information with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any functions to which these Regulations apply.

4. Powers of entry, inspection etc.

(1) An authorised person may enter any land, vehicle, vessel or marine structure if he has reasonable grounds for believing that it is used or intended to be used in connection with —

- (a) any works referred to in regulation 2(b), or
- (b) any other activities relating to a cable.

(2) An authorised person may —

- (a) inspect and test, or cause to be tested, any equipment used or intended to be used as mentioned in paragraph (1);
- (b) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any inspection or test under sub-paragraph (a);
- (c) require the production of, inspect, and take copies of, or of any entry in, any book or other document —
 - (i) required to be kept under the terms of an authorisation, or
 - (ii) relating to any works or activities referred to in paragraph (1);
- (d) require any person to carry out such procedures or conduct such tests as may appear to the authorised person likely to facilitate the exercise of any functions to which these Regulations apply.

(3) Where an authorised person proposes to exercise the power conferred by paragraph (2)(c) on any land, vehicle, vessel or marine structure, he shall, if so requested by a person who at the time is present on or in and has responsibilities in relation to that land, vehicle, vessel or marine structure, do, or cause to be done anything which is to be done by virtue of the power in the presence of that person.

(4) Before exercising any power conferred by this regulation, an authorised person shall, except in a case of urgency, consult such persons as appear to him appropriate for the purpose of ascertaining what may be the consequence of doing anything which he proposes to do under the power.

5. Powers in relation to vessels etc.

(1) This regulation applies to a vessel or marine structure which is being used in connection with —

- (a) any works referred to in regulation 2(b), or
- (b) any other activities relating to a cable.

(2) In order to perform any functions to which these Regulations apply an authorised person —

- (a) may require such a vessel or marine structure to stop;
- (b) may require the attendance —
 - (i) of the master, captain, commander or other person for the time being lawfully in charge of such a vessel;
 - (ii) of the person in charge of such a marine structure; and
 - (iii) of any other person who is on board such a vessel or marine structure; and
- (c) may require any person on board such a vessel or marine structure to assist him in the performance of his functions.

6. Exercise of powers by authorised persons — supplemental

(1) An authorised person shall be furnished with a certificate of his authority, and when he proposes to perform any functions to which these Regulations apply he shall, if so requested, produce that certificate.

(2) He shall also, if so requested, state —

- (a) his name,
- (b) the function that he proposes to perform, and
- (c) his grounds for proposing to perform it.

(3) An authorised person must perform any functions to which these Regulations apply at a reasonable hour unless it appears to the authorised person that there are grounds for suspecting that the purpose of their performance may be frustrated if he seeks to perform them at a reasonable hour.

(4) An authorised person may use reasonable force, if necessary, in the performance of any functions to which these Regulations apply.

7. Offences

(1) Any person who —

- (a) intentionally obstructs an authorised person in the performance of any functions to which these Regulations apply;
- (b) fails without reasonable excuse to comply with a requirement made or direction given by an authorised person in the performance of any functions to which these Regulations apply;

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) Any person who in purporting to give information required by an authorised person for the performance of any functions to which these Regulations apply —

- (a) makes a statement which he knows to be false in a material particular;
- (b) recklessly makes a statement which is false in a material particular; or
- (c) intentionally fails to disclose any material particular,

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.

MADE 27 October 2004

J P Shimmin
Minister for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations prescribe the powers and duties of authorised persons for the purpose of enforcing the Submarine Cables Act 2003 and regulations made under it, and overseeing works and other activities relating to submarine cables in territorial waters. Regulations 1 and 2 are introductory. Regulation 3 requires assistance to be given to authorised persons. Regulation 4 gives authorised persons powers of entry on land, vessels etc. and powers of inspection. Regulation 5 gives additional powers in relation to vessels etc. Regulation 6 makes supplemental provision with respect to the exercise of powers by authorised persons. Regulation 7 makes obstruction of an authorised person, or giving false information, an offence.