

COASTLINE MANAGEMENT ACT 2005

Arrangement of Sections

Section

Purpose of the Act

1. Purpose.

Coastline Management Zones

2. Designation.
3. Review of designation.
4. Regulation of development in a coastline management zone.

Powers

5. Coastal works.
6. Notification of development or change of use.
7. Powers of entry, etc.

General

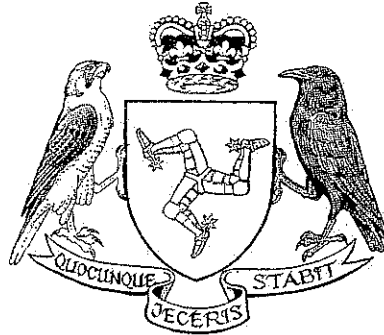
8. Offences by bodies corporate.
9. Interpretation.
10. Amendments.
11. Statutory indemnity.
12. Financial.
13. Savings, etc.
14. Short title and commencement.

SCHEDULES

Schedule 1 — Procedures for making an order under section 2.

Schedule 2 — Special provisions for Kirk Michael coastal land.

Schedule 3 — Amendment of enactments.



Isle of Man } Signed in Tynwald: 18th October 2005
 in Wit } Received Royal Assent: 18th October 2005
 Announced to Tynwald: 19th October 2005

AN ACT

to make provision for the management of designated coastline zones, to regulate development in such zones; to confer functions on the Department of Transport in respect of such zones; to modify the effect of enactments relating to town and country planning in respect of such zones; and for connected purposes.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and 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 (that is to say): —

Purpose of the Act

1. It is the purpose of this Act to —
 - (a) provide for the sustainable management of designated parts of the coastline that are or may be subject to changes by natural forces;
 - (b) provide functions that may be exercised in the public interest and intended to be of social and environmental benefit;

Purpose.

- (c) provide functions that may be exercised in a manner that balances economic cost with the social and environmental benefit;
- (d) ensure that in respect of coastline management, decisions about planning policies are taken on an informed basis.

Coastline Management Zones

Designation.

2. (1) The Department may, in accordance with the procedure set out in Schedule 1, by order designate any area of coastal land as a coastline management zone.

(2) An order shall not be made under subsection (1) unless the Department is satisfied that the order is necessary for —

- (a) protecting land from coastal change; or
- (b) preventing or limiting coastal change; or
- (c) preventing or limiting the likelihood of any danger arising from coastal change; or
- (d) preventing or limiting the likelihood of damage to buildings, structures or works on or near coastal land as a result of coastal change; or
- (e) preventing or limiting the likelihood of interference with the use of coastal land by reason of coastal change; or
- (f) preserving or improving the amenities of coastal land or land near coastal land.

(3) An order under subsection (1) may include provision for preventing —

- (a) interference with coastal works that are planned, being undertaken, in the course of construction or completed;
- (b) the unauthorised use of coastal works,

and any person who is in contravention of any such provision shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

(4) In subsection (2), “coastal change” means change in the coastline caused by erosion, inundation or coastal subsidence.

(5) The special provisions for the Kirk Michael coastal land set out in Schedule 2 shall have effect.

3. (1) The Department shall review a designation under section 2 — Review of designation.

- (a) whenever directed by resolution of Tynwald;
- (b) otherwise at such intervals as the Department thinks appropriate.

(2) In conducting a review under subsection (1), the Department shall take into account —

- (a) any evidence of any erosion, accretion or inundation of the coastline and of any coastal subsidence that has occurred since the order was made or reviewed;
- (b) any forecasts of the rate and effect of erosion, accretion, inundation or coastal subsidence that are available at the time that the review is undertaken; and
- (c) the results of any surveys of the relevant coastline management zone.

4. (1) Subject to subsection (2), no building, engineering, mining or other operations may be carried out in, on, over or under a coastline management zone. Regulation of development in a coastline management zone.

(2) Subsection (1) does not apply to —

- (a) operations carried out pursuant to section 5;
- (b) operations carried out pursuant to a planning approval under the Town and Country Planning Act 1999 where a development plan under section 2 of that Act has been made in respect of the relevant coastline management zone or the relevant land within that zone and the plan contains a statement that it has been formulated having regard to the existence of the relevant coastline management zone; [c.9]
- (c) operations for the repair or maintenance of a building or structure erected before the building fell within a coastline management zone;
- (d) other operations undertaken by —
 - (i) the Department; or
 - (ii) any person, in respect of which advance written notice has been given to and approved in writing by the Department; and

(e) any other operations for the installation or maintenance of electricity, gas, water, telecommunications, drainage, roads, railways or paths which are necessary for any of the operations referred to in paragraphs (a) to (d) but only if carried out in a manner consistent with good practice as required by the Department for the purposes set out in section 2(2).

(3) Any person who carries out any operation in contravention of subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(4) Sections 26, 27 and 37 of, and Schedule 4 to, the Town and Country Planning Act 1999 (enforcement notices, stop notices and injunctions) apply with any necessary modifications to an operation carried out in contravention of subsection (1) as they apply to an operation carried out in breach of planning control.

Powers

Coastal works. **5.** (1) The Department may undertake, construct and maintain coastal works within a coastline management zone or on any foreshore if the Department is of the opinion that it is necessary for any of the purposes set out in section 2(2).

(2) The Department shall pay to the owners and occupiers of, and all other persons interested in, any land injuriously affected by any operations carried out pursuant to subsection (1) compensation for all damage sustained by them in consequence of those operations.

(3) The amount of any compensation under subsection (2) shall in case of dispute be determined in accordance with Part III of the Acquisition of Land Act 1984.

[c.9]

(4) In determining the amount of any compensation under subsection (2) there shall be taken into account any increase attributable to any operations carried out pursuant to subsection (1) in the value of any other land owned or occupied by the claimant or in which the claimant has an interest.

(5) In this section, "coastal works" means any works of construction, alteration, improvement, repair, maintenance, demolition or removal for the purpose of the protection of any land or the management of the coastline within or adjacent to a coastline management zone, and includes the sowing or planting of vegetation for that purpose.

6. (1) The Department may by notice in writing require the Department of Local Government and the Environment to notify it within 14 days of all planning approvals granted from time to time for the development or change of use of any land within a coastline management zone.

Notification of development or change of use.

(2) The Department may by notice in writing require the Department of Agriculture, Fisheries and Forestry to notify it within 14 days of any change of use of agricultural or horticultural land within a coastline management zone which it becomes aware of from time to time.

(3) The Department of Local Government and the Environment and the Department of Agriculture, Fisheries and Forestry shall comply with a requirement of the Department under subsections (1) and (2).

7. (1) The Department may carry out or commission such surveys of land and land use as it considers necessary for the purposes of this Act.

Powers of entry, etc.

(2) An officer or employee of the Department or a person authorised in writing by the Department may, at any reasonable time, enter on any coastal land for the purpose —

- (a) of carrying out any survey or inspection for the purposes of this Act;
- (b) of ascertaining whether or not circumstances exist which would authorise or require the Department to take any action, or undertake any coastal work under this Act;
- (c) of taking any action, or undertaking any coastal work, authorised by this Act to be taken or undertaken by the Department; or
- (d) generally, of the performance by the Department of its functions under this Act.

(3) A person empowered to enter on land under subsection (2) (“an authorised person”) —

- (a) shall, if so required before or after entering on the land, produce evidence of authority to enter;
- (b) may take on to the land such other persons and such equipment as are necessary for the purpose in question;
- (c) shall not, if the land is occupied, demand admission to the land as of right unless notice of the intended entry

has been served on the occupier not less than 24 hours before the demand;

- (d) shall, if the land is unoccupied when the person enters or the occupier is then temporarily absent, leave the land as effectually secured against trespassers as it was when entry first took place; and
 - (e) shall not enter any dwelling on the land which is occupied.
- (4) A person who —
- (a) intentionally obstructs another person in the exercise of a power conferred on the other person by subsection (2); or
 - (b) while another person is on any land in pursuance of subsection (2), intentionally obstructs that person in doing things connected with the survey, inspection, action, works or functions in question;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

General

Offences
by bodies
corporate.

8. (1) This section applies where an offence under this Act is committed by a body corporate and it is proved that the offence —

- (a) was committed with the consent or connivance of an officer of the body, or
 - (b) was attributable to neglect on the part of an officer of the body.
- (2) The officer, as well as the body, shall be guilty of the offence.

(3) An officer who is convicted of an offence under this Act by virtue of this section shall be liable to a fine not exceeding £5,000.

(4) In this section “officer” includes —

- (a) a director, manager or secretary,
- (b) a person purporting to act as a director, manager or secretary,

- (c) if the affairs of the body are managed by its members, a member, and
- (d) in relation to a limited liability company constituted under the Limited Liability Companies Act 1996, a member, the company's manager, or registered agent. [c.19]

9. In this Act —

Interpretation.

“coast” means the foreshore and estuarine cliffs or banks;

“coastal land” means the coast and land adjoining or near to the coast and which is or may be subject to erosion, inundation or coastal subsidence;

“coastal subsidence” means any subsidence or landslip affecting coastal land, whether or not caused by erosion or inundation;

“coastline management zone” has the meaning given in section 2;

“Department” means the Department of Transport.

10. The enactments specified in Schedule 3 are amended in accordance with that Schedule. Amendments.

11. (1) The Department shall not, nor shall any member, officer, employee or agent of the Department, be liable in damages for, or in respect of, any act or matter done or omitted to be done in good faith in the exercise, or purported exercise, of any function conferred by or under this Act or any order made under this Act. Statutory indemnity.

(2) Subsection (1) does not apply so as to prevent the award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the Human Rights Act 2001 (acts of public authorities). [c.1]

12. There shall be paid out of money provided by Tynwald any expenses of the Government under this Act and any increase attributable to this Act in the sums so payable under any other Act. Financial.

13. (1) This Act is additional to and not in derogation of any other functions of the Department and in particular does not prejudice any power of the Department to acquire land by compulsion. Savings, etc.

(2) The powers conferred on the Department by this Act may be exercised notwithstanding any enactment (other than one contained in this Act) but subject to subsections (3) and (4).

[c.2] (3) This Act does not affect the duty of the Department to comply with section 36(2) of the Wildlife Act 1990 (duty to have regard to the environment).

(4) The Department shall endeavour to secure a reasonable balance between —

(a) the proper discharge of its functions under this Act; and

[XVIII p. 1106] (b) the conservation and protection of ancient monuments and archaeological objects within the meaning of the Manx Museum and National Trust Act 1959.

(5) The Department shall, so far as is consistent with its functions under this Act, exercise them in a manner that is least likely to prejudice the fishing grounds in territorial waters.

Short title and commencement.

14. (1) This Act may be cited as the Coastline Management Act 2005.

(2) This Act shall come into operation on such day as the Department of Transport may by order appoint and different days may be so appointed for different provisions and for different purposes.

SCHEDULES

Section 2(1).

SCHEDULE 1

PROCEDURES FOR MAKING AN ORDER UNDER SECTION 2

Public notice of proposal to make order

1. (1) Where the Department proposes to make an order, it shall prepare a draft of the order and cause notice of the proposal to be published twice in accordance with this paragraph.

(2) The first publication of the notice may take place at any time after the draft has been prepared.

(3) The second publication of the notice shall take place between 21 days and 28 days after first publication.

(4) Each publication of the notice shall consist of —

- (a) publication in 2 newspapers published and circulating in the Island; and
- (b) publication by means of one or more radio broadcasts; and
- (c) publication on the Government website for a minimum period of 2 weeks beginning with the date of such publication; and
- (d) publication by such other means as appear to the Department to be reasonably necessary to bring the notice to the attention of those likely to be affected by the draft order.

(5) The notice shall —

- (a) state the general effect of the proposal and specify the coastal land to which the proposal relates;
- (b) name a place where a copy of the draft order and of any map referred to therein may be inspected by any person free of charge at all reasonable hours during a period specified in the notice, being a period expiring no sooner than 6 weeks after the first publication of the notice in accordance with paragraph (4)(a); and
- (c) state that, not later than the end of that period, any person may by notice in writing to the Department object to the proposal.

(6) The Department shall consider any objections made with respect to the proposal and, subject to paragraph 2, shall prepare a final draft of the order.

(7) A document which purports to be a copy of a notice published under this paragraph and bears a certificate purporting to be signed on behalf of the Department and stating that the notice was published in accordance with this paragraph on a day specified in the certificate, shall be evidence in any proceedings of the terms of the notice and of the matters stated in the certificate.

Inquiry

2. Before preparing a final draft of the order, the Department may, if it thinks it expedient, cause an inquiry to be held.

SCH. 1

Tynwald procedure

3. (1) The final draft shall be laid before Tynwald and if Tynwald at the sitting at which it is laid —
- (a) approves the making of an order, the Department may make the order;
 - (b) fails to approve the making of the order, it shall not be made.
- (2) An order shall not come into operation unless it is approved by Tynwald

Notice of making of order

4. (1) Where the Department has made an order, it shall cause notice thereof to be prepared which shall —
- (a) state the general effect of the order and specify the coastal land to which the order relates; and
 - (b) name a place where a copy of the order and of any map referred to therein may be inspected by any person free of charge at all reasonable hours.
- (2) An order shall not come into operation unless a copy of that notice has been —
- (a) published in at least one newspaper published and circulating in the Island; and
 - (b) served on the Department of Local Government and the Environment, the Department of Agriculture, Fisheries and Forestry and the Manx Museum and National Trust.
- (3) A document which purports to be a copy of a notice published under sub-paragraph (2) and bears a certificate purporting to be signed on behalf of the Department and stating that the notice was published in accordance with sub-paragraph (2) on a day specified in the certificate shall be evidence in any proceedings of the terms of the notice and of the matters stated in the certificate.

Definition

5. In this Schedule, “order” means an order under section 2.

Section 2(5).

SCHEDULE 2

SPECIAL PROVISIONS FOR KIRK MICHAEL COASTAL LAND

1. This Schedule applies to coastal land in the Local Government District of Michael constituted under section 1 of the Michael District Act 1989 that is in, or in the vicinity of, the Village of Kirk Michael ("the Kirk Michael coastal land"). [c.2]
2. Within the period of 3 months of the date on which section 2 comes into operation the Department shall —
 - (a) identify those parts of the Kirk Michael coastal land in respect of which the Department is satisfied that an order is required under section 2; and
 - (b) prepare a draft of an order under section 2 in respect of the land so identified for the purpose of designating that land as a coastline management zone.
3. The Department shall cause notice of the proposal to be published in accordance with paragraph 1 of Schedule 1 and shall, in accordance with that procedure, seek to make the order in respect of the land identified under paragraph 2(a) of this Schedule.

Section 10.

SCHEDULE 3

AMENDMENT OF ENACTMENTS

Town and Country Planning Act 1999 (c.9)

In section 2, after subsection (2) insert —

“(2A) Where a development plan is prepared or revised, the Department shall take into account the designation of any relevant land as a coastline management zone under the Coastline Management Act 2005.”.

In section 3, after subsection (2) insert —

“(2A) Where a planning policy statement is issued or revised, the Department shall take into account the designation of any relevant land as a coastline management zone under the Coastline Management Act 2005.”.