



BERMUDA

SUBMARINE COMMUNICATIONS CABLES ACT 2020

2020 : 5

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WHEREAS it is expedient to provide for the protection of submarine communications cables and to develop a submarine communications cables industry for Bermuda by way of a submarine cables permit and licensing regime;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

PART 1 PRELIMINARY

Citation

- 1 This Act may be cited as the Submarine Communications Cables Act 2020.

Interpretation

- 2 (1) In this Act, unless the contrary intention appears—
- “Authority” means the Regulatory Authority established under section 11 of the Regulatory Authority Act 2011;
- “authorization” means a licence, permit or other type of permission that the Authority may grant under this Act;
- “Bermuda waters” means the territorial waters of Bermuda;
- “business day” has the meaning given in section 2 of the Regulatory Authority Act 2011;
- “carrier” means a company or an LLC (as the case may be) that—
- (a) in respect of the installation of a submarine cable, applies for, or holds, a permit for the installation of the submarine cable (a “protection zone installation permit”);
 - (b) in respect of the operation of a submarine cable, applies for, or holds, a licence for the operation of the submarine cable (a “submarine cable licence”);
- “company” has the meaning given in section 2(1) of the Companies Act 1981;

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“engage in conduct” means to do an act or omit to do an act;

“Government authorization fees” has the meaning given in section 2 of the Regulatory Authority Act 2011;

“installation” in relation to a submarine cable, includes—

- (a) the laying of the cable on or beneath the seabed;
- (b) the attachment of the cable to any other cable or thing; and
- (c) any activity that is ancillary or incidental to the installation of the cable (for this purpose, installation includes an activity covered by paragraph (a) or (b));

“international agreement” means—

- (a) a convention to which the United Kingdom is a party and which applies to Bermuda; or
- (b) an agreement or arrangement between Bermuda and a foreign country;

“LLC” or “limited liability company” has the meaning given in section 2 of the Limited Liability Company Act 2016;

“line link” means an international communications cable line;

“Minister” means the Minister responsible for telecommunications;

“prescribed” means prescribed by regulations made by the Minister under this Act but, in relation to Government authorization fees, means prescribed by regulations made by the Minister of Finance under the Government Fees Act 1965;

“prohibited activities” means activities that are prohibited in a protection zone, which activities are listed in paragraph 1 of Schedule 2;

“protection zone” means an area designated in Schedule 1, in which submarine cables have protection;

“protection zone installation permit” means a permit granted under Part 5;

“Regulatory Authority fees” has the meaning given in section 2 of the Regulatory Authority Act 2011;

“restricted activities” means the activities that are restricted in a protection zone, which activities (and the corresponding restrictions imposed on each activity) are listed in paragraph 2 of Schedule 2;

“submarine cable” means that part of a line link—

- (a) that is laid on or beneath the seabed that lies beneath Bermuda waters;
- (b) that is laid for purposes that include connecting a place in Bermuda with a place outside Bermuda (whether or not the cable is laid via another place in Bermuda); and

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(c) that is connected to a place in Bermuda,

and includes any device attached to that part of the line link, if the device is used in or in connection with the line link;

“submarine cable licence” or “licence” means a licence granted under Part 6;

“submarine communications cables sector” means the regulated industry sector involving the installation, operation and support of submarine cables;

“vessel” includes any ship, yacht, boat, lighter or other craft of any description used for transport by water;

(2) A reference in this Act to—

(a) the location of a submarine cable includes, in relation to a submarine cable that is not yet installed, a reference to the proposed location of the submarine cable;

(b) a submarine cable includes a reference to a part of a submarine cable.

(3) Unless an expression is defined in this Act or the context otherwise requires, expressions defined by the Regulatory Authority Act 2011 shall have the same meaning when used in this Act.

Relationship with Regulatory Authority Act 2011

3 (1) This Act constitutes sectoral legislation within the meaning of the Regulatory Authority Act 2011.

(2) To the extent possible, the provisions of this Act shall be construed consistently with the provisions of the Regulatory Authority Act 2011.

(3) In the event of an irreconcilable conflict between this Act and the Regulatory Authority Act 2011, the provisions of this Act shall prevail.

Relationship with Electronic Communications Act 2011

4 (1) A person who, under this Act, holds a protection zone installation permit or a submarine cable licence, as the case may be, authorizing certain activities, is exempted from the requirement under section 12 of the Electronic Communications Act 2011 of holding an authorization under that Act in respect of those activities subject to anything to the contrary in the authorization the person holds under this Act.

(2) Subject to subsection (1), the Electronic Communications Act 2011 shall apply to the supply of electronic communications for which a licence, permit or other form of authorization is required under that Act.

Application

5 (1) Subject to subsection (2), this Act applies to the submarine communications cables sector, including the installation, operation and protection of submarine cables within Bermuda waters.

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(2) Parts 5 and 6 do not apply in respect of any submarine cable that has been installed in Bermuda waters before the commencement of this Act.

(3) The provisions of this Act are in addition to, and not in derogation of, the provisions of the Submarine Telegraph Act 1885 (United Kingdom), which applies to Bermuda.

Purposes of this Act

6 (1) The purposes of this Act shall be to—

- (a) promote investment in the submarine communications cables sector and in communications-reliant industries, thereby stimulating the economy and employment;
- (b) enhance the protection of submarine cables in Bermuda waters;
- (c) enhance Bermuda’s international submarine communications cables connectivity;
- (d) lay the groundwork for the further development of the submarine communications cables sector, and promote its orderly development;
- (e) encourage the development and maintenance of resilient and fault-tolerant submarine communications cables infrastructures.

(2) Where any of these purposes appear to be in conflict, the priorities shall be set or the conflict otherwise resolved in a way that best serves the public interest in the opinion of the Minister or the Authority, as the case may be.

PART 2

FUNCTIONS OF THE MINISTER

Functions of the Minister

7 The Minister shall have the power to establish general policies by Ministerial declaration and to make regulations for the submarine communications cables sector, in accordance with sections 4 and 5 of the Regulatory Authority Act 2011, with respect to—

- (a) protection zones and the protection of submarine cables under Part 4;
- (b) permits and the installation of submarine cables under Part 5;
- (c) licences and the operation of submarine cables under Part 6;
- (d) if not otherwise specified in this Act, the grant, extension or termination of licences, permits or other authorizations, as the case may be, and any conditions that the Minister deems to be necessary as a matter of general policy; and
- (e) such other matters as may be necessary for the performance of the Minister’s functions under this Act.

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Ministerial directions

8 (1) The Minister may, in accordance with sections 7 and 8 of the Regulatory Authority Act 2011, issue Ministerial directions to the Authority regarding—

- (a) protecting national security interests or in the event of national emergency;
- (b) securing compliance with Bermuda's international obligations;
- (c) implementing the general policies and regulations made by the Minister for the submarine communications sector in accordance with section 7;
- (d) ensuring that the Authority establishes and adheres to a reasonably prompt timetable in carrying out its functions, including the issuance and enforcement of administrative determinations;
- (e) any other matter within his authority respecting the submarine communications cables sector.

(2) Ministerial directions shall be designed with due regard to the purposes of this Act.

(3) The Minister shall not direct the Authority regarding—

- (a) the application of general policies to specific matters before the Authority; or
- (b) the specific rights or obligations of any carrier.

(4) The Authority shall act in accordance with any Ministerial directions issued pursuant to subsection (1).

Trade-offs

9 (1) In formulating Ministerial directions, the Minister shall set priorities and resolve trade-offs or conflicts that arise from the purposes of this Act in the way that, in the opinion of the Minister, best serves the public interest.

(2) In determining the public interest, the Minister shall, in addition to considering Government policy, consider the purposes of this Act, public comments, and any technical analysis given by the Authority.

Publication of Ministerial directions

10 (1) Subject to subsection (2), any Ministerial directions shall be published in the Gazette and on the official website of the Department responsible for telecommunications.

(2) The Minister may cause to be redacted any portion of a Ministerial direction so published if he reasonably concludes that publication of that portion of the direction would—

- (a) jeopardise national security;
- (b) result in the disclosure of confidential, proprietary or sensitive information; or

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- (c) harm the public interest.

Information and technical advice may be requested from Authority

11 (1) The Minister, when necessary for the performance of his duties, may request the Authority to provide him with information regarding the submarine communications cables sector.

(2) The information that the Minister may obtain from the Authority under subsection (1) includes technical analysis and technical advice concerning the submarine communications cables sector and related matters.

(3) The Authority shall—

- (a) submit such information in accordance with section 6 of the Regulatory Authority Act 2011;
- (b) in its submission, identify any information to which the Authority has granted confidential treatment under section 33(5) of the Regulatory Authority Act 2011.

PART 3

FUNCTIONS OF THE AUTHORITY

Functions of the Authority

12 (1) The Authority shall—

- (a) implement—
 - (i) the provisions of Part 5 (permits to install submarine cables) and Part 6 (licences to operate submarine cables); and
 - (ii) the general policies and regulations made by the Minister; and
- (b) supervise, monitor and regulate the submarine communications cables sector and enforce compliance with Parts 5 and 6.

(2) The functions of the Authority shall include—

- (a) promoting an efficient and effective permit and licensing framework for the submarine communications cables sector;
- (b) granting authorizations that are necessary, or ancillary, to licences or permits under this Act;
- (c) the making of administrative determinations under this Act; and
- (d) exercising any of its other functions set out in this Act or the Regulatory Authority Act 2011.

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General directions and delegations by Minister

13 (1) The Authority shall carry out its functions in accordance with such general directions as may be given to it by the Minister.

(2) The Authority shall undertake such functions as may be delegated by the Minister from time to time in accordance with section 9 of the Regulatory Authority Act 2011, including the following—

- (a) becoming or serving as a member of an international body or subscribing to such a body, and providing representation on behalf of Bermuda on international and other bodies having communications functions;
- (b) providing representation at international meetings about submarine communications cables; and
- (c) providing research, analysis or similar support to the Minister in connection with any of his functions.

Regulatory Authority fees

14 (1) Regulatory Authority fees for the submarine communications cables sector, both general regulatory fees and service fees, shall be established for each financial year in accordance with the principles and procedures set out in section 44 of the Regulatory Authority Act 2011 and those specified in this section.

(2) In making a request for the establishment of general regulatory fees, the Authority shall have due regard to—

- (a) the cost of regulatory administration attributable to the authorization holders when proposing the applicable general regulatory fee for the type of authorization;
- (b) the cumulative effect of all sources of Regulatory Authority fees on each type of authorization holder;
- (c) the financial and commercial impact of the timing of the payment or payments for general regulatory fees on authorization holders, taking into account the financial requirements of the Authority; and
- (d) the efficient management of the Authority's resources.

(3) The Authority's request to the Minister shall be accompanied by reasonable supporting data to justify the requested fees.

(4) The general regulatory fees that are recommended by the Authority for application to carriers may be based on the total current design capacity of the submarine cable.

Government authorization fees for authorizations

15 (1) The Authority, pursuant to section 52 of the Regulatory Authority Act 2011, shall submit recommendations to the Minister concerning—

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- (a) the types of authorizations that shall be subject to Government authorization fees;
- (b) the amount of, or the basis for, setting such fees for each type of authorization to which the fees apply; and
- (c) the timetable for payment.

(2) In preparing a recommendation on the Government authorization fees, notwithstanding any other Act, the Authority may recommend variations in the total amount of the Government authorization fees payable by individual authorization holders in the specified period, based on a formula that takes into account—

- (a) the degree to which each authorization holder is owned or controlled, directly or indirectly, by persons possessing Bermudian status within the meaning of the Bermuda Immigration and Protection Act 1956; and
- (b) the proportion of each authorization holder's employees possessing Bermudian status within the meaning of the Bermuda Immigration and Protection Act 1956.

PART 4

PROTECTION ZONES

Protection Zones: Prohibited and Restricted Activities

Protection zones

- 16
- (1) Schedule 1 (Protection Zones) has effect.
 - (2) The Minister may make regulations amending Schedule 1.
 - (3) Regulations made under subsection (2) may—
 - (a) adjust the boundaries of an existing protection zone, provided that the boundaries remain within Bermuda waters; or
 - (b) designate one, or more than one, other area within Bermuda waters to be a protection zone for the purposes of this Act.

Authority may make recommendations regarding protection zones

17 (1) Subject to subsection (2), the Authority may make recommendations to the Minister about the designation of a protection zone under section 16.

(2) Recommendations to the Minister under subsection (1) shall be in the Authority's discretion, but it may consider a proposal by a person for the designation of a protection zone if the proposal is related to an intended application for a protection zone installation permit that would be contingent on the designation of the proposed protection zone.

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(3) The Minister shall not be bound by a recommendation made by the Authority under subsection (1).

Prohibited and restricted activities

18 (1) Schedule 2 (Prohibited and Restricted Activities) has effect.

(2) The Minister may make regulations amending Schedule 2 by adding to, deleting from, or otherwise modifying—

- (a) the list of prohibited activities in paragraph 1 thereof;
- (b) the list of restricted activities (and the corresponding restrictions imposed on each activity) in paragraph 2 thereof.

Consultation with Minister responsible for environment

19 The Minister, where he is not also the Minister responsible for the environment—

- (a) shall not make regulations under section 16 or 18 amending Schedule 1 or 2, respectively, unless he has first consulted with the Minister responsible for the environment in relation to a proposal to do so; and
- (b) shall have regard to any advice or recommendations provided by the Minister responsible for the environment in relation to the proposal.

Offences in Relation to Damaging a Submarine Cable

Damaging submarine cable

20 A person commits an offence if—

- (a) the person engages in conduct;
- (b) the conduct results in damage to a submarine cable; and
- (c) the cable is in a protection zone.

Defence to offence of damaging submarine cable

21 It shall be a defence for a person charged with an offence under section 20 to prove that—

- (a) the conduct that resulted in damage to the submarine cable was necessary to save a life or a vessel;
- (b) the conduct that resulted in damage to the submarine cable was necessary to prevent pollution;
- (c) the person took all reasonable steps to avoid causing damage to the submarine cable;
- (d) the person is the carrier who owns or operates the damaged submarine cable; or

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- (e) when the conduct occurred, the person was acting on behalf of the carrier who owns or operates the damaged submarine cable.

Offence by master or owner of vessel: damaging submarine cable

- 22 (1) A person (the first person) commits an offence if—
- (a) the first person is the owner or master of a vessel;
 - (b) the first person permits another person to use the vessel;
 - (c) the other person commits an offence against section 20; and
 - (d) the vessel is used in the commission of the offence and the first person is reckless as to that fact.
- (2) It shall be a defence for the first person to prove that the other person has, or would have, a defence under section 21.

Offences in Relation to Engaging in Prohibited or Restricted Activities

Engaging in prohibited or restricted activities

- 23 A person commits an offence if—
- (a) the person engages in conduct;
 - (b) the conduct occurs in a protection zone; and
 - (c) the conduct—
 - (i) is prohibited in the protection zone; or
 - (ii) contravenes a restriction imposed on an activity in the protection zone.

Aggravated offence of engaging in prohibited or restricted activities

- 24 A person commits an offence under this section if—
- (a) the person engages in conduct;
 - (b) the conduct occurs in a protection zone;
 - (c) the conduct—
 - (i) is prohibited in the protection zone; or
 - (ii) contravenes a restriction imposed on an activity in the protection zone; and
 - (d) the person engages in the conduct with the intention of making a commercial gain.

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Defences to offences of engaging in prohibited or restricted activities

25 It shall be a defence for a person charged with an offence under section 23 or 24 to prove that—

- (a) the conduct was necessary to save a life or vessel;
- (b) the conduct was necessary to prevent pollution; or
- (c) the person took all reasonable steps to avoid engaging in the conduct.

Offence by master or owner of vessel: engaging in prohibited or restricted activities

26 (1) A person (the first person) commits an offence if—

- (a) the first person is the owner or master of a vessel;
- (b) the first person permits another person to use the vessel;
- (c) the other person commits an offence against section 23 or 24; and
- (d) the vessel is used in the commission of the offence and the first person is reckless as to that fact.

(2) It shall be a defence for the first person to prove that the other person has, or would have, a defence under section 25.

Penalties for Offences under this Part

Penalties for offences under this Part

27 (1) A person who commits an offence under section 20, 22, 24 or 26 (if the other person referred to in section 26(c) commits an offence under section 24), as the case may be, shall be liable—

- (a) on summary conviction to—
 - (i) a fine of \$50,000;
 - (ii) imprisonment for two years; or
 - (iii) both such fine and imprisonment; or
- (b) on conviction on indictment to—
 - (i) a fine of \$100,000;
 - (ii) a term of imprisonment of four years; or
 - (iii) both such fine and imprisonment.

(2) A person who commits an offence under section 23 or 26 (if the other person referred to in section 26(c) commits an offence under section 23), as the case may be, shall be liable—

- (a) on summary conviction to—
 - (i) a fine of \$40,000;

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- (ii) imprisonment for 36 months; or
 - (iii) both such fine and imprisonment; or
- (b) on conviction on indictment to—
- (i) a fine of \$80,000;
 - (ii) a term of imprisonment of three years; or
 - (iii) both such fine and imprisonment.

Damages and Indemnity for Loss of Anchor

Person may claim damages

- 28 (1) A person who suffers, directly or indirectly, loss or damage—
- (a) because a submarine cable in a protection zone is damaged by conduct of another person;
 - (b) because another person engages in conduct that is prohibited in a protection zone; or
 - (c) because another person engages in conduct that contravenes a restriction imposed on an activity in a protection zone,

may recover the amount of the loss or damage against that other person, or against any person involved in the contravention (whether or not a person is convicted of an offence in respect of the contravention).

(2) An action under subsection (1) may be commenced at any time within six years after the day on which the cause of action that relates to the conduct occurred.

(3) A reference in subsection (1) to a person who is involved in a contravention is a reference to a person who has—

- (a) aided, abetted, counselled or procured the contravention;
- (b) induced, whether by threats or promises or otherwise, the contravention;
- (c) been in any way, directly or indirectly, knowingly concerned in, or party to, the contravention; or
- (d) conspired with others to effect the contravention.

Indemnity for loss of anchor, etc.

29 If—

- (a) after all reasonable precautionary measures have been taken, an anchor, a net or any other fishing gear belonging to a vessel is sacrificed in order to avoid damaging a submarine cable in a protection zone; and
- (b) at the time the sacrifice is made, no person on board the vessel is engaging in conduct—

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- (i) that is prohibited in the protection zone; or
- (ii) that contravenes a restriction imposed on an activity in the protection zone,

the owner of the vessel is entitled to be indemnified for that loss by the person responsible for the submarine cable.

PART 5

PERMITS TO INSTALL SUBMARINE CABLES

Protection Zone Installation Permits

Application for installation permit to install submarine cable

30 (1) A company or an LLC may apply to the Authority for a permit (a “protection zone installation permit”) to install one or more submarine cables in a protection zone.

(2) For the avoidance of doubt, no submarine cable shall be installed in Bermuda waters outside a protection zone.

Consultancy deposit — permit

31 (1) Subject to subsection (3), the Authority may, if it considers it desirable so to do, require an applicant for a protection zone installation permit to provide a consultancy deposit in respect of the application for a protection zone installation permit.

(2) The Authority may, by order, specify the amount of the consultancy deposit which shall be provided by the applicant.

(3) The Authority may at any time, by order, require the applicant to increase the amount of the consultancy deposit given under this section to an amount sufficient to ensure the payment of the Authority’s consultancy costs actually expended for the purposes of assessing an applicant’s application for the permit and, where applicable, a licence under Part 6.

(4) Any unused funds of the consultancy deposit shall be refunded to the applicant.

(5) The Authority may also at any time, by order, require further funds from the applicant, where it believes it necessary to do so, to cover the actual costs of assessing the application or, once granted, assessing compliance with the permit conditions.

(6) The requirement under subsection (5) may include the cost of purchasing or leasing equipment for those purposes.

(7) In this section, “order” has the meaning given in section 2 of the Regulatory Authority Act 2011.

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Form of application, etc.

32 (1) An application for a permit under section 30 shall be in such form as is specified by the Authority.

(2) For the purposes of this Part—

- (a) sections 48(5) and 49(1) of the Regulatory Authority Act 2011 shall be construed as if “by general determination” in those sections reads “by administrative determination”; and
- (b) section 48(8)(a) of that Act shall be construed as if “a general determination” reads “an administrative determination”.

(3) The specified form shall require the application to set out—

- (a) the proposed route or routes, in Bermuda waters, of the submarine cable or cables specified in the application;
- (b) information about the ownership and control of the submarine cable or cables specified in the application; and
- (c) any other relevant information.

(4) For the purposes of subsection (3), control includes control as a result of, or by means of, trusts, agreements, arrangements, understandings and practices—

- (a) whether or not having legal or equitable force;
- (b) whether or not based on legal or equitable rights; and
- (c) whether or not capable of being exercised indirectly through one or more interposed companies, partnerships or trusts.

Application to be accompanied by fee

33 An application shall be accompanied by the prescribed Regulatory Authority fee and such Government authorization fee as may be prescribed.

Withdrawal of application

34 (1) This Part does not prevent the withdrawal of an application, by notice in writing to the Authority, and the submission of a new application.

(2) The fees under section 33 shall not be refundable in the case of withdrawal of the application, and in the case of the submission of a new application, fees under section 33 shall again accompany the application.

Notification of change of circumstances

35 (1) If—

- (a) an application is pending; and
- (b) the applicant becomes aware of a change of circumstances relating to information set out in the application,

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the applicant shall notify the change to the Authority as soon as practicable.

(2) After considering the notification, the Authority shall decide whether or not the change should be treated as a material change in circumstances for the purposes of section 41.

(3) The Authority shall notify the applicant in writing of the Authority's decision under subsection (2) within five business days after the day on which the decision is made.

Further information

36 (1) The Authority may request the applicant to give the Authority further information about the application.

(2) The Authority may refuse to consider the application until the applicant gives the Authority the information.

(3) For the avoidance of doubt, if the Authority has requested information under subsection (1) and the applicant gives further information but the Authority is not satisfied that it has been given sufficient information, the Authority may again request information under subsection (1) until satisfied that it has been given all the required information.

Consultation

37 (1) Before making a decision on the application for a protection zone installation permit, the Authority shall consult—

- (a) the Minister;
- (b) the Minister responsible for the environment;
- (c) the Minister responsible for planning;
- (d) the Minister responsible for parks;
- (e) the Minister responsible for public works;
- (f) the Minister responsible for marine and ports services;
- (g) the Attorney-General;
- (h) the Minister responsible for national security; and
- (i) any other persons the Authority considers relevant.

(2) Within seven business days after the day on which the Authority receives the complete application, the Authority shall give each of the persons mentioned in subsection (1) a copy of the complete application.

(3) Within 15 business days after the day on which the person receives a copy of the application from the Authority under subsection (2), that person shall—

- (a) give a written notice to the Authority stating that, while the notice remains in force, the Authority shall not grant the permit;

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(b) make a submission to the Authority; or

(c) give a written notice to the Authority stating that it does not require any further consultation about the application.

(4) The Authority shall not grant the permit while a notice is in force under subsection (3)(a).

(5) Unless sooner revoked, a notice under subsection (3)(a) remains in force during the period specified in the notice.

(6) The period specified under subsection (5) shall not be longer than one month.

(7) A person who gives a notice under subsection (3)(a) may, by written notice given to the Authority, extend, or further extend, the period referred to in subsection (5), so long as the extension, or further extension, does not result in the notice under subsection (3)(a) being in force for longer than three months.

(8) A person who gives a notice under subsection (3)(a) may revoke the notice by giving the Authority a further written notice.

(9) Within two business days after the day on which the Authority receives a notice under subsection (3)(a) or (7), the Authority shall give the applicant a copy of the notice.

(10) If a notice under subsection (3)(a) is in force, the person who gave the notice may make a submission to the Authority.

(11) A submission to the Authority under subsection (3)(b) or (10) may include—

(a) recommendations about the conditions that should be specified in the permit under subsection 42(1)(c) or (d); or

(b) such other matters (if any) as the Authority considers relevant.

(12) A notice under subsection (3)(c) cannot be revoked.

(13) For the purposes of subsection (2), the Authority receives the “complete application” when it is satisfied that it has received the application in substantially complete form.

Grant or refusal of permit

38 (1) After considering the application, the Authority may grant the applicant a protection zone installation permit authorizing the installation, in the protection zone, of the submarine cable or cables specified in the application.

(2) After considering the application, the Authority may refuse to grant a protection zone installation permit.

(3) If the Authority refuses to grant the permit, it shall notify the applicant in writing of the Authority's decision and the reasons for the decision.

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(4) Where the Authority has refused to grant a permit and notified the applicant in accordance with subsection (3), the applicant may appeal the refusal, in accordance with section 96 of the Regulatory Authority Act 2011, to the Supreme Court.

Matters to which the Authority shall have regard

39 In deciding whether to grant a protection zone installation permit, the Authority shall have regard to—

- (a) any relevant technical and economic aspects of the installation;
- (b) whether the submarine cable would pose an obstruction to marine traffic in the affected area;
- (c) whether the installation involves co-location of the submarine cable or cables to which the application relates with one or more other submarine cables;
- (d) any submission to the Authority under section 37(3)(b); and
- (e) any other matters that the Authority considers relevant.

Refusal of permit: public safety

40 (1) If the Minister responsible for national security, after consulting the Minister and the Minister responsible for the environment, considers that the grant of a protection zone installation permit to a particular carrier would be prejudicial to public safety, the Minister responsible for national security may give a written direction to the Authority not to grant a protection zone installation permit to the carrier.

(2) The Authority shall comply with a direction under subsection (1).

(3) While a direction is in force under this section the Authority cannot reconsider a non-compulsory refusal to grant a protection zone installation permit to the carrier.

(4) Where an application for a protection zone installation permit is pending, at the time when the Minister responsible for national security gives a direction to the Authority under this section, then the application lapses.

(5) In this section, “non-compulsory refusal” means a refusal to grant a protection zone installation permit, other than a refusal that is required by this section.

Timing of decision on application

41 (1) Where a carrier applies for a protection zone installation permit and the Authority requests the applicant to give the Authority further information under section 36(1) in relation to the application, the Authority shall take all reasonable steps to ensure that a decision is made on the application within—

- (a) 60 business days; or

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- (b) if the Authority, by written notice given to the applicant, specifies a greater number of business days (not exceeding 75 business days), that number of business days,

after the day on which the applicant gave the Authority the information.

(2) Where a carrier applies for a protection zone installation permit and the Authority does not request the applicant to give the Authority further information under section 36(1) in relation to the application, the Authority shall take all reasonable steps to ensure that a decision is made on the application within—

- (a) 60 business days; or
- (b) if the Authority, by written notice given to the applicant, specifies a greater number of business days (not exceeding 75 business days) that number of business days,

after the day on which the application was made.

(3) Where—

- (a) a carrier applies for a protection zone installation permit;
- (b) the carrier notifies the Authority of a change in circumstances under section 35(1); and
- (c) the Authority decides under section 35(2) that the change should not be treated as a material change in circumstances for the purposes of this section,

the number of business days referred to in subsection (1) or (2) is extended by five business days.

(4) Where—

- (a) a carrier applies for a protection zone installation permit;
- (b) the carrier notifies the Authority of a change in circumstances under section 35(1); and
- (c) the Authority decides under section 35(2) that the change should be treated as a material change in circumstances for the purposes of this section,

the number of business days referred to in subsection (1) or (2) is extended by 30 business days or, if the Authority, by written notice given to the applicant, specifies a greater number of business days (not exceeding 35 business days), that number of business days.

(5) Where—

- (a) a carrier applies for a protection zone installation permit; and
- (b) a notice is given to the Authority under section 37(3)(a) in relation to the application,

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the number of business days referred to in subsection (1) or (2) is extended by one business day for each business day in the period during which the notice remains in force.

Conditions of permit

42 (1) Without prejudice to section 50 of the Regulatory Authority Act 2011, a protection zone installation permit held by a carrier is subject to the following conditions—

- (a) a condition that so much of the relevant cable or cables as is installed in a protection zone shall be installed within—
 - (i) 75 metres of the route or routes specified by the Authority in the permit; or
 - (ii) if the Authority specifies another distance in the permit, that distance of the route or routes specified by the Authority in the permit;
- (b) a condition that the carrier, or a person acting on behalf of the carrier, shall install the relevant cable or cables in accordance with all regulatory approvals that have been obtained for the installation;
- (c) such conditions (if any) in relation to public safety as the Authority specifies in the permit;
- (d) such conditions (if any) in relation to the installation of the relevant cable or cables as the Authority specifies in the permit.

(2) Without prejudice to section 51 of the Regulatory Authority Act 2011, the Authority may, by written notice given to the holder of a protection zone installation permit—

- (a) vary a condition covered by subsection (1)(a) by—
 - (i) specifying a distance; or
 - (ii) varying a distance; or
- (b) vary a condition covered by subsection (1)(b),(c) or (d).

Duration of permit

43 A protection zone installation permit is in force for a period of two years from the day the permit is granted and shall expire at the end of that two years.

Surrender of permit

44 The holder of a protection zone installation permit may, at any time, surrender the permit by written notice given to the Authority.

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Extension of permit

45 (1) Before a protection zone installation permit expires, the holder of the permit may apply to the Authority to extend the duration of the permit for a further period, or periods, not exceeding 12 months in aggregate.

(2) The holder shall give the Authority reasons for requesting to extend the duration of the permit.

(3) If the Authority refuses the application, the Authority shall give the holder written notice of the Authority's decision and the reasons for the decision.

(4) Where a permit has been extended in accordance with this section, an additional permit fee will be required prior to the issuance of the extended permit.

Suspension or revocation of permit

46 (1) Without prejudice to section 51 of the Regulatory Authority Act 2011, the Authority may suspend or revoke a protection zone installation permit by written notice to the holder of the permit, if the Authority is satisfied that the holder has breached a condition to which the permit is subject.

(2) Before a permit is suspended or revoked under subsection (1)—

- (a) the Authority shall give the holder 30 days' written notice of the Authority's intention to suspend or revoke the permit and the ground or grounds on which the Authority intends to do so;
- (b) the Authority shall give the holder an opportunity to submit to the Authority any matters that the holder wishes the Authority to take into account in deciding whether to suspend or revoke the permit; and
- (c) the Authority shall take into account any matters submitted by the holder under paragraph (b) and any action taken by the holder to address the Authority's concerns or to prevent the recurrence of similar circumstances.

(3) For the avoidance of doubt, section 51 of the Regulatory Authority Act 2011 shall apply to the suspension or revocation of a permit.

Conditions Applicable to Installation of Submarine Cables

Installation to do as little damage as practicable

47 The carrier shall ensure that all reasonable steps are taken to ensure that the installation of a submarine cable causes as little detriment and inconvenience, and as little damage, as is practicable.

Management of installation activities

48 The carrier shall ensure that all reasonable steps are taken—

- (a) to act in accordance with good engineering practice;
- (b) to protect the safety of persons and property; and

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- (c) to protect the environment.

Compliance with industry standards

49 The carrier shall ensure that the installation is done in accordance with any standard that—

- (a) relates to installation;
- (b) is recognised by the Authority as a standard for use in the telecommunications industry; and
- (c) is likely to reduce a risk to the safety of the public if the carrier complies with the standard.

Compliance with international agreements

50 The carrier shall ensure that the installation is done in a manner that is consistent with Bermuda's obligations under an international agreement that is relevant to the installation.

Conditions specified in regulations

51 The carrier shall ensure that the installation complies with any conditions that may be specified in regulations.

Offences in Relation to Installation of Submarine Cables

Installing submarine cable without permit or in Bermuda waters outside protection zone

- 52 (1) A person commits an offence if—
- (a) the person installs, or causes to be installed, a submarine cable in a protection zone; and
 - (b) the person does not have a permit under this Part authorizing the installation of the cable in the place in which it is installed.
- (2) Subsection (1) does not apply to a person who installs a submarine cable on behalf of a carrier, if the carrier has a permit authorizing the installation of the cable.
- (3) A person also commits an offence if the person installs, or causes to be installed, a submarine cable in Bermuda waters outside a protection zone.

Breaching conditions of permit

- 53 A carrier commits an offence if—
- (a) the carrier holds a permit under this Part authorizing the installation of a submarine cable; and
 - (b) the carrier, or a person acting on behalf of the carrier, engages in conduct which breaches a condition of the permit.

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Noncompliance with direction to remove or disable unlawfully installed cable

54 (1) The Authority may direct a carrier to remove, re-lay or to disable a submarine cable if, after commencement of this Act—

- (a) the carrier installed the submarine cable, or caused it to be installed, in a protection zone without a permit under this Part authorizing the installation;
- (b) the carrier is installing the submarine cable, or causing it to be installed, in a protection zone without a permit under this Part authorizing the installation; or
- (c) the carrier is installing the submarine cable, or causing it to be installed, in a manner that breaches a condition of the permit.

(2) The Authority may also direct a person to remove or to disable a submarine cable if, after commencement of this Act, the person installs, or is installing, the submarine cable (or causes, or is causing, it to be installed) in Bermuda waters outside a protection zone.

(3) A carrier or person who does not comply with a direction under subsection (1) or (2), respectively, commits an offence.

Penalties for offences under section 52, 53 or 54

55 A person who commits an offence under section 52, 53 or 54, as the case may be, shall be liable—

- (a) on summary conviction to—
 - (i) a fine of \$50,000;
 - (ii) imprisonment for two years; or
 - (iii) both such fine and imprisonment; or
- (b) on indictment to—
 - (i) a fine of \$1,000,000;
 - (ii) a term of imprisonment of 10 years; or
 - (iii) both such fine and imprisonment.

PART 6

LICENCES TO OPERATE SUBMARINE CABLES

Application for licence to operate submarine cable

56 (1) Subject to the provisions of this Act, a company or an LLC may apply, in such form as is specified by the Authority, for the grant of a licence to land and operate a submarine cable (“a submarine cable licence”) under this Part—

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- (a) at the same time as it applies for a permit to install the submarine cable under Part 5; or
 - (b) at any time after a permit to install the submarine cable has been applied for under Part 5.
- (2) For the purposes of this Part—
- (a) sections 48(2), (4) and (5) of the Regulatory Authority Act 2011, and section 49(1) of that Act, shall be construed as if “by general determination” in those sections reads “by administrative determination”; and
 - (b) section 48(8)(a) of that Act shall be construed as if “a general determination” reads “an administrative determination”.

Consultancy deposit — licence

57 (1) The Authority may, if it considers it desirable so to do, require an applicant for a submarine cable licence to provide a consultancy deposit in respect of the application for the licence.

(2) The Authority may, by order, specify the amount of the consultancy deposit which shall be provided by the applicant.

(3) The Authority may at any time, by order, require the applicant to increase the amount of the consultancy deposit given under this section to an amount sufficient to ensure the payment of the Authority’s consultancy costs actually expended for the purposes of assessing the applicant’s application.

(4) Any unused funds of the consultancy deposit shall be refunded to the applicant.

(5) In this section, “order” has the meaning given in section 2 of the Regulatory Authority Act 2011.

Grant of licence

58 (1) Subject to subsection (2), the Authority may, after—

- (a) receipt of an application for a submarine cable licence;
- (b) payment of the prescribed fee by the applicant;
- (c) considering the application and any objections to the application,

grant to the applicant a submarine cable licence.

(2) A submarine cable licence shall have no effect before the submarine cable has been installed in accordance with a protection zone installation permit under Part 5 but, if the licence is applied for before the submarine cable is installed, the Authority may grant a conditional licence to land and operate the submarine cable.

(3) The Authority shall specify in a licence granted by it—

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- (a) the name of the licensee;
- (b) the location of the submarine cable; and
- (c) any conditions attached to the grant of the licence.

(4) In this section, “conditional licence” means a licence that is contingent on the installation of the submarine cable, and which has no effect unless and until the installation of the submarine cable is complete.

Form and content of licence

59 (1) A submarine cable licence shall be in the form, and include the terms, as set by the Authority by administrative determination.

(2) A licence may contain other provisions not inconsistent with the terms in the administrative determination in respect of the licence.

Term of submarine cable licence

60 A submarine cable licence may be granted for a maximum initial period of 25 years and, on the expiration of the initial period, may be renewed for such further period, not exceeding 15 years, as may be specified in the renewal.

Notice of proposed grant of licence

61 Where the Authority proposes to grant a submarine cable licence to an applicant, the Authority shall publish in the Gazette and on its website a notice specifying—

- (a) the name of the applicant;
- (b) the location of the submarine cable or of the proposed installation of the submarine cable; and
- (c) that a person who objects to the proposed grant of such a licence may object in writing to the Authority within seven days of the publication of the notice.

Objection to proposed grant of licence

62 (1) A person may object in writing to the Authority, within seven days of publication of a notice under section 61, to the proposed grant of a submarine cable licence specifying the grounds therefor.

(2) The Authority shall consider any objection in relation to a particular application for a licence when deciding whether to grant a licence to an applicant.

Considerations for grant of licence

63 The Authority shall not grant a submarine cable licence to an applicant unless it is satisfied that—

- (a) every person who is, or is to be, a director, controller or senior executive of the applicant is a fit and proper person to perform the functions in

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relation to any activity carried on, or to be carried on, by it under this Act, having regard to the probity of the applicant and its officers; and

- (b) the applicant has sufficient financial resources to enable it to provide the facilities, equipment and personnel to operate and maintain the submarine cable efficiently.

Conditions of licence and variation of conditions

64 (1) Without prejudice to section 50 of the Regulatory Authority Act 2011, the Authority may specify in a submarine cable licence such conditions as it considers necessary including—

- (a) the restriction of communication traffic to transit; or
- (b) the redundancy of local communication traffic.

(2) Without prejudice to section 51 of the Regulatory Authority Act 2011, the Authority may, at any time for reasonable cause, add to, or vary, a condition attached to a submarine cable licence, including—

- (a) the restriction of communication traffic to transit; or
- (b) the redundancy of local communication traffic.

Payment of fees

65 (1) Every carrier to which a licence is granted under this Act shall, upon the issue of such licence, pay to the Authority such fees as may be prescribed.

(2) On or before the 31st day of January of every year after the year in which a licence has been granted to a carrier, that carrier shall, during the subsistence of such licence, pay to the Authority such fees as may be prescribed.

(3) Any carrier which fails to pay the fees provided by this section commits an offence and is liable on conviction by a court of summary jurisdiction—

- (a) to a fine of \$50,000 and a further fine of \$5,000 for every day during which the offence continues; and
- (b) to pay to the Authority a sum equal to twice the amount of any fee that would have been payable pursuant to the relevant section but for the commission of the offence.

Revocation of submarine cable licence

66 Without prejudice to section 51 of the Regulatory Authority Act 2011, the Authority may, in writing, at any time, revoke a submarine cable licence if the carrier—

- (a) no longer operates the submarine cable;
- (b) applies to the Authority in writing requesting the revocation of the licence;

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- (c) fails to comply with this Act or any enactment that prohibits, controls or regulates the operation of a submarine cable;
- (d) is bankrupt; or
- (e) has, in the course of his operation of the submarine cable been convicted of an indictable offence involving dishonesty.

Notice of intention to vary or revoke licence

67 (1) The Authority shall, before it varies any conditions in a licence or revokes a licence—

- (a) give the carrier notice in writing of the ground or grounds on which it intends so to do;
- (b) afford the carrier an opportunity to object in writing within the period of 30 days after receipt of the notice; and
- (c) take any such objection into consideration,

and, if the Authority decides to vary a condition in a licence or revoke the licence, it shall cause the instrument revoking the licence or varying a condition in the licence to be served on the carrier.

(2) The variation or revocation of a submarine cable licence takes effect on the expiration of 21 days beginning on the date of service on the carrier of the instrument varying or revoking the licence.

Appeal

68 (1) A person that is aggrieved by the determination by the Authority of an application for the grant, modification, suspension, revocation or transfer of a licence may appeal to the Supreme Court on that account.

(2) Section 96 of the Regulatory Authority Act 2011 applies in relation to such an appeal.

Offence of operating submarine cable without licence or in breach of licence conditions

69 (1) A carrier commits an offence if—

- (a) the carrier operates a submarine cable without a submarine cable licence where the carrier is required under this Act to hold such licence to do so; or
- (b) the carrier holds a submarine cable licence and engages in conduct that breaches a condition of the licence.

(2) A person who commits an offence under subsection (1) shall be liable—

- (a) on summary conviction to—
 - (i) a fine of \$50,000;

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- (ii) imprisonment for two years; or
 - (iii) both such fine and imprisonment; or
- (b) on indictment to—
- (i) a fine of \$1,000,000;
 - (ii) a term of imprisonment of ten years; or
 - (iii) both such fine and imprisonment.

PART 7 COMPENSATION

Compensation

70 (1) If a person suffers financial loss or damage because of anything done by a carrier under this Act in relation to—

- (a) any property owned by the person; or
- (b) any property in which the person has an interest,

there is payable to the person by the carrier such reasonable amount of compensation as is agreed between them or, failing agreement, as is determined by the Supreme Court.

(2) Compensation payable under subsection (1) includes, without limiting the generality of that subsection, compensation in relation to—

- (a) damage of a temporary character as well as of a permanent character; and
- (b) the taking of sand, soil and other things.

(3) For the avoidance of doubt, if a carrier or a person acting on its behalf, in the course of installing, maintaining or repairing a submarine cable, causes damage to another carrier's submarine cable, it shall be liable to the other carrier under subsection (1) for the damage caused.

Compensation for acquisition of property

71 (1) If—

- (a) either of the following would result in an acquisition of property from a person—
 - (i) anything done by a carrier under this Act;
 - (ii) the existence of rights conferred on a carrier under this Act in relation to a submarine cable; and
- (b) the acquisition of property would not be valid, apart from this section, because a particular person had not been compensated,

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the carrier shall pay that person a reasonable amount of compensation agreed on between the person and the carrier or, failing agreement, a reasonable amount of compensation determined by the Supreme Court.

(2) In assessing compensation payable under this section arising out of an event, the following shall be taken into account—

- (a) any compensation obtained by the person as a result of an agreement between the person and the carrier otherwise than under this section but arising out of the same event;
- (b) any damages or compensation recovered by the person from the carrier, or other remedy given, in a proceeding begun otherwise than under this section but arising out of the same event.

(3) This section does not limit the operation of section 70.

PART 8 MISCELLANEOUS

Duties of carriers

72 Every carrier has the duty to—

- (a) comply with any applicable conditions, obligations, requirements or limitations set out in this Act; and
- (b) pay on a timely basis any and all applicable Regulatory Authority fees and Government authorization fees.

Notice if submarine cable ceases to be in use

73 Where—

- (a) a submarine cable is in a protection zone; and
- (b) the cable ceases to be in use (other than temporarily),

the carrier or other person who is responsible for the cable shall notify the Authority in writing of the intended cessation of use, and as soon as reasonably practicable after the cessation of use.

Enforcement powers of fisheries inspectors

74 Every person who is a fisheries inspector under section 2 of the Fisheries Act 1972 shall have and may exercise, under and for the purposes of this Act, the functions assigned to a fisheries inspector under sections 8, 9, 10, 10A, 11 and the First Schedule of the Fisheries Act 1972.

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Time limit for summary prosecution

75 Notwithstanding section 80 of the Criminal Jurisdiction and Procedure Act 2015, summary proceedings for an offence under this Act shall be brought within three years of the commission of the offence.

Liability of officers and members for offences by bodies corporate

- 76 (1) Where under this Act an offence—
- (a) is committed by a body corporate; and
 - (b) is proved to have been committed with the consent or connivance of, or is attributable to any neglect on the part of—
 - (i) any director, manager, secretary or other similar officer of the body corporate; or
 - (ii) any person purporting to act in any such capacity,

he as well as the body corporate commits the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

Regulations

77 (1) The Minister may make regulations under this section prescribing anything that is necessary or convenient to be prescribed for carrying out this Act or giving effect to it, or that is required or permitted under this Act to be prescribed.

(2) Regulations may create offences and prescribe penalties for such offences but not in excess of—

- (a) in relation to a summary conviction—
 - (i) a fine of \$50,000;
 - (ii) a term of imprisonment of two years; or
 - (iii) both such fine and imprisonment; or
- (b) in relation to a conviction on indictment—
 - (i) a fine of \$100,000;
 - (ii) a term of imprisonment of four years; or
 - (iii) both such fine and imprisonment.

Crown binding

78 This Act binds the Crown.

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Parliamentary scrutiny

79 Unless this Act provides to the contrary, any statutory instrument made by the Minister pursuant to this Act shall be subject to the negative resolution procedure.

Savings for existing submarine cables

80 The requirement to hold a licence, permit or other authorization under this Act, or to pay fees under this Act in respect of any such authorization, shall not apply in respect of any submarine cable that has been installed in Bermuda waters before the commencement of this Act.

Consequential amendments

81 The amendments set out in Schedule 3 have effect.

Commencement

82 This Act shall come into operation on a date appointed by the Minister by notice published in the Gazette.

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(2) The coordinates for the identifier numbers on the map in subparagraph (1) are as follows—

IDENTIFIER NUMBERS	LATITUDE	LONGITUDE	COMMENTS
1	32°21.6692'N	64°39.4943'W	End of Coast
2	32°21.5913'N	64°39.1283'W	
3	32°20.7524'N	64°37.0485'W	
4	32°21.6132'N	64°24.3225'W	Start of Bermuda Territorial Sea Limit
5	32°2.7433'N	64°51.056'W	End of Bermuda Territorial Sea Limit
6	32°14.8438'N	64°44.2791'W	
7	32°17.8975'N	64°44.6589'W	
8	32°17.8976'N	64°44.6589'W	Including Devonshire Bay up to the median high tide line
9	32°17.9769'N	64°44.6241'W	End of Coast
10	32°17.9065'N	64°44.5935'W	
11	32°17.7788'N	64°44.4912'W	
12	32°17.3731'N	64°43.9136'W	
13	32°15.9289'N	64°38.7178'W	
14	32°20.1476'N	64°38.4361'W	
15	32°20.9337'N	64°38.7559'W	
16	32°21.4652'N	64°39.1564'W	
17	32°21.6002'N	64°39.512'W	
18	32°21.6646'N	64°39.5634'W	Start of Coast

Copies of protection zone map

2 Copies of the protection zone map can also be found for inspection at—

- (a) the Regulatory Authority—
 - (i) website at: <https://rab.bm/>;
 - (ii) office: lobby, situated at 8 Wesley St, Hamilton, HM 11, Bermuda;
- (b) the Department of Environment and Natural Resources—
 - (i) website at: <https://environment.bm/>;
 - (ii) office: lobby, situated at Botanical Gardens, 169 South Road, Paget, DV04, Bermuda.

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SCHEDULE 2

(sections 2 and 18)

PROHIBITED AND RESTRICTED ACTIVITIES

Prohibited activities

1 Subject to paragraph 3, in a protection zone, the activities listed in the following subparagraphs are prohibited (“prohibited activities”)—

- (a) use of or towing, operating or suspending from a vessel, trawl gear designed to work on or near the seabed, or a mid-water trawl;
- (b) use of or towing, operating or suspending from a vessel, a dredge;
- (c) use of or towing, operating or suspending from a vessel, a demersal longline;
- (d) establishing, maintaining or using a spoil ground or other ocean disposal point;
- (e) scuttling or attempting to scuttle a vessel;
- (f) use of or towing, operating or suspending from a vessel, a structure moored to the seabed with the primary function of attracting fish for capture (such as a fish aggregating device);
- (g) use of or towing, operating or suspending from a vessel, a Scottish or Danish seine;
- (h) use of or towing, operating or suspending from a vessel, a net anchored to the seabed;
- (i) use of or towing, operating or suspending from a vessel, a type of net, rope, chain or other object used in fishing operations that is capable of contacting the seabed, other than those activities listed in the restrictions; or
- (j) use of an explosive or explosive device.

Restricted activities

2 Subject to paragraph 3, in a protection zone, the corresponding restrictions apply to the activities listed in the following subparagraphs (“restricted activities”)—

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SUBPARAGRAPH	ACTIVITY	RESTRICTIONS IN WATERS OF LESS THAN 200 METRES IN DEPTH	RESTRICTIONS IN WATERS OF 200 METRES IN DEPTH OR MORE
(a)	Anchoring	Permitted, provided: (a) the anchor weighs 20 kg or less; (b) the anchor is fitted with a trip release mechanism; and (c) the anchor line has a breaking strain of 850 kg or less.	Not permitted (prohibited).
(b)	Lowering, raising or suspending from a vessel a shotline	Permitted, provided: (a) the shot weighs 20 kg or less; and (b) the shotline has a maximum breaking strain of 850 kg or less.	Not permitted (prohibited).
(c)	Use of or towing, operating or suspending from a vessel a demersal dropline	Permitted provided: (a) Circle or J-type hooks are used; (b) the dropline has a breaking strain of 850 kg or less; and (c) the dropline does not use a wire snood, trace or mainline.	
(d)	Use of or towing, operating or suspending from a vessel a pot or trap	Permitted provided: (a) the base of the trap does not exceed 2 m in length, width or diameter; and (b) the trap rope breaking strain is 850 kg or less.	
(e)	Harvesting the benthos	Permitted, provided harvesting is conducted by hand and/or by remotely operated underwater vehicle.	
(f)	Use of or towing, operating or suspending from a vessel a grapnel	Permitted provided the towing is used in conducting research that involves no contact with the seabed.	

Paragraphs 1 and 2 do not cover activity if carried on in certain circumstances

3 Paragraphs 1 and 2 do not cover an activity if—

- (a) the activity—
 - (i) is carried on by, or on behalf of, a person who owns or operates a submarine cable in the protection zone; and
 - (ii) consists of the maintenance or repair of the submarine cable; or
- (b) the activity—

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- (i) is carried on by, or on behalf of, a person who holds a protection zone installation permit; and
- (ii) consists of the installation of a submarine cable in accordance with the permit.

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SCHEDULE 3

(section 81)

CONSEQUENTIAL AMENDMENTS

Amends Marine Board Act 1962

1 [Repealed by 2021 : 8 s. 98(1)]

Amends Public Lands Act 1984

2 In section 22 of the Public Lands Act 1984—

(a) in subsection (1), after “Subject to”, insert “subsection (1A) and”; and

(b) after subsection (1), insert—

“(1A) Subsection (1) shall not apply within a protection zone established by or under the Submarine Communications Cables Act 2020.”.

Amends Regulatory Authority Act 2011

3 In the Schedule to the Regulatory Authority Act, after paragraph 2, insert—

“3. international submarine communications cables”.

[Schedule 3 paragraph 1 repealed by 2021 : 8 s. 98(1) effective 23 January 2023]

[Assent Date: 02 March 2020]

[Operative Date: 27 November 2020]

[Amended by:

2021 : 8]