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The University of Liverpool
Centre for Marine and Coastal Studies

**SUMMARY OF CURRENT LEGISLATION RELEVANT TO NATURE CONSERVATION IN
THE MARINE ENVIRONMENT IN THE ISLE OF MAN**

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1 INTRODUCTION

1.1

The marine environment of the Isle of Man is subject to impacts from a wide range of activities including fishing, shipping, effluent disposal, recreation, tourism and the deployment of cables and pipelines. Although the usage of the marine environment in Isle of Man territorial waters is much lower than in some areas of the UK, there is still a requirement for strict regulation of activities in order to maintain the quality of the marine environment. This, however, must maintain a balance with the requirement for development and growth in order.

This requirement to control activities in the marine environment has therefore resulted in a growing amount of legislation. This has tended to develop within particular sectors of industry, for example fisheries, offshore mineral extraction, coastal development and shipping. Although this ensures that there is strict control over these individual activities this has the potential to result in gaps in legislation where new activities or spin-off activities develop.

In addition legislation must take account of a number of layers of legislation with certain components of international, European, UK applied to some activities. Isle of Man legislation also takes the form of Acts of Tynwald, which within them can allow for the development of Regulations, Bye-laws or Orders by the relevant Department.

The system results in large quantities of legislation of which, in some cases, only parts will apply to the marine environment. Identifying the mechanisms for legislation in relation to the marine environment means that opportunities for taking a more holistic approach to nature conservation in the marine environment may be identified.

1.2 The Administrative Structure of the Isle of Man Legal System

1.2.1 Isle of Man legislative structure

The Isle of Man is an internally self-governing “Crown Dependency” and as such has no representation in the Westminster Parliament and is *not* part of the United Kingdom. This relationship is not the product of constitutional documentation but instead is a complex relationship based largely on historical practice.

The island has its own government known as Tynwald which acts as the judiciary, government, parliament and legal system. It operates with many of the constraints inherent in small jurisdictions and within its own particular constitutional and political context. Tynwald comprises the House of Keys (the Lower House) with 24 popularly elected members and the Legislative Council (the Upper House) with eight members elected by the House of Keys, the Attorney General and the Bishop of Sodor and Man. The President of Tynwald, elected by Members of Tynwald, presides over Tynwald Court and the Legislative Council. A Chief Minister is elected by the Isle of Man Parliament (Tynwald) with up to 9 Ministers chosen from the members of Tynwald by the Chief Minister.

The principal function of the House of Keys is the consideration of legislation. By convention bills are considered first in the house of keys and then in the legislative council. The rationale of the convention is that bills, which may affect the rights of the citizen or have financial implications, should first be considered by the directly elected branch of the legislative.

Subordinate legislation made under Acts of Tynwald normally requires to be laid before and may be the subject of an affirmative or negative procedure in Tynwald court. For a variety of reasons, beyond those which normally apply, subordinate legislation is much used in the Isle of Man. It has, for example, the advantage of being able to legislate without formal reference to the United Kingdom, which among other things avoids non-insular delay.

1.2.2 Application of International agreements

Under the Vienna Convention on the Law of Treaties "*unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory*". As such, on ratification of a treaty the UK does so on behalf of Great Britain and Northern Ireland and territories that wish the treaty to apply to them. Generally it is not possible to include Crown Dependencies in the ratification instrument although this ratification can later be extended to include them.

1.2.3 Application of EU legislation

The Isle of Man is not a member of the EU but enjoys associate status. The Isle of Man is governed by Article 299(6)(c) of the treaty establishing the EC and by Protocol 3 of the UK's Act of Accession to the Community which provides for the application of customs matters and quantitative restrictions as they apply to the UK.

1.2.4 Application of UK legislation

The government (Tynwald) has adopted a Westminster legislative procedure modified by its ancient origins and contemporary needs and thus the Isle of Man has an English common law type legal system and tends to follow United Kingdom legislation. A significant constitutional consideration is that the origins of Tynwald are coeval with those of Westminster and it does not derive its legislation competence from Westminster. However, on occasions, Westminster does extend its legislation to the island. Presumably on the basis of the constitutional convention regulating the relationship between the UK and the Isle of Man.

More commonly UK legislation may provide for its extension to the Isle of Man by Order in council and the UK government consult with Tynwald on whether it wishes the legislation to be so extended. The contemporary position of Tynwald is that it prefers to introduce parallel legislation rather than have UK legislation extended to the island by Order, or in some cases, to apply with modifications to UK legislation

Figure 1 Structure of Tynwald

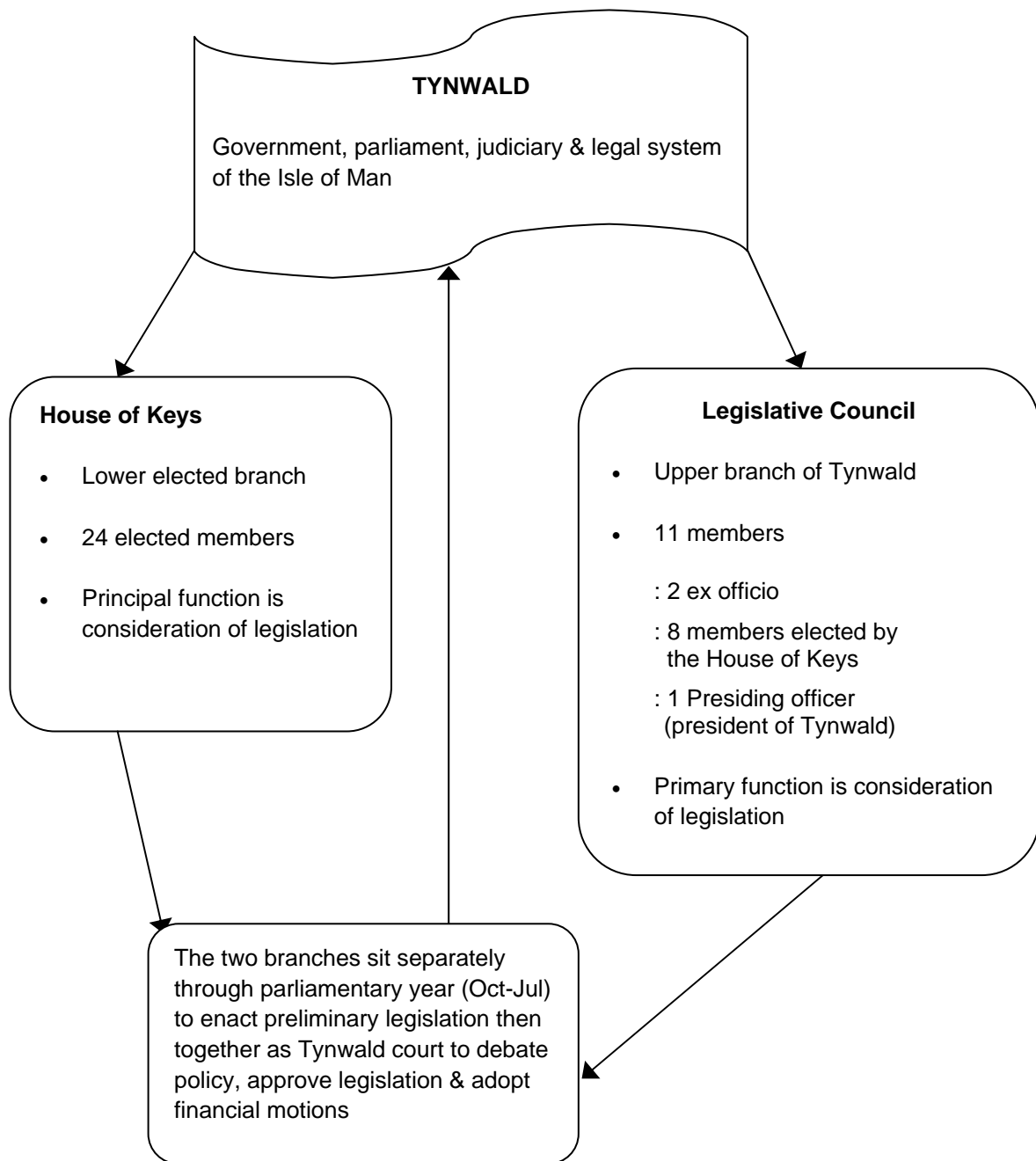
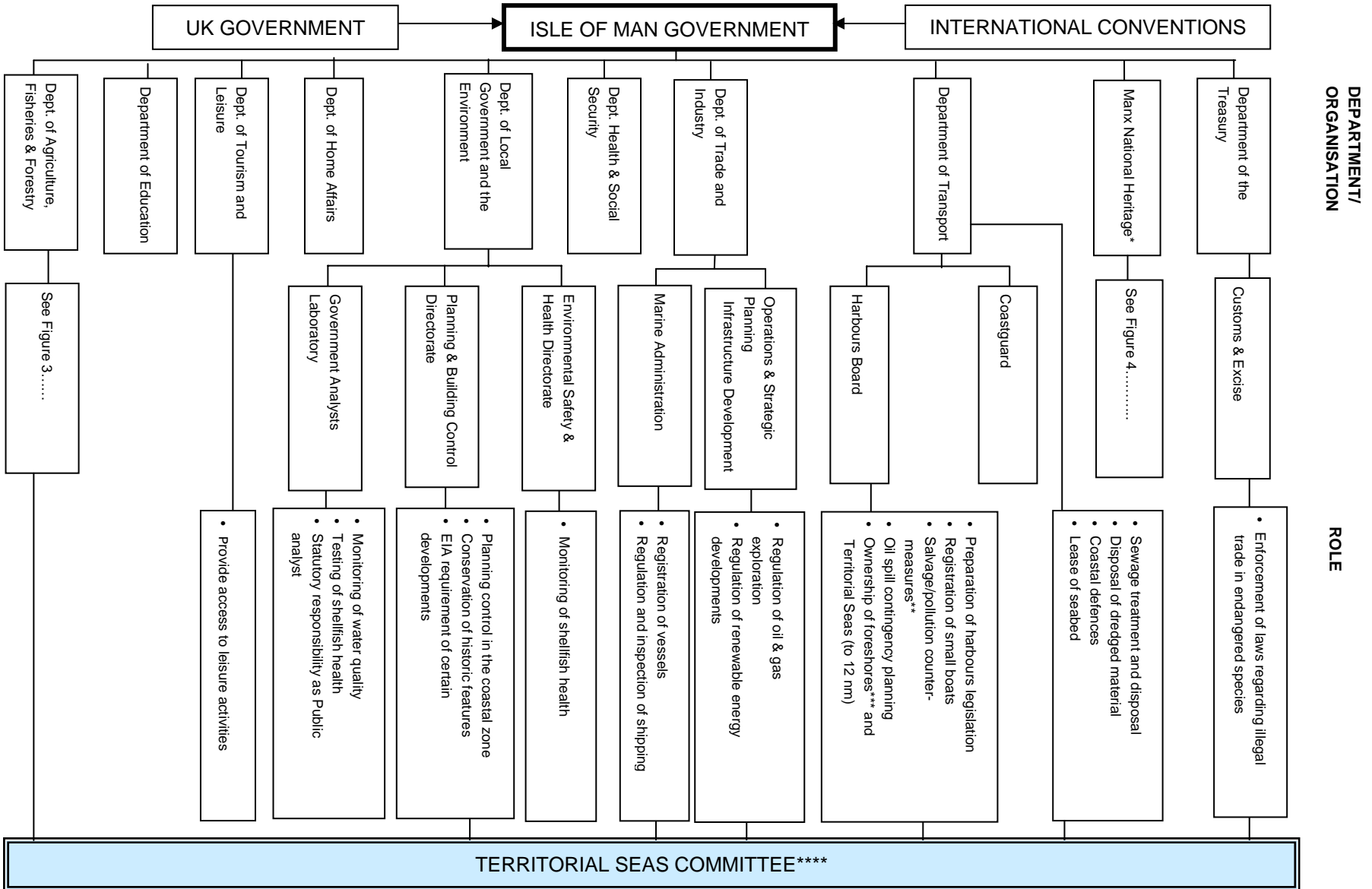


Figure 2 Role of Isle of Man Government departments in relation to the marine environment



* Manx National Heritage is not strictly a department of the Government although the majority of funding is from the IOM Government and the majority of staff are Civil Servants, appointed by the Government's Civil Service Commission.

** The Isle of Man government also has an agreement with the UK Maritime & Coastguard Agency for the provision of assistance in the event of a large-scale incident providing they have no other obligations.

***The Harbours Division own all of the foreshores of the Isle of Man except for Douglas Beach, which is owned by Douglas Corporation.

**** The Territorial Seas Committee (TSC) is a cross-governmental committee charged with the management of the Territorial Sea. The committee is chaired by the Director of Harbours, with representatives of all those departments with interests in the sea, seabed, minerals or hydrocarbons.

Figure 3 Structure of the Department of Agriculture, Forestry and Fisheries (DAFF) (Continued from Figure 2)

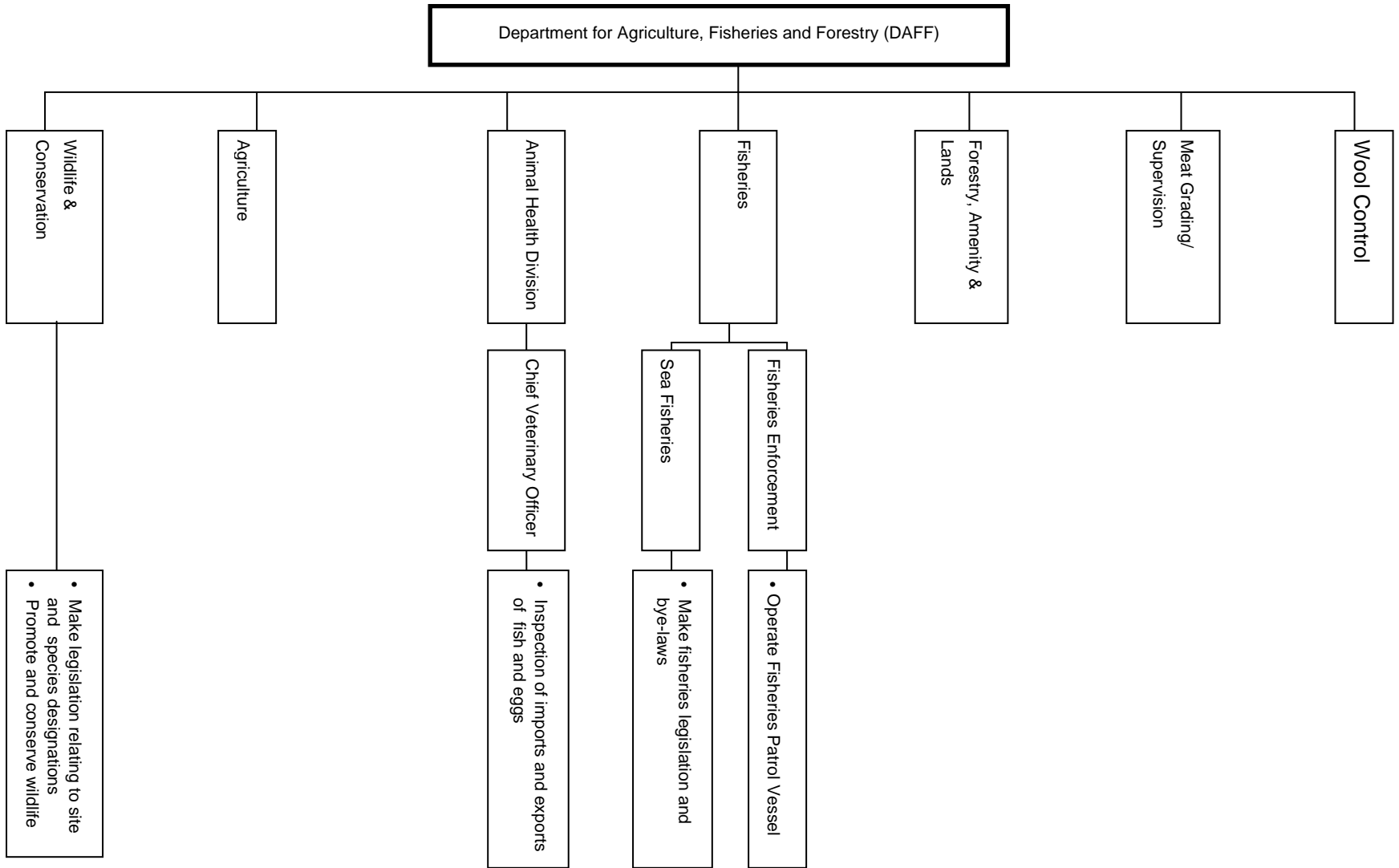


Figure 4 Structure of Manx National Heritage (continued from Figure 2)

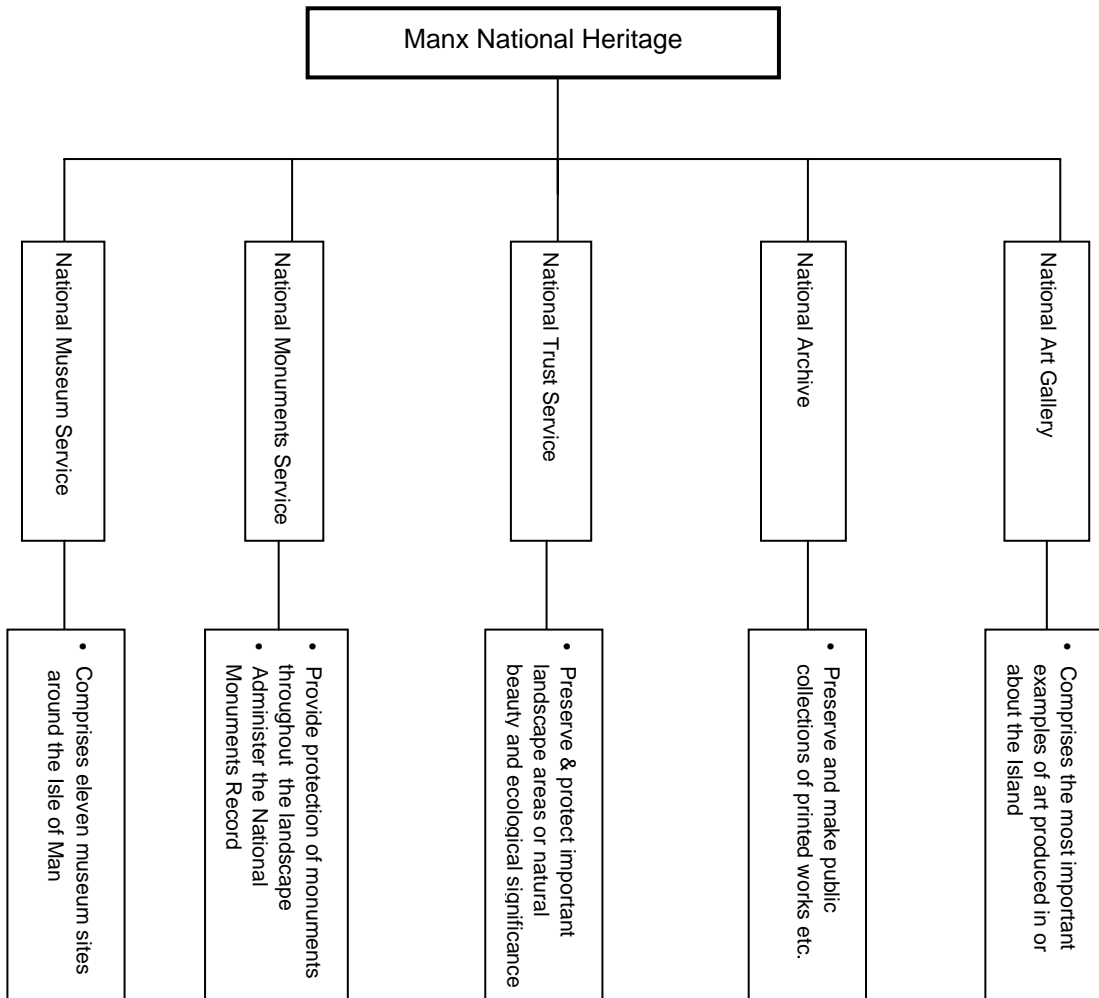
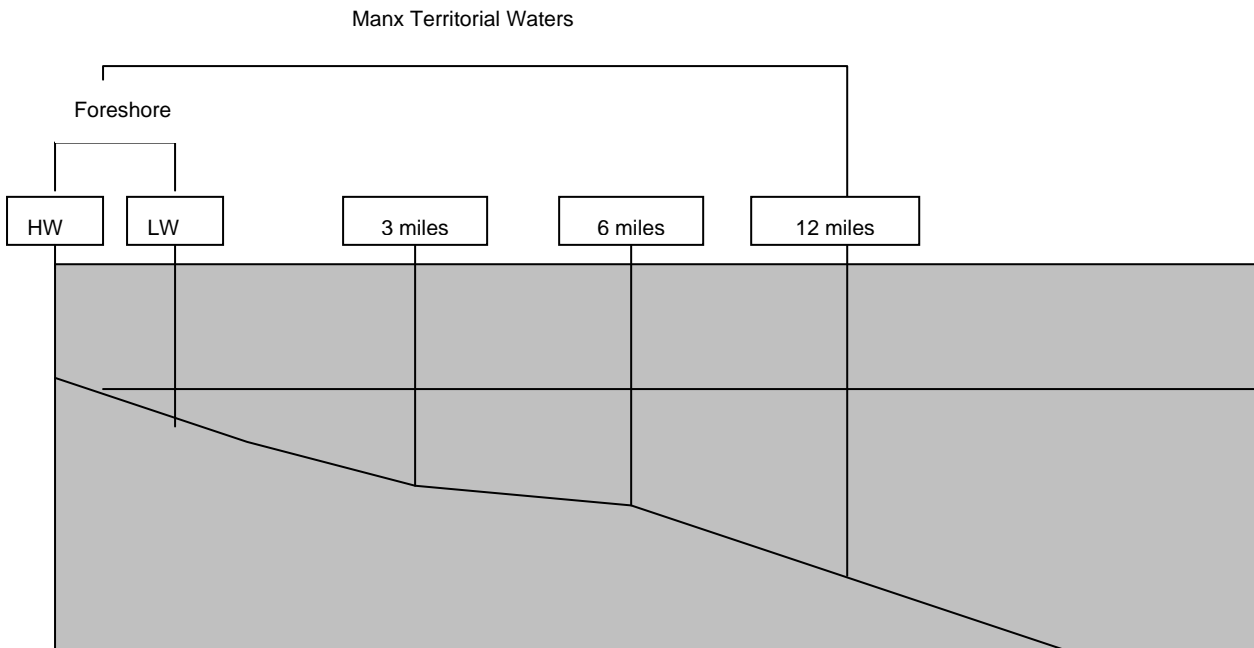


Figure 5 Jurisdiction in the marine environment



- MNH (MNH designated sites + archaeology)
- Planning authorities (May designate a Coastal Planning Zone to extend to low water)
- ▬ DAFF (NNRs; ASSIs; AoSPs; Wildlife Sites; RIGS)
- ▬ MNCT (MNCT sites)
- ▬ Douglas Corporation (Douglas foreshore only)
- ▬ DOLGE (pollution of controlled waters)
- ▬ DOT (deposits in the sea)
- ▬ DAFF (MNRs; Protection of birds & other animals protected under the Wildlife Act 1990; fisheries legislation and enforcement – fisheries requires concurrence of the UK between 3+12 miles)
- ▬ DTI (offshore oil & gas licensing; cables & pipelines; administration of marine vessels)
- ▬ DOT (seabed ownership; lease of easement provision; registration of pleasure craft; protection of wrecks)
- ▬ TSC (Management of IOM Territorial Seas)

DEPARTMENTS

DAFF – Dept of Agriculture, Fisheries & Forestry

DTI – Dept of Trade & Industry

DOLGE – Dept of Local Government and the Environment

TSC – Territorial Seas Committee

MNH – Manx National Heritage

MNCT – Manx Nature Conservation Trust

DESIGNATIONS

NNR – National Nature Reserve

MNR – Marine Nature Reserve

ASSI – Area of Special Scientific Interest

RIGS – Regionally Important Geological and Geomorphological Sites

1.3 The Irish Sea Pilot Study

The Irish Sea Pilot Study was recommended by the UK Government's Review of Marine Nature Conservation Working Group in 2001, in order to test a proposed 'framework' for nature conservation and examine how conservation management could be addressed through existing legislation. The Pilot Study has several aims:

- I. Test the framework proposed by the paper 'An implementation framework for the conservation, protection and management of nationally-important marine wildlife in the UK at the scale of the Irish Sea'.
- II. Determine the potential of existing regulatory and other systems for delivering effective marine nature conservation, identify any gaps and recommend measures to bridge the gaps identified.
- III. Evaluate the efficiency and effectiveness of current governance and enforcement regimes in implementing current legislation relevant to marine nature conservation and make recommendations for improvements.
- IV. Test ways of integrating nature conservation into key sectors (e.g. fisheries, energy, transport, minerals, tourism etc.) in order to make an effective contribution to sustainable development on a regional basis.

1.4 Aims and Objectives of the Present Study

The overall aims and objectives of this study are:

- I. To prepare a summary of current and immediately prospective legislation relating to a series of issues of relevance to the marine environment
- II. Identification of the relevant authorities for the implementation of the relevant legislation (including issues of consents and licences)
- III. Consultation with regulatory authorities and other relevant bodies in order to identify any specific gaps or shortcomings of current or prospective legislation constraining effective nature conservation in Manx waters
- IV. Identification of any particular strengths of Isle of Man marine legislation
- V. Summarise the authorities responsible for enforcing legislation

Summarise the principle means for enforcing the legislation

1.5 Aims and Objectives of the Summary of Legislation

This report is the first in a series of three reports that have been carried out by the Centre for Marine & Coastal Studies (CMACS) as part of the Irish Sea Pilot Project:

Report 1: *Summary of Current Legislation Relevant to Nature Conservation in the Marine Environment in the Isle of Man*

Report 2: Regulatory Responsibilities and Enforcement Mechanisms Relevant to Nature Conservation in the Marine Environment in the Isle of Man

Report 3: Deficiencies in Current Legislation Relevant to Nature Conservation in the Marine Environment in the Isle of Man

The aim of this report is to summarise legislation of relevance to the marine environment under a number of different headings (see below). This is used as a basis for the identification of regulatory responsibilities and deficiencies in the further reports under this contract. Legislation is mainly summarised from the original Acts of Tynwald and relevant secondary legislation, as there are few summary texts for Isle of Man legislative matters. A list of these is provided in Appendix 1.

- Marine site protection
- Marine species protection
- Control over introduction of non-native species in the marine environment
- Conservation of man-made structures in the marine environment
- Mariculture
- Shipping and navigation
- Military activities
- Offshore oil & gas
- Wave, tide and wind power generation in the marine environment
- Sand & gravel extraction in the marine environment
- Coastal engineering
- Development in the coastal zone
- Tourism and recreation in the marine environment
- Inputs of contaminants in the marine environment (originating primarily from land)
- Submarine cables and pipelines

2 MARINE SITE PROTECTION

There are a variety of different types of marine site legislation that can be applied either coastally or in the marine environment. This has stemmed from the concept that the protection of species is most effectively approached through the protection of habitats. There is also marine species protection legislation. Site protection in the Isle of Man is afforded through a number of designations, including statutory designations such as National Nature Reserves, Marine Nature Reserves, Areas of Special Scientific Interest and Areas of Special Protection. In addition to statutory designations there is a voluntary site designation, Manx Wildlife Sites, which are only discussed briefly here, as they do not apply to the marine environment.

2.1 International conventions and agreements

2.1.1 Convention on Biological Diversity 1992

The Convention on Biological Diversity, part of the United Nations Convention of Environment and Development (UNCED) entered into force in 1993. The Convention addresses all aspects of biodiversity including its sustainable use and the fair distribution of benefits arising from resources of all species and ecosystems.

Contracting Parties are required to develop national strategies, plans or programmes for conservation and sustainable use of biological diversity. In relation to the marine environment the Convention applies to all areas within national jurisdiction, allowing for the application of Exclusive Economic Zones, as long as these comply with the law of the sea.

The Isle of Man government has not yet agreed to the Convention on Biological Diversity and is, therefore, not currently a signatory. In 2003 the World Conservation Monitoring Centre is due to assist the island in its evaluation of the measures and therefore the resources required for the Island to become a signatory.

However, in October 1997 the Manx Wildlife Trust started to write a Biodiversity Action Plan for the Isle of Man and a small number of Habitat Action Plans and Species Action Plans have been drafted.

2.1.2 Convention on Wetlands of International Importance 1971

The Convention on Wetlands of International Importance 1971 (the Ramsar Convention) entered into force in 1975. Under the Convention Contracting Parties are required to designate at least one wetland of international importance and to promote its conservation and wise use. Sites should be selected on the basis of ecology, botany, zoology, limnology or hydrology with Contracting Parties to adopt specific criteria and guidelines for the identification of sites that qualify as Ramsar sites.

Contracting Parties are obliged to include wetland conservation considerations in national land-use planning strategies including the "*wise use of wetlands in their territory*". Other obligations include the establishment of nature reserves in wetlands, whether qualifying as a Ramsar site or not in which training, research, management and wardening should be promoted.

The Ramsar Convention has been ratified by the Isle of Man, although as yet there are no Ramsar sites, with protection of wetlands currently occurring only through the promotion of

wise use of wetlands through the planning system. The Department of Agriculture, Forestry & Fisheries (DAFF) comments weekly on development proposals which have the potential to affect wildlife species, which are protected, and important habitats.

2.2 European legislation

Council of Europe Convention on the Conservation of European Wildlife and Wildlife and Natural Habitats (Bern Convention)

The Isle of Man is associated with the EU through protocol 3 of the United Kingdom's Treaty of Accession. Under this special relationship the Island is neither a member state nor an associate member of the European Union and has no obligation, but may choose to, introduce equivalent legislation to EU regulations. There is, however, no legislation based on EC Directives for the protection of marine sites in the Isle of Man.

2.3 UK legislation

No UK legislation applies in the Isle of Man in relation to Marine Site Protection.

2.4 Isle of Man legislation

The main Manx legislation relating to Wildlife Conservation is the Wildlife Act 1990. Other related acts do not include marine site conservation.

Under the Wildlife Act recommendations for site and species protection are put forward for department approval via the Wildlife Committee. The committee consists of:

- DAFF's Chief Veterinary Officer
- DAFF's Chief Forester
- DAFF's Chief Agricultural Advisor
- DAFF's Freshwater Fisheries Development Officer
- Assistant Keeper of Natural History of the Manx Museum
- Manx Bird Atlas Coordinator
- Department of Local Government & Environment's Freshwater Biologist
- Marine Biological Advisor from the Port Erin Marine Laboratory
- DAFF's Senior Wildlife and Conservation Officer (Convenor)

2.4.1 National Nature Reserves

National Nature Reserves (NNRs) are statutory designations made by DAFF under Part II, Section 31 of the Wildlife Act 1990 "*where the Department is satisfied that any land which is being managed as a nature reserve by the owner or occupier is of national importance*".

National Nature Reserves are designated for the purpose of providing areas which may be managed for the purposes of study of, and research into, flora and fauna of the Isle of Man and the conditions in which they live. They are also designated for the study of geological or physiographical features of specific interest.

The Department is conferred the power to make bye-laws, subject to particular guidelines, to protect the reserve following consultation with the occupier of the land. These may include prohibition or restriction of:

- Entry of people, vehicles, boats and animals to the reserve
- Killing, taking, molesting or disturbance of living creatures, eggs or interference with vegetation, soil or other object
- Shooting of birds (including in surrounding or adjoining areas whether over land or sea)
- Leaving rubbish/litter
- Lighting of fires
- Requirement of permits to enter or carry out particular activities in the Nature Reserve

The Act also stipulates a duty to the Department to maintain a balance between stable and efficient agriculture and conservation within designated National Nature Reserves.

Currently there is one National Nature Reserve on the Isle of Man at the Ayres, an area of coastal heathland designated for conservation, which is nationally important.

2.4.2 Marine Nature Reserves

Marine Nature Reserves may be designated under Part II, Section 32 of the Wildlife Act 1990 to "*any areas of land that are covered either continuously or intermittently by tidal waters of parts of the sea in or adjacent to the Island up to the seaward limits of the territorial waters*". Designations are made by the Department of Agriculture, Fisheries and Forestry (DAFF) following recommendations from the Wildlife Committee.

Marine Nature Reserves are managed by DAFF for the purpose of

- Conserving marine flora or fauna or geological or physiographical features of special interest
- Providing special opportunities for the study of or research into marine flora and fauna and the physical condition in which they live or geological and physiographical features of interest in the area

DAFF may make bye-laws for the protection of the area as long as activities of other authorities are not impeded, including:

- Prohibition or restriction of movements into or within the reserve of persons or vessels
- Prevention of killing, taking, destruction or molestation or disturbance of animals or plants (including eggs, seeds, spores, larvae and other immature stages) or any disturbance to the seabed that may damage or disturb an object in the reserve
- Prevention of deposition of rubbish in the reserve

Byelaws made under Part II, Section 33 of the Wildlife Act 1990 apply under the proviso that no vessel (other than pleasure craft) is prohibited or restricted in the area and does not apply for the purposes of boat safety, discharges from vessels or for any areas >30m below the seabed.

At present no Marine Nature Reserves have been designated or are under consideration.

2.4.3 Areas of Special Scientific Interest

Under Part II, Section 27 of the Wildlife Act 1990 Areas of Special Scientific Interest can be designated where DAFF considers areas to be of special interest for their flora, fauna, geological or physiographical features, after consultation with the Wildlife Committee.

Notification of the reason for which the land is of special interest is required along with specification of operations or activities thought to be likely to damage the features for which the site is designated. A statutory time period for representation or objections of not less than 3 months is also required from the date of notification. Restrictions exist within such sites for the carrying out of any operation or activity specified by DAFF in the notification except with the consent.

The Department may make a “management agreement” with any person with an interest in the land for particular purposes such as conserving or enhancing the land or particular features of the land, flora or fauna. The agreement can either run for a specified period or be unlimited and can impose restrictions on methods of cultivation, its agricultural purpose or exercise rights over the land and impose obligations on the person with an interest in the land to carry out particular works or operations. Compensation is available for the loss of value of a persons interest due to the designation of an Area of Special Scientific Interest. Contravention of the regulations is punishable by a fine.

It is generally accepted that ASSI designations can extend only as far downshore as Lowest Astronomical Tide (LAT) and therefore only have relevance to intertidal coastal areas in the context of the marine environment. As yet DAFF guidelines for site selection criteria are not complete, although two ASSIs have been designated, the Central Ayres and Langness, Derbyhaven & Sandwick, through having clear national importance. Of these the Central Ayres ASSI was designated partly for marine purposes as the largest area of coastal/ lichen heath.

ASSIs are the equivalent of equivalent to Sites of Special Scientific Interest in the UK although Government’s powers to conserve such sites vary from those in the UK.

2.4.4 Areas of Special Protection

Under Part 1, Section 3 of the Wildlife Act 1990 the Department may designate particular areas as Areas of Special Protection for the protection of bird species. Within AoSPs it is prohibited to kill, injure or take any wild bird, nest (while in use or being built) or egg; to disturb birds while nest-building or near a nest containing eggs or young; disturb any nest or egg of such a bird or disturb dependent young of such a bird. DAFF may also specify particular periods during which certain activities are prohibited.

Certain prohibitions also exist, except for authorised persons, including prohibitions against killing or taking birds listed in Schedule II of the Act, or injuring such a bird while attempting to kill it; taking, damaging or destroying such a bird or egg of such a bird; or disturbing such a bird, or the nest, egg or dependent young of such a bird.

AoSP designations and the restrictions imposed upon them are, however, to be carried out without compromising certain activities such as preservation of public health or prevention of

damage to livestock for the pursuance of requirements under the Prevention of Damage by Agricultural Pests Act 1956, the Forestry Act 1984 or the Diseases of Animals (Prevention) Acts 1948 to 1975.

Similar to the provisions under the Areas of Special Protection for birds, the Wildlife Act 1990 provides for the designation of Areas of Special Protection for Animals and Plants under Section 13 of the Wildlife Act 1990. Under this legislation DAFF may designate areas within which the Department may set out prohibitions related to the killing, injury or taking of any wild animal, the immature stages of animals or plants, or the young of a wild animal, and to disturb shelters or animals within shelters. DAFF may also prohibit the picking, uprooting or destruction of any wild plant.

Prior to making an order for the designation for an AoSP for birds, animals or plants, DAFF is required to consult with any local authority within which any part of the proposed site lies, and to give details of the proposed order to every owner and occupier of the land or to advertise the proposal. DAFF cannot make an order for the designation of an AoSP without the consent of all owners and occupiers, and unless no objections have been made within three months of the advertisement. Orders made cannot affect the exercise of any rights of an owner, lessee or occupier of land.

The Ayres gravel pit is the only AoSP currently designated in the Isle of Man, which was designated due to the presence of coastal and migratory water birds, which require protection under the Bern and Bonn Conventions (see Section 3.1).

2.4.5 Manx Museum & National Trust Sites

Manx National Heritage was originally created as the Manx National Trust by the Act of Tynwald in 1951 and now operates under a similar role to the National Trust and the National Trust for Scotland, with a National Trust Service for the preservation and protection of areas of natural beauty and ecological significance including the Biological Records Office.

MNH is funded entirely by the Isle of Man (mainly from Government) with no outside funds from the UK or EU. Although not strictly a Government Department MNH falls under the same regulations and control of financing and staffing as Departments of Government, with the majority of professional staff being employed as Civil Servants.

Under the Manx Museum & National Trust Act 1959 – 1986 Manx National Heritage is given responsibility to:

“promote the permanent preservation for the benefit of the people of the Isle of Man of lands and tenements (including buildings) of beauty and historic interest and, as regards lands, the preservation (so far as practicable) of their natural aspect, features and animal and plant life; the preservation of buildings of national interest or architectural, historic or artistic interest, and places of national interest or beauty, and the protection and augmentation of the amenities of such buildings and places and their surroundings”

As such the Manx National Heritage may acquire or hold land and personal estate, lease or let land or to sell or exchange land. At present approximately 2000 acres of National Trust land exists in the Isle of Man although the cut-off for sites is Mean High Water and as a result only a portion of these lands is coastal. Sites include the following (grounds for designation of relevance to the marine environment shown in brackets):

- The Sound and the Calf of Man (significant populations of breeding and non-breeding seabirds)

- The Ayres (presence of for nesting terns on the shingle beach and marram dunes)
- Maughold Head (presence of significant colonies of seabirds)
- The Dhoo and Bulgham Brooghs (presence of coastal birds including the chough)
- St. Michael's Isle – Langness
- Spanish Head and the Chasms
- St. Patrick's Isle

Manx National Heritage has the duty of protecting in perpetuity the aesthetic and wildlife values of the areas which it owns (Keddie, 1996).

2.5 Non-statutory designations

2.5.1 Wildlife Sites

Wildlife Sites are non-statutory designations intended to complement statutory designations. The purpose of the designation is to protect *all* sites meeting the agreed criteria (Keehan, 1999).

Selection criteria for Wildlife Sites are based on the Wildlife Trusts Wildlife Sites Handbook. These have been developed by the Manx Wildlife Sites Steering Group (a small group of members with specialist knowledge), and are based on a list of habitats and species. Coastal habitats or species listed as requiring site designations are shown in Table 1.

Table 1 Relevant habitats and species listed under the Site Selection Criteria for Wildlife Sites (MWT, 1999)

Coastal habitats

- All areas of dune, except severely degraded examples
- All sea caves supporting population of, or utilised by, important species
- All saline lagoons
- All areas of coastal grassland that are of a particular size or support a good range of species:
- All areas of coastal heathland
- All areas of saltmarsh
- All stretches of strandline that support good diversity or are of particular importance for invertebrate or bird life
- All stretches of seashore of high invertebrate value
- All stretches of maritime soft cliff shown by scientific survey to be of high invertebrate value
- All stretches of maritime hard cliff that support important colonies of seabirds

Mammals

- Any significant terrestrial and intertidal sites regularly used by the common seal *Phoca vitulina*
- Any significant terrestrial and intertidal sites regularly used by the grey seal *Halichoerus grypha*

Birds

- Any site which regularly supports a breeding population of a rare Manx breeding bird species
- Any site of importance to wintering wildfowl species
- All sites of particular importance for cliff-nesting seabirds including:
- All breeding sites for selected nesting seabirds

Vascular plants

- All sites supporting populations of native species listed in the Manx Biodiversity Action Plan for given reasons (this includes several coastal species)

Wildlife Sites will only receive protection against development through planning guidelines, with conservation and enhancement of sites achieved through liaison with:

- a) Landowners
- b) Planning Office of DLGE

Liaison with the Planning Office ensures that the location of Wildlife Sites will be taken into account during planning applications. It also ensures that policies regarding Wildlife sites and other areas of wildlife potential are included within strategic and local plans.

No sites are currently designated. Sites will be managed through liaison with landowners, land managers and tenants, with regular monitoring carried out by the Manx Wildlife Trust in order to ensure that the sites retain their interest and to check for gross changes to the sites.

2.5.2 Regionally Important Geological and Geomorphological Sites

The process regarding the identification and protection of Regionally Important Geological and Geomorphological Sites (RIGS) is similar to that of Wildlife Sites (see Section 2.5), with non-statutory designations selected according to the following criteria based on existing survey information and local knowledge:

- Scientific value and research importance, in regional terms
- Educational value
- Historic significance
- Aesthetic value

Types of geomorphology included in the RIGS site selection criteria include raised shorelines, sand dunes and shingle ridges, storm beaches and other beach landforms, arches, stacks, caves and wave-cut platforms.

A RIGS group set up in 1998 as a subset of the Manx Wildlife Sites Steering Group is responsible for the identification of geologically and geomorphologically important sites around the Isle of Man and for advising the Steering Group as to which sites are selected.

RIGS sites, as with Wildlife Sites, are protected against development through planning guidelines, through liaison with landowners and planning and regular monitoring carried out by the MWT.

2.5.3 Manx Wildlife Trust

The Manx Wildlife Trust is a voluntary body set up to promote non-statutory nature conservation at a local level. The Trust, which includes a marine committee, owns, leases and manages, by agreement with the owners, a number of sites around the Isle of Man.

Manx Wildlife Trust land include sites which are open to the public, sites requiring prior arrangement for access and areas that are private and closed to the public. The only current site of relevance to the marine environment is a coastal site at Cronk y Bing, designated on account of sand dune and shingle foreshore habitats, and the presence of dune fescue and the little tern.

2.5.4 Areas of High Landscape Value or Scenic Significance

Under the Isle of Man Development Plan 1982, a number of areas have been designated as Areas of High Landscape Value or Scenic Significance. This designation covers much of the Isle of Man coastline (>135km is designated) including significant coastal elements in the conservation areas in Castletown, Laxey, Maughold, Peel and Ramsey.

General policies relating to the natural environment emphasise a balance between conservation and development needs and appropriateness of development with developments adversely affecting the coast permitted only in circumstances where there is an overriding national need for land-use, which outweighs the requirement for protection. As yet there is, however, no tier or category structure in which areas of greater or lesser importance may be distinguished (DLGE, 2001).

2.5.5 National Heritage Areas

There is currently no legislation relating to the designation of National Heritage Areas in the Isle of Man but will be designated under planning policy through the Department for Local Government and the Environment (DLGE) when the Isle of Man Strategic Plan 2001 comes into force in 2004. The Manx National Heritage will have a key role in the designation of National Heritage Areas when the sites become operational and will advise DLGE in this respect. MNH will also have a duty of care in respect to one of the National Heritage Areas, the Meayll Peninsula, where MNH owns land.

Currently there are two candidate areas for National Heritage Status (DLGE, 2001) at the Meayll Peninsula and the Sulby Valley.

Table 2 Key legislation for Marine Site Protection

International Conventions	Provisions
Convention on Biological Diversity	Protection of biological diversity including through the development of Habitat Action Plans and Biodiversity Action Plans.
The Convention on Wetlands of International Importance 1971 (the Ramsar Convention)	Requires designation of suitable wetlands of international importance, protection of wetlands within land-use planning strategy and designation of nature reserves within wetlands.
European Legislation	
There is no EC legislation relevant to the protection of marine species in the Isle of Man.	
UK Legislation	
There is no UK legislation relevant to the protection of marine species in the Isle of Man.	
Isle of Man Legislation	Provisions
Wildlife Act 1990	<p><u>Areas of Special Protection (Birds) - Section 3</u></p> <p><u>Areas of Special Protection (Animals & Plants) - Section 13</u></p> <p><u>Areas of Special Scientific Interest - Section 27</u></p> <p><u>National Nature Reserves - Section 31</u></p> <p><u>Marine Nature Reserves - Section 32</u></p>
Manx Museum & National Trust Act 1959	Selected by the MNH “to preserve, protect, promote and communicate the unique qualities of the Manx natural and cultural heritage”. Includes sites purchased by the Manx Museum & National Trust. These are managed with the aim of promoting the features of the land including animal and plant life.
Isle of Man Development Plan 1982	Areas of High Landscape Value or Scenic Significance are designated through the Planning Department as areas in which developments must be of higher design standards. Requires that coastal areas are not affected except where there is an over-riding national requirement.
Non-statutory Designations	
Wildlife Sites	Designation aimed as protecting all sites meeting the agreed criteria. Criteria have been developed by a Sites Selection Panel
Regionally Important Geological & Geomorphological Sites (RIGS)	RIGS are selected using a similar process to Wildlife Sites with sites chosen by a Sites Selection Panel.
Manx Wildlife Trust Sites	Sites set up to promote non-statutory nature conservation at a local level.

New Legislation	Provisions
National Heritage Areas	Currently designated through the Planning Department of DLGE legislative structure is to be prepared in order that National Heritage Areas may be progressed.

3 MARINE SPECIES PROTECTION

The protection of particular species of flora and fauna is legislated for in a variety of international, EC and national legislation. The protection of individual species arises from particular threats, including loss of suitable habitat, trading, disturbance or capture. As a result protection is required in order to ensure species are safeguarded.

3.1 International conventions and agreements

Convention on International Trade in Endangered Species (CITES)

CITES is an international agreement between governments, set up with the aim of restricting the international trade of particular species of flora and fauna in order to safeguard the survival of those species. Protection of species is covered under the following 3 appendices, which are listed according to the degree of protection required.

- Appendix I includes species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances.
- Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival.
- Appendix III contains species that are protected in at least one country, which has asked other CITES Parties for assistance in controlling the trade.

As party to CITES, the Isle of Man is legally bound to adopt domestic legislation to ensure CITES is implemented at a national level. This is implemented in the Isle of Man under the Endangered Species (Import & Export) Act 1981 (see below).

3.2 European legislation

The particular Directives of significance are the Habitats and Birds Directives, which are EU enactments of European Conventions.

Convention on Migratory Species of Wild Animals (Bonn Convention)

Under the Bonn Convention on Migratory Species of Wild Animals, which has already been ratified by the Isle of Man, protection is afforded to species throughout their range on a global scale. Appendix I of the Convention lists endangered species for which strict protection applies, with Appendix II listing species that would benefit from international co-operative Agreements under the Convention on Migratory Species. Under the Convention Agreements provision should be made for co-ordinated species conservation and management plans; conservation and restoration of habitats; control of factors impeding migration; co-operative research and monitoring and public education and exchange of information among Parties. However, less formal agreements, in the form of memoranda of understanding may also be made.

Under the Bonn Convention the Isle of Man has agreed to sign up to several Agreements, as follows:

- The Agreement on the Conservation of African-Eurasian Migratory Waterbirds
- The Agreement on the Conservation of Petrels and Albatrosses

- Eurobats
- The Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS)

ASCOBANS may soon apply to the Irish Sea and the Isle of Man has agreed to embrace the Agreement if this happens. Parties are expected to adopt resolutions covering topics ranging from scientific matters such as monitoring and population studies to political questions such as the extension of the Agreement areas to cover parts of the North Atlantic. Moreover, Parties are expected to adopt ASCOBANS Recovery Plan for Baltic Harbour Porpoises (Jastarnia Plan). This Plan is expected to contribute substantially to improving the conservation status of Baltic Harbour porpoises. Another issue that will be high on the agenda is the new, large-scale abundance survey for the ASCOBANS Agreement Area.

Council of Europe Convention on the Conservation of European Wildlife and Wildlife and Natural Habitats (Bern Convention)

The Bern Convention, ratified by the Isle of Man, confers a duty to signatories for the special protection of plant and animal species with particular restriction on activities regarding those species. Under the Convention all Parties are required to take measures ensuring conservation of habitats and species which should be included in development and pollution control policy, promotion of education and dissemination of information regarding species conservation.

Appendix I lists wild flora for which the picking, collecting, cutting or uprooting is prohibited, while Appendix II lists wild fauna which prohibits deliberate capture, keeping and killing; deliberate damage to breeding/ resting sites; deliberate disturbance especially during breeding, rearing or hibernation seasons; keeping birds for which hunting and capture is prohibited.

Convention for the Protection of the Marine Environment of the North-East Atlantic 1992 (OSPAR Convention)

Annex V of the OSPAR Convention – The Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area – was ratified by the UK in 2000. However, the Manx Government has not yet agreed to become signatory to this Annex of OSPAR.

3.3 Isle of Man legislation

Wildlife Act 1990

The Wildlife Act 1990 and Wildlife (Amendment) Act 1994 together revoke a number of previous pieces of legislation relating to the protection of species. The following have been fully revoked by the Wildlife Act:

- Seagull Preservation Act 1867 & Seagull Preservation (Amendment) Act 1930
- Salmon & Freshwater Fishery Act 1882
- Game Act 1928
- Wild Birds Protection Act 1932 & Wild Birds Protection (Amendment) Act 1975 (although this remains in operation with regard to bird sanctuaries in existence prior to 1st Jan 1991)
- Protection of Birds Act 1955

As a result the Wildlife Act 1990 has consolidated much of the previous legislation. The conservation of species is included in Part I of the Wildlife Act with, with provisions for the protection of birds, other animals and plants; prohibition of certain methods of killing wild animals, and penalties for offences (discussed in more detail below).

Endangered species (Import & Export) Act 1981

The Endangered Species (Import & Export) Act 1981 (as amended by Schedule 9 of the Wildlife Act 1990) implements the Convention of International Trade in Endangered Species (CITES), which restricts trade in particular species. The provisions of the Act include restrictions on the import, export, sale, offering or display of certain endangered species to and from the Isle of Man. The species to which the restrictions apply are included as follows:

- Schedule 1 Animals the Importation and Exportation of which are restricted
 - Part I Mammals
 - Part II Fish

- Schedule 2 Plants the Importation and Exportation of which are restricted

- Schedule 3 Items the Importation and Exportation of which are restricted

The Act requires the establishment of a Scientific Advisory Committee by the Department of Agriculture, Fisheries and Forestry for an advisory role in species that may become endangered as a result of trading or otherwise. This has been done in the form of the Wildlife Committee (see Section 2.4), which may consider any nationally protected species to be included where international co-operation is required to control trade under Appendix III of CITES.

3.3.2 Bird Protection Measures

Wildlife Act 1990

Under Part I of the Wildlife Act 1990, as amended by the Wildlife Etc. (Amendment) Act 1994, there are a number of restrictions applying to the protection of birds. These include prohibiting the killing, injuring or taking of any wild bird or nest that is in use or being built or taking or destroying an egg of any wild bird.

Also prohibited is the disturbance of any wild bird included in Schedule 1 or the disturbance of nests, eggs or dependent young of any birds other than those which may be killed or taken under certain conditions listed in Schedule 2 of the Wildlife Act 1990. This includes a number of marine and coastal birds (see Table 3). Provision also exists for the protection of species by special penalties during the closed season although none are currently included. These schedules are currently under review and it is likely that very unlikely breeding species will be removed, with species included that are likely to meet conservation criteria.

Table 3 Marine and coastal birds which are protected at all times by special penalties under Schedule 1 of the Wildlife Act 1990

• Avocet <i>Recurvirostra avosetta</i>	• Bewicks Swan <i>Cygnus bewickii</i>
• Bittern <i>Botaurus stellaris</i>	• Whooper swan <i>Cygnus cygnus</i>
• Little bittern <i>Ixobrychus minutus</i>	• Whimbrel <i>Numenius phaeopus</i>
• Chough <i>Pyrrhocorax pyrrhocorax</i>	• Ruff <i>Philomachus pugnax</i>
• Stone curlew <i>Burhinus oediconemus</i>	• Temminck's stint <i>Calidris temminckii</i>
• Dipper <i>Cinclus cinclus</i>	• Wood sandpiper <i>Tringa glareola</i>
• Divers (all species) <i>Gavia</i>	• Little ringed plover <i>Charadrius dubius</i>
• Green sandpiper <i>Tringa ochropus</i>	• Mediterranean gull <i>Larus melanocephalus</i>
• Purple sandpiper <i>Calidris maritima</i>	• Little gull <i>Larus minutus</i>
• Scaup <i>Aythya marila</i>	• Greenshank <i>Tringa nebularia</i>
• Common scoter <i>Melanitta nigra</i>	• Black-tailed godwit <i>Limosa limosa</i>
• Velvet scoter <i>Melanitta fusca</i>	• Long-tailed duck <i>Clangula hyemalis</i>
• Manx shearwater <i>Puffinus puffinus</i>	• Kentish Plover <i>Charadrius alexandrinus</i>
• Tern (all species) <i>Sternidae</i>	• Black-winged stilt <i>Himantopus himantopus</i>

Species which may legally be killed or taken by authorised persons, are split to those that may be taken outside the closed season only (Part I), or by authorised persons at all times (Part II – currently under review), for particular reasons including prevention of disease. No coastal birds are included in Part I although there are several that may be taken at all times by authorised persons (see Table 4).

Table 4 Marine and coastal bird species which may be killed or taken by authorised persons at all times under Schedule 2 of the Wildlife Act 1990

- Great black-backed gull *Larus marinus*
 - Lesser black-backed gull *Larus fuscus*
 - Herring gull *Larus argentatus*
-

Section 4 includes exceptions to the above restrictions for the pursuance of requirements under the Prevention of Damage by Agricultural Pests Act 1956, the Forestry Act 1984 or the Diseases of Animals (Prevention) Acts 1948 to 1975.

Under Section 5 of the Act restrictions are given on the use of certain methods to kill or take wild birds including, springs, traps, gins, snares, hook and line, electrical devices, poisons or stupefying substances, catapults, explosives, automatic or semi-automatic weapons or chemical wetting agents. The list is also open to amendment by DAFF in order to ensure compliance with international obligations.

The provisions of the Act also prohibit the sale, offering or exposure for sale of any live birds except those listed in Part I of Schedule 3 of the Act (none marine). Prohibitions also apply to

all dead birds except those listed in Part II of Schedule 3 of the Act at all times of year and in Part III of Schedule 3 during particular times of the year (none marine). Contravention of restrictions applying to sale or showing of birds carry special penalties in the case of birds listed under Schedule I. The Act also makes provisions for the keeping of captive birds. Persons keeping birds listed under Schedule 4 require to be registered according to regulations set out by the Department.

Table 5 Marine and coastal birds which may be kept by registered persons only under Schedule 1 of the Wildlife Act 1990

• Avocet <i>Recurvirostra avosetta</i>	• Wood sandpiper <i>Tringa glareola</i>
• Bittern <i>Botaurus stellaris</i>	• Common scoter <i>Melanitta nigra</i>
• Little bittern <i>Ixobrychus minutus</i>	• Velvet scoter <i>Melanitta fusca</i>
• Chough <i>Pyrrhocorax pyrrhocorax</i>	• Shorelark <i>Eremophila alpestris</i>
• Stone curlew <i>Burhinus oediconemus</i>	• Black-winged stilt <i>Himantopus himantopus</i>
• Divers (all species) <i>Gavia</i>	• Temminck's stint <i>Calidris temminckii</i>
• Long-tailed duck <i>Clangula hyemalis</i>	• Black tern <i>Chlidonias niger</i>
• Kentish plover <i>Charadrius alexandrinus</i>	• Little tern <i>Sterna albifrons</i>
• Green sandpiper <i>Tringa ochropus</i>	• Roseate tern <i>Sterna dougallii</i>
• Purple sandpiper <i>Calidris maritima</i>	• Whimbrel <i>Numenius phaeopus</i>

3.3.3 Non-bird animal protection measures (Part I of Wildlife Act, 1990)

Wildlife Act 1990

Under Part I of the Wildlife Act 1990 it is prohibited to intentionally kill, injure or take any wild animal as listed in Schedule 5 of the Act (this Schedule is currently under review). This includes several marine species including basking sharks and all species of seal, turtle and whale (see Table 6). The Act also prohibits the possession or control of any live or dead animal, the causing of damage or obstruction of access to areas used for shelter or protection by scheduled species, the disturbance of a species while in such a place or the sale or offer of live or dead animals listed in the Schedule. Exceptions are made for compliance with the Prevention of Damage by Agricultural Pests Act 1956, the Forestry Act 1984 or the Diseases of Animals (Prevention) Acts 1948 to 1975.

Table 6 Marine and coastal animal species which are Protected under Schedule 5 of the Wildlife Act 1990

• Common otter <i>Lutra lutra</i>
• Seals (all species) <i>Pinnipedia</i>
• Basking shark <i>Cetorhinus maximus</i>
• Turtle (marine) (all species) <i>Dermochelyidae</i> and <i>Cheloniidae</i>
• Whales (all species) <i>Cetacea</i>

Under the Act, as with restrictions for bird species, prohibitions exist for the use of particular methods of killing any animal including self-locking snares, semi-automatic weapons, or use of sound recordings as decoys with certain derogations. Some of these methods apply only to particular species, as listed in Schedule 6 of the Act (see Table 7), which include the bottle-nosed dolphin, common dolphin and harbour porpoise.

Table 7 Marine and coastal animal species which may not be killed or taken using certain methods under Schedule 6 of the Wildlife Act 1990

- Bottle-nosed dolphin *Tursiops truncatus* (= *Tursiops tursio*)
 - Common dolphin *Delphinus delphis*
 - Common otter *Lutra lutra*
 - Harbour porpoise (= common porpoise) *Phocaena phocaena*
-

These apply with certain derogations i.e. allowing certain activities for particular purposes including scientific and educational purposes, interests of public health, forestry, fisheries or nature conservation.

3.3.4 Plant protection measures

Wildlife Act 1990

Under Part I of the Wildlife Act 1990 it is illegal to pick, uproot or destroy any wild plants, unless an authorised person in which case it is prohibited to pick, uproot or destroy any plant listed in Schedule 7 of the Act (this Schedule is currently under review). It is also prohibited to sell, offer or expose for sale any live or dead plant listed in Schedule 7. This list does not include any coastal or marine species.

The above restrictions apply with certain derogations i.e. allowing certain activities for particular purposes including scientific and educational purposes or for the purpose of conservation although such derogation must be licensed by DAFF.

Table 8 Key legislation for Marine Species Protection

International Conventions	Provisions
Convention on International Trade in Endangered Species (CITES)	International agreement between signatories to ensure import and export of wild flora and fauna do not threaten the species.
European Conventions and agreements	Provisions
<p>Convention on Migratory Species of Wild Animals (Bonn Convention)</p> <p>And under this agreement to sign:</p> <ul style="list-style-type: none"> The Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS) – <i>when it is extended to cover the Irish Sea</i> The Agreement on the Conservation of African-Eurasian Migratory Waterbirds The Agreement on the Conservation of Petrels and Albatrosses Eurobats 	<p>Intergovernmental treaty to protect migratory species throughout their range on a global scale.</p> <p>Includes strict protection for endangered species listed in Appendix I and species that would benefit from international cooperation in Appendix II.</p> <p>A number of Agreements have been made under the Bonn Convention as listed.</p>
Council of Europe Convention on the Conservation of European Wildlife and Wildlife and Natural Habitats (the Bern Convention)	Convention to ensure conservation of wild flora and fauna species and their habitats.
Convention for the Protection of the Marine Environment of the North-East Atlantic 1992 (OSPAR Convention)	Annex V applies to biodiversity in maritime areas. The Isle of Man has not agreed to become signatory to this Annex.
UK Legislation	
There is no UK legislation relevant to the protection of marine species in the Isle of Man.	
Isle of Man Legislation	Provisions
Wildlife Act 1990 & Wildlife Act (Amendment) Act 1994	<p><u>Birds</u> Sections 1-8 (Schedules 1-4).</p> <p><u>Other animals</u> Sections 9-11 (Schedules 5 & 6).</p> <p><u>Plants</u> Section 12 (Schedule 7)</p>
<p>Endangered species (Import and Export) Act 1981</p> <p>Partly amended by the Wildlife Act 1990 but Schedule 9 not enacted.</p>	Implements CITES on the Isle of Man

4 CONTROL OVER INTRODUCTION OF NON-NATIVE SPECIES IN THE MARINE ENVIRONMENT

There has been recent interest in the control of introduced species in the marine environment, particularly as a result of the possibility of disease transfer to native populations and possible alteration to ecological interactions. Especially topical is the issue of introducing genetically modified species and the resultant interactions with local species and the introduction of non-native species through the release of ballast water. This section covers the main issues of introduction of non-native species to the marine environment with a summary of the main legislation given in Table 10.

4.1 Control over non-native species

Wildlife Act 1990

Section 14 of the Wildlife Act 1990 includes restrictions regarding the deliberate introduction of new species. Under these restrictions persons are not allowed to release or allow to escape any wild animal which is not ordinarily resident or a regular visitor to the Isle of Man, or any species included in Schedule 8 of the Act, of which the marine and coastal species are shown in Table 9 below.

Table 9 Marine and coastal species which may not be introduced to the wild under Schedule 8 of the Wildlife Act 1990

- Giant kelp *Macrocystis pyrifera*
 - Japanese seaweed *Sargassum muticum*
 - Canada goose *Branta canadensis*
 - Egyptian goose *Alopochen aegyptiacus*
-

Under these restrictions it is an offence to introduce such species as detailed above with contraventions of the legislation punishable to a fine.

Wild Animals (Restriction on Importation, Etc.) Act 1980

The Wild Animals (Restriction on Importation, Etc.) Act 1980 restricts the importation and keeping of 'Scheduled Wild Animals' except licensed by DAFF (purposes usually only including zoos or circuses). The Act also confers an obligation on the licensed owners of any such organisms to ensure that such animals do not escape into the wild and that liability for expense falls to the person in possession or control of the animal at the time of escape. Penalties are stipulated for offences.

None of the species listed as 'Scheduled Wild Animals' are marine or coastal and as such this does not have a significant role in relation to the marine environment, although DAFF may, after consultation with the Scientific Advisory Committee, amend the Schedule as required.

Destructive Imported Animals Act 1963

Under the Destructive Imported Animals Act 1963 DAFF is conferred the power to prohibit or control the importation or keeping of particular species of non-indigenous mammalian species

where it considers such species to possess destructive habits. This may allow for such animals to be imported with a licence, although DAFF may impose restrictions on the transportation of such animals in order to reduce the risk of escape. DAFF may also order the destruction of any such animals which may be at large on the Island.

The Act specifically excludes all animals listed in the Wild Animals (Restriction on Importation, Etc.) Act 1980 (see above). Currently, no marine or coastal species are included, the only species presently controlled being the musk rat or musquash.

Genetically Modified Organisms Act 2001

Under the Genetically Modified Organisms Act 2001 it is prohibited to import, acquire, release, permit escape of, propagate, sell or supply, possess or offer, expose or advertise for sale or supply and Genetically Modified Organisms (GMOs). This excludes organisms of which marketing is permitted by any Community Instrument within any member State of the European Communities.

Under the legislation DAFF has the power to provide exemptions for particular persons or classes of person and, under the Schedule to the Act, to enter and inspect premises where they have reason to believe GMOs to be kept, to have been kept, to have been released from or escaped from. On finding organisms believed to be GMOs DAFF has the power to seize and destroy them. The Act also provides for punishments on contravention of the legislation.

4.2 Protection of fish populations

Animal Health Act 1996

Protection of fish populations is regulated by the Animal Health Act 1996 which supercedes the Diseases of Animals (Prevention) Acts 1948 – 1975. Under Section 8 of the Act DAFF is given the power to make orders for the prevention of disease through the importation of animals. Specific matters which may be included in such orders are given in Schedule 1 and includes conditions which must be observed before, during and after importation, exemptions from the provisions of the order by means of licences, and requirements for provision of information and documentation.

Under this legislation DAFF has implemented the Animal & Animal Products (Import & Export) Order 2001. This order regulates and controls trade, primarily within the EU. Within the Order it is prohibited to import any animal or animal product from the EC, subject to relevant Directives, which include:

- For farmed fish species: EC Directive 91/67/EEC concerning animal health conditions governing the placing on the market of aquaculture animals and products
- For non-farmed fish: EC Directive 01/493/EEC laying down health conditions for the production and placing on the market of fishery products.
- For live bivalve molluscs: EC Directive 91/492/EEC laying down health regulations for the production and placing on the market of live shellfish

Regulations include provisions for the prohibition of placing aquaculture animals and animal products on the market and the transport of animals and animals products unless stipulated requirements of health status are met. The transport of aquaculture animals is also prohibited unless certain requirements relating to animal welfare and spread of disease are met. In relation to control of non-native species the introduction of live fish, eggs and gametes is

prohibited from elsewhere in the EU and of un-eviscerated fish from the EU unless from an area of appropriate fish health status.

Sea Fisheries Acts 1971 & 1991

The Sea Fisheries (Control of Importation) Bye-laws 1990 made under the Sea Fisheries Act 1971 prohibits the import or removal of any live sea fish except with, and in accordance with the conditions contained in, a licence as issued by DAFF.

4.3 Plant health protection

Plant Health Act 1983

The Plant Health Act 1983 provides for the Department of Agriculture, Forestry and Fisheries to control pests and diseases injurious to agricultural or horticultural crops. Under the legislation they may make orders as they feel are expedient or necessary for the adherence to any community instrument extended to the Isle of Man for the prevention of introduction of pests to the Island.

Under the Act DAFF also has the power to remove, treat or destroy infected plants, crops or seeds if infected, with compensation payable with concurrence of the Treasury. Orders made under this Act are required to be put to Tynwald as soon as possible after being made and remains in force unless annulled by Tynwald. This is different to a number of other Acts where orders, regulations or bye-laws do not come into force until considered by Tynwald.

Table 10 Key legislation for the Control over the Introduction of Non-native species

European Legislation	Provisions
The following EC Directives are implemented through the Animal Health Act 1996	
EC Directive 91/67/EEC concerning animal health conditions governing the placing on the market of aquaculture animals and products	
EC Directive 01/493/EEC laying down health conditions for the production and placing on the market of fishery products	
EC Directive 91/492/EEC laying down health regulations for the production and placing on the market of live shellfish	
Isle of Man Legislation	Provisions
Wildlife Act 1990 As amended by the Wildlife Act (Amendment) Act 1994	Section 14 controls the introduction of species not ordinarily resident or a regular visitor to the Isle of Man, and prohibits introduction of certain named species.
Wild Animals (Restriction on Importation) Act 1980	Restricts importation and keeping of 'Scheduled Wild Animals' – mainly for purposes of circuses and zoos.
Destructive Imported Animals Act 1963	Confers DAFF with the power to prohibit or control importation of destructive species.
Genetically modified Organisms Act 2001	Controls the introduction of GMOs.
Animal Health Act 1996	Provides DAFF with the powers to make orders to control the prevention of disease through the importation of species. The Animal & Animal Products (Import & Export) Order 2001 has been implemented under the Animal Health Act 1996.
Sea Fisheries Acts 1971 & 1991	Prohibits removal or import of any live sea fish except in accordance to guidelines as issued by DAFF.
Plant Health Act 1983	Provides DAFF with the power to control pests and serious disease injurious to agricultural and horticultural crops.

5 CONSERVATION OF MAN-MADE STRUCTURES IN THE MARINE ENVIRONMENT

The Isle of Man has a rich archaeological and built environment. Early settlements include iron-age coastal promontory forts, megalithic-chambered tombs, early Christian period keeill sites, Vikings mounds and mediaeval forts. During the late mediaeval and early modern periods the growth of the fishing industry resulted in a number of harbour developments, and many mining works and trial shafts were constructed. During this period a number of coastal forts were also developed in response to the Spanish Armada, English Civil War and the Napoleonic threat. More recently Victorian architecture became widespread as the tourist industry rose in importance on the Island, and coastal relicts of the World Wars including accommodation; communications and radar systems are present.

The Island is signatory to the United Nations Convention Concerning the Protection of the World Cultural and Natural Heritage 1972, the European Convention for the Protection of the Architectural Heritage of Europe in 1987, and the European Convention on the Archaeological Heritage of Europe reflecting the commitment of the Island to preservation of the built environment (DLGE, 2001b).

This section also covers the protection of archaeological sites, historic buildings and wrecks in the coastal area, these being protected by three main Acts of Tynwald: the Manx Museum and National Trust Act 1959 – 1986, the Wreck & Salvage (Ships & Aircraft) Act 1979 and the Town & Country Planning Acts 1934 – 1999 (see Table 11).

5.1 Archaeology and historic buildings

Convention Concerning the Protection of the World Cultural and Natural Heritage 1972

The United Nations Convention Concerning the Protection of the World Cultural and Natural Heritage 1972 is aimed at protecting the cultural and natural heritage of signatories from destruction and degradation. Under the Convention countries party to the convention should “ensure that effective and active measures are taken for the protection, conservation and presentation of cultural and natural heritage”. Specific measures include the integration of heritage into planning procedures, taking appropriate measures to rehabilitate heritage and endeavouring to strengthen appreciation and respect of cultural and natural heritage. Under the Convention an intergovernmental World Heritage Committee is set up as well as a fund for the protection of heritage under which contracting parties may be given financial assistance.

European Convention for the Protection of the Archaeological Heritage of Europe (Revised) 1992

The European Convention of the Archaeological Heritage of Europe (Revised) 1992 (Valetta Convention) is aimed at integrating the conservation and enhancement of archaeological heritage with planning policy. Guidelines are set for the funding of excavations, research and publication and include provisions relating to public access, education and public awareness. The Convention also provides a framework for co-operation of European signatories for exchange of experience and experts.

The UK's ratification of this Convention has been extended to the Isle of Man. Manx National Heritage and DOLGE examined the implications of the Convention for the Island in advance of its extension. Manx National Heritage continues to monitor the implications of the Convention's requirements for the Isle of Man.

Convention of the Architectural Heritage of Europe 1985

The European Convention of the Architectural Heritage of Europe 1985 is aimed at reinforcing and promoting policies for the conservation and enhancement of Europe's architectural heritage including monuments, groups of buildings and sites of historical or archaeological interest. Requirements under the Act include taking statutory measures to protect such heritage and maintaining inventories and information about threats to such heritage.

Planning Policy

Under the Isle of Man Planning Scheme (Development Order) 1982 DLGE is given the duty for the establishment and preservation of an attractive environment by the preservation of existing buildings or architecture of historic interest. This will be replaced by the Town & Country Planning Act 1999, parts of which are already in force, which repeals previous versions of the Town & Country Planning Act. Within this Act there are provisions for buildings of special archaeological or historic interest under Part III, which has not yet come into force and requires DLGE to maintain a Protected Buildings Register. Registered Buildings are the equivalent of UK listed buildings and are protected against certain works such as demolition, alteration or extension, unless authorised. Those on the coast include limekilns, lighthouses, a powder house, warehouses, a foundry, swing bridge and brewery (Davey & Woodcock, 1996).

Under Part III DLGE is also conferred the duty of determining parts of the island to designate as Conservation Areas, as *“areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance”*.

The Isle of Man Draft Strategic Plan, published in 2001 for public consultation, as a duty of DLGE under Part I of the Town & Country Planning Act 1999, provides the general policies of the Isle of Man with justification of the policies. Under this Plan the overall strategic aim of planning is:

“To plan for the efficient and effective provision of services and infrastructure and to direct and control development and the use of land to meet the community's needs, whilst at the same time preserving, protecting, and improving the quality of the environment, having particular regard to our uniquely Manx natural and built heritage”

The aim of planning is *“to reconcile the needs for development against the need to conserve and protect the historic environment”* (DLGE 2001). The Report details guidelines for any development relating to registered buildings, conservation areas, archaeological sites and existing settlements.

General strategies include objectives to protect, maintain and enhance the built environment and to protect the individual character and identity of settlements and to *“protect and enhance the fabric and setting of Ancient Monuments, Registered Buildings, Conservation Areas, buildings and sites within National Heritage Areas, and sites of acknowledged archaeological interest”*.

Within Section 6.2 the Strategic Plan looks in more detail at planning policies in the Built Environment. This states that there should be a balance between conservation and enhancement and the promotion of development and growth.

The plan provides policies for the demolition, extension or alteration of registered buildings and development within Conservation Areas. This states a presumption against removal of buildings from the register and extensions or alterations that affect the architectural or historic

interest of such buildings. Also stated is that development will not be permitted where this would result in damage, disturbance or detract from nationally important archaeological sites of Ancient Monuments, and that archaeological evaluations be required for areas known to be of archaeological importance.

Man made structures, which lie, within National Heritage Areas will have the protection afforded by NHA designation, as well as that of any specific protection they may have.

Manx Museum & National Trust Acts 1959 – 1986

Manx National Heritage (the Manx Museum and National Trust) is conferred various powers and duties under the Manx Museum & National Trust Act 1959 as amended by the Manx Museum & National Trust (Amendment) Act 1986 with the overall aims to:

“promote the permanent preservation for the benefit of the people of the Isle of Man of lands and tenements (including buildings) of beauty or historic interest and, as regards lands, the preservation (so far as practicable) of their natural aspect, features and animal and plant life; the preservation of buildings of national interest or architectural, historic or artistic interest, and places of national interest or beauty, and the protection and augmentation of the amenities of such buildings and places and their surroundings”

“preserve all furniture and pictures and chattels of any description having national or historic or artistic interest”

“provide access to, and enjoyment of, such buildings, places and chattels by the public, whenever desirable”

The Act provides definitions for monuments, ancient monuments and archaeological objects. Under the Act the Trust may designate any monument as an Ancient Monument. If any ancient monument of national importance is under threat of destruction, removal or damage the Trust may make an order placing the monument under the protection of the Trust and enter the premises for inspection and may make a preservation order on the building. A preservation order prohibits the destruction or removal, alteration or extension of any part of the monument without application to the Trust. The Act also details penalties for any contravention or for causing of injury or defacement of any ancient monument. Preservation schemes may also be applied by the Trust in order to ensure the protection of adjacent areas necessary or expedient for the preservation of amenities of ancient monuments. The two Stephenson lighthouses on the Calf are Listed Ancient Monuments.

Reporting of archaeological discoveries is legislated for under Section 20 of the Act. This requires that all archaeological findings are reported within 14 days of finding to a police officer or officer of the Trust with fines stipulated for contravention. In addition it is an offence to export or remove “archaeological objects” to the UK or countries outside the UK or to sell such an item for export without a licence issued by the Trust. The definition of “archaeological objects” is widely drawn.

Under Section 21A it is also prohibited to use a metal detector in “protected areas” without written consent from the Trust. This includes sites of ancient monuments or monuments under the ownership or guardianship of the Trust or areas designated by the Trust as areas of archaeological importance. Section 22 prohibits injury; defacement or destruction of archaeological objects without licence and Section 23 requires that excavation for archaeological purposes is only carried out in accordance with a licence issued by the Trust.

Treasure Trove Act 1586

Treasure Trove law is for all intents and purposes the same as that which used to apply in England and Wales for the purpose of returning gold and silver which is ownerless to the Crown. Under this legislation the Coroner of Inquests determines whether a discovery is Treasure Trove. Items deemed to be Treasure Trove are claimed for the Crown and then offered to the Manx Museum which must provide an *ex gratia* payment to the finder in return for the gold and silver (Davey & Woodcock, 1996).

5.2 Historic wrecks**Wreck & Salvage (Ships & Aircraft) Act 1979**

Under the Wreck & Salvage (Ships & Aircraft) Act 1979 the Department of Transport appoints a Receiver of Wreck whose role it is to identify the owner of the wreck and to protect wrecks within Manx territorial waters of historical, archaeological or artistic importance from outside interference. The DOT can also designate restricted areas for their protection including all areas within a set distance of the wreck (but not including areas above high tide mark of ordinary spring tides). Within such areas the following activities are prohibited unless a licence is given by the DOT (for salvage operations):

- Tampering/ damaging/ removing any part
- Diving/ salvaging operations directed to the wreck
- Dropping anything that may partly completely obliterate site or obstruct access or damage wreck

The Harbour Board is charged with the responsibility of diving to remove or excavate objects from within restricted areas. Designations are made through Protection of Wrecks (Designation) Orders one of which has been made for HMS Racehorse under The Protection of Wrecks (Designation) Order 1982. This restricts access and diving, and requires reporting of all items of equipment, which may be salvaged, to the Manx Museum and National Trust or the Receiver of Wrecks. The issuing of a Designation Order and of any licence to gain access to a designated vessel is undertaken in consultation with Manx National Heritage.

Harbours (Isle of Man) Act 1961

Although, under Section 16 of the Harbours (Isle of Man) Act 1961 the Department of Transport is able to remove any obstruction within a harbour or approaches, they are not permitted to remove any wreck (as defined in the Wreck & Salvage (Ships & Aircraft) Act 1979) causing an obstruction to prejudice or derogate the rights under the Wreck & Salvage (Ships & Aircraft) Act 1979.

Table 11 Key Legislation for the Conservation of Man-made Structures

International Conventions	Provisions
The World Heritage Convention	To ensure that effective and active measures are taken for the protection, conservation and presentation of cultural and natural heritage.
European Conventions	Provisions
The European Convention of the Archaeological Heritage of Europe (Revised) 1992	Aimed at integrating the conservation and enhancement of archaeological heritage including marine archaeology with planning policy.
European Convention of the Architectural Heritage of Europe 1985	Aimed at reinforcing and promoting policies for the conservation and enhancement of Europe's architectural heritage.
Isle of Man Legislation	Provisions
Town & Country Planning Act 1999	Directs and controls development whilst preserving and protecting existing areas and buildings of an historical or architectural interest.
Manx Museum & National Trust Acts 1959 – 1986	Governs archaeological activities and the protection of archaeological sites but only as far downshore as Mean High Water.
Wreck & Salvage (Ships & Aircraft) Act 1979	Appoints DOT as receiver of wreck for protection and identification of wrecks. Allows the DOT to make orders for the protection of wrecks. Restricts access to and activities around wrecks and sites of wrecks as determined by the DOT.
Treasure Trove Act 1586	Treasure Trove law provides for ownerless gold and silver declared treasure trove to be offered to the Manx Museum with an <i>ex gratia</i> payment made to the finder.
Planning Guidance	
Isle of Man planning Scheme (Development Order) 1982	Confers DLGE with the responsibility to establish and preserve an attractive environment by the preservation of existing buildings or architecture or historic interest.
Town & Country Planning Act 1999	Provides for buildings of special archaeological or historic interest under Part III which has not yet come into force and requires DLGE to maintain a Protected Buildings Register.
The Isle of Man Draft Strategic Plan 2001	Provides guidance for development in and around conservation areas.

6 SEA FISHERIES

The Isle of Man has a well-established fishing industry, with historically important herring and scallop fisheries. Scallop fisheries are still very important, with increasing reliance on pot fisheries for crabs, lobsters and whelks. There is no dedicated finfishing in the Isle of Man, following the collapse of the herring fishery in the mid- 1970s. Legislation relating to fisheries has largely evolved in line with the development of fisheries. Although the Isle of Man has been able to tailor some of its fisheries legislation to reflect its particular concerns, the legal structure of Manx fisheries generally corresponds to UK legislation. The Isle of Man can make legislation for the 3-mile area without outside permission. For the 3- to 12-mile area, DAFF requires the concurrence of the UK (through the newly-created Department for Constitutional Affairs) to amend legislation.

The following section summarises international, EC, UK and Isle of Man legislation relevant to the marine environment.

6.1 Licensing

Licensing conditions in the Isle of Man are identical to those in the UK, with Manx licences reciprocal to those in the UK meaning that UK vessels may fish in Isle of Man waters and vice versa. Licences specify whether the vessel has an entitlement to fish by the beam trawl method and also whether the vessel has an entitlement to fish for scallops. Manx boats are licensed for fishing by DAFF, who have the power under the Sea-Fisheries Act 1971 to set restrictions within the license conditions. Separate licences are required for beam trawling entitlements, potting for crabs and lobsters and whelk fishing with licence conditions. However, unlike in the UK separate licences are required for potting for crabs and lobsters and whelk fishing with licence conditions set out in the bye-laws.

Licences for scallop fishing have been restricted since the mid-1990's. Whelk fishing licences are also capped, with a maximum of 6 licences allowed at any one time, and DAFF being responsible for re-allocation of licences. There are currently no restrictions on the number of boats licensed for crab and lobster potting, with individual licences considered on a case-by-case basis by DAFF, although DAFF exercises guidelines which seek to limit the total number of pots which may be used.

6.2 Offshore fisheries

The Isle of Man is associated with the EEC through Protocol 3 to the Treaty of Accession by which the UK became a Member State. The Isle of Man Government takes the viewpoint that the Common Fisheries Policy (CFP) does not automatically apply to the Isle of Man. However under the Sea-Fisheries Act 1971, in addition to powers to make its own fisheries legislation (subject, in the 3-mile to 12-mile area, to the concurrence of the UK) Tynwald may also apply provisions relating to any obligation of the UK under the CFP of the EEC to the Isle of Man with exceptions, adaptations and modifications. Within this framework Isle of Man legislation includes many of the basic provision of EC legislation (for example, mesh sizes included in the Sea-Fisheries (Technical Measures) Bye-laws 2000 are based on those appearing in EC Regulations).

The UK Territorial Sea Act 1987 was extended to cover the Isle of Man in 1991, with recognition of extension of the territorial sea from a 3-mile limit to a 12-mile limit (or to the median line where there is less than 24 miles between the Island and the UK). Provisions associated with extension of the territorial sea were made in the Territorial Sea (Consequential Provisions) Act 1991 which amend the Sea-Fisheries Act 1971 to require

concurrence of the UK to legislation within the 3-mile to 12-mile area. This and other practical arrangements were also set out in the 1991 Fisheries Management Agreement between DAFF and UK Fisheries Departments. However, within the 3-mile limit the Isle of Man Government has unilateral jurisdiction (Robson, 1996).

The Isle of Man fishes against the UK quota. Boat tonnage is also included in the UK fleet. However, as the Isle of Man fleet focussed mainly on scallops and queenies at a time when track records for whitefish became significant for the subsequent allocation of quotas, its track record for whitefish is low and its access to quotas is severely limited.

6.3 Inshore fisheries

In relation to Manx legislation sea fisheries are governed by the Sea Fisheries Act 1971 & 1991, under which bye-laws are applied. Bye-laws of particular relevance include the Sea-Fisheries Consolidation (Bye-laws) 1984 and the Sea-Fisheries (Technical Measures) Bye-laws 2000. Specific bye-laws have also been developed in order to regulate specific shellfisheries as the dominant fisheries in the Isle of Man.

Sea Fisheries Act 1971

Sea fisheries are governed by the Sea-Fisheries Act 1971. This confers the power on DAFF to restrict or prohibit certain methods of fishing, possession of particular fishing gear, to govern mesh sizes and the form and dimension of fishing gear. The can also set a minimum legal landing size (MLLS) for particular species or prohibit the taking or killing or landing of particular species or parts of particular species either processed or unprocessed.

DAFF are also given responsibility for the granting of licences and the fees payable for licences. In addition they can also limit the number, size or type of vessels which may take or kill sea fish, and prohibit the importation of particular species or parts of species. Regulations also require that boats fishing, trans-shipping, importing, selling or processing fish keep records of catches as stipulated by bye-laws.

Before creating bye-laws DAFF is required to consult with any organisations which they consider will be significantly affected and relevant scientific authorities. They are also required to ensure that bye-laws are not in contravention of any international agreements. Where bye-laws apply to the extended territorial seas (the 3-mile to 12-mile limit), DAFF is required to obtain the concurrence of the Secretary of State (formerly through the Home Office, then through the Chancellor's Department and now through the Department for Constitutional Affairs).

Contravention of the bye-laws, as set by DAFF, results in a fine unless DAFF has issued a licence to allow the particular works (e.g. scientific studies). DAFF may also prohibit any vessel from receiving a trans-shipment of fish from any other vessel unless licensed. Licences can be set for all species or certain species, particular methods, areas or seasons or for specific types of vessel.

The Sea-Fisheries Act 1971 also give DAFF the power to request statistics from buyers of fish or owners of boats for a period of up to 12 months previous regarding species, quantities of fish (or species) intended for sale caught in Manx waters whether or not landed in the Isle of Man, transfers, methods of fishing, areas fished or other details as required. Sea fishery officers are appointed by DAFF as required to enforce observance of bye-laws under this Act. Officers have the power to:

- board vessels
- examine fish and equipment
- enter premises where fish are stored, processed, sold or gear is stored

Fish or gear can be detained for inspection with infringement of laws which may result in a fishing ban from the territorial sea for up to a month as well as in forfeiture of a catch, gear or vessel, and to a fine.

Under the Sea Fisheries Act 1971 DAFF may also apply various Community Instruments UK Acts of Parliament to the Isle of Man with exceptions, adaptations and modifications.

6.4 Bye-laws

The following bye-laws have all been made under the Sea-Fisheries Act 1971 & 1991, and provide specific regulations relating to whitefisheries, pot fisheries and scallop fisheries.

Sea-Fisheries Consolidation (Bye-laws) 1984

The Sea-Fisheries (Consolidation) Bye-laws 1984 set a number of whitefishing restrictions under the Sea Fisheries Act 1971 & 1991, which stipulate:

- A requirement for fishing vessels to be licensed
- Prohibition for permits of boats over 50ft (unless Manx hook and line vessel)
- Prohibition of net fishing (except for angling) within restricted areas (i.e. within a harbour, within 500m of harbours or breakwaters or within 500m of points where rivers enter the sea)
- Restrictions on the use of floating nets
- Landing of whitefish in the island of any whitefish caught in ICES Area VII unless a non-British owned boat or under authority of a government licence
- Prohibition of fishing for, or taking salmon at sea, in harbours or from foreshores
- Prohibition of fishing for herring unless licensed
- Prohibition of landing berried crabs and lobsters, recently cast crabs (unless for bait), detached crab or lobster claws or marked lobsters

Many of the regulations contained in the Sea-Fisheries Consolidation Bye-laws 1984 have been revoked by the more recent Sea-Fisheries (Technical Measures) Bye-laws 2000.

Sea-Fisheries (Technical Measures) Bye-laws 2000

The Sea Fisheries (Technical Measures) Bye-laws 2000 sets restrictions on:

- Minimum legal landing sizes (MLLS) for individual species (Schedule 5)
- Types of nets to be used
- Permissible mesh size ranges for individual species using towed gears (Schedule 1) and fixed gears (Schedule 2)
- Minimum percentage of target species to be taken (Schedules 1 and 2)

- Permitted combinations of mesh sizes (Schedule 3)
- Prohibited types of gear
- Prohibition on encircling marine mammals with purse seines
- Requirement for salmon and sea trout to be returned to the sea.
- Use of sorting gear
- Limit on drift nets attended and unattended.
- Requirement to protect flatfish by use of separating devices
- Requirement for a log book

The bye-laws require that surplus bycatch is returned to the sea before landing and that at any one point at least 50% of the minimum percentage of target species is present on board. This does not apply to scallop fishing which is covered by the Sea-Fisheries (Scallop Fishing) Bye-Laws 1999 unless more than 5% of the catch is bivalve molluscs.

Sea-Fisheries (Possession of Undersized Sea-fish) Bye-laws 2000

Under these bye-laws it is prohibited to sell, expose for sale or offer on sale on the Isle of Man any sea-fish below the minimum legal landing size as specified in the Sea Fisheries (Technical Measures) Bye-laws 2000. The bye-laws place an onus on individuals and retail outlets to ensure that fish in their possession do not contravene minimum legal landing size requirements.

Sea-Fisheries (Scallop Fishing) Bye-Laws 1999

Scallop fisheries are governed by the Sea-Fisheries (Scallop Fishing) Bye-Laws 1999 by the exercise of powers conferred on DAFF by the Sea-Fisheries Act 1971. These bye-laws revoke the Sea-Fisheries (Scallop Fishing) Bye-Laws 1996 and the Sea-Fisheries (Scallop Fishing) (Amendment) Bye-laws 1998. The bye-laws include:

- Minimum Legal Landing Size (MLLS) on scallops of 110mm shell width
- Prohibition of fishing in the Territorial Sea between June 1st and November 1st inclusive
- Prohibition of fishing, taking or killing of scallops within the 3-mile limit between 18:00 and 06:00 on any day
- Prohibition of the landing or possession of scallop meat removed from its shell
- Regulations of gear type, size and measurements
- Regulations for landing scallops as by-catch (max. 1% wt. of the total catch)

Table 12 Restrictions in scallop fishing gear under the Sea-Fisheries (Scallop Fishing) Bye-Laws 1999

- Max. 40 ft dredges or aggregate of dredges (25ft dredges within 3-mile limit)
 - Max. 9 teeth per dredge
 - Min. 75mm between dredge teeth
 - Min. belly rings internal diameter of 75mm
 - Min. mesh size of less than 100mm
 - Prohibition of French dredges
-

Sea-Fisheries (Lobster and Crab Etc. Licensing) Bye-laws 2003

The Sea-Fisheries (Lobster and Crab Etc. Licensing) Bye-laws 2003 revoke the Sea-Fisheries (Lobster and Crab, Etc. Licensing) Bye-laws 1991 and the Sea-Fisheries (Lobster and Crab) (Amendment) Bye-laws 1999 and the recent Sea-Fisheries (Lobster and Crab Etc. Licensing) (Three-Mile Area) Bye-laws 2003 following concurrence from the UK that the Isle of Man may extend these bye-laws throughout the territorial sea (i.e. to the 12-mile limit). The bye-laws apply to crabs (*Cancer pagurus*, *Maia squinado* or other species of edible crab), crawfish and lobsters and provide for contravention of licence conditions, the use of stack cages and the keeping of catch returns and return of these to DAFF.

The most recent bye-laws impose a maximum number of pots per licence within the 3-mile limit of 300. Further pots may still be deployed outside the 3-mile limit, to a maximum of 500 pots which may be used throughout the territorial sea. The requirement for a licence for pot fishing for personal use has also been brought in. There was previously a requirement until 1991 for any vessel fishing in the 3-mile area to be issued with a permit. This was dropped. However, following incidences of personal pot limits (5 pots) being exceeded and larger numbers of pots being fished on a commercial basis, the requirement for a licence (which is free of charge) has been brought in. Restrictions limit personal landings to 1 lobster and 5 crabs per day. A requirement for catch returns is not included in the licence for personal use.

Sea-Fisheries (Whelk Licensing Etc.) Bye-laws 1994

Under the Sea-Fisheries (Whelk Licensing Etc.) Bye-laws 1994 licences are required for pot fishing within the 3-mile limit. Licences are non-transferable and expire on sale or change of ownership of a vessel with DAFF responsible for re-issuing the licence to another interested party. The bye-laws stipulate a maximum number of 600 pots with a maximum of 6 licences at any one time for the purpose of conserving and controlling the fishery for which a minimum landing size of 70mm is also stipulated (this is larger than the UK landing size as IOM whelks are believed to be slower growing).

The provisions also detail the requirements for record-keeping and use of stock cages and stipulate that these only apply where there is 10% or less whelks by weight in the catch.

6.5 Closed areas and No Take Zones

There are two main pieces of legislation that relate to closed areas and no take zones, which include two types of closed area – scientific experimental closed areas and seasonally protected spawning grounds. In addition effective closed areas are present due to various types of exclusion zone.

Sea-Fisheries (Experimental Area) Bye-laws 1989

Under Section 2 of the Sea-Fisheries Act 1971 DAFF is conferred the power to define closed areas under the Sea-Fisheries (Experimental Area) Bye-laws 1994. DAFF defined an experimental area off Port Erin as part of a long-term monitoring project run by Port Erin Marine Laboratory for the purpose of monitoring scallop populations. The bye-laws prohibited all fishing, except with static gear for crabs, lobsters and whelks, within the area.

These bye-laws were revoked and replaced by the Sea-Fisheries (Experimental Area) Bye-laws 2003 which provide for an extension of the experimental area for a period of three years during which reseeded experiments will be run by Port Erin Marine Laboratory. The bye-laws

otherwise make the same provisions as the earlier bye-laws, with the addition of being able to fish within the experimental area by means of rod and line.

In addition there have been recent consultations regarding the possibility of setting up a rotational closed area system in order to protect scallop populations. However this is only at preliminary stages.

Sea-Fisheries (Technical Measures) Bye-laws 2000

Under the Sea-Fisheries (Technical Measures) Bye-laws 2000 herring fishing is restricted in an area to the east of the Isle of Man between 21st September and 15th November. Within this area herring may only to be retained if 5% or less of total catch in order to protect spawning populations.

Other legislation

Other legislation also results in effective closed areas where boats are prohibited from fishing for whatever reason. This includes:

- *The Sea Fisheries (Consolidation) Bye-laws 1984* which prohibit fishing (except for angling) within restricted areas (i.e. within a harbour, within 500m of harbours or breakwaters or within 500m of points where rivers enter the sea)
- *The Mineral Workings (Offshore Installations) Act 1988* under which safety zones of 500m may be set around oil and gas installations, excluding fishing activities within the zone.
- *The Wreck & Salvage (Ships & Aircraft) Act 1979* under which wrecks on the seabed may be designated as restricted or prohibited areas
- *The Submarine Cables Act 2003* which allows the DOT to make provisions for the movement of vessels in the neighbourhood of cables for safety purposes (these are generally temporary closures).

6.6 Sea angling and bait digging

Sea angling is popular in the Isle of Man, with a number of sea angling clubs, with six clubs and an estimated 600 anglers (including non-members) listed for the Isle of Man in 1996 (Robson, 1996). It is also thought that there are low levels of bait digging at Port St. Mary, Port Erin, Derbyhaven, Peel and Ramsey. There are currently no regulations relating to sea angling or bait digging, other than a prohibition of bait digging within harbours.

Table 13 Key legislation for Sea Fisheries

European Legislation	Provisions
Under the Sea Fisheries Act 1971 provisions relating to any obligation of the UK under the CFP of the EEC may be applied to the Isle of Man with exceptions, adaptations and modifications.	
UK Legislation	Provisions
Under the Sea Fisheries Act 1971 DAFF may apply a number of UK Acts of Parliament to the Isle of Man with exceptions, adaptations and modifications. However, legislative requirements under these acts have been incorporated with in Manx legislation (see below).	
Isle of Man Legislation	Provisions
Sea Fisheries Act 1971	Allows the Department to provide for certain restrictions on fishing methods and practices which have been given effect as bye-laws.
Sea -Fisheries (Consolidation) Bye-laws 1984 As amended by the Sea-Fisheries (Technical Measures) Bye-laws 2000	Consolidates a number of bye-laws (both general and for particular species) made between 1972 and 1984. Contains provisions to restrict fishing in particular areas, the use of floating nets, landing of whitefish in the island of any whitefish caught in ICES Area VII (unless a non-British owned boat or under authority of a government licence) and certain restrictions relating to specific species.
Sea-Fisheries (Technical Measures) Bye-laws 2000	Provides restrictions on fishing methods, gear and landing for individual species including specifications for minimum legal landing sizes and mesh sizes for individual species. Imposes a closed ground to the east of the island for herring fishing during the spawning season.
Sea-Fisheries (Possession of Undersized Sea-fish) Bye-laws 2000	Provides restrictions for the selling of sea-fish below the legal landing size. Places an onus on individuals and retail outlets to ensure fish do not contravene legal size requirements.
Sea-Fisheries (Scallop Fishing) Bye-Laws 1999	Controls fishing practice for scallops including stipulation of minimum legal landing size.
Sea-Fisheries (Lobster and Crab Etc. Licensing) Bye-laws 2003	Provide restrictions for commercial and personal crab and lobster fishing up to the 12-mile limit.
Sea-Fisheries (Whelk Licensing Etc.) Bye-laws 1994	Sets maximum number of licences and maximum number of pots per licence. Also sets MMLS for whelks.
Sea-Fisheries (Experimental Area) Bye-laws 2003	Prohibits fishing in a particular experimental area in IOM inshore waters.

7 MARICULTURE

There are currently a small number of fish farms on the Isle of Man, although only two of these carry out mariculture (the culture of marine species). None of the fish farms are located within the marine environment, although all fish farms (either marine or freshwater) are located coastally and therefore have some dependence on the marine environment, either for supply of water or for the emission of waste materials. Seaweed farming has previously been carried out on the Isle of Man within the marine environment (on float and string systems) although this ceased operation a number of years ago.

This section considers the legislation relating to the development of mariculture developments, fish and shellfish health, pollution control relating to mariculture activities and requirements for Environmental Impact Assessment. Imports and exports of fish and eggs from all marine activities including mariculture are considered in Section 4 (Control Over Introduction of Non-Native Species in the Marine Environment) and are not, therefore, dealt with here.

7.1 Control of mariculture developments

Planning Legislation

The main legislation relating to development landward of mean high water falls under the Town & Country Planning Act 1999 which supersedes most previous acts (1936 – 1991) and was a major review of the planning system. The Act sets a framework for a Development Plan, which will replace the 1982 Development Plan and include procedure for development control. Until this has been completed, however, the 1982 Development Plan Order will remain in effect. This legislation is discussed more fully under Section 14 (Development in the Coastal Zone).

Territorial Sea (Consequential Provisions) Act 1991

Seaward development of mariculture facilities, where development occurs on area of the foreshore or over the seabed below the high water mark, would require a lease of easement from the Department of Transport, which owns the foreshore and Manx Territorial Waters (to the 12-mile limit) except for Douglas foreshore. A lease of easement may be provided by the Department of Transport and would normally follow consideration by the Territorial Seas Committee.

Sea Fisheries Act 1971 & 1991

Under the Sea Fisheries Act 1971 & 1991 a licence is required from the Department of Agriculture, Fisheries and Forestry to carry out mariculture on the sea, seabed or foreshore. The approval of the licence also requires concurrence of the Department of Transport and Department of Local Government and the Environment. The provision of such a licence is for a defined period only and can be revoked if breached/ works are not properly carried on.

Under this Act the Department of Agriculture, Fisheries and Forestry can also create maintain and preserve beds for cultivation of any species or aquatic vegetable.

7.2 Fish and shellfish health

Animal Health Act 1996

The Animal Health Act 1996 supercedes the Diseases of Animals (Prevention) Acts 1948 – 1975 and provides the Department of Agriculture, Forestry and Fisheries with the power to make orders for the purpose of preventing the spread of disease. This extends to all warm and cold-blooded animals and therefore includes the application of the Act to mariculture activities.

Under the Act the following orders may be made by DAFF that are relevant to animal health within the mariculture industry:

- Prescribing the cleansing and disinfection of areas where livestock are kept or transported
- Prohibiting or regulating the movement of animals
- Regulating the types of transport that may be used
- Preventing disease by regulating importation of animals
- Prescribing procedures for notification of compulsorily notifiable diseases
- Notification of infected areas
- Treatment of animals

Specific orders may be made in relation to the import and export of species for the prevention of disease. Schedule I includes details of specific matters which may be made relating to imports and exports which includes conditions to be observed during transportation and requirements of information provision and documentation. This has been done in the form of the Animals & Animal Products (Imports & Exports) Order 2001, which is made to regulate and control trade, primarily in the EU. The Order applies various EC Directives, of which Directive 91/67/EEC concerning animal health conditions governing the placing on the market of aquaculture animals and products is relevant to mariculture activities. As the Isle of Man is an EC fish health approved area there are fewer restrictions for the transfer of fish from the Isle of Man to other EC approved areas.

Orders may also be made by DAFF for the destruction of individuals of a species to substantially reduce or eliminate the spread of disease. Prior to implementation of any plans for the destruction of individuals from one or more species, DAFF is required to consult with such nature conservation bodies as appear appropriate. Within the order they must state the disease to which the order applies and the species they are targeting. The prohibited methods of killing animals stated in the Wildlife Act 1990 do not apply for this purpose although it is the duty of DAFF to ensure a humane and safe destruction.

The Act also provides DAFF with the power to make orders relating to the Welfare of livestock (which by definition includes mariculture activities). This is aimed at ensuring the prevention of unnecessary pain and distress for livestock for which specific matters that may be included in the order are given in Schedule II, including dimensions and layout of livestock accommodation, lighting and heating.

7.3 Pollution control relating to mariculture activities

Marine Pollution Act 1983

All discharges from mariculture ventures are currently subject to regulation under the Marine Pollution Act 1983, that will be replaced in due course by the Water Pollution Act 1993 which is not yet fully in force. Under the Marine Pollution Act 1983 DLGE may make regulations relating to the following areas that are relevant to mariculture developments:

- Specifying precautions to be taken by persons in possession of listed substances or poisonous, noxious or polluting matters in order to prevent such substances from entering the sea
- Prohibiting or restricting activities in particular areas in which it considers pollution of the sea is likely to result
- Restricting activities on man-made structures in territorial waters that may result in pollution of the sea
- Prohibiting or restricting the importation, landing, manufacture, supply or use of any substance specified in the regulations for the purpose of preventing the substance endangering the welfare of living organisms in the sea or polluting the sea

Water Pollution Act 1993

Part I of this legislation gives DLGE the responsibility for setting Water Quality Objectives and ensuring that these are achieved at all times. The Act requires that certain discharges, including discharge of trade effluents to controlled waters must be licensed by DLGE who are required to provide DAFF, the Department of Transport and the Water Authority with details of applications to discharge to coastal waters. DLGE may also designate Water Protection Zones in order to restrict certain activities in particular areas to avoid inputs to coastal waters. However, this Part of the Act is not yet fully in force. Sections relating to the setting WQOs and WPZs are in force, although regulations relating to offences and requirements for licences will not be empowered until a Water Pollution Officer is appointed.

Under Part II of the Water Pollution Act it is prohibited to deposit any substance in the sea or under the seabed including from marine structures (which would include sea-cages) without a licence from the Department of Transport. The DOT is required to consult with DAFF over licensing and has a duty to protect the marine environment, living resources and human health and to prevent interference with legitimate users of the sea. Other matters thought relevant may be considered by the DOT and licences may be revoked if activities cause a change in the marine environment.

The Deposits in the Sea (Exemptions) (Isle of Man) Order 1988 was originally made under Section 7 of the Food and Environment Protection Act 1985 as that Act had effect in the Isle of Man at that time, but is now legislated for under Section 18 of the Water Pollution Act 1993. The Order brings the Isle of Man into line with the UK and other countries party to the Oslo Convention 1972 and Protocol 1983 and in accordance with the Convention includes exemptions of certain activities from the licensing requirements which includes activities not thought to be harmful to the environment and food-chain including propagation or cultivation of marine flora (e.g. seaweed).

7.4 EIA relating to mariculture

The Isle of Man Draft Strategic Plan 2001 sets out provisions for Environmental Impact Assessment, which broadly follow UK guidelines. Projects specifically included in the EIA guidelines include, among others, proposals for intensive fish farming developments. Although DAFF, Environmental Health, Health & Safety, the Isle of Man Water Authority and the Department of Transport all have responsibilities to ensure pollution is minimised, the Planning Department operates in tandem with these groups to ensure that developments are not allowed to progress if they would cause unacceptable pollution. These will not come into force until mid-2004.

Table 14 Key legislation for Mariculture**European Legislation**

Various EC Directive are applied by the Animals & Animal Products (Imports & Exports) Order 2001 which was made under the Animals Health Act 1996 for regulation and control of trade.

Isle of Man Legislation	Provisions
Territorial Sea (Consequential Provisions) Act 1991	Vests the property of the Isle of Man territorial waters (to the 12-mile limit) in the Department of Transport, from whom a lease of easement is required to carry out activities on or under the seabed in consultation with the Territorial Seas Committee.
Sea Fisheries Act 1971 & 1991	Includes provisions for the licensing of mariculture activities from DAFF. Includes provision for DAFF to “create maintain and preserve beds for cultivation of any species or aquatic vegetable”.
Marine Pollution Act 1983	Regulates emissions to coastal waters until it is repealed by the Water Pollution Act 1993.
Water Pollution Act 1993	Includes regulations for emission of waste materials which will come into force upon the appointment of a Water Pollution Officer when it will repeal the Marine Pollution Act 1983. Requires licensing by DOT for depositing objects on the seabed (e.g. sea cages) under Part II of the Act which is already in force. Legislates for the Deposits in the Sea (Exemptions) (Isle of Man) Order 1988 which incorporates exemptions for licensing, including seaweed culture or harvest.
Animal Health Act 1996	Provides DAFF with the power to make orders for the purpose of preventing the spread of disease.

Planning guidance

Isle of Man Planning Scheme (Development Plan) 1982 – current legislation

Town & Country Planning Act 1999 – not fully in force

Isle of Man Draft Strategic Plan – recommends EIA of intensive fish farming developments

8 SHIPPING AND NAVIGATION

The Isle of Man has a historic maritime industry dating back to the 18th century. Within the Isle of Man the Department of Trade and Industry is responsible for the implementation of legislation with regulation of ships registered on the Isle of Man conducted by the Marine Administration.

Within Manx waters International standards such as MARPOL and SOLAS apply, as well as the regulations of the flag state under which the ship is registered. The UK Government has responsibility for the Isle of Man at the International Maritime Organisation and extends Conventions to the Isle of Man upon the request of the Isle of Man Government. Once a Convention is extended to the Isle of Man the Isle of Man makes national legislation to give effect to the provisions of the Convention. The island is a Class 1 Register for shipping vessels and does not operate as a Flag of Convenience state. The majority of vessels do not operate in Manx waters.

Isle of Man legislation relating to the shipping and navigation is extensive, with coverage of marine pollution, ballast discharge, prevention of accidents, health and safety, manning of vessels, payment and discharge of personnel, registration of vessels and emergency procedures. These areas are legislated for by primary legislation (Acts of Tynwald), which set out the broad criteria and then enable the relevant department to make detailed regulations or orders as directed in the primary legislation. All statutory instruments contain an explanatory note which sets out in plain language the purposes of the regulations. In addition to regulations the Marine Administration issues Manx Shipping Notices and Industry Circulars to all relevant parties to provide practical advice to seafarers and operators of ships on implementing the regulations.

This section looks at those areas of legislation most relevant to the marine environment, whilst recognising that many other aspects such as manning of vessels, which are not discussed here, are also indirectly related by being linked to prevention of accidents.

8.1 Control of shipping

Registration of vessels for Manx vessels is legislated for under the Merchant Shipping Registration Act 1991, which applies to the following:

- Merchant ships
- Fishing vessels
- Pleasure craft
- Commercial yachts
- Mobile offshore drilling units

Boats registered in the Isle of Man are British ships, but are regulated under the separate jurisdiction of the Isle of Man's Marine Administration. In addition to complying with regulations on safety, pollution etc., there are criteria/ conditions relating to ownership, operation and nationality that have to be met to be before a ship is eligible to register.

Merchant Shipping Acts 1985 and 1995

Under the Merchant Shipping Act 1985 the DTI may, after consultation with the Secretary of State, make regulations as it considers appropriate including securing the safety of Manx ships, securing the safety of other ships while within a Manx harbour and for giving effect to any provisions of an international agreement ratified by the UK and extended to the Island in

relation to safety of ships. Regulations made may make particular provision for, among a number of other matters, the inspection and surveying of ships, carrying out of operations involving ships and steps to be taken to avoid collision.

The UK Merchant Shipping Act 1995 has also been applied to the Isle of Man providing a consolidation of previous legislation. However, rather than the Merchant Shipping Act 1995 directly replacing other legislation the Merchant Shipping (Miscellaneous Provisions) Act 1996 indicates that references in any other legislation to provisions of Acts of Parliament which have been repealed and re-enacted by the Merchant Shipping Act 1995 the reference should be treated as re-enacted unless there are inconsistencies in the subject or context

The 1995 Act provides the regulations for the control of shipping and navigation in the Isle of Man, and in relation to shipping the Act includes provisions for the reporting of danger to navigation, the duty to assist other ships in case of collision and regulation of transfers between ships in territorial waters. The Act also includes provisions relating to the liability for oil pollution, liabilities under the international oil pollution compensation fund, carriage of hazardous and noxious substances, ship owner liabilities and regulations for legal proceedings. The DTI is the responsible authority under this legislation and are conferred the powers to make regulations with regard to various activities, including transfers between ships and requirements for reporting navigational hazards.

Merchant Shipping (Registration) Act 1991

The Merchant Shipping Registration Act 1991 legislates for four separate shipping registers which are maintained by the Marine Administration:

- Part I - Register for merchant ships (this is the main register and includes Commercial Yachts over 24 metres)
- Part II - The Small Ships Register
- Part III - Fishing Vessels
- Part IV - The Demise Charter Register

Small, locally based pleasure craft are registered by the Harbours Board and placed on the Pleasure Craft Register.

Merchant Shipping (Registration) Act 1984

Under the Merchant Shipping (Registration) Act 1984 (as amended by the Merchant Shipping Registration Act 1991) the registration of vessels requires a Marine Surveyor to be appointed in order to ensure that the vessel complies with national regulations and international conventions relating to the safety of ships and prevention of pollution. The Act legislates for Marine Surveyors to board and inspect ships, equipment and documents for the purpose of ensuring that any statutory provisions are complied with. Following inspection appropriate certificates may be issued including the International Oil Pollution Prevention Certificate and International Pollution Prevention Certificate of the Carriage of Noxious Liquid Substances in Bulk (DTI, 1998).

Harbours (Isle of Man) Act 1981

Under Section 15 of the Harbours Act it is prohibited to construct, alter or improve works on, under or over any part of the seabed; deposit any objects in the territorial sea of the island or any part of the seashore or seabed; remove any object or materials from any part of the seashore or seabed so that an obstruction to navigation may occur. Application to the Department of Transport for such works is required. Section 16 of the Act provides for the

Department of Transport to raise, remove, blow up or destroy any obstructions within harbour limits or approaches or any part of the seashore below high water of ordinary spring tides. However, in the case of wrecks of historical, archaeological or artistic interest, the Wreck & Salvage (Ships & Aircraft) Act 1979 can take precedence (see Section 5: Conservation of Man-Made Structures in the Marine Environment).

Maritime Security Act 1995

The Maritime Security Act 1995 provides for the hijacking of ships, seizing or exercising control of fixed platforms, destroying ships or fixed platforms and endangering their safety, acts endangering or likely to endanger safe navigation, threats and ancillary offences and directions for preserving security of petroleum and petroleum products.

Under the Act the Department of Transport have the power to search harbour areas, require provision of information, designate restricted zones of harbour areas, restrict unauthorised persons from entering restricted zones and detain or impose restrictions on ships. Provisions are also made for the DOT to make regulations relating to the protection of ships and harbour areas against acts of violence.

8.2 Prevention of shipping accidents

The main IMO legislation applying to prevention of accidents at sea is the Safety of Life at Sea Convention 1974 and Protocol 1978 (SOLAS 74/78) (including amendments), which covers areas such as ship construction, navigation and ship security. The Isle of Man implementation of SOLAS is through a number of regulations, which implement the minimum provisions and often add in extra requirements.

The IMO Convention on the International Regulations for Preventing Collisions at Sea (COLREGS 72) is also incorporated into Manx legislation under the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996, which apply to all Manx registered vessels as well as all vessels operating in Manx waters. These revoke previous regulations and provide for the steering and sailing of vessels within safe limits to avoid collision, the application of traffic separation schemes, rights of way and use of signals.

8.3 Prevention of pollution, and other waste discharge, by shipping

The main regulations relating to the prevention of pollution and other waste discharge by shipping come from requirements under the International Convention for the Prevention of Pollution from Ships 1973 and Protocol 1978 (MARPOL 73/78). Other requirements for dumping that are non-specific to shipping and navigation are included in Section 16: Inputs of Contaminants in the Marine Environment (Originating Primarily from Land).

8.3.1 International conventions and agreements

International Convention for the Prevention of Pollution from Ships 1973 and Protocol 1978 (MARPOL 73/78)

The Isle of Man has implemented the International Convention for the Prevention of Pollution from Ships 1973 and Protocol 1978 (MARPOL 73/78) including amendments adopted by the Marine Environment Protection Committee (MEPC) of the International Maritime Organisation for Annexes I, II, III and V. The Isle of Man implementation of MARPOL 73/78 Annex IV will come into effect from 27th September 2003. These have been implemented through Merchant

Shipping Orders and Regulations for individual Annexes as shown in Table 15 and summarised below.

Table 15 Implementation of MARPOL 73/78 to Isle of Man legislation

Annex	Coverage	Primary legislation	Isle of Man implementation
I	Oil discharge	Oil Pollution Act 1986	Merchant Shipping (Prevention of Oil Pollution) Regulations 1986 (as amended by the Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulations 2000)
II	Noxious liquid substances by bulk	Oil Pollution Act 1986	Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987 (Along with: Merchant Shipping (IBC Code) Regulations 1987 and Merchant Shipping (BCH Code) Regulations 1987)
III	Harmful substances carried by sea	Merchant Shipping Act 1995	Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 2000
IV	Sewage	Oil Pollution Act 1986	Merchant Shipping (Prevention of Pollution by Sewage) Regulations 2003 – not in force until 27/09/03
V	Garbage	Oil Pollution Act 1986	Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999
VI	Air emissions	Not yet implemented in the Isle of Man	Not applicable

8.3.2 Isle of Man primary legislation

Oil Pollution Act 1986

The Oil Pollution Act 1986 replaces the Oil in Manx Navigable Waters Act 1971, making provision for prevention of oil pollution, the implementation of international conventions relating to oil pollution and other connected purposes. The Act applies to all Manx waters lying within the seaward limits of the Territorial Seas of the Isle of Man.

Under Part I, which gives general provisions for preventing oil pollution, the discharge of oil from vessels or land is an offence unless another vessel or person was involved that was responsible. This also includes pipelines or other structures on the seabed and anything afloat (other than a vessel) if attached to the seabed or the shore.

There are a number of exceptions under which it is not an offence for oil to enter controlled waters. These include:

- Cases where it can be shown that reasonable care was taken to avoid spillage of oil and that all reasonable steps were taken to reduce or stop the spill.
- Cases where mixtures of oil are discharged and it can be shown that the oil was discharged during refining operations, where it is shown that it was “*not reasonably practicable to dispose of the effluent otherwise than by discharging it into waters to which that section applies*” and that reasonable steps were taken to eliminate oil from the discharge, unless surface waters or adjacent land was fouled by the discharge.
- Cases where the oil was discharged in order to secure the safety of the vessel, to prevent damage to a vessel or to save lives if the discharge was necessary for such actions to be taken.
- Cases where the vessel was damaged and all reasonable steps were taken to stop or reduce the escape of the oil
- Cases where the Department of Transport is removing obstructions under Section 16 of the Harbours (Isle of Man) Act 1961 as long as reasonable steps were taken to prevent, stop or reduce discharge of oil.

The Oil Pollution Act also restricts certain oil transfer activities, including transfer of oil at night, which is prohibited between sunset and sunrise to or from any vessel in any Manx harbour unless with requisite notice from the Harbour Master. In the event that oil is discharged from a vessel to an Isle of Man harbour a duty is placed on the owner of the vessel to report the discharge to the Harbour Master.

Part II of the Oil Pollution Act considers cases where an accident has occurred and the Department of Transport is of the opinion that the oil on board the vessel may cause large scale pollution of the island or the Isle of Man Territorial Seas. Under this legislation the Department of Transport may direct the master/ owner of the ship or any salvor including movement of the ship, the cargo of the ship and specific salvage measures including sinking of the ship if necessary. Such exercising of power must not, however, be in breach of any rights or powers of the UK Government or international law.

Shipping casualties laws apply to non-Manx registered ships within the Manx Territorial Sea and Manx boats whether inside or outside Manx waters. The Department of Trade and Industry may also in certain circumstances apply these regulations to ships not registered on the Island that are “*for the time being*” outside territorial waters.

The Act also allows the Department of Trade and Industry to make regulations relating to oil records relating to loading, transfer, discharge, ballasting, separation and disposal of oil within Manx Territorial Waters. The DTI is also conferred the power of inspection.

Merchant Shipping Act 1985

Under the Merchant Shipping Act 1985 the DTI may, after consultation with the Secretary of State, make regulations as it considers appropriate including securing the safety of Manx ships, securing the safety of other ships while within a Manx harbour and for giving effect to any provisions of an international agreement ratified by the UK and extended to the Island in relation to safety of ships. Regulations made may make particular provision for, among a number of other matters, the carriage of dangerous goods or hazardous or noxious substances.

Through the Merchant Shipping (Prevention and Control of Pollution) Order 1990, made under this Act, the DTI has provided the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 2000 as a replacement for the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1991 (see below).

8.3.3 Isle of Man regulations

Merchant Shipping (Prevention of Oil Pollution) Regulations 1986

The Merchant Shipping (Prevention of Oil Pollution) Regulations 1986 (as amended by the Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulations 2000) are made under the Oil Pollution Act 1986. Under the regulations, provisions are given for the purpose of regulating surveys and inspections, certification (including requirement to carry Oil Pollution Prevention Certificate and an Oil Record Book) and related fees and the detention of ships contravening such regulations. This relates to all Manx registered vessels, irrespective of location, and all boats within Manx territorial waters, and also applies to submersible craft and offshore installations. Survey requirements include mandatory annual surveys, instead of the standard unscheduled inspections, for all ships requiring an International Oil Pollution Prevention Certificate, with annual and intermediate surveys not required for ships with a Manx Oil Pollution Prevention Certificate. Requirements for oily discharges, segregation of ballast and cargo oil and constructional requirements are provided for along with reporting procedures in the event of an accident, with powers for inspection included in Part 8 of the Regulations. Under the regulations the DTI may deny access to a Manx port or offshore terminal or detain the ship in specified circumstances.

Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987

Along with the Merchant Shipping (IBC Code) Regulations 1987 and Merchant Shipping (BCH Code) Regulations 1987, the Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987, made under the Oil Pollution Act 1986, give effect to Annex II of MARPOL 73/78 (including amendments), applying to all Manx registered vessels irrespective of locations, as well as all boats within Manx waters. The regulations apply to ships carrying noxious liquid substances in bulk with substances divided into 4 categories according to severity of hazard to human health and the marine environment. Under the regulations all discharges are prohibited, with strict controls on the discharge of liquid wastes containing residues, with regulations according to category with special requirements for Special Areas (Antarctic, Black Sea and Baltic). Under Regulation 14 the discharge of other liquid discharges which have not yet been evaluated and have unknown effects on the marine environment is prohibited except with permission from the Government. The regulations also make provision for the keeping of records, survey requirements and penalties for breaches of regulations.

Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 2000

Through the Merchant Shipping (Prevention and Control of Pollution) Order 1990 (made under the Merchant Shipping Act 1985), the DTI has provided the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 2000 as a replacement for the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1991. These cover the requirements to fall into line with obligations under MARPOL Annex III.

These regulations provide for the requirement of documentation, certification, preparation of goods, stowage and enforcement of the regulations.

In addition to the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 2000, the Harbours Board of the Department of Transport have duties under the Harbours (Isle of Man) Act 1961 to direct the movement, handling and storage of any goods which may be dangerous i.e. explosives, compressed gases, toxic substances, combustibles, spontaneously heating or combustible substances, or substances that are likely to become spontaneously combustible or to give off flammable gas when in contact with water, radioactive substances, substances which cause damage if in contact with tissue.

The Merchant Shipping (Prevention of Pollution by Sewage) Regulations 2003

The Merchant Shipping (Prevention of Pollution by Sewage) Order 2000 (made under the Oil Pollution Act 1986) empowers the DTI to make regulations relating to sewage pollution by ships. The resultant Merchant Shipping (Prevention of Pollution by Sewage) Regulations 2003 give effect to Annex IV of MARPOL 73/78 although this Annex will not enter in force until the 27th September 2003 when the required number of ratifications will be met. The regulations make provision for inspection, survey and certification and require to be operated and equipped according to MARPOL standards. The Regulations also enable the DTI to exempt ships on a case-by-case basis according to applications contained in MARPOL 73/78.

The Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999

The Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999 repeals both the Merchant Shipping (Prevention of Pollution by Garbage) Order 1989 and the Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Order 1993 and implements MARPOL Annex V. Under these regulations the authority of garbage regulations falls under the Department of Trade and Industry. The regulations restrict the disposal of garbage from Manx ships wherever they are and non-Manx ships while in the territorial waters of the island, and also to fixed or floating installations in the territorial waters of the island. Penalties are stipulated unless it is shown that all reasonable steps were taken, the disposal was necessary for safety, that it resulted as damage to the ship or that it was accidental loss in the case of synthetic fishing nets. There is a requirement for boats and installations (dependant on size) to display relevant info on placards, to have a garbage management plan for procedures, be in accordance with guidelines developed by the IMO and carry a record book of discharges, escape or accidental loss. The regulations also provide for inspection of ships in any port on the Isle of Man.

Table 16 Summary of waste disposal regulations under the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999

	Plastics	Food waste	Food wastes and other materials which have been ground up	Dunnage and other articles which float
In Special Areas * (INCLUDES THE IRISH SEA)	Prohibited	Permitted as far as possible from land and never closer than 12 miles from land.	Prohibited	Prohibited
Outside Special Areas	Prohibited	Permitted if more than 12 miles from land	Permitted if more than 3 miles from the nearest land	Permitted if more than 25 miles from land
Within 500m of fixed or floating installations	Prohibited	Prohibited	Prohibited	Prohibited
in the Antarctic	Prohibited	Prohibited	Prohibited	Prohibited

* Special Areas are summarised in the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999 as the following: Mediterranean, Baltic Sea, Black Sea, North Sea, Irish Sea, Red Sea, Persian Gulf Area, Gulf of Aden, Antarctic.

8.4 Control of ballast water discharge

Although there is currently a great deal of interest in the control of ballast water discharge in relation to the introduction of non-native species, there are very few boats that load in the Isle of Man, the few that do most commonly having arrived from another Irish Sea port.

As such the only regulations that exist in the Isle of Man currently are under the Harbours (Isle of Man) Act 1961, which prohibits discharge of ballast into waters within the limits of a harbour, on the seashore or into tidal waters of the Isle of Man without authorisation from the Department of Transport, with contravention punishable by a fine.

8.5 Control of anti-fouling measures

Tributyltin (TBT) is tri-organotin antifouling paint used on boat hulls. However, it has a number of toxic effects affecting a wide range of organisms, in particular the dog-whelk *Nucella lapillus* in which imposex (development of male characteristics in females) has been noted even at very low concentrations. As a result the "*deposit of tri-organotin compounds in the course of maintenance of a ship is prohibited*" under Part II of the Water Pollution Act 1993.

The Deposits in the Sea (Exemptions) (Isle of Man) Order 1988 was originally made under Part II of the Food and Environment Protection Act 1985 Section 7 as that Act had effect in the Isle of Man and is now legislated for under Section 18 of the Water Pollution Act 1993. This includes a list of items which are exempted from requirement for a licence for deposit in the sea which includes used for the maintenance of vessels. However, the exemption specifically excludes tri-organotin compounds.

The Marine Administration division of the Department of Trade and Industry is also planning to adopt the International Convention on the Control of Harmful Anti-fouling Systems on Ships

which will prohibit the application of anti-fouling systems and by 2008 to ensure that no ship bears exposed surfaces that contain anti-fouling compounds or have a barrier to prevent leaching into the water.

8.6 Dredging for navigation

Harbours (Isle of Man) Act 1961

Under the Harbours (Isle of Man) Act 1961 the Department of Transport is responsible for the cleaning, scouring, deepening, improving and dredging of their harbours and approaches with disposal of dredged material "*either by depositing it at sea or in such other way as they think proper*".

8.7 Salvage

Merchant Shipping (Miscellaneous Provisions) Act 1996

The Manx Law under Part 3 of the Merchant Shipping (Miscellaneous) Provisions) Act 1996 instates the International Convention on Salvage 1989. This provides for the salvage of vessels (excluding working platforms).

In terms of the environment this ensures that damage to the environment is not jeopardised by salvage operations and that due care and attention is paid to the marine environment during salvage operations.

"Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognized principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations."

Wreck & Salvage (Ships & Aircraft) Act 1979

Under the Wreck & Salvage (Ships & Aircraft) Act 1979 the Department of Transport is appointed Receiver of Wreck whose role it is to identify the owner of the wreck and to protect wrecks within Manx territorial waters. Part II of the Act applies to salvage of vessels and includes provision for the determination of ownership of disputed salvage, valuation of property, detention of property liable for salvage by the Receiver of Wreck, sale of detained property by the Receiver of Wreck and apportionment of salvage of wreck valuing under £200.

Table 17 Key legislation for Shipping and Navigation**International Conventions****IMO conventions**

- International Convention for the Prevention of Pollution from Ship 1973 and Protocol 1978 (MARPOL 73/78) (including Amendments) Annexes I, II, III and V
- Prevention of pollution and other waste discharge by shipping
- International Convention for the Safety of Life at Sea 1974 and Protocol 1978 (SOLAS 74/78)
- Convention on the International Regulations for Preventing Collisions at Sea (COLREGS 72)

Other conventions

- International Convention on Salvage 1989

Isle of Man Legislation**Implementation of MARPOL**

Annex I The Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulations 1993

Annex II Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations 1987
Merchant Shipping (IBC Code) Regulations 1987
Merchant Shipping (BCH Code) Regulations 1987

Annex III Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 2000

Annex IV Merchant Shipping (Prevention of Pollution by Sewage) Regulations 2003

Annex V Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999

Repeals: the Merchant Shipping (Prevention of Pollution by Garbage) Order 1989 and the Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Order 1993

Merchant Shipping Act 1985 and 1995	Allows DTI to make regulations relating to safety, and to give effect to international agreements.
Merchant Shipping (Registration) Act 1984	Requires appointment of Marine Surveyor to ensure safety and prevention of pollution measures on vessels before registration.
Merchant Shipping (Registration) Act 1991	Stipulates the requirement for registration of Merchant Vessels, Small Ships and Fishing Vessels.
Harbours (Isle of Man) Act 1960	Allows DOT to remove navigational hazards.
Maritime Security Act 1995	Allows DOT to ensure safety within harbour areas and at sea.

Oil Pollution Act 1986	Makes provision for the prevention of oil pollution and implementation of international conventions.
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9 MILITARY ACTIVITIES

Military defence in the Isle of Man is the responsibility of the UK, and there are currently no military activities on the Isle of Man. As a result there is no Manx legislation for the control of development or for restriction of entry to military areas as, except in the exceptional circumstances of war, it is seen as very unlikely that the UK would attempt to impose military facilities on the island. In addition it is conventional for the Westminster Parliament not to legislate for the Isle of Man without consent of the island's Government, although it does hold the right to do so if required.

There is a firing range, which, following extension of the Isle of Man territorial waters, now partly falls within Manx waters. The UK Government extended the Eskmeals Firing Range in the 1980s without consultation of the Isle of Man, as Manx territorial waters did not extend as far as the Firing Range at that time. The Isle of Man Government is of the opinion that the area lying within Manx territorial waters should not be used without the express permission of the Isle of Man Government and, indeed, the UK has not used the area lying within the Manx 12-mile limit since around 1995.

The UK legislation governing sea and tidal waters abutting on defence land or over which firing takes place from defence land is the Military Lands Act 1900 which requires the permission of the Secretary of State if interfering with public rights of navigation, anchoring, fishing, bathing, walking or recreation. This Act also requires the Ministry of Defence to exercise functions to ensure compliance with the Habitats Directive.

Table 18 Key legislation for Military Activities

UK Legislation	Provisions
Military Lands Act 1900	Relates to the application of bye-laws for sea and tidal waters over which firing takes place from defence land. Requests permission from Secretary of State if interfering with public activities.

Isle of Man Legislation

There is no relevant Isle of Man legislation relating to Military Activities

10 OFFSHORE OIL & GAS

Within the north eastern Irish Sea hydrocarbon production is confined to the Morecambe Bay gas fields, which in recent years have been extended westwards but are still some distance from Manx territorial waters (12-mile limit), and the Liverpool Bay oil and gas fields, again some distance from Manx territorial waters. Limited exploration was carried out within what are now Manx Territorial waters, although this was prior to 1991 when ownership of the seabed by the Isle of Man Government was extended to 12 miles. In the mid 1990's there was sufficient interest from oil and gas companies for the Isle of Man Government to award licenses to a number of companies to explore for hydrocarbon reserves, chiefly to the north and east of the island. Licenses were given to explore "blocks" defined by lines of latitude and longitude as an exact continuation of those used by the UK, and utilising the same numbering system (most blocks within Manx Territorial waters are partial blocks, limited in their extent by the 12-mile limit or the landward boundary). However, seismic surveys, and a limited number of test drillings, revealed little likelihood of significant reserves and interest quickly waned. A second round of exploration licensing presently seems very unlikely.

This section looks at the main legislation relating to the exploitation and exploration of gas, as well as the disposal of offshore installations. It does not go in to the details of oil and gas related merchant shipping activities, which are considered in Section 8: Shipping and Navigation. Nor does it include legislation relating to oil and gas pipelines which is considered in Section 17: Submarine Cables and Pipelines.

10.1 Oil and gas exploration and production in the marine environment

Petroleum Act 1986

Under the Petroleum Act 1986 the property of oil and gas resources is vested in the DTI, and gives the Department the rights to grant licences for the exploration and exploitation of the resources. Thus, the DTI may make regulations applying to the extent, shape and siting of areas, the placement of boreholes and wells and other matters. The DTI also holds the right to inspect workings and to arrange the payment of royalties to the Department.

Under this legislation the Isle of Man may apply UK petroleum legislation with exceptions, modification and adaptations. As such, certain sections and schedules of the UK Petroleum Act 1998 have been applied by the Petroleum Act 1998 (Application) Order 2000. This includes provisions for the development of submarine pipelines (see Section 17) and the abandonment of offshore installations (see below).

Mineral Workings (Offshore Installations) (Isle of Man) Act 1974

The Mineral Workings (Offshore Installations) (Isle of Man) Act 1974 applies to any activity carried out on an installation maintained in Manx waters. Under the Act the DTI may make regulations for registration of offshore installations including maintenance, to ensure safety and carry out tests.

The Act applies to:

- Exploitation of mineral resources in/ under the shore or seabed of controlled waters (these being tidal waters and parts of the sea in/adjacent to the island up to the seaward limit of Territorial Waters) and not connected to the land by a permanent structure
- Storage or recovery of gas in or under shore or seabed

- Conveyance of things by means of pipe or pipes on in or under the seabed of controlled waters
- Provision of accommodation for persons working on/from installations

Mineral Workings (Offshore Installations) Act 1988

The Mineral Workings (Offshore Installations) Act 1988 extends and amends the Mineral Workings (Offshore Installations) (Isle of Man) Act 1974. The Act imposes safety zones around oil and gas installations of 500m during exploration and exploitation, which may extend to waters outside controlled waters. This applies to any floating structure or device maintained on a station, and to pipelines, and applies throughout the water column, from the sea surface to the seabed. In certain cases the DOT may make an order to stipulate an extended exclusion zone.

Territorial Sea (Consequential Provisions) Act 1991

Under the Territorial Sea (Consequential Provisions) Act 1991 the seabed below the high water mark to the 12-mile limit is vested in the Department of Transport. Seaward development within the territorial seas requires a lease of easement from the Department of Transport with applications considered by the Territorial Seas Committee.

10.2 Prevention of pollution from oil and gas activities

Oil Pollution Act 1986

The Oil Pollution Act 1986 replaces the Oil in Manx Navigable Waters Act 1971, making provision for prevention of oil pollution, the implementation of international conventions relating to oil pollution and other connected purposes. The Act applies to all Manx waters lying within the seaward limits of the Territorial Seas of the Isle of Man.

Under Part I, which gives general provisions for preventing oil pollution, the discharge of oil from vessels or land is an offence unless another vessel or person was involved that was responsible. This includes discharges as the result of *“any operations for the exploration of the sea-bed and sub-soil or the exploration of their natural resources”*.

There are a number of exceptions under which it is not an offence for oil to enter controlled waters. These include:

- Cases where it can be shown that reasonable care was taken to avoid spillage of oil and that all reasonable steps were taken to reduce or stop the spill.
- Cases where mixtures of oil are discharged and it can be shown that the oil was discharged during refining operations, where it is shown that it was *“not reasonably practicable to dispose of the effluent otherwise than by discharging it into waters to which that section applies”* and that reasonable steps were taken to eliminate oil from the discharge, unless surface waters or adjacent land was fouled by the discharge.
- Cases where the oil was discharged in order to secure safety or to prevent damage or to save lives if the discharge was necessary for such actions to be taken.

- Cases where the vessel (includes platforms) was damaged and all reasonable steps were taken to stop or reduce the escape of the oil

The Act also allows the Department of Trade and Industry to make regulations as required and confers DTI with the power of inspection.

Petroleum Act 1986

Under the Petroleum Act 1986 the DTI has applied certain parts of the UK's Petroleum Act 1998 (an Act of Parliament) through the Petroleum Act 1998 (Application) Order 2000, including provisions for the abandonment of offshore installations, including oil and gas installations and pipelines. The legislation includes requirements for certain information to be submitted to the Department of Transport for a submission of an abandonment programme. The DOT may then approve or reject the proposed programme, and if approving it may apply modifications or subject it to conditions. The DOT may also prescribe standards in respect of dismantling, removal and disposal of installations and pipelines and make provision for the prevention of pollution. The DOT is also required to consult organisations in the UK whom the Department considers will be representative of those affected by the regulations.

10.3 EIA of offshore oil and gas proposals

There are no specific requirements for Environmental Impact Assessment for offshore oil and gas developments, although there is a requirement for EIA for the construction of pipelines under the Petroleum Act 1998 (see Section 17: Submarine Cables and Pipelines). Under the Petroleum (Production Licence) (Seaward Areas) Regulations 1995 (made under the Petroleum Act 1986) the DTI may, however, request "*such further information and documents as the Department may require*". The DTI can, therefore, stipulate that an EIA must be carried out to meet licence requirements for oil and gas exploration and exploitation.

Table 19 Key legislation for Offshore Oil & Gas

UK Legislation	
Petroleum Act 1998	Part III relating to submarine pipelines and Part IV relating to abandonment of offshore installations, have been applied by the Petroleum Act 1998 (Application) Order 2000.
Isle of Man Legislation	Provisions
Petroleum Act 1986	<p>Vests the property of oil and gas resources in the DTI. Covers the regulation of licensing, fees and inspection of exploration and exploitation of petroleum. Allows for the application of UK legislation.</p> <p>The Petroleum (Production Licence) (Seaward Areas) Regulations 1995, made under this Act, include provision for the DTI to stipulate particular requirements for information in licensing of offshore installations. This allows DTI to require an EIA.</p>
Mineral Workings (Offshore Installations) (Isle of Man) Act 1974	Allows the DTI to make provisions relating to registration, maintenance, safety and testing.
Mineral Workings (Offshore Installations) Act 1988	Provides for the enforcement of safety zones around offshore installations.
Minerals Act 1986	Contains regulations for the exploration and exploitation of the seabed and covers leases of the seabed.
Territorial Sea (Consequential Provisions) Act 1991	Vests the seabed below high water mark to the 12-mile limits in the DOT. Seaward development within the territorial seas requires a lease of easement from the Department of Transport with applications considered by the Territorial Seas Committee.
Oil Pollution Act 1986	Contains provision for the prevention of oil pollution, incidents with the potential to cause oil pollution, enforcement and application of UK and international conventions.

11 WAVE, TIDE AND WIND POWER GENERATION IN THE MARINE ENVIRONMENT

There is currently a great deal of interest in the development of renewable energy in the UK as a result of the UK commitment to increase the proportion of electricity produced from renewable energy sources to 10% by 2010. However, the Isle of Man is not party to such requirements and has made no such commitments. As a result there has not, as yet, been any development of wave, tide or wind power generation in the marine environment, although several proposals for land-based wind power generation have been put forward.

Nevertheless, there have been some suggestions that suitable sites may exist within the Isle of Man's Territorial Waters, as a result of which it is important that the legislation is in place to deal with such development in the event that proposals should be presented.

This section looks at legislation which covers the development of wave, tide and wind power generation in the marine environment, although it should be noted that issues relating to cables, which are a significant issue in relation to offshore wind farms in particular, are discussed in Section 17: Submarine Cables and Pipelines.

11.1 Regulation of renewable energy development in the marine environment

Planning Legislation

Under the Town & Country Planning Act 1999, which supercedes most previous acts (1936 – 1991) and was a major review of the planning system, the Planning Division of the Department for Local Government & the Environment (DLGE) has jurisdiction down to mean high water. The jurisdiction of the Planning Department extends as far as the intertidal but does not extend subtidally. As a result only coastal wind power generation will require planning permission from DLGE.

The Act sets a framework has been for a Development Plan, which will replace the 1982 Development Plan and include procedure for development control. Until this has been completed, however, the 1982 Development Plan Order will remain in effect. This legislation is discussed more fully under Section 14 (Development in the Coastal Zone). The Act requires the development of an Isle of Man Draft Strategic Plan, which was published in 2001 for consultation, and several Area Plans, which are currently in progress.

In the Isle of Man the Department for Trade & Industry (DTI) is responsible for on-island energy matters and has adopted the following general policy within the Isle of Man Draft Strategic Plan (DLGE, 2001) which was drafted as part of DLGE's remit under the Town & Country Planning Act 1999:

“Attainment of the present and future utilisation of the most efficient and economical methods of energy production, bearing in mind the necessity for security of supplies and the need to preserve the environment.” (DLGE, 2001)

The Strategic Plan also states that the use of wind turbines is being investigated and considered by the Manx Electricity Authority, and that the Department of Trade and Industry will assess the benefits of renewable energy developments against detriment to the environment. It is suggested within the policy that the least visually impacting location for wind turbines would be in coastal locations, although the development of alternative sources of energy supply are to be judged against the environmental objectives and policies of the Draft Strategic Plan.

Territorial Sea (Consequential Provisions) Act 1991

Below the mean high water mark Town & Country Planning legislation does not apply. Under the Territorial Sea (Consequential Provisions) Act 1991 all of the foreshore and Manx Territorial Waters (to the 12-mile limit) is vested in the Harbours Division of the Department of Transport (except for Douglas foreshore which is owned by Douglas Corporation). Any plans to develop on the foreshore or up to the 12-mile limit requires a lease of easement from the Department of Transport's Harbour Division and would normally be considered by the Territorial Seas Committee (TSC), a cross-governmental committee set up to manage the territorial sea following its purchase from the UK government in 1991. Under the lease the DOT can stipulate requirements for maintenance, inspection and decommissioning following expiry of service.

Water Pollution Act 1993

Under Part II of the Water Pollution Act it is prohibited to deposit any substance in the sea or under the seabed including from marine structures (which would include marine structures) without a licence from the Department of Transport. The DOT is required to consult with DAFF over licensing and has a duty to protect the marine environment, living resources and human health and to prevent interference with legitimate users of the sea. Other matters thought relevant may be considered by the DOT and licences may be revoked if activities cause a change in the marine environment.

The Deposits in the Sea (Exemptions) (Isle of Man) Order 1988 was originally made under Section 7 of the Food and Environment Protection Act 1985 as that Act had effect in the Isle of Man at that time, but is now legislated for under Section 18 of the Water Pollution Act 1993. The Order brings the Isle of Man into line with the UK and other countries party to the Oslo Convention 1972 and Protocol 1983 and in accordance with the Convention includes exemptions of certain activities although this does not exclude offshore power generation from licensing requirements.

11.2 EIA of renewable energy proposals

Although there has not previously been a requirement for Environmental Impact Assessment on the Isle of Man, the Isle of Man Draft Strategic Plan 2001, made under the Town & Country Planning Act 1999, proposes that "*installations for the harnessing of wind power for energy production*" should require an Environmental Impact Assessment to be carried out. However, the jurisdiction of DLGE, which only extends as far as the intertidal, does not include marine developments.

Although there are currently no regulations requiring EIA to be carried out for renewable energy developments in the marine environment, the DOT is planning to introduce regulations similar to those for submarine pipelines and cables legislation in order to cover all other types of development on the seabed generically. This will therefore cover offshore renewable developments and also such instances as the long wave radio aerial currently planned in Ramsey Bay.

Table 20 Key legislation for Wave, Tide and Wind Power Generation in the Marine Environment

Isle of Man Legislation	Provisions
Territorial Sea (Consequential Provisions) Act 1991	Vests the seabed below high water mark to the 12-mile limits in the DOT. Seaward development within the territorial seas requires a lease of easement from the Department of Transport with applications normally being considered by the Territorial Seas Committee.
Water Pollution Act 1993	Requires licensing by DOT for depositing objects on the seabed (e.g. sea cages) under Part II of the Act which is already in force.

Planning guidance

Isle of Man Planning Scheme (Development Plan) 1982 – current legislation

Town & Country Planning Act 1999 – not fully in force

Isle of Man Draft Strategic Plan 2001 – recommends EIA of coastal wind farm developments (should come into force 2004)

12 SAND, GRAVEL & MINERAL EXTRACTION (OTHER THAN OIL AND GAS) IN THE MARINE ENVIRONMENT

There is little sand and gravel extraction carried out around the Isle of Man and none carried out offshore. There was a historically important mineral extraction industry, particularly for tin and copper, which has included a number of coastal sites, although operations ceased many years ago.

12.1 Extraction of marine aggregates

Minerals Act 1986

Under the Minerals Act 1986 the properties in all minerals existing in a natural condition in the Island and in all mines for the working of these minerals is vested in the Department of Trade and Industry (DTI). The Act gives the DTI the right to grant licences for the exploration and exploitation of minerals and also requires that the DTI serves notice to each local authority in which any part of the explored or exploited lands fall and every Board of Tynwald, Statutory Board or other public body which the DTI considers will be affected or interested in the proposed activities, including the owners and occupiers of the land. As the coverage of this Act extends to the territorial waters of the Isle of Man (12-miles) there would be a requirement to consult with the DOT as owners of the seabed within territorial waters, and proposals would require consideration by the Territorial Seas Committee.

Within the granting of a licence the DTI may specify particular terms and conditions with the concurrence of the applicant and the Treasury. During exploration it is stipulated that work is only carried out to limit activities only to the extent of ascertaining existence, character, extent and value.

Where mining leases are situated in Crown land or land belonging to a Board of Tynwald, a Statutory Board or the Manx Museum & National Trust, written consent is required from the relevant owner of the land for exploration. These lands are not subject to compulsory purchase. The Manx Museum & National Trust are also entitled to make claim under the Act to impose restrictions on workings where ancient monuments would not allow feasible support of workings. Compensation is required for damage to any land explored or exploited.

Territorial Sea (Rights to Coal) Act 1996

Similar to the Minerals Act 1986, the Territorial Sea (Rights to Coal) Act 1996 vests the property of coal mines on, in or under the seabed beneath the extended territorial sea to the Department of Trade and Industry, with permission to exploit coal requiring a licence from the DTI.

Sand & Gravel Pits Regulation Act 1968

The Sand & Gravel Pit Regulation Act 1968 regulates pit extraction of aggregates, which in the context of the marine environment applies to coastal works, although within the Act the seaward cut-off is defined as within 90 yards inshore of mean high water.

Under Section 2 of the Sand & Gravel Pits Regulation Act 1968:

"the Department may refuse to register a coastal pit or any other pit, the operation of which would, in the opinion of the Department, be reason of the depth of the workings in relation to high water mark, or for any other reason, create any danger of coastal erosion or encroachment of the sea."

The Act also requires pits to be registered (for a fee) and confers the right to the Department of Trade and Industry to inspect pits and to give penalties for offences. Under Schedule 1 the Act also requires that the site is left in a reasonable state following completion of works and stipulates that pits shall not be worked below the natural water table except with the written permission of the DTI.

Where falling within the intertidal area a lease of easement will also be required from the Harbours Division of the Department of Transport as owners of the seabed.

Planning Procedure

Procedure for the processing of planning applications and related matters is set out in the Isle of Man Planning Scheme (Development Plan) Order 1982 which was made under the Isle of Man Development Plan 1982. This covers permissions for developments, Development Plan zones and matters for consideration for planning approval with procedural issues set out in a separate Schedule. Within the Development Plan a number of matters for consideration on applications for planning approval are given including the suitability of the site, whether sufficient land exists elsewhere which is approved but has not already developed for such use and whether there is availability of services. DLGE is also required to take account of the establishment and preservation of an attractive environment through a number of considerations. Within the remit of DLGE under this Order, specific standards may be applied to sand and gravel pits and quarrying although this does not extend lower than the intertidal.

Under the recent Town & Country Planning Act 1999 DLGE has developed a Draft Strategic Plan 2001, which will replace the 1982 Order when finalised. Within the Plan the policy of development with regard to mineral extraction is one of balancing the need to conserve minerals while meeting the requirements of the Island with ensuring that environmental impacts are minimised. DLGE will, as a result, will only be able to give permission to developments involving mineral extraction where the minerals are required to meet the Island's needs, and in relation to the environment where there is no adverse effect on the following:

- Landscapes of species interest or attraction
- Ancient monuments or their settings
- Registered Buildings or their settings
- The character of a Conservation Area
- Sites of special archaeological interest
- Sites of special ecological interest
- Land drainage and water resources

The granting of Planning permission will also be dependent on the restoration of used lands following completion of works. Within the policy provision is also given for any one or more of these constraints to be set aside under exceptional circumstances for the purposes of national need.

12.2 Marine aggregate disposal

Water Pollution Act 1993

Part II of the Water Pollution Act 1993 applies to deposits in the sea to the 12-mile limit. The Act prohibits the deposition of any substance in the sea or under the seabed from vehicles, vessels, aircraft, hovercraft, marine structures, containers floating in the sea or from structures on land constructed or adapted wholly or mainly for depositing solids in the sea, without a licence.

Licences are obtained from the Department of Transport who are required to consult with DAFF and to take regard for the need to protect the marine environment, living resources, and human health, to prevent interference with legitimate uses of the sea and take regard of other matters considered relevant. In certain cases the DOT may consider alternative methods of disposal. The licence conditions will state specific requirements, which must be adhered to. If these are contravened or if there is a deterioration of the marine environment the DOT may revoke the licence.

The Deposits in the Sea (Exemptions) (Isle of Man) Order 1988, originally made under Section 7 of the Food and Environment Protection Act 1985 but now legislated for under Section 18 of the Water Pollution Act 1993 brings the Isle of Man into line with the UK and other countries party to the Oslo Convention 1972 and Protocol 1983. The Order includes exemptions of certain activities from the licensing requirements either because it is deemed unnecessary for a licence to be required or because the disposal of such objects is legislated for elsewhere. Exempted operations include dredging for minerals and deposit of water during dredging operations, but does not specifically exclude the deposit of dredged aggregates. As a result, it would be necessary for a licence to be obtained from the DOT for such an activity under which DOT would be required to consult with DAFF and have due regard for the marine environment, living resources and human health and to prevent interference with legitimate users of the sea in consideration of licence applications.

12.3 EIA of marine aggregate extraction proposals

Town & Country Planning Act 1999

The Isle of Man Draft Strategic Plan 2001, made under the Town & Country Planning Act 1999 sets out provisions for Environmental Impact Assessment, which, when it comes into force in 2004, will broadly follow UK guidelines. Projects specifically included in the EIA guidelines include, among others, quarries and surface industrial installations for the extraction of minerals. DAFF, Environmental Health, Health & Safety, the Isle of Man Water Authority and the Department of Transport all have responsibilities to ensure pollution is minimised, and the Planning Department of DLGE operates in tandem with these groups to ensure that developments are not allowed to progress if they would cause unacceptable pollution. However, this will only apply to aggregate extraction in coastal locations, the remit of the Planning Department only extending to mean high water.

Minerals Act 1986

There are no specific requirements for Environmental Impact Assessment under the Minerals Act 1986, although marine aggregate extraction would require a licence from the DTI, under which the DTI may stipulate certain terms and conditions. The DTI would, therefore, be able to specify that an EIA was to be carried out where they deemed it necessary.

Table 21 Key legislation for Sand & Gravel Extraction in the Marine Environment

Isle of Man Legislation	Provisions
Minerals Act 1986	Regulates the rights to prospect, work and lease mines in the Isle of Man and territorial waters. Requires that a licence is obtained from the DTI under which they may specify terms and conditions and information required for the licence to be issued (for example an EIA).
Territorial Sea (Rights to Coal) Act 1996	Vests the property of coal mines on, in or under the seabed beneath the extended territorial sea to the DTI, with permission to exploit reserves requiring a licence from the DTI.
Sand and Gravel Pits Regulation Act 1968	Regulates the extraction of aggregates from coastal sand and gravel pits.
Water Pollution Act 1993	Part II of the Act prohibits the deposition of items on to seabed, unless licensed by the DOT. Exemptions are made under the Deposits in the Sea (Exemptions) (Isle of Man) Order 1988, which include water from dredging operations, and dredging for minerals. However, this is not interpreted as meaning marine aggregate disposal which will therefore require a DOT licence.

Planning guidance

Isle of Man Draft Strategic Plan 2001 – provides guidelines for EIA for landward aggregate extraction. Will not come into force until 2004.

13 COASTAL ENGINEERING

Coastal erosion is a particularly relevant issue in the Isle of Man. For many years there has been significant erosion, with particular problems along the north-west coast of the island where there has been a steady retreat of the coastline. In addition there have been several incidences of erosion of sea walls and roads throughout the Isle of Man resulting in flooding of coastal areas both through general coastline retreat and storm incidents.

13.1 Coastal flood defence

There is currently no legislation relating to coastal flood defence for the Isle of Man, and no department responsible for this issue, although the Harbours Division of the Department of Transport will respond to an event for clear-up operations and repair, as it would for other civil emergencies. The Drainage Division of the DOT has recently been given responsibility for land drainage, which will include tidal flooding.

In terms of planning, there are no specific references to coastal flood defences in the current legislation – the Isle of Man Planning Scheme (Development Plan) Order 1982. However, the Isle of Man Draft Strategic Plan 2001, made under the Town & Country Planning Act will enter into force around mid-2004. Under this Plan coastal development will not be permitted where there is a possible risk of flooding and Flood Risk Assessments will be required for all development where there is *any* potential flood risk. In addition, under the exceptional circumstances that development is permitted in areas at risk of flooding, flood protection and mitigation measures will be required to safeguard life and property.

13.2 Coast protection

The Government currently has no powers to carry out coastal protection works above high water for protection of private properties, with no statutory requirements for any departments required to protect agriculture, development or existing buildings against coastal erosion. This excludes cases where Government Departments own land, where they may choose to carry out works for the protection of e.g. roads. The current policy of the Isle of Man Government, which is endorsed by Tynwald and has been debated recently on a number of occasions, is one of managed retreat in relation to coastal erosion.

A report by Posford Duvivier for the Department of Transport (2000) relating specifically to the north-west of the Isle of Man suggested the implementation of primary legislation in the form of a Bill for the purpose of providing a suitable Government Department with “such powers and functions as may be required to undertake appropriate and effective measures to manage and safeguard the Island’s coastal and riverine lands”. This could effectively provide an equivalent of the UK’s Coastal Protection Act 1949 which allows the coastal protection authorities to carry out works where necessary or expedient.

Such an Act would give powers to an appropriate Government Department to ensure monitoring, appropriate safeguarding and management (including protective engineering) of the Manx coast. At the time of the report it was suggested that the most suitable department would be the Department of Local Government & the Environment (DLGE).

The report also suggested the various powers that should be held by the Department including power to enter lands for monitoring purposes, to safeguard lands with the agreement of landowners and to purchase land for coastal protection and shoreline management purposes including powers for compulsory purchase. Posford Duvivier’s report also suggests the protection of the Government Department responsible against claims made

against them for effects of coastal engineering works on other parts of the coast. As yet such a Bill has not been implemented although it is proposed that a Coastal Land and Rivers Bill is put to Tynwald by DLGE in 2004/05.

The report also recommended that DLGE set up a Coastal Management Working Group for the purpose of progressing the proposed Coastal Lands Bill, identifying areas where action is required and areas requiring compulsory purchase in pursuance of the Department's future remit.

More recently a motion was debated in Tynwald (March 2003) to restrict development and enable coastal protection works at a specific site in the Isle of Man. This was aimed at stopping the use of heavy machinery on coastal land that may accelerate coastal erosion and at restricting development. The introduction of a Bill was proposed which was accepted.

The Draft Strategic Plan also states that coastal development is not to occur where there is a possible impact to risk of coastal erosion, where the development may reduce natural sea defence capacities or where additional sea defences will be required due to the development.

13.3 EIA of coastal engineering proposals

There is currently no legal obligation to carry out EIA for coastal developments in the Isle of Man, although under the Isle of Man Planning Scheme (Development) Plan Order 1982, DLGE may detail information that it requires for the consideration of planning applications.

When the Isle of Man Strategic Plan 2001 enters into force in mid-2004 there will be a requirement to carry out EIA for a variety of developments including *“coastal work to combat erosion and maritime works capable of altering the coast through the construction of for example dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works”*. The procedure for such EIAs is to follow that of other Government Departments.

Table 22 Key legislation for Coastal Engineering

Isle of Man Legislation

There is currently no legislation relating to coastal flooding or to coastal engineering.

DLGE propose to put a Coastal Land & Rivers Bill to Tynwald in 2004/2005.

Planning guidance

Town & Country Planning Act 1999 – provides DLGE with the responsibility of developing

Isle of Man Draft Strategic Plan 2001 – provides guidelines for developments in relation to coastal flooding, coastal erosion and for Flood Risk Assessments and Environmental Impact Assessments

14 DEVELOPMENT IN THE COASTAL ZONE

14.1 Landward coastal development

Planning legislation is separate from UK legislation although it follows similar principles to those of Scotland, England and Wales. There are however a number of slight differences including greater rights of 3rd party individuals who may request reconsideration of particular developments *if directly affected by the development*.

Compliance with European legislation is indirect, the Isle of Man not being required to comply with EU legislature. However, where matters arise which are unusual or for which no guidance exists the Planning Department may look to UK or EU decisions for guidance during the planning procedure (DLGE 2001).

Within the coastal zone, planning is governed by legislation developed from the original Town & Country Planning Act 1934, with most of the procedures existing as orders and statutory instruments which were brought into effect through the 1980s (DLGE 2002). The main planning legislation covering planning on the Isle of Man is the 1982 Development Plan Order which sets out procedure for development control and the constitution of the Planning Committee. Policy is incorporated into the Town & Country Planning Act 1999, which supersedes most previous acts (1936 – 1991) and was a major review of the system. The Town & Country Planning Act 1999 sets out a framework for a Development Plan which will replace the 1982 Development Plan and sets out procedure for development control and the constitution of the Planning Committee. Until this has been completed, however, the 1982 Development Plan Order will remain in effect.

Planning is the responsibility of the Planning and Building Control Directorate of the Department of Local Government and the Environment. This controls all development centrally and applies to the whole Island. Whilst the Island is split into twenty-four local authority areas, these do not have planning responsibilities, other than commenting on planning applications.

Isle of Man Development Plan 1982

The current legislation for planning development in the Isle of Man is governed by the Isle of Man Development Plan 1982, which was prepared in the late 1970s and approved by Tynwald in 1982. This has been added to in the last three decades by a series of local, village and sector plans (DLGE, 2002). Procedures for the processing of planning applications and related matters is set out in the Isle of Man Planning Scheme (Development Plan) Order 1982 which incorporates amendments up to 1988. This covers permissions for developments, Development Plan zones and matters for consideration for planning approval with procedural issues set out in a separate Schedule.

Within the Development Plan certain areas are designated as having 'High Landscape Value and Coastal or Scenic Significance' which includes much of the coastline. Over 135km of the Manx coastline is designated under "Areas of High Landscape or Coastal Value and Scenic Significance". The conservation areas at Castletown, Laxey, Maughold, Peel and Ramsey include significant coastal elements. See Section 2.5.4.

The island is also zoned into particular land uses (e.g. coastal footpath, national glens, Manx Museum and National Trust sites) under the Isle of Man Planning Scheme (Development Plan) Order 1982, with certain land uses reserved and safeguarded against planning. The Order also gives a list of matters for consideration in planning approval applications and

includes application procedures which includes statutory consultation with the Department of Transport and the relevant Local Authority.

Those issues with relevance to the coastal environment include avoidance of any skyline development likely to obstruct sea views from a public highway, and ensuring that public access to the coast is not inhibited. Also detailed is the requirement to refer to the recommendations contained in Ecological Survey of the Isle of Man 1974 (Institute of Terrestrial Ecology, 1974).

Town & Country Planning Act 1999

Recently there has been a significant revision of the planning system under the Town & Country Planning Act 1999 which consolidates previous planning legislation and fully repeals the following Town & Country Planning Acts:

- The Town & Country Planning Act 1934
- The Town & Country Planning Amendment Act 1936
- The Town & Country Planning Act 1973
- The Town & Country Planning Act 1981
- The Town & Country Planning Act 1991

Under the Town & Country Planning Act 1999 the Department for Local Government & the Environment is the land-use planning authority for the whole island (DLGE 2001) and is conferred the duty of keeping matters affecting development of the Island under review under Part I of the Act which came into force in April 2000. DLGE is also given the task of preparing an Island Development Plan under Part I, with a formulation of the department's general policies (Isle of Man Draft Strategic Plan 2001 – see below) and a number of Area Plans. Area Plans are aimed at formulating DLGE's proposals for "*development or other use of land in the area to which the plan relates, or for any description of development or other use of such land*", including a map and "*reasoned justification*" of those proposals. Both strategic plans and area plans require adoption by DLGE by order and approval by Tynwald to come into effect.

Part II of the Act includes guidelines for Development Control, including the requirements of planning applications and planning approval. It has not, however, come into operation yet. Part III is also awaiting approval. This includes Special Controls for buildings of special architectural or historic interest, which requires maintenance of a Protected Buildings Register and certain planning conditions to be applied to such buildings. Under this Part DLGE is also given responsibility for the designation of particular sites as Conservation Areas, which are to include "*areas of special architectural or historic interest, the character of which it is desirable to preserve or enhance*". Under Part IV (Schedule 4) to the Town & Country Planning Act 1999 DLGE may take enforcement action under breaches of planning control. Again this is not yet in operation.

Isle of Man Draft Strategic Plan 2001

Under the requirements of the Town & Country Planning Act 1999 DLGE has developed the Isle of Man Draft Strategic Plan, which was published in 2001 for consultation, and several Area Plans, which are complete for some areas while others are still in preparation (DLGE 2002). Once adopted, probably around mid-2004, this will become DLGE policy, effectively an Act of Tynwald.

Under the Draft Strategic Plan guidance is given regarding the general policies of the department and justification of the policies. The Draft Strategy has eight central policies which are summarised under a single strategic aim:

“To plan for the efficient and effective provision of services and infrastructure and to direct and control development and the use of land to meet the community’s needs, whilst at the same time preserving, protecting, and improving the quality of the environment, having particular regard to our uniquely Manx natural and built heritage”

With particular regard for the environment, strategic objectives are to assume the precautionary approach i.e. that activities will be damaging unless proved otherwise; to protect, maintain or enhance the built and natural environment including biodiversity; to minimise environmental pollution and to protect the countryside and coastal areas. Also included are objectives to adopt sustainable development principles and to support renewable energy resources where practicable (under the remit of the Planning Department only coastal developments would be included with fully marine developments falling under the responsibility of the DTI and DOT).

Strategic policies state that proposals for development must protect and enhance the nature conservation and landscape quality of rural and urban areas and not cause unacceptable environmental pollution or disturbance.

General development considerations within land-use zones include provision that planning will be allowed as long as various criteria are achieved including that the surrounding landscape is not adversely affected, public views of the sea are not adversely affected; is not subject to unreasonable effects of erosion or flooding.

Policies relating specifically to the natural environment emphasise a balance between conservation and development needs and appropriateness of development with developments adversely affecting the coast permitted only in circumstances where there is an overriding national need for land-use which outweighs the requirement for protection.

The Isle of Man Draft Strategic Plan subsequently suggested that this should be examined in order to identify a number of categories and determine the appropriateness of designating a Coastal Planning Zone incorporating the intertidal as far as low water. However, this does not preclude development in such areas but instead requires higher design standards to ensure development is properly integrated into the environment.

In terms of nature conservation the Strategic Plan takes account of the requirement to comply with legislation, policies and conservation objectives regarding species and wildlife sites protection. In such cases developments are only to be permitted where either there is no compromise to conservation objectives, where other considerations outweighs the ecological interest or where there is no reasonable alternative that is less damaging to the environment. DLGE also states that they will seek try to identify sites of special group values in terms of ecological, archaeological, landscape and/ or scientific value and designate such sites as National Heritage Areas (to be done in collaboration with other departments).

Coastal development is to take account of environmental quality, wildlife habitats and recreational opportunities. Although no definition had been derived for the ‘coastal zone’ under the 1999 Draft Strategic Plan it is proposed that the following are taken into account for protection of the coastline during development of Area Plans:

- Development in coastal areas is only to occur where it cannot be situated elsewhere

- In cases where coastal development is required undeveloped coastline will rarely be the most appropriate location
- The natural character and landscape of the undeveloped coastline should be protected and enhanced
- Development should not normally be permitted In cases where it is likely that significant works will be required to protect against flooding or coastal erosion, or where works may result in a transfer of risks to another area
- All potential onshore and offshore environmental effects of new works must be taken into account

14.2 Seaward coastal development

Territorial Seas (Consequential Provisions) Act 1991

Below the high water mark Town & Country Planning legislation does not apply. Instead ownership of all the foreshore and Manx Territorial Waters (to the 12-mile limit) is vested in the Isle of Man Harbour Division within the Department of Transport under the Territorial Sea (Consequential Provisions) Act 1991, except for Douglas foreshore, which is owned by Douglas Corporation. Any plans to develop on the foreshore or up to the 12-mile limit requires a lease of easement from the Department of Transport's Harbour Division and must be considered by the Territorial Seas Committee.

The Territorial Sea Committee (TSC) is a cross-governmental committee set up to manage Isle of Man interests following the purchase of the territorial sea (up to 12-mile limit) from the UK government in 1991. Matters on which the Territorial Seas Committee must be consulted include pipelines and cables, hydrocarbon exploration and offshore windfarms.

In exercise of planning controls the Harbours Division, in consideration of applications for development, may apply restrictions to the development regarding various features such as monitoring or post-operational removal of works. Further legislative requirements may be required for specific developments such as offshore oil & gas installations, cables, pipelines and dredging but these are detailed in the relevant chapter of this report.

14.3 Disposal of dredged material

Primary legislation to control the disposal of dredged material at sea in the UK is the Food & Environmental Protection Act 1985 (FEPA) (deposition at sea and in intertidal areas). In the Isle of Man Part II of FEPA was applied through the Food & Environment Protection Act (Isle of Man) Order 1987 (Statutory Instrument 1987 No. 666) with various exceptions, adaptations and modifications but then later revoked by the Food & Environment Protection Act 1985 (Isle of Man) (Revocation) Order 1994 when the provisions in Part II of the Act were replaced by Part II of the Water Pollution Act 1993, which also implements the 1983 Protocol to the Oslo Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft.

Under Part II of the Water Pollution Act 1993 provisions are contained relating to and controlling the deposit of substances or articles in the sea or under the seabed from vehicles, vessels, aircraft, hovercraft or marine structures in land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea in Manx territorial waters or from Manx registered ships wherever they are.

Currently the Harbours Board, which falls within the Department of Transport, carries out the majority of routine dredging operations for harbour works and dredging of navigation channels. Some private coastal development also takes place, such as disposal of dredged material during pipeline construction. All disposal, including disposal by the Harbours Board, is licensed by the Department of Transport which issues permits within which particular conditions are stipulated.

14.4 Ports and harbours

Ports and harbours fall under the responsibility of the Department of Transport under the Harbours (Isle of Man) Act 1961 (as amended by various). Under Section 83A of this Act any land falling within the limits of a harbour may not be disposed of unless:

- The area is being let for a term of 21 years or less
- The area is disposed of with approval of Tynwald
- Grant of any easement, wayleave or profit *a prendre* is given

As a result ports and harbours must remain the property of the Department of Transport, except in certain circumstances. As such the Department is still subject to the same planning regulations as described for seaward coastal developments in general.

Under the Isle of Man Draft Strategic Plan 2001 (DLGE, 2001), specific policy guidelines for harbours are included stating that:

“Development in or around harbours should neither compromise the ability of the harbour to accommodate the commercial or recreational users in a viable manner, nor be detrimental to the character of those harbours of historic interest”.

Harbours legislation is currently under review and the Act and various amendments are to be consolidated under a new Act with a Bill relating to this to be put to Tynwald in 2003/2004.

14.5 EIA of coastal development proposals

The Isle of Man Draft Strategic Plan 2001 sets out provisions for EIA, which broadly follow UK guidelines. Projects specifically included in the EIA guidelines include those proposing intensive fish farming, major water management proposals, extractive industries, energy-related proposals, metal processing, minerals, chemicals, food industry, industrial plants and production of pulp from timber and the production of paper and board, infrastructure projects and other significant developments that are listed separately.

Although DAFF, Environmental Health, Health & Safety, the Isle of Man Water Authority and the DOT all have responsibilities to ensure pollution is minimised, the Planning Department operates in tandem with these groups to ensure that developments are not allowed to progress if they would cause unacceptable pollution. As a result EIA is required for a number of developments and when not listed a certain amount of environmental information is still required. This includes developments which are:

- More than locally significant
- In environmentally sensitive or vulnerable locations
- Unusually complex and potentially hazardous

Table 23 Types of coastal development that require EIA under the Isle of Man Draft Strategic Plan 2001

- | | |
|---|--------------------------------|
| • <i>Intensive fish farming installations</i> | • <i>Coastal erosion works</i> |
| • <i>Wind energy installations¹</i> | • <i>Jetties</i> |
| • <i>Dams/ water storage installations</i> | • <i>Sea defence works</i> |
| • <i>Oil and gas pipelines of certain types</i> | • <i>Marinas</i> |
-

The Strategy also includes guidelines for harbour development with a requirement to maintain ability to accommodate leisure and commercial craft or compromise historic value with any development likely to impact the ecology of a harbour or nearby coastline requiring an EIA. Developments related to energy provision (pipelines and cables) are likewise required to have due regard for the visual and ecological environment although this will only include coastal developments.

There is no EIA legislation for general planning issues in the territorial seas. Instead EIA is legislated for under individual activities, e.g. submarine pipelines and cables, offshore oil & gas exploration. These have been discussed under the relevant section.

¹ This only includes coastal developments – offshore windfarms would require DTI and DOT permission

Table 24 Key legislation for Development in the Coastal Zone

Isle of Man Legislation	Provisions
Isle of Man Planning Scheme (Development Plan) Order 1982	<p>Covers permissions for developments, Development Plan zones and matters for consideration for planning approval.</p> <p>Designates certain areas as having 'High Landscape Value and Coastal or Scenic Significance'.</p> <p>Zones the island into particular land uses for development purposes.</p>
Town & Country Planning Act 1999	<p>Part I – confers DLGE the task of preparing an Island Development Plan</p> <p>Part II – guidelines for Development Control (not yet in operation)</p> <p>Part III – includes controls for buildings of special architectural or historic interest and the designation of particular sites as Conservation Areas (not yet in operation)</p> <p>Part IV – enforcement actions (not yet in operation)</p>
Isle of Man Draft Strategic Plan 2001	Contains strategy for planning including requirements for EIA.
Territorial Sea (Consequential Provisions) Act 1991	Vests ownership of all the foreshore and Manx Territorial Waters (to the 12-mile limit) to the Isle of Man Harbour Division within the Department of Transport.
Harbours (Amendment) Act 1994	Includes regulations on the disposal of land within harbour areas by the Department of transport

15 TOURISM AND RECREATION IN THE MARINE ENVIRONMENT

Tourism is an economically significant industry in the Isle of Man in the summer months. In recent years the increasing popularity of coastal and marine recreational activities has increased the pressure on the marine and coastal environment both from residents and tourists with activities including surfing, pleasure boating, fishing, walking and diving. Some of these activities are discussed more fully elsewhere in this report, in particular the use of boats under the Merchant Shipping Act 1985 and fishing activities under the Sea Fisheries Act 1971 & 1991.

One of the most significant impacts of tourism and recreation is the disposal of litter, either in the sea or in coastal areas. Although it is recognised that this is of significance to the marine environment, this issue is not discussed here as the same regulations apply for the activities discussed here as elsewhere, and which are discussed more fully in Section 16.

15.1 Control of leisure sailing and motor boats

Merchant Shipping Registration Act 1991

Under Section 46 of the Merchant Shipping Registration Act 1991 the Department of Trade and Industry may make regulations for the establishment and maintenance of a register of small boats. These have been made under the Merchant Shipping (Small Ships Register) Regulations 1991 which includes all vessels, except fishing vessels, but including yachts and commercial angling vessels that are less than 24 metres in length.

Regulations stipulate the requirement for owners to be qualified to own Manx Ships and for the requirements to register a ship, which include the details of the vessel and owner(s) and the requirements for registered vessels to maintain, including the correct display of registration numbers. The regulations include the provision for functions laid out under the Regulations to be discharged to other organisations authorised by the Department of Trade and Industry and as such, much of the maintenance of the Small Boat Register is actually carried out by the Harbours Division of the Department of Transport.

Registration of Pleasure Craft Act 1974

Under the Registration of Pleasure Craft Act 1974 the Department of Transport has the power to make regulations relating to the registration of pleasure craft within tidal waters of the Isle of Man (i.e. any part of river with tidal ebb and flow to the 12 nm limit). This has been done under the Registration of Pleasure Craft Regulations 1976 under which pleasure boats are required to be registered and display registration marks with the DOT prescribing registration fees and penalties. The regulations do not apply to pleasure craft registered outside the Isle of Man when within Manx waters, crafts that require registration under the Merchant Shipping (Registration) Act 1984 or other vessels exempted by the DOT. Such regulations require the approval of Tynwald.

Wildlife Act 1990

Under Section 9 of the Wildlife Act 1990 it is prohibited to kill, injure or take wild animals included in Schedule 5 (which includes among other marine species seals, cetaceans and basking sharks). It is also prohibited to disturb the Scheduled animals while they are occupying a structure of place used for shelter or protection. Under these prohibitions DAFF have set up a Voluntary Code of Practice for boats in relation to cetaceans and basking sharks.

15.2 Control of bathing and other near shore recreation

There is no statutory requirement for the Isle of Man to monitor bathing water quality although they are monitored following a Tynwald resolution to adopt the EC bathing water standards. Bathing quality has been monitored since 1973 following a Report on Environmental Pollution to Tynwald. From 1989 DLGE's Government Laboratory has been testing bathing quality for compliance with the EC Directive (Robertson, 1990).

Diving is restricted only around HMS Racehorse, protected by The Protection of Wrecks (Designation) Order 1982 made under the Wreck & Salvage (Ships & Aircraft) Act 1979 requiring permission to be obtained from the Harbours Division of the Department of Transport.

Angling is generally unregulated in the Isle of Man although angling within the waters off the coast of the Calf of Man requires a licence from Manx National Heritage (Dunbar et al., 1996).

Tourist Act 1975

The Tourist Act 1975 mainly relates to the provisions of grading tourist premises and the regulation of tourist premises. However in relation to the protection of environment the Department of Tourism & Leisure is given responsibility to "*maintain, encourage, develop, protect, promote and facilitate tourism in, to and from the Island to the best advantage of the Island*". This presumably should take account of the interest of other Government Departments and their policies, although this is not directly stipulated in the Act.

Recreation & Leisure Act 1998

Under this Act the Department of Tourism & Leisure is given the power to provide recreational facilities as it sees fit, including among other activities public walks, sports and recreation on coastal waters including fishing. Where the provision of these activities requires facilities, the Department of Tourism & Leisure must work in co-ordination with DLGE and are therefore required to adhere to DLGE policy on planning and development.

Harbours (Isle of Man) Act 1961

Under the Harbours (Isle of Man) Act 1961 the Department of Transport may apply bye-laws in order to control activity within harbour areas. This includes the designation of safe bathing areas, restrictions on the speed of boats within particular areas and in some places the designation of safe diving areas.

Table 25 Key legislation for Tourism and Recreation in the Marine Environment

Isle of Man Legislation	Provisions
Merchant Shipping Registration Act 1991	Merchant Shipping (Small Ships Register) Regulations 1991 made under this Act
Registration of Pleasure Craft Act 1974	Requires registration of pleasure craft through the DOT, who may provide regulations regarding correct display of registration numbers etc.
Wildlife Act 1990	A Voluntary Code of Practice was set up under the Wildlife Act 1990 to control boat activities in the vicinity of cetaceans and basking sharks.
Tourist Act 1875	Gives responsibility to the Department of Tourism & Leisure to “ <i>maintain, encourage, develop, protect, promote and facilitate tourism in, to and from the Island to the best advantage of the Island</i> ”.
Recreation & Leisure Act 1998	This gives the Department of Tourism & Leisure the power to provide recreational facilities. Where the provision of these activities requires facilities, the Department of Tourism & Leisure must work in co-ordination with DLGE and are therefore required to adhere to DLGE policy on planning and development.
Harbours (Isle of Man) Act 1961	Provides harbours authorities with the power to control activities in harbour areas, including control of jet skis.

16 INPUTS OF CONTAMINANTS IN THE MARINE ENVIRONMENT (ORIGINATING PRIMARILY FROM LAND)

There are a number of land-based sources of contaminants which are disposed of into the marine environment including domestic, agricultural and industrial waste. At present many of the discharges are made to local sea outfalls, although the Isle of Man is currently undergoing a major restructure of waste disposal under the Integration and Recycling of the Islands Sewage project (IRIS). This new system, which is currently under construction, will result in the connection of all main sewage discharges, and some industrial and agricultural discharges, to a modern treatment facility and then to sea via one main subtidal outfall.

Unlike in the UK, the Isle of Man is not required to comply with EC standards, and is not subject to regulations under the Water Framework Directive, although in some cases the government has resolved to ensure that the Isle of Man complies with EC guideline standards e.g. those set by the EC Bathing Water Directive (76/160/EEC).

16.1 Waste disposal

Marine Pollution Act 1983

The Marine Pollution Act 1983 implements the Convention for the Prevention of Marine Pollution from Land-based Sources 1974. This is to be fully repealed by the Water Pollution Act 1993 when it comes into force (it is not yet known when this will be). The Act prohibits the discharge of substances listed in Part I of the Schedule to the seashore or into any watercourse, sewer or pipe, and requires a licence from DLGE for substances listed in Part II and Part III (see Table 26).

Table 26 Substances for which discharge is controlled by the Water Pollution Act 1993

Part I

Non readily biodegradable or rendered harmless by natural processes

Give rise to dangerous accumulation in the food chain

Endanger the welfare to living organisms causing undesirable changes in marine ecosystems

Interfere seriously with the harvesting of seafoods or other legitimate uses of the sea

Pollution by such substances requires urgent action

- Organohalogens
- Mercury and mercury compounds
- Cadmium and cadmium compounds
- Persistent synthetic materials and may seriously interfere with legitimate use of the sea
- Persistent oils and hydrocarbons of petroleum origin

Part II

Less noxious than Part I although still of similar characteristic

- Organic compounds of phosphorous, silicon and tin and substances that may form compounds in the sea with some exceptions
- Elemental phosphorous
- Non-persistent oils and hydrocarbons of petroleum origin
- Arsenic
- Chromium
- Copper

- Lead
 - Nickel
 - Zinc
 - Those substances prescribed by the Department
-

Part III

Radioactive substances – similar to Part I but already subject to research and measures under auspices of international organisations.

DLGE may also make regulations:

- Specifying precautions to be taken by persons in possession of listed substances or poisonous, noxious or polluting matters in order to prevent such substances from entering the sea
- Prohibiting or restricting activities in particular areas in which it considers pollution of the sea is likely to result
- Restricting activities on man-made structures in territorial waters that may result in pollution of the sea
- Prohibiting or restricting the importation, landing, manufacture, supply or use of any substance specified in the regulations for the purpose of preventing the substance endangering the welfare of living organisms in the sea or polluting the sea

The Act stipulates that regulations made under this Act do not come into force until approved by Tynwald and also gives provisions for fines or imprisonment for any person guilty of an offence under the regulations.

Water Pollution Act 1993

In the Isle of Man the primary statute to control water pollution of the marine environment is the Water Pollution Act 1993 and implements the Convention for the Protection of the Marine Environment of the North-East Atlantic 1992 (OSPAR) and the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972 and 1996 Protocol (London Dumping Convention).

The Water Pollution Act 1993 is split into two main parts. Part I deals with pollution originating mainly from land-based sources in inland and coastal waters with Part II implementing legislation for regulating deposits in the sea. To date all of Part II, and Schedules as related to Part II, are in force. Some sections of Part I are also in force although these mainly relate to establishment of water objectives and not to the requirement to comply with regulations. Schedule 3, which concerns the repeal of other Acts, including the Marine Pollution Act 1983 is also not yet in force, and as a result the 1983 Act will remain in force until such a time as Schedule 3 is adopted. Although it is not yet known when this will be, it is likely that it will enter into force upon the appointment of a Water Pollution Officer, currently under discussion between DLGE and DAFF.

Under Part I of the Water Pollution Act 1993, which provides for water pollution of inland and coastal waters, power is conferred to the Department of Local Government and the

Environment (DLGE) to prescribe a scheme for the classification of any characteristic of water quality of controlled waters² according to the following criteria:

- General requirements as to the purposes for which waters to which the classification is applied are suitable
- Specific requirements as to substances that are required to be present or absent
- Specific requirements as to other characteristics

Provision is made for the establishment of Water Quality Objectives in relation to such schemes, which the Department are then required to ensure are achieved at all times, and may designate Water Protection Zones following consultation with DAFF in order to prohibit or restrict activities that may result in pollution of controlled waters. DLGE must also ensure that any obligations under Community treaties and international law, which have been extended to the Isle of Man, are complied with. In the case of activities which may be harmful, DLGE are required to apply a BATNEEC approach for the prevention of release of seriously harmful substances to controlled waters or where not practicable to reduce releases to the minimum possible and render the release harmless.

However, the legislation under which it is an offence to cause or knowingly permit certain substances from being released unless a relevant licence is held, is not yet in force. This includes the prohibition of allowing the following substances of relevance to the marine environment to be released, unless in emergency circumstances where all reasonably practicable steps were taken to minimise entry of pollution and polluting effects and particulars of entry and the details of the discharge are given to DLGE in writing as soon as possible after the incident:

- Poisonous/ noxious/ polluting matters or solid waste matter to enter controlled waters
- Any matter other than trade/ sewage effluent to enter controlled waters
- Any sewage or trade effluent to enter outside controlled waters

Legislation for the requirement of licences to discharge to coastal waters, whereby DLGE must publish notice of the intended discharge for a defined period and provide DAFF, DOT, the Water Authority and any sewerage authority necessary with a copy of the application to discharge, is also not yet in force. Section 9, enabling DLGE to establish Water Protection Zones, within which activities may be restricted to avoid pollution of controlled waters is now in force.

Part II of the Water Pollution Act 1993 applies to deposits in the sea to the 12-mile limit and is now fully in force, including the Schedules as they relate to the Part. Part II prohibits the deposition of any substance in the sea or under the seabed without a licence from vehicles, vessels, aircraft, hovercraft, marine structures, containers floating in the sea or from structures on land constructed or adapted wholly or mainly for depositing solids in the sea. In relation to vessels this applies to Manx vessels wherever they are and non-Manx vessels while in Manx waters. Fines are applied for the contravention of these prohibitions and for scuttling vessels, loading vessels with substances for deposit, towing vessels for scuttling or incineration of substances.

² Controlled waters include "relevant territorial waters" (3nm seawards from the territorial seas baseline); waters landward of the territorial baseline as far as the highest spring tide or freshwater limit of a watercourse; and bores and boreholes (ground waters). Freshwater definitions are also included although these are not relevant here.

Licences are obtained from the Department of Transport who are required to consult with DAFF and to take regard for the need to protect the marine environment, living resources, and human health, to prevent interference with legitimate uses of the sea and take regard of other matters considered relevant. In certain cases the DOT may consider alternative methods of disposal. The licence conditions will state specific requirements, which must be adhered to. If these are contravened or if there is a deterioration of the marine environment the DOT may revoke the licence.

The Deposits in the Sea (Exemptions) (Isle of Man) Order 1988 was originally made under Section 7 of the Food and Environment Protection Act 1985 as that Act had effect in the Isle of Man at that time, but is now legislated for under Section 18 of the Water Pollution Act 1993. The Order brings the Isle of Man into line with the UK and other countries party to the Oslo Convention 1972 and Protocol 1983.

The Order includes exemptions of certain activities from the licensing requirements either because it is deemed unnecessary for a licence to be required or because the disposal of such objects is legislated for elsewhere. In relation to activities not covered elsewhere in legislation environment this includes the following:

- Fishing gear – except for the purpose of disposal
- Fish from fishing operations – in the course of fishing operations or processing
- Other articles from fishing operations – when caught during fishing activities
- Materials from marine farming – when for the purpose of or in connection with propagation or cultivation of fish, shellfish or marine flora or other marine organisms
- Materials dredged in the course of marine farming in connection with propagation or cultivation of shellfish
- Materials related to the maintenance of vessels – except for tri-organotin products (which includes TBT)
- Moorings
- Oil dispersants – with exceptions
- Anti-pollution equipment
- Scientific equipment

16.2 Coastal and marine litter

The Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999

The Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999 repeals both the Merchant Shipping (Prevention of Pollution by Garbage) Order 1989 and the Merchant Shipping (Prevention of Pollution by Garbage) (Amendment) Order 1993 and implements MARPOL Annex V. Under these regulations the authority of garbage regulations falls under the Department of Trade and Industry. The regulations restrict the disposal of garbage from Manx ships wherever they are and non-Manx ships while in the territorial waters of the island, and also to fixed or floating installations in the territorial waters of the island. Penalties are stipulated unless it is shown that all reasonable steps were taken, the disposal was necessary for safety, that it resulted as damage to the ship or that it was accidental loss in the case of synthetic fishing nets. There is a requirement for boats and installations (dependant on size) to display relevant info on placards, to have a garbage management plan for procedures, be in accordance with guidelines developed by the IMO and carry a record book of discharges,

escape or accidental loss. The regulations also provide for inspection of ships in any port on the Isle of Man.

Table 27 Summary of waste disposal regulations under the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999

	Plastics	Food waste	Food wastes and other materials which have been ground up	Dunnage and other articles which float
In Special Areas * (INCLUDES THE IRISH SEA)	Prohibited	Permitted as far as possible from land and never closer than 12 miles from land.	Prohibited	Prohibited
Outside Special Areas	Prohibited	Permitted if more than 12 miles from land	Permitted if more than 3 miles from the nearest land	Permitted if more than 25 miles from land
Within 500m of fixed or floating installations	Prohibited	Prohibited	Prohibited	Prohibited
in the Antarctic	Prohibited	Prohibited	Prohibited	Prohibited

* Special Areas are summarised in the Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999 as the following: Mediterranean, Baltic Sea, Black Sea, North Sea, Irish Sea, Red Sea, Persian Gulf Area, Gulf of Aden, Antarctic.

Litter Act 1972

The disposal of litter in coastal areas is legislated for under the Litter Act 1972, as amended by the Local Government (Miscellaneous Provisions) Act 1984 and the Public Health Act 1990. This prohibits dropping or abandoning of litter in public places with fines for offences. Legislation also takes into account the possibility of injury to animals (particularly relevant to seabirds).

Harbours (Isle of Man) Act 1961

Under Section 47 of the Harbours (Isle of Man) Act 1961 it is prohibited to deposit earth, ashes, stones, offal or any other substance or thing within the limits of a harbour or on the seashore or into tidal waters of the Isle of Man without authorisation from the Department of Transport, with contravention punishable by a fine.

Table 28 Key legislation for Input of Contaminants in the Marine Environment (originating primarily from land)

Isle of Man Legislation	Provisions
<p>Marine Pollution Act 1983</p> <p>Implements:</p> <p>Convention for the Prevention of Marine Pollution from Land-based Sources 1974</p>	<p>To be fully repealed by the Water Pollution Act 1993 when it comes into force. Prohibits the discharge of certain substances to the seashore or into any watercourse, sewer or pipe.</p>
<p>Water Pollution Act 1993</p> <p>Implements:</p> <p>Convention for the Protection of the Marine Environment of the North-East Atlantic 1999 (OSPAR 1992)</p> <p>Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Dumping Convention) and Protocol 1996</p>	<p><u>Part I</u> Regulates discharges from land-based sources. Makes provision for DLGE to set Water Quality Objectives and sets requirements for licences to discharge to controlled waters. This part is not yet fully in force.</p> <p><u>Part II</u> Prohibits depositing materials in the without a licence from the DOT with exceptions as set by the Deposits in the Sea (Exemptions) (Isle of Man) Order 1988.</p>
<p>Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999</p>	<p>Provides regulations under the Oil Pollution Act 1986 for the prevention of pollution in the marine environment from disposal of garbage from vessels.</p>
<p>Litter Act 1972</p> <p>As amended by various</p>	<p>Prohibits deposition of litter in public places</p>
<p>Harbours (Isle of Man) Act 1961</p> <p>As amended by various</p>	<p>Prohibits deposition of certain substances within the limits of a harbour or on the seashore or into tidal waters of the Isle of Man without authorisation from the Department of Transport.</p>

17 SUBMARINE CABLES AND PIPELINES

In recent years there have been an increasing number of pipelines and cables installed in or through Manx waters. Most significantly a second major gas pipeline, connecting Scotland and Ireland, has been laid through Manx waters, with a spur pipeline connected from this pipeline to the Isle of Man. Although there has been relatively little oil and gas activity within Manx waters as compared to UK waters, a number of telecommunications cables have also recently been installed.

The increasing demand to install cables and pipelines has resulted in recent modifications to legislation in order to update laws and to ensure that shortcomings within the legislation were resolved. The following summarises the legislation relating to submarine oil and gas pipelines, and other marine cables and pipelines, with a summary of this legislation given in Table 29. This section does not include regulations relating to the prevention of pollution from pipelines, which are dealt with under Section 10: Offshore Oil and Gas.

17.1 Submarine oil and gas pipelines and cables

Petroleum Act 1986

Under the powers conferred on the DTI under the Petroleum Act 1986 a number of pieces of UK legislation have been applied to the Isle of Man through Application Orders. These apply the original legislation, or parts of this legislation, and include any amendments that have been made. The current legislation applying to submarine pipelines is the Petroleum Act 1998 (Application) Order 2000 has been made, in order to implement various sections and schedules of the Petroleum Act 1998 (a UK Act of Parliament) on the Isle of Man. This includes all of Part III relating to submarine pipelines and all of Part IV which relates to abandonment of offshore installations, including pipelines.

Part III of the Petroleum Act 1998 provides restrictions for the construction and use of pipelines lying in, under or over any controlled waters (i.e. the territorial seas of the Isle of Man). Under these restrictions it is not permitted to carry out any works for the construction of a pipeline or to use a pipeline within controlled waters for which construction was begun on or after 1st January 1976 without written authorisation from the Department of Transport. Such authorisation will only be given to corporate bodies.

The Department of Transport may also apply terms to authorisations including the duration of the authorisation, the route of the pipeline, boundaries within which works may be carried out, steps to be taken to reduce interference with other activities e.g. fishing, steps to ensure that funds are available for liability in the event of release or escape of anything from the pipeline, operation of the pipeline including operational methods and by whom it is operated and information to be provided in respect of the pipeline. The Act also provides regulations on the termination of authorisations, and the vesting of pipelines in the Department of Transport following termination of works subject to any conditions in the authorisation relating to the removal of the pipeline.

The Department of Trade and Industry is able to appoint inspectors, as it feels necessary, with additional sections relating to the enforcement of authorisations and terms given under such authorisations.

Submarine Telegraph Act 1885

The Submarine Telegraph Act legislates against unlawful, wilful or culpably negligible breakage or injury to submarine telegraph cables including in areas outside territorial waters, with punishments for contravention. The Act also make provision for the avoidance of interference, with boats laying or maintaining cables required to avoid interference with fishing vessels within a certain notice period, and requirements for vessels to provide clearance for laying vessels. This includes provision that compensation must be given to fishing vessels for fishing gear sacrificed in order to avoid injuring a submarine cable where reasonable precautions were taken.

Submarine Cables Act 2003

On account of the disparities between pipeline and cable legislation and the outdated Submarine Telegraph Act 1885, the Submarine Cables Act was forwarded in 2003 and has now been passed as an Act of Tynwald. This Act effectively replaces the Submarine Telegraph Act 1885. As the 1885 Act is an Act of the UK parliament the Submarine Cables Act 2003 will not repeal it and both will remain in force, although by convention the most recent and relevant legislation will be observed.

Under this legislation it is prohibited to lay a cable within Manx Territorial Waters except with written authorisation from the Department of Transport. The authorisation procedure, as required by the Department of Transport, is given as Schedule 1 of the Act which allows the DOT to make provisions regarding the manner in which applications should be made and the information to be included. Included is provision for the DOT to decide that a cable route should be altered for the purpose of:

“avoiding or reducing danger to navigation, to persons engaged in and vessels and equipment used for fishing, to some structure or apparatus (which may be the cable) or to marine flora or fauna” or for the purpose of “avoiding or reducing interference with fishing or the exploitation of mineral resources”.

On the authorisation of a submarine cable the Department of Transport may make provision for a number of matters, which are broadly the same as those applied for pipelines under the Petroleum Act 1998 (see Section 17.1) and include such provisions as steps to be taken to reduce interference with navigation, fishing or other activities connected with the sea or seabed, steps to be taken to remove the cable and reinstate the seabed, on decommissioning and information regarding the cable. Operational regulations may also be applied to ensure safety without prejudice to any statutory provisions relating to safety of life at sea, marine pollution or merchant shipping. Regulations for enforcement and liability are also included.

Water Pollution Act 1993

Under Part II of the Water Pollution Act 1993 it is prohibited for any article to be deposited in the sea or under the seabed from any vessel without a licence from the Department of Transport. Certain items are exempted from these requirements, under the Deposits in the Sea (Exemptions) (Isle of Man) Order 1988. These exempt cables for the purposes of laying and maintenance but do not allow the disposal of cables on the seabed for disposal purposes. Pipelines are not included, but are separately legislated for under the Petroleum Act 1998 as applied to the Isle of Man, whereby they will require a DOT licence in any case.

Under the requirements for depositing items on the seabed, provision of a licence from the DOT requires consultation with DAFF. The Water Pollution Act 1993 also requires the DOT to have due regard for the need to protect the marine environment, living resources and

human health and to prevent interference with legitimate users of the sea in consideration of licence applications.

Territorial Sea (Consequential Provisions) Act 1991

Under the Territorial Seas Act, Manx Territorial Waters (including the foreshore and subtidal waters to the 12-mile limit) are vested in the Department of Transport, except for Douglas foreshore which is owned by Douglas Corporation. In order to carry out any development on the seabed up to the 12-mile limit, a lease of easement must be obtained from the Department of Transport's Harbour Division and would normally be considered by the Territorial Seas Committee (TSC), a cross-governmental committee set up to manage the territorial sea following its purchase from the UK government in 1991. Under the lease the DOT can stipulate requirements for maintenance, inspection and decommissioning following expiry of service.

Planning Procedure

Under the Town & Country Planning Act 1999 the Planning Division of the Department for Local Government & the Environment (DLGE) has jurisdiction for coastal development. The Act sets a framework for a Development Plan, to replace the current 1982 Development Plan and include procedure for development control. This has resulted in the development of an Isle of Man Draft Strategic Plan, which was published in 2001 for consultation, and several Area Plans, which are currently in progress. The Strategic Plan will probably come into force around mid-2004 following consultation, when it will become DLGE policy, effectively an Act of Tynwald. Jurisdiction of the Planning Department extends as far as mean high water, and as a result cable and pipeline installation landward of mean high water will require planning permission. Below mean high water, in intertidal areas, planning permission is not required.

17.2 Environmental Impact Assessment of marine cables and pipelines

Petroleum Act 1998

The Submarine Pipelines (Assessment of Environmental Effects) Regulations 2001, made under the Petroleum Act 1998 require that persons applying for a licence to carry out construction of submarine pipelines must submit an Environmental Impact Assessment (EIA) of the proposed pipeline works to the Department of Transport.

The Schedule of the Regulations specifies the information required in the EIA, which include:

- A description of project including information on the site, design and size of the project and, where relevant, the characteristics of the project or the environmental features likely to be affected including, as is reasonable:
 - a. Land and seabed use requirements during construction and operation
 - b. Main characteristics of production process
 - c. Estimate of residues and emissions from operations
- Description of measures to be taken to avoid, reduce and remedy significant adverse impacts to the environment
- Data required to identify main environmental impact including as is reasonable:

- a. Description of specific aspects of environment likely to be significantly affected
 - b. Description of likely significant effects
- An outline of main alternatives indicating reasons for choice, taking into account environmental impacts.
 - Technical summary of the required information

 - An indication of technical difficulties encountered in compiling the required information

Submarine Cables Act 2003

Under the Submarine Cables Act 2003 there is no specific reference to the requirement for Environmental Impact Assessment to be carried out. However, Section 1 of the Act, which provides for the requirements for authorisation of submarine cables, stipulates that any authorisation may contain "*such terms as the Department [of Transport] thinks appropriate*".

Planning Procedure

Under the Isle of Man Draft Strategic Plan 2001, which will come into force in 2004, there are guidelines for the requirement for EIA certain types of development and also for development within coastal zones.

"Development proposals which are likely to have significant effects on the coastal environment including effects on the natural environment and significant visual impact will be subject to Environmental Impact Assessment"

The requirements for EIA specifically include oil and gas pipeline installations with a diameter of over 800mm and a length of more than 5km unless constructed under a road or installed entirely by means of tunnelling.

Table 29 Key legislation for Submarine Cables and Pipelines

UK Legislation	
Petroleum Act 1998	Part III relating to submarine pipelines and Part IV relating to abandonment of offshore installations, have been applied by the Petroleum Act 1998 (Application) Order 2000. Includes requirements of authorisations for submarine pipeline construction and operation and the abandonment of them following completion of works.
Submarine Telegraph Act 1885	Contains provisions for the avoidance of damage to cables or the interference of cable laying vessels with other operations.
Isle of Man Legislation	
	Provisions
Petroleum Act 1986	Confers the duty of the DTI to apply UK legislation with modifications and adaptations.
Submarine Cables Act 2003	Regulates the installation of cables in the seabed. Requires written authorisation from the DOT who may specify the information required before an application is considered. Overrides the Submarine Telegraph Act 1885 where coverage overlaps.
Water Pollution Act 1993	Part II requires a licence to be obtained from the DOT to deposit articles on the seabed. This applies to cables, but only where deposited for disposal purposes.
Deposits in the Sea (Exemptions) (Isle of Man) Order 1988	Exempts cables from requiring a licence under the Water Pollution Act 1993 for laying and maintenance operations except for disposal purposes. Does not exempt pipelines from requiring a licence which require a licence under the Petroleum Act 1998.
Territorial Sea (Consequential Provision) Act 1991	Vests the property of the Isle of Man territorial waters (to the 12-mile limit) in the Department of Transport, from whom a lease of easement is required to carry out activities on or under the seabed in consultation with the Territorial Seas Committee.
Town & Country Planning Act 1999	The Isle of Man Draft Strategic Plan 2001 will require EIA where significant impacts are likely to occur. Specifically includes oil and gas pipelines over a particular size to have an EIA carried out. This will not come into force until 2004.
Submarine Pipelines (Assessment of Environmental Effects) Regulations 2001	Stipulates that EIA is required for submarine pipeline authorisations. Includes a summary of the requirements of the EIA.

18 REFERENCES

Davey, P.J. & Woodcock, J.J. (1996). Chapter 6.2. History and archaeology – Isle of Man. In: Coasts and seas of the United Kingdom. Region 13 Northern Irish Sea: Colwyn Bay to Stranraer, including the Isle of Man. Eds: Barne, J.H., Robson, C.F. Kaznowska, S.S., Doody, J.P. & Davidson, N.C. Peterborough, Joint Nature Conservation Committee: 166 – 169.

DLGE (2001). The Isle of Man Draft Strategic Plan. 4th July 2001. Isle of Man Government.

DLGE (2001b). Policy and Guidance Notes for the Conservation of the Historic Environment of the Isle of Man. Planning Policy Statement 1/01.

DLGE (2002). Modernising the Planning System. August 2002. Isle of Man Government.

DTI (1998). Shipping Fact File. <http://www.gov.im/dti/shipping>. Accessed 28th July 2003.

Dunbar, M.J., Fowler, S.L., Davidson, N.C., Stroud, D.A., Jones, D.R. & Holt, T.J. (1996). Chapter 9.7. Leisure and tourism. In: Coasts and seas of the United Kingdom. Region 13 Northern Irish Sea: Colwyn Bay to Stranraer, including the Isle of Man. Eds: Barne, J.H., Robson, C.F. Kaznowska, S.S., Doody, J.P. & Davidson, N.C. Peterborough, Joint Nature Conservation Committee: 253 – 259.

Isle of Man Government (2003). Isle of Man Government Plan 2003 – 2006.

Keddie, R. G. (1996). Chapter 7. Coastal protected sites. In: Coasts and seas of the United Kingdom. Region 13 Northern Irish Sea: Colwyn Bay to Stranraer, including the Isle of Man. Eds: Barne, J.H., Robson, C.F. Kaznowska, S.S., Doody, J.P. & Davidson, N.C. Peterborough, Joint Nature Conservation Committee: 135 – 150.

Keehan, B. (1999). The Manx Wildlife Sites System Handbook. May 1999. Manx Wildlife trust; Isle of Man.

Robson, C.F. (1996). Chapter 9.1. Fisheries. In: Coasts and seas of the United Kingdom. Region 13 Northern Irish Sea: Colwyn Bay to Stranraer, including the Isle of Man. Eds: Barne, J.H., Robson, C.F. Kaznowska, S.S., Doody, J.P. & Davidson, N.C. Peterborough, Joint Nature Conservation Committee: 215 – 226.

Spence, S.K. & Hawkins, S.J. (1990). *Nucella lapillus*- An Indicator of Tributyltin Pollution. In: Aquatic Pollution on the Isle of Man. Proceedings of a One Day Symposium. 19th May 1989. Port Erin Marine Laboratory; University of Liverpool. Isle of Man Government.

<http://www.gov.im/dti/>

Appendix 1 List of legislation reviewed in this report

The following pieces of legislation have been consulted directly for the compilation of this report.

INTERNATIONAL CONVENTIONS

Convention on Biological Diversity 1992

Convention on International Trade in Endangered Species (CITES)

Convention on Wetlands of International Importance 1971

International Convention for the Prevention of Pollution from Ships 1973 and Protocol 1978 (MARPOL 73/78)

EUROPEAN LEGISLATION

Convention of the Archaeological Heritage of Europe (Revised) 1992

Convention of the Architectural Heritage of Europe 1985

Convention on Migratory Species of Wild Animals (Bonn Convention)

Convention on the Conservation of European Wildlife and Wildlife and Natural Habitats (Bern Convention)

Convention on the Conservation of European Wildlife and Wildlife and Natural Habitats (Bern Convention)

ISLE OF MAN LEGISLATION

Agriculture & Fisheries (Miscellaneous Provisions) Act 1968

Animal Health Act 1996

Animal Products (Import & Export) Order 2001

Deposits in the Sea (Exemptions) (Isle of Man) Order 1988

Destructive Imported Animals Act 1963

Endangered species (Import & Export) Act 1981

Genetically Modified Organisms Act 2001

Harbours (Isle of Man) Act 1961

Harbours (Isle of Man) Act 1981

Isle of Man Development Plan 1982

Isle of Man Draft Strategic Plan 2001

Litter Act 1972

Manx Museum Act 1984

Manx Museum & National Trust Acts 1959-1986

Maritime Security Act 1995

Merchant Shipping Act 1985

Merchant Shipping Act 1995

Merchant Shipping (Control of Pollution by Noxious Liquid Substances in Bulk) Regulations
1987

Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 2000

Merchant Shipping (Miscellaneous Provisions) Act 1996

Merchant Shipping (Prevention of Oil Pollution) (Amendment) Regulations 1993

Merchant Shipping (Prevention of Oil Pollution) Regulations 1986

Merchant Shipping (Prevention of Pollution by Garbage) Regulations 1999

Merchant Shipping (Prevention of Pollution by Sewage) Regulations 2003

Merchant Shipping (Registration) Act 1984

Merchant Shipping Registration Act 1991

Merchant Shipping Registration Act 1991

Mineral Workings (Offshore Installations) (Isle of Man) Act 1974

Mineral Workings (Offshore Installations) (Isle of Man) Act 1974

Mineral Workings (Offshore Installations) Act 1988

Minerals Act 1986

Oil Pollution Act 1986

Petroleum Act 1986

Petroleum Act 1998 (UK Act of Parliament)

Petroleum Act 1998 (Application) Order 2000

Plant Health Act 1983

Recreation & Leisure Act 1998

Registration of Pleasure Craft Act 1974

Registration of Pleasure Craft Regulations 1976

Sand & Gravel Pits Regulation Act 1968

Sea Fisheries Act 1971

Sea Fisheries (Amendment) Act 1991

Sea Fisheries (Amendment) Bye-laws 1991

Sea Fisheries (Control of Importation) Bye-laws 1990

Sea-Fisheries (Experimental Area) Bye-laws 1989

Sea-Fisheries (Lobster and Crab Etc. Licensing) Bye-laws 1999

Sea-Fisheries (Lobster and Crab Etc. Licensing) (Three-Mile Area) Bye-laws 2003

Sea-Fisheries (Possession of Undersized Sea-fish) Bye-laws 2000

Sea-Fisheries (Scallop Fishing) Bye-Laws 1999

Sea-Fisheries (Technical Measures) Bye-laws 2000

Sea-Fisheries (Technical Measures) Bye-laws 2000

Sea-Fisheries (Whelk Licensing Etc.) Bye-laws 1994

Sea-Fisheries Consolidation (Bye-laws) 1984

Submarine Cables Act 2003

Submarine Cables Act 2003

Submarine Telegraph Act 1885 (UK Act of Parliament)

Territorial Sea (Rights to Coal) Act 1996

Territorial Sea Act 1987

Territorial Sea (Consequential Provisions) Act 1991

Tourist Act 1975

Town & Country Planning Act 1999

Treasure Trove Act 1586

Water Pollution Act 1993

Wild Animals (Restriction on Importation, Etc.) Act 1980

Wildlife Act 1990

Wreck & Salvage (Ships & Aircraft) Act 1979