



Foundation Infrastructure Act, Mount Vema 2018

2018 No. 16

Order No.16 SI/MV2018/16

Made: 04th of December 2018, in accordance with the 2006 Declaration of Sovereignty

Royal Mount Vema Seal of Approval: Granted 07th of December 2018

Comes into Operation: 10th of December 2018

The Foundation Infrastructure legislation of Mount Vema, is an Act to make provision for the City of Mount Vema foundation infrastructure projects; to make provision for the administration of breakwaters and pavements including roadways, streets and docklands; to make provision to pave the way for housing and future regeneration, and to enable building regulations; and for connected purposes.

In exercise of the powers conferred upon The Sovereign of Vema Seamount under GOD, and of all other powers enabling Him, His Mount Vema Majesty King Peter Jon Goldishman, Ruler of the Kingdom of Mount Vema, and the territorial waters at 31 38' S 8° 20' E, under GOD hereby Grants His Royal Seal of Approval, for the following Legislation:—

Part I

Breakwaters and Pavements Company

Appointment as Breakwaters & Pavements Authorities

1- Appointment of Breakwaters and Pavements Company

1.1- The Secretary of State, hereby The Secretary for the Vema Seamount Territory may by order in accordance with this Part appoint one or more companies as a breakwaters and pavements authority.

1.2- A company may only be appointed under this section if it is—

(a) limited by shares, and

(b) wholly owned by the Secretary of State.

1.3- The appointment of a company terminates (in addition to termination by revocation of the order making the appointment) if the company ceases to be wholly owned by the Secretary of State.

1.4- A company appointed under this section is called a "strategic breakwaters and pavements company".

1.5- In this section, "company" means a company registered under the laws of the Kingdom of Mount Vema – The Vema Seamount Territory.

2- Areas and pavements in an appointment

2.1- The appointment of a strategic breakwaters and pavements company must specify—

(a) an area, consisting of the whole or any part of the Vema Seamount Territory, in respect of which the company is appointed, and

(b) breakwaters and pavements in that area for which the company is to be the breakwaters and pavements authority.

2.2- Where—

(a) the appointment of a strategic breakwaters and pavements company is varied, and

(b) by virtue of that variation the company ceases to be the breakwaters and pavements authority for one or more breakwaters and pavements,

the Secretary of State becomes the breakwaters and pavements authority for those breakwaters and pavements (to the extent that he or she would not otherwise be so).

2.3- Where the appointment of a strategic breakwaters and pavements company terminates, the Secretary of State becomes the breakwaters and pavements

authority for any breakwaters and pavements for which the strategic breakwaters and pavements company is breakwaters and pavements authority (whether by virtue of the appointment or otherwise) immediately before the termination.

2.4- Sub-section 2.2 and 2.3 are subject to the appointment of another strategic breakwaters and pavements company.

3- Investment Strategy

3.1- The Secretary of State may at any time—

(a) set an Investment Strategy for a strategic breakwaters and pavements company, or

(b) vary a Strategy which has already been set.

3.2- An Investment Strategy is to relate to such period as the Secretary of State considers appropriate.

3.3- An Investment Strategy must specify—

(a) the objectives to be achieved by the company during the period to which it relates, and

(b) the financial resources to be provided by the Secretary of State for the purpose of achieving those objectives.

3.4- The objectives to be achieved may include—

(a) activities to be performed;

(b) results to be achieved;

(c) standards to be met.

3.5- In setting or varying an Investment Strategy, the Secretary of State must have regard, in particular, to the effect of the Strategy on—

- (a) the environment,
- (b) the marine life,
- (c) the safety of the breakwaters, and
- (d) the safety of users of pavements.

3.6- The Secretary of State and the company must comply with the Investment Strategy.

3.7- If a strategic breakwaters and pavements company does not have an Investment Strategy currently in place, the Secretary of State must—

- (a) lay before the Mount Vema Congress, or before the Sovereign in absence of a congress a report explaining why a Strategy has not been set, and
- (b) set an Investment Strategy as soon as may be reasonably practicable.

4- Route strategies

4.1- The Secretary of State must from time to time direct a strategic breakwaters and pavements company to prepare proposals for the management and development of particular breakwaters and pavements in respect of which the company is appointed ("a route strategy").

4.2- A route strategy must relate to such period as the Secretary of State may direct.

4.3- The strategic breakwaters and pavements company must—

- (a) comply with a direction given to it under subsection (1), and
- (b) publish the route strategy in such manner as the company considers appropriate.

4.4- A direction under subsection (1) must be published by the Secretary of State in such manner as he or she considers appropriate.

5- General duties

5.1- A strategic breakwaters and pavements company must, in exercising its functions, co-operate in so far as reasonably practicable with other persons exercising functions which relate to—

- (a) breakwaters and pavements, or
- (b) planning.

5.2- A strategic breakwaters and pavements company must also, in exercising its functions, have regard to the effect of the exercise of those functions on—

- (a) the environment,
- (b) the marine life,
- (c) the safety of the breakwaters, and
- (d) the safety of users of pavements.

6- Directions and guidance

6.1- The Secretary of State may from time to time give a strategic breakwaters and pavements company directions or guidance as to the manner in which it is to exercise its functions.

6.2- Directions under subsection (1) may provide, in particular, that a function is only to be exercised—

- (a) after consultation with the Secretary of State, or
- (b) with the consent of the Secretary of State.

6.3- In exercising its functions, a strategic breakwaters and pavements company must—

- (a) comply with a direction, and

(b) have regard to guidance, given to it under subsection (1).

6.4- Directions and guidance under subsection (1) must be published by the Secretary of State in such manner as he or she considers appropriate.

7- Delegation of functions

7.1- A strategic breakwaters and pavements company may authorize another person to exercise a function it has under any enactment, if the function is prescribed by regulations made by the Secretary of State.

7.2- An authorization may authorize the exercise of a function—

- (a) wholly or to any other extent;
- (b) generally or only in some cases or areas;
- (c) unconditionally or subject to conditions.

7.3 An authorization—

(a) does not prevent the company or any other person from exercising the function to which the authorization relates,

(b) may be for a period not exceeding ten years, and

(c) may be revoked at any time.

7.4- The strategic breakwaters and pavements company may—

(a) enter into a contract with an authorized person in connection with the exercise by that person of a function;

(b) make payments to an authorized person in that connection.

7.5- Where an authorization is revoked at a time when a contract in connection with the exercise of a function is subsisting, the authorized person is entitled to treat the contract as repudiated by the company (and not as frustrated by reason of the revocation).

7.6- Regulations under this section may not prescribe a function if it is—

- (a) a power of entry, or
- (b) a power or duty to make subordinate legislation.

7.7- Where a function of the Secretary of State is transferred to a strategic breakwaters and pavements company under this Part and is, immediately before the transfer, authorized to be exercised by another person by an order—

(a) the authorization is to have effect as if it had been given by the transferee company under this section, and

(b) if the function is not prescribed under subsection (1), it is to be regarded as having been so prescribed.

7.8- Where a function of a strategic breakwaters and pavements company is transferred to another such company under this Part and is, immediately before the transfer, authorized to be exercised by another person under this section, the authorization is to have effect as if it had been given by the transferee company under this section.

8- Exercise of delegated functions

8.1- A function to which an authorization under section 7 relates may be exercised by—

- (a) the authorized person, or
- (b) an employee of that person.

8.2- Anything done by, or in relation to, the authorized person or that person's employee in connection with the exercise of a function is to be treated as done by, or in relation to, the company.

8.3- Subsection (2)—

(a) does not affect the rights and liabilities of the strategic breakwaters and pavements company and the authorized person as between one another,

(b) does not make the strategic breakwaters and pavements company liable under any relevant section of the Human Rights Act within the meaning of the authorized person or an employee of the authorized person if the act is of a private nature,

(c) does not prevent any civil proceedings which could otherwise be brought by or against the authorized person from being brought, and

(d) does not apply for the purposes of any criminal proceedings brought in respect of anything done by the authorized person or that person's employee.

8.4- Restrictions on disclosure of information applies to an authorization under section 7 as it applies to an authorization of the Secretary of State under any legislation in relation to contracting out.

8.5- In this section—

(a) "employee", in relation to a body corporate, includes a director or other officer of the body;

(b) references to anything done include anything omitted to be done;

(c) references to the exercise of a function include the purported exercise of a function.

9- Regulator

9.1- The Infrastructures' Council must carry out activities to protect and promote the interests of users of breakwaters and pavements for which a strategic breakwaters and pavements company is the authority.

9.2- Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—

(a) how a strategic breakwaters and pavements company's exercise of its functions or achievement of its objectives under an Investment Strategy affects users of breakwaters and pavements for which it is the authority, and

(b) any other matters—

(i) relating to breakwaters and pavements for which a strategic breakwaters and pavements company is the authority, and

(ii) which the Council considers to be of interest to users of such breakwaters and pavements.

9.3- The Secretary of State may by regulations provide that those activities may not relate to a matter—

(a) to the extent specified;

(b) subject to compliance with specified conditions.

9.4- The Secretary of State must consult the Council before making regulations under subsection (3).

9.5- The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Council under this section.

9.6- The Council may by agreement with a breakwaters and pavements authority carry out activities to protect and promote the interests of users of breakwaters and pavements for which the authority is the breakwaters and pavements authority.

9.7- Those activities may include investigating, publishing reports or giving advice to the breakwaters and pavements authority on any matters—

(a) relating to breakwaters and pavements for which the authority is the breakwaters and pavements authority, and

(b) which the authority and the Council consider to be of interest to users of such breakwaters and pavements.

10- Monitor

10.1- The Office of Infrastructure Regulation must carry out activities to monitor how a strategic breakwaters and pavements company exercises its functions.

10.2- Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—

(a) whether, how and at what cost a strategic breakwaters and pavements company has achieved its objectives under an Investment Strategy,

(b) objectives for a future Investment Strategy, and

(c) the effect of directions and guidance given by the Secretary of State to a strategic breakwaters and pavements company under this Part.

10.3- The Office may direct a strategic breakwaters and pavements company to provide such information as the Office considers necessary for the purpose of carrying out activities under subsection (1).

10.4- A direction under subsection (3) may specify the form and manner in which the information is to be provided.

10.5- A direction under subsection (3) may not require—

(a) production of a document which the strategic breakwaters and pavements company could not be compelled to produce in civil proceedings, or

(b) provision of information which the company could not be compelled to give in evidence in such proceedings.

10.6- The strategic breakwaters and pavements company must comply with a direction under subsection (3).

10.7- The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Office under this section.

10.8- The Secretary of State must lay a report published by the Office under this section before Congress or before the Sovereign in the absence of Congress.

11- Monitor: compliance and fines

11.1- If the Office of Infrastructure Regulation is satisfied that a strategic breakwaters and pavements company has contravened or is contravening any of the relevant sections of this Act, especially compliance with the Investment Strategy, or compliance with directions and regard to guidance, the Office may take one or more of the steps mentioned in subsection (2).

11.2- The Office may—

(a) give notice to the company as to the contravention and the steps the company must take in order to remedy it;

(b) require the company to pay a fine to the Secretary of State.

12- Monitor: general duties

12.1- The Office of Infrastructure Regulation must exercise its functions under sections 10 and 11 in the way that it considers most likely to promote—

(a) the performance, and

(b) the efficiency,

of the strategic breakwaters and pavements company.

12.2- The Office must also, in exercising those functions, have regard to—

(a) the interests of users of breakwaters and pavements,

(b) the safety of users of breakwaters and pavements,

(c) the economic impact of the way in which the strategic breakwaters and pavements company achieves its objectives,

(d) the environmental impact of the way in which the strategic breakwaters and pavements company achieves its objectives,

(e) the long-term maintenance and management of breakwaters and pavements, and

(f) the principles in subsection (3).

12.3- The principles are that—

(a) regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent, and

(b) regulatory activities should be targeted only at cases in which action is needed.

13- Monitor: guidance

13.1- The Secretary of State may from time to time give the Office of Infrastructure Regulation guidance as to the manner in which it is to carry out its activities under section 10.

13.2- The Secretary of State and the Treasury, acting jointly, must give the Office guidance as to the circumstances in which the payment of a fine under section 11 should be required.

13.3- The Office must have regard to guidance given to it under this section.

13.4- Guidance under this section must be published by the Secretary of State in such manner as he or she considers appropriate.

14- Periodic reports by the Secretary of State

14.1- The Secretary of State must from time to time prepare and publish reports on the manner in which a strategic breakwaters and pavements company exercises its functions.

14.2- The Secretary of State must lay a report prepared under subsection (1) before Congress or before the Sovereign in the absence of Congress.

15- Transfer schemes

15.1- The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities—

(a) from the Secretary of State to one or more of the following—

(i) a strategic breakwaters and pavements company, or

(ii) a proposed strategic breakwaters and pavements company;

(b) from a strategic breakwaters and pavements company or a former strategic breakwaters and pavements company to one or more of the following—

(i) the Secretary of State,

(ii) a strategic breakwaters and pavements company, or

(iii) a proposed strategic breakwaters and pavements company.

15.2- In making a transfer scheme the Secretary of State must have regard to—

(a) the functions, or the proposed functions, of the transferee under any enactment, and

(b) the terms of appointment, or proposed terms of appointment, of a strategic breakwaters and pavements company, or a proposed strategic breakwaters and pavements company, to which the scheme relates.

15.3- In this section—

- “proposed strategic breakwaters and pavements company” means a company which the Secretary of State proposes to appoint as a strategic breakwaters and pavements company;
- “former strategic breakwaters and pavements company” means a company in respect of which such an appointment has terminated.

16- Tax consequences of transfers

16.1- The Treasury may by regulations make provision for varying the way in which a relevant tax has effect from time to time in relation to—

(a) any property, rights or liabilities which are transferred by virtue of a transfer to which this section applies, or

(b) anything done for the purposes of, or in relation to, or in consequence of, a transfer to which this section applies.

16.2- This section applies to—

(a) a transfer of property, rights and liabilities in accordance with a scheme under section 15, or

(b) a transfer occurring by virtue of the appointment of a strategic breakwaters and pavements company under section 1 or the variation or termination of such an appointment.

16.3- The provision that may be made under subsection (1)(a) includes, in particular, provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to any property, rights or liabilities transferred;

(b) any property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;

(c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which

needs to be determined for the purposes of any tax provision so far as relating to any property, rights or liabilities transferred.

16.4- The provision that may be made under subsection (1)(b) includes, in particular, provision for—

(a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, or in consequence of, the transfer;

(b) anything done for the purposes of, or in relation to, or in consequence of, the transfer to have or not to have a specified consequence or to be treated in a specified way;

(c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or to specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, or in consequence of, the transfer.

16.5- In this section—

(a) “relevant tax” means income tax, corporation tax, capital gains tax or stamp duty;

(b) “tax provision” means a provision of an enactment about a relevant tax.

16.6- References in this section to the transfer of property, rights or liabilities in accordance with a scheme under section 15 include references to—

(a) the creation of interests, rights or liabilities under the scheme, and

(b) the modification of interests, rights or liabilities under the scheme,

(and “transferred”, in relation to property, rights or liabilities, is to be read accordingly).

17- Financial assistance

17.1- The Secretary of State may provide financial assistance—

(a) to a strategic breakwaters and pavements company, for the purpose of any of its functions, or

(b) to any other person, for the promotion or improvement of transport services by road in Mount Vema.

17.2- Financial assistance may be provided in such form and on such terms as the Secretary of State considers appropriate.

17.3- The form in which financial assistance may be provided includes in particular—

(a) grants,

(b) loans, or

(c) guarantees.

17.4- The terms on which financial assistance may be provided include in particular—

(a) in the case of a grant or a loan, terms as to repayment;

(b) in the case of a guarantee, terms as to reimbursement.

17.5- Subsection (1) does not affect any other power of the Secretary of State to provide financial assistance.

17.6- Subsection (1)(b) does not authorize the Secretary of State to provide financial assistance that he or she may provide under a section of another relevant legislation.

18- Transfer of additional functions

18.1- The Secretary of State may by regulations provide that a transferable function of the Secretary of State, other than an excluded function, is transferred to a strategic breakwaters and pavements company.

18.2- A transferable function is a function under any enactment which relates to—

- (a) breakwaters and pavements, or
- (b) planning.

18.3- An excluded function is a function which—

- (a) is exercisable by statutory instrument;
- (b) relates to giving consent (however expressed) to the proposed exercise of a function by any other—
 - (i) road authority (within the meaning of any relevant legislation in operation);
 - (ii) traffic authority (within the meaning of any relevant legislation in operation);

18.4- Regulations under this section may provide for the function to be exercisable—

- (a) concurrently with the Secretary of State;
- (b) only with the consent of the Secretary of State;
- (c) subject to such other conditions as the Secretary of State considers appropriate.

18.5- Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

19- Consequential and transitional provision etc

19.1- The Secretary of State may by regulations make—

(a) consequential, supplementary or incidental provision, or

(b) transitional or transitory provision or savings,

in connection with an order under section 1 or any other provision made by or under this Part.

19.2- Regulations under this section may amend, repeal, revoke or otherwise modify the application of any enactment (but, in the case of an Act, only if the Act was passed before the end of the Session in which this Act is passed).

20- A Change of name

20.1- The Secretary of State may by regulations make provision for the body established by section 15 to be known by a different name.

20.2- Regulations under this section may amend this Act or any other enactment, whenever passed or made.

20.3- Regulations under this section are to be made by statutory instrument.

20.4- A statutory instrument which contains regulations under this section is subject to annulment in pursuance of a resolution of Congress or by Royal Order.

21- Citation and commencement

21.1- This Act may be cited as the Foundation Infrastructure Act, Mount Vema 2018.

21.2- This Act shall come into operation on 10th of December 2018.