



Coast Protection Act 1949

1949 CHAPTER 74

PART IV

SUPPLEMENTARY

41 Expenses

- (1) Save as expressly provided in this Act, any expenses incurred by the Minister or by the Minister of Transport or any other Minister or government department under this Act shall be defrayed out of moneys provided by Parliament.
- (2) Any increase attributable to this Act in the sums payable out of moneys provided by Parliament under Parts I and II of the Local Government Act, 1948, shall be defrayed out of moneys so provided.

42 Accounts of borough councils, coast protection boards and joint committees

- (1) The following authorities, that is to say—
 - (a) the council of every borough in England or Wales having functions under this Act,
 - (b) every coast protection board, and
 - (c) every joint committee appointed under subsection (1) of section three of this Act, not being a committee in whose case all the appointing authorities are authorities in Scotland,

shall keep accounts of the sums received and expended by them in the exercise of functions under this Act, and those accounts shall be made up and audited in like manner as the accounts of a council specified in section two hundred and nineteen of the Local Government Act, 1933 (which provides for district audit) and, in the case of a borough council, shall be kept separately from their other accounts.

- (2) The enactments relating to the audit of accounts by a district auditor and to the matters incidental to such audit and consequential thereon shall have effect in relation to the accounts required to be kept under this section as they have effect in relation to the accounts of the councils specified in the said section two hundred and nineteen.

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43 Penalties for offences

Save as hereinbefore expressly provided, any person committing an offence under any provision of this Act shall be liable on summary conviction, in the case of a first offence under that provision, to a fine not exceeding ten pounds and, in the case of a second or any subsequent offence thereunder, to a fine not exceeding fifty pounds.

44 Regulations and orders

- (1) Any power conferred on the Minister by this Act I to make regulations shall be exercisable by statutory instrument; and every such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power conferred by this Act on the Minister or on Ministers or on a coast protection authority to make an order or give any directions shall include a power, exercisable in the like manner and subject to the like conditions, to revoke or vary the order or directions.

45 Service of notices and other documents

- (1) Any notice or other document which is required or authorised by or under this Act to be served on any person may be served either—
 - (a) by delivering it to that person, or leaving it or sending it in a prepaid letter to him at his usual or last-known address; or
 - (b) in the case of the council of a county, county borough, county district or burgh, or an incorporated company or body, or a coast protection board, river board or other drainage authority, fishery board, local fisheries committee, conservancy authority, highway authority, navigation authority, harbour authority or sea defence commissioners, not being an incorporated body, by delivering it to their clerk or secretary at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office; or
 - (c) in the case of a notice or document to be served on any person as having any interest in land, if it is not practicable after reasonable inquiry to ascertain his name and address, by addressing it to him by the description of the person having that interest in the land (naming it), and delivering it to some responsible person on the land or affixing it, or a copy of it, to some conspicuous object on the land.
- (2) The provisions of this section shall not apply to the service of any notice required or authorised to be served under the First Schedule to the Acquisition of Land (Authorisation Procedure) Act, 1946, or the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, as applied by or under this Act to the compulsory purchase of land by a coast protection authority or to the creation of such rights as are mentioned in section twenty-seven of this Act.

46 Local inquiries

- (1) The Minister or the Minister of Transport may cause a local inquiry to be held in any case where it appears to him to be advisable to do so in connection with any matter arising under this Act.

- (2) Notice of any such inquiry shall be given in such manner as the Minister, or the Minister of Transport, as the case may be, may direct, and all persons interested shall be permitted to attend the inquiry and to be heard thereat.
- (3) The provisions of subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to evidence at local inquiries and to defraying the costs thereof) shall apply to all inquiries held under this Act:

Provided that subsection (4) of that section (which requires the Minister's costs of such an inquiry to be defrayed by the parties thereto) shall not apply in relation to any inquiry unless it is so directed by the Minister or Ministers at whose instance the inquiry is held.

- (4) In the application of this section to Scotland, there shall be substituted for any reference to subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, a reference to subsection (2) and subsections (4) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947, and the proviso to subsection (3) of this section shall be omitted.
- (5) Any inquiry in relation to an order under this Act affecting Scotland only, and which becomes in certain circumstances subject to special parliamentary procedure, shall, if the Minister or the Minister of Transport so directs, be held by Commissioners under the Private Legislation Procedure (Scotland) Act, 1936, and where any direction is so given—
- (a) it shall be deemed to have been given under section two, as read with section ten, of the Statutory Orders (Special Procedure) Act, 1945;
 - (b) if publication of notice in accordance with paragraph 1 of the First Schedule to this Act or paragraph 1 of the Second Schedule thereto, as the case may be, has been made, the provisions of subsection (1) of the aforesaid section two with regard to advertisement of notice shall be deemed to have been complied with; and
 - (c) the provisions of subsection (3) of this section shall not apply to such inquiry.

47 Savings

Nothing in this Act or in any order made thereunder shall—

- (a) affect the powers conferred on the Admiralty under the Dockyard Ports Regulation Act, 1865;
- (b) affect any powers or duties of the Postmaster-General under the provisions of the Telegraph Acts, 1863 to 1943;
- (c) authorise or require any person—
 - (i) to carry out any work of alteration, improvement, repair, maintenance, demolition or removal on any works constructed or maintainable by a river board or other drainage authority, or
 - (ii) to carry out any work on land on which the sowing or planting of vegetation is carried out or vegetation is maintained by a river board or other drainage authority,unless the board or authority consents or the work is to be done by, or under a scheme prepared by, a coast protection board on which the board or authority is represented and is to be carried out in the area of that coast protection board ;
- (d) authorise or require any person to carry out any work or do anything in contravention of the Ancient Monuments Acts, 1913 and 1931; or

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- (e) authorise or require any person to carry out any work of alteration, improvement, repair, maintenance, demolition or removal on any works constructed for the drainage of agricultural land in Scotland, unless the Secretary of State consents.

48 Repeals

The enactments specified in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule, but as respects any enactment so specified which is contained in the Crown Lands Act, 1866, or the Crown Lands Act, 1906, only as from the appointed day for the purposes of Part III of this Act.

49 Interpretation

- (1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

" catchment board " and " drainage authority " have the same meanings as in the Land Drainage Act, 1930;

" coast protection authority " has the meaning assigned to it by section one of this Act;

" coast protection charge " has the meaning assigned to it by section six of this Act;

" coast protection work " means any work of construction, alteration, improvement, repair, maintenance, demolition or removal for the purpose of the protection of any land, and includes the sowing or planting of vegetation for the said purpose;

" conservancy authority " and " harbour authority " have the same meanings as in the Merchant Shipping Act, 1894;

" constituent authority," in relation to a coast protection board, means a body or person represented on the board by virtue of an order made under section two of this Act;

" fishery board " means any such fishery board as is referred to in section forty-four of the Salmon and Freshwater Fisheries Act, 1923, and includes the Tweed Commissioners;

" functions " includes powers and duties;

" land " includes land covered by water;

" local Act " includes a provisional order confirmed by Parliament and also includes any enactment in a public general Act, being an enactment which amends a local Act;

" local fisheries committee " means a committee constituted under the Sea Fisheries Regulation Act, 1888;

" local highway authority " means a highway authority other than the Minister of Transport;

" maritime county borough or county district " means a county borough or county district any part of which adjoins the sea;

" materials " includes minerals and turf, but does not include seaweed;

" minerals " includes coal and stone and any metallic or other mineral substance;

" Minister " means the Minister of Health;

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" mortgage " includes any charge or lien for securing money or money's worth, and " mortgagee " shall be construed accordingly;

" navigation authority " means any person or body of persons having powers under any enactment or statutory order to work or maintain a canal or other inland navigation, including a navigation in tidal water;

" owner ". in relation to any land means the person for the time being receiving the rackrent thereof, whether on his own account or as agent or trustee for any other person, or who would so receive that rent if the land were let at a rackrent;

" protection " means protection against erosion or encroachment by the sea;

" river board " has the same meaning as in the River Boards Act, 1948;

subject to the provisions of the next following subsection, " sea " includes the waters of any channel, creek, bay or estuary and of any river so far up that river as the tide flows;

" sea defence commissioners " means a body established by or under a local Act wholly or mainly for the purpose of carrying out coast protection work;

subject to the provisions of the next following subsection, " seashore " means the bed and shore of the sea, and of every channel, creek, bay or estuary, and of every river as far up that river as the tide flows, and any cliff, bank, barrier, dune, beach, flat or other land adjacent to the shore;

" surface," in relation to land covered by water, means the surface of the land;

" Tweed Commissioners " means the Commissioners appointed under the Tweed Fisheries Act, 1857;

" works scheme " has the meaning assigned to it by section six of this Act.

(2) For the purposes of Part I of this Act the expression " sea " shall not include any of the waters specified in the Fourth Schedule to this Act and the expression " seashore " shall not include the bed or shore of any of those waters.

(3) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment including this Act.

(4) In the application of this section to Scotland, for the definitions of the expressions " fishery board", " maritime county borough or county district ", " Minister " and " owner " there shall be substituted respectively the following definitions :—

“ fishery board ' means the district board for a fishery district within the meaning of the Salmon Fisheries (Scotland) Act, 1862, and includes the Tweed Commissioners”;

“ maritime burgh or county ' means a burgh or county any part of which adjoins the sea”;

“ Minister ' means the Secretary of State”;

“ owner ' includes in relation to any land any person who under the Lands Clauses Acts would be enabled to sell and convey the land to the promoters of an undertaking ”;

and after the definition of the expression " functions " there shall be inserted the following definition:—

“ heritable security ' has the same meaning as in the Conveyancing (Scotland) Act, 1924, and includes a security constituted by ex facie absolute disposition, but does not include a security by way of ground annual or a real burden ad factum praestandum”.

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50 Short title and extent

- (1) This Act may be cited as the Coast Protection Act, 1949.
- (2) Parts I and II of this Act shall not extend to Northern Ireland.