

SCHEDULE 1

Article 8

Amendments of Part 1 of the CROW Act

PART 1

Excepted land for purposes of Part 1 of the CROW Act

1. Schedule 1 to the CROW Act is amended as follows.
2. In paragraph 1 (land on which soil has been disturbed by ploughing etc), at the end add “(other than land which is coastal margin and is, or forms part of, a coastal route strip)”.
3. In paragraph 3 (land within 20 metres of a dwelling), after “Land” insert “(other than coastal margin)”.
4. In paragraph 7 (land used for the purposes of a golf course, racecourse or aerodrome), at the end add “(other than, in the case of land used for the purposes of a golf course, land which is coastal margin and is, or forms part of, a coastal route strip)”.
5. For paragraph 8(1) (land covered by works used for the purposes of a statutory undertaking etc) substitute—
 - “8. Land which does not fall within any of the preceding paragraphs and is covered by—
 - (a) works used for the purposes of a statutory undertaking (other than flood defence works, or sea defence works, on land which is coastal margin), or
 - (b) works used for the purposes of an electronic communications code network,or the curtilage of any such land.”.
6. In paragraph 10 (land within 20 metres of building for housing livestock), after “Land” insert “(other than coastal margin)”.
7. In paragraph 12 (land habitually used for training of racehorses), after “Land” insert “(other than coastal margin)”.
8. After paragraph 13 insert—
 - “13A. Land which is coastal margin and is, or forms part of, a regulated caravan or camping site (other than land which is, or forms part of, a coastal route strip).
 - 13B. Land which is coastal margin and is, or forms part of, a highway (within the meaning of the Highways Act 1980(2)).
 - 13C. Land which is coastal margin and is, or forms part of, a burial ground (other than land which is, or forms part of, a coastal route strip).
 - 13D. Land which is coastal margin and—
 - (a) is or forms part of a school playing field, or
 - (b) is land otherwise occupied by a school and used for the purposes of that school.”.
9. In paragraph 14—
 - (a) renumber the existing provision as sub-paragraph (1),
 - (b) before the definition of “building” insert—

(1) Paragraph 8 was amended by the Communications Act 2003, section 406(1) and Schedule 17, paragraph 165(1) and (3).

(2) 1980 c. 66.

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“approved section of the English coastal route” means a route in relevant approved proposals, other than an official alternative route,

(c) for the definition of “building” substitute—

““building” —

- (a) includes any structure or erection and any part of a building as so defined, but
- (b) does not include any fence or wall, anything which is a means of access as defined by section 34 or, in the case of land which is coastal margin, any slipway, hard or quay;

and for this purpose “structure” includes any tent, caravan or other temporary or moveable structure;”,

(d) after that definition insert—

““burial ground” means a place which, for the time being, is set apart as a churchyard, cemetery or other ground (whether or not consecrated) in which bodies are interred;

“coastal route strip” means—

- (a) land over which the line of an approved section of the English coastal route, or an official alternative route, passes, and
- (b) subject to sub-paragraph (2), land which is adjacent to and within 2 metres either side of such a line;”,

(e) after the definition of “development” and “minerals” insert—

““official alternative route” has the same meaning as in section 3A;”,

(f) after the definition of “ploughing” and “drilling” insert—

““regulated caravan or camping site” means—

- (a) land which is used for the purposes of a caravan site (within the meaning of section 1(4) of the Caravan Sites and Control of Development Act 1960⁽³⁾) by virtue of—
 - (i) a site licence issued under Part 1 of that Act (caravan site licences),
 - (ii) a certificate issued under paragraph 5 of Schedule 1 to that Act (sites approved by exempted organisations), or
 - (iii) paragraph 11 of that Schedule (land occupied by a local authority as a caravan site), or
- (b) land which is used for the purposes of a site for tents or other moveable dwellings (within the meaning of section 269 of the Public Health Act 1936⁽⁴⁾) by virtue of a licence issued under subsection (1)(i) of that section (disregarding any certificate under subsection (6) of that section which has the effect of a licence);

“relevant approved proposals” has the same meaning as in section 3A;”, and

(g) after sub-paragraph (1) add—

“(2) Where relevant approved proposals contain a proposal under section 55D(2)(c) of the National Parks and Access to the Countryside Act 1949⁽⁵⁾ for the landward or seaward boundary of any part of a coastal route strip excluded from a description of

⁽³⁾ 1960 c. 62.

⁽⁴⁾ 1936 c. 49.

⁽⁵⁾ Section 55D was inserted by section 302 of the 2009 Act.

excepted land by paragraph 1, 7, 13A or 13C to coincide with a physical feature identified in the proposal, the boundary in question is to coincide with that feature.”.

10. After that paragraph insert—

“**14A.** In paragraph 5, the reference to the getting of minerals by surface working does not include the removal by any person of sand or shingle from an area of foreshore or beach which is coastal margin, in pursuance of a right which is enjoyed by the person under any grant or reservation, local or personal Act, Royal charter or letters patent or by prescription.”.

PART 2

Restrictions to be observed by persons exercising right of access

11. Schedule 2 to the CROW Act is amended as follows.

12. In paragraph 1—

- (a) renumber the existing provision as sub-paragraph (1),
- (b) for “Section 2(1)” substitute “Subject to sub-paragraph (2), section 2(1)”, and
- (c) after that sub-paragraph add—

“(2) Nothing in sub-paragraph (1)(f) or (j) affects a person’s entitlement by virtue of section 2(1) to be on any land which is coastal margin if the person’s conduct (to the extent that it falls within sub-paragraph (1)(f) or (j)) is limited to permitted fishing-related conduct.

(3) In sub-paragraph (2) the reference to permitted fishing-related conduct is a reference to the person—

- (a) having a fishing rod or line, or
- (b) engaging in any activities which—
 - (i) are connected with, or ancillary to, fishing with a rod and line, or with a line only, in the exercise of a right to fish, and
 - (ii) take place on land other than land used for grazing or other agricultural purposes.”.

13. In paragraph 4 (dogs to be kept on a short lead between 1st March and 31st July), renumber the existing provision as sub-paragraph (1), and after that sub-paragraph add—

“(2) Sub-paragraph (1) does not apply in relation to land which is coastal margin.”.

14. After paragraph 6 insert—

“**6A.**—(1) Whatever the time of year, section 2(1) does not entitle a person to be on any land which is coastal margin at any time if—

- (a) that person has taken onto the land, or allowed to enter or remain on the land, any dog, and
- (b) at that time, the dog is not under the effective control of that person or another person.

(2) For this purpose a dog is under the effective control of a person if the following conditions are met.

- (3) The first condition is that—
 - (a) the dog is on a lead, or

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- (b) the dog is within sight of the person and the person remains aware of the dog's actions and has reason to be confident that the dog will return to the person reliably and promptly on the person's command.
- (4) The second condition is that the dog remains—
 - (a) on access land, or
 - (b) on other land to which that person has a right of access.
- (5) For the purposes of sub-paragraph (4), a dog which is in tidal waters is to be regarded as remaining on access land.

6B.—(1) Section 2(1) does not entitle a person to be on any land which is coastal margin if, on that land, the person obstructs any person passing, or attempting to pass, on foot along any part of the English coastal route, any official alternative route or any relevant temporary route.

- (2) In this paragraph—
 - “the English coastal route” means the route secured pursuant to the coastal access duty (within the meaning of section 296 of the Marine and Coastal Access Act 2009⁽⁶⁾);
 - “official alternative route” has the meaning given by section 55J of the National Parks and Access to the Countryside Act 1949⁽⁷⁾;
 - “relevant temporary route” means a route for the time being having effect by virtue of a direction under section 55I of that Act⁽⁸⁾ to the extent that the line of the route passes over coastal margin.”

PART 3

Exclusion or restriction of access

- 15.**—(1) In section 21 of the CROW Act (interpretation of Chapter 2)—
- (a) in subsection (5)—
 - (i) before paragraph (a) insert—
 - “(za) in relation to any land which is coastal margin, means Natural England,”
 - (ii) in that paragraph, after “land” insert “(other than coastal margin)”
 - (b) in subsection (6)(a), after “section 16” insert “(other than land which is coastal margin)”, and
 - (c) after subsection (7) add—
 - “(8) Where there is access to an area of coastal margin by virtue of section 2(1), Natural England may—
 - (a) if the land is in a National Park, authorise the National Park authority, or
 - (b) if the land consists wholly or predominantly of woodland, authorise the Forestry Commissioners,
 to exercise in relation to the land such of Natural England's functions under this Chapter as Natural England may specify.

⁽⁶⁾ 2009 c. 23.

⁽⁷⁾ Section 55J was inserted by section 302 of the 2009 Act.

⁽⁸⁾ Section 55I was inserted by section 302 of the 2009 Act.

(9) An authorisation given for the purposes of subsection (8) may be—

- (a) for a period specified in the authorisation, or
- (b) for an indefinite period,

and may be revoked at any time by Natural England.”.

16. In section 22 of that Act (exclusion or restriction at discretion of owner and others), after subsection (8) add—

“(9) Nothing in this section applies in relation to land which is coastal margin.”.

17. In section 23 of that Act (restrictions on dogs at discretion of owner), after subsection (5) add—

“(6) Nothing in this section applies in relation to land which is coastal margin.”.

18.—(1) Section 24 of that Act (land management) is amended as follows.

(2) For subsection (1) substitute—

“(1) The relevant authority may make a land management direction in relation to any land (“the designated land”).

(1A) The relevant authority may exercise their powers under subsection (1)—

- (a) in any case, on the application of any person interested in the designated land, and
- (b) if the designated land is coastal margin, without any such application having been made.

(1B) A land management direction is a direction which—

- (a) where the designated land is coastal margin—
 - (i) excludes or restricts access to the designated land during a specified period, or
 - (ii) authorises a specified person to exclude or restrict in the manner specified in the direction access to the designated land, or to such part or parts of that land as the specified person may determine in accordance with the direction, during a specified period, and
- (b) in any other case, excludes or restricts access to the designated land during a specified period.

(1C) The relevant authority may not make a land management direction unless—

- (a) in the case of a direction within subsection (1B)(a), they are satisfied that the exclusion or restriction under this section of access to the designated land to the extent provided for in or by the direction is necessary for the purposes of the management of the designated land or any adjoining land;
- (b) in the case of a direction within subsection (1B)(b), they are satisfied that the exclusion or restriction under this section of access to the designated land to the extent provided by the direction is necessary for the purposes of the management of the land by the applicant.

(1D) Before making a land management direction under subsection (1B)(a) in a case where an application has not been made under subsection (1A)(a), the relevant authority must take reasonable steps to consult any person who—

- (a) holds an estate in fee simple absolute in possession in the designated land (or any part of it),
- (b) holds a term of years absolute in that land (or any part of it), or

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(c) is in lawful occupation of that land (or any part of it).

(1E) Subsection (1D) does not apply if the direction is made in accordance with section 55F(2) of the National Parks and Access to the Countryside Act 1949⁽⁹⁾ (directions set out in report approving proposals for English coastal route).

(1F) The reference in subsection (1B)(a) to a specified period includes a reference to—

- (a) a specified period in every calendar year;
- (b) a period which is to be determined by the relevant authority in accordance with the direction;
- (c) a period which is to be determined by a specified person in accordance with the direction and, where the direction so requires, notified to the relevant authority by the specified person in accordance with the direction;
- (d) an indefinite period.”.

(3) In subsection (2) for “subsection (1)” substitute “subsection (1B)(b)”.

(4) After subsection (4) add—

“(5) Subsections (3) and (4) do not apply in relation to land management directions under subsection (1B)(a).

(6) In this section references to access to land are to access by virtue of section 2(1).”.

19. In section 25 of that Act (avoidance or risk of fire or of danger to the public)—

(a) after subsection (1) insert—

“(1A) Subsection (1)(a) does not apply in relation to land which is coastal margin if it is—

- (a) land over which the line of an approved section of the English coastal route, an official alternative route or a temporary route passes, or
- (b) land which is adjacent to and within 2 metres either side of such a line.”.

(b) in subsection (2), after paragraph (b) add—

“, and

- (c) in the case of a direction relating to land which is coastal margin, a period which is to be determined by a specified person in accordance with the direction and, where the direction so requires, notified to the relevant authority by the specified person in accordance with the direction.”, and

(c) after subsection (5) add—

“(6) Nothing in subsection (4) or (5) applies in relation to land which is coastal margin.

(7) In this section—

“approved section of the English coastal route” means a route (other than an official alternative route) in relevant approved proposals (within the meaning of section 3A);

“official alternative route” has the meaning given by section 55J of the National Parks and Access to the Countryside Act 1949⁽¹⁰⁾;

“temporary route” means a route for the time being having effect by virtue of a direction under section 55I of that Act⁽¹¹⁾

20. After section 25 of that Act insert—

⁽⁹⁾ 1949 c.97. Section 55F was inserted by section 302 of the 2009 Act.

⁽¹⁰⁾ 1949 c. 97. Section 55J was inserted by section 302 of the 2009 Act.

⁽¹¹⁾ Section 55I was inserted by section 302 of the 2009 Act.

“Salt marshes and flats

25A.—(1) The relevant authority may by direction exclude or restrict access to any land which is coastal margin consisting of salt marsh or flat if the authority are satisfied that the exclusion or restriction under this section of access to the land to the extent provided by the direction is necessary because the land, or any part of the land, is unsuitable for public access.

- (2) A direction under subsection (1) may be expressed to have effect—
- (a) during a period specified in the direction,
 - (b) during a specified period in every calendar year,
 - (c) during a period which is to be determined by the relevant authority in accordance with the direction,
 - (d) during a period which is to be determined by a specified person in accordance with the direction and, where the direction so requires, notified to the relevant authority by the specified person in accordance with the direction, or
 - (e) indefinitely.
- (3) In this section a reference to “access” to land means access by virtue of section 2(1).”.

21.—(1) Section 26 of that Act (nature conservation and heritage preservation) is amended as follows.

- (2) In subsection (2), omit “or” at the end of paragraph (c) and after that paragraph insert—
- “(ca) in the case of land which is coastal margin, during a period which is to be determined by a specified person in accordance with the direction and, where the direction so requires, notified to the relevant authority by the specified person in accordance with the direction, or”.
- (3) After subsection (4) insert—
- “(4A) Subsection (4) does not apply if the direction is made in accordance with section 55F(2) of the National Parks and Access to the Countryside Act 1949⁽¹²⁾ (directions set out in report approving proposals for English coastal route).”.

22.—(1) Section 27 of that Act (directions by relevant authority: general) is amended as follows.

- (2) In subsections (1), (2) and (3) after “25” insert “, 25A”.
- (3) After subsection (6) add—
- “(7) Subsection (1) does not apply if the direction is made in accordance with section 55F(2) of the National Parks and Access to the Countryside Act 1949⁽¹³⁾ (directions set out in report approving proposals for English coastal route).
- (8) Nothing in subsection (5) or (6) has effect in relation to a direction ceasing to have effect by virtue of section 3A(7) (pre-existing directions ceasing to have effect at end of access preparation period for coastal margin).”.

23.—(1) Section 31 of that Act (exclusion or restriction of access in case of emergency) is amended as follows.

- (2) For subsection (1) substitute—
- “(1) Regulations may make provision enabling the relevant authority—

⁽¹²⁾ 1949 c. 97.

⁽¹³⁾ 1949 c. 97. Section 55F was inserted by section 302 of the 2009 Act.

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- (a) where the authority are satisfied that an emergency has arisen which makes the exclusion or restriction of access by virtue of section 2(1) necessary for any of the purposes specified in section 24(1C)(b), 25(1) or 26(3), by direction to exclude or restrict such access, in respect of any land, for a period not exceeding three months, or
 - (b) where the authority are satisfied that an emergency has arisen which makes the exclusion or restriction of access by virtue of section 2(1) necessary for any of the purposes specified in section 24(1C)(a), by direction to exclude or restrict such access, in respect of any land which is coastal margin, for a period not exceeding three months.”.
- (3) After that subsection insert—
- “(1A) Nothing in subsection (1) authorises regulations to make provision which enables the relevant authority to exclude or restrict access, for the purposes specified in subsection (1)(a) of section 25, in respect of any land which is coastal margin and is within subsection (1A)(a) or (b) of that section.”.

PART 4

Other amendments of Part 1

- 24.—**(1) In section 1 of the CROW Act (principal definitions for Part 1)**(14)**—
- (a) in subsection (2), in the definition of “open country”, in paragraph (b) after “margin” insert “or land dedicated as coastal margin for the purposes of this Part under section 16”, and
 - (b) in subsection (3) (definition of “registered common land”), in paragraph (a) (as substituted by paragraph 7(2) of Schedule 5 to the Commons Act 2006**(15)**), after “margin” insert “or land dedicated as coastal margin for the purposes of this Part under section 16”.
- (2) Until such time as paragraph 7(2) of Schedule 5 to the Commons Act 2006 comes into force, section 1(3) of the CROW Act has effect as if after paragraph (b) there were added—
- “but does not include land which is coastal margin or land which is dedicated as coastal margin for the purposes of this Part under section 16.”.

(14) Section 1 of the CROW Act was amended by section 303(1) and (2) of the 2009 Act.

(15) 2006 c. 26.

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