



# Coast Protection Act 1949

1949 CHAPTER 74 12 13 and 14 Geo 6

## PART IV

### SUPPLEMENTARY

#### 41 Expenses.

- (1) Save as expressly provided in this Act, any expenses incurred by the Minister or by the [<sup>F1</sup>Secretary of State] 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 [<sup>F2</sup>Part I of the <sup>M1</sup>Local Government Act 1974 or Part I of the <sup>M2</sup>Local Government (Scotland) Act 1966], shall be defrayed out of moneys so provided.

#### Textual Amendments

- F1** Words substituted by virtue of [S.I. 1970/1681](#)  
**F2** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

#### Marginal Citations

- M1** [1974 c. 7.](#)  
**M2** [1966 c. 51.](#)

#### 42 ..... <sup>F3</sup>

#### Textual Amendments

- F3** S. 42 repealed by [Local Government Act 1972 \(c. 70\), Sch. 30](#) and [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

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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 [<sup>F4</sup>ten pounds][<sup>F4</sup>level 3 on the standard scale] and, in the case of a second or any subsequent offence thereunder, to a fine not exceeding [<sup>F4</sup>fifty pounds][<sup>F4</sup>level 3 on the standard scale].

##### Textual Amendments

**F4** S. 43 for “ten pounds” and “fifty pounds” there is substituted (S.) in each case “level 3 on the standard scale” by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289E–289G**

##### Modifications etc. (not altering text)

- C1** S. 43 [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 35** (in relation to liability on first and subsequent convictions), 38 (increase of fines) and 46 (substitution of references to levels on the standard scale) apply (E.W.)
- C2** S. 43 S.I. 1984/703 (N.I.3), arts. 5 (substitution of references to levels on the standard scale) 6 (increase of fines) and 9 (in relation to liability on first and subsequent convictions) apply (N.I.)

#### 44 Regulations and orders.

- (1) Any power conferred on the Minister by this Act 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.

##### Modifications etc. (not altering text)

**C3** S. 44(2) applied (E.W.) (2.2.1991) by [S.I. 1991/205](#), **art. 3(2)**

#### 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, . . . <sup>F5</sup>district [<sup>F6</sup>or in Scotland the council of a region, islands area or district], or an incorporated company or body, [<sup>F7</sup>or a coast protection board, river board or other drainage authority][<sup>F7</sup>including the National Rivers Authority and an internal drainage board, or a coast protection board], 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

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- (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 <sup>M3</sup>Acquisition of Land (Authorisation Procedure) Act 1946, or the <sup>M4</sup>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.

#### Textual Amendments

- F5** Words repealed by [Local Government Act 1972 \(c. 70\), Sch. 30](#)
- F6** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 138\(2\)\(e\)](#)
- F7** Words from “or a coast” to “drainage authority” substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\), ss. 58\(7\), 101\(1\), 141\(6\), 160\(1\)\(2\)\(4\), 163, 189\(4\)–\(10\), 190, 193\(1\), Sch. 25 para. 11\(6\), Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#)

#### Marginal Citations

- M3** 1946 c. 49.
- M4** 1947 c. 42.

## 46 Local inquiries.

- (1) The Minister or the [<sup>F8</sup>Secretary of State] 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 [<sup>F8</sup>Secretary of State], 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 [<sup>F9</sup>section two hundred and fifty of the <sup>M5</sup>Local Government Act 1972] (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 [<sup>F9</sup>section two hundred and fifty of the <sup>M6</sup>Local Government Act 1972], a reference to [<sup>F10</sup>subsection (2) and subsections (4) to (8) of section 210 of the <sup>M7</sup>Local Government (Scotland) Act 1973], 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 [<sup>F8</sup>Secretary of State] so directs, be held by Commissioners under

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the <sup>M8</sup>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 <sup>M9</sup>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.

#### Textual Amendments

**F8** Words substituted by virtue of S.I. 1970/1681

**F9** Words substituted by virtue of Interpretation Act 1889 (c. 63), s. 38(1)

**F10** Words substituted by Local Government (Scotland) Act 1973 (c. 65). s. 138(2)(f)

#### Modifications etc. (not altering text)

**C4** S. 46 extended by Continental Shelf Act 1964 (c. 29), s. 4

#### Marginal Citations

**M5** 1972 c. 70.

**M6** 1972 c. 70.

**M7** 1973 c. 65.

**M8** 1936 c. 52.

**M9** 1945 c. 18 (9 & 10 Geo. 6).

## 47 Savings.

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

- (a) affect the powers conferred on the [<sup>F11</sup>Secretary of State] under the <sup>M10</sup>Dockyard Ports Regulation Act 1865;
- (b) [<sup>F12</sup>affect any right conferred by or in accordance with the telecommunications code on the operator of a telecommunications code system or any duty of any such operator under that code;]
- [<sup>F13</sup>(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 [<sup>F14</sup>river authority] 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 [<sup>F14</sup>river authority] or other drainage authority,
 unless the [<sup>F14</sup>river authority or other] authority consents or the work is to be done by, or under a scheme prepared by, a coast protection board on which the [<sup>F14</sup>river authority or other] authority is represented and is to be carried out in the area of that coast protection board;]
- [<sup>F13</sup>(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 the National Rivers Authority or an internal drainage board, or]

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- (ii) to carry out any work on land on which the sowing or planting of vegetation is carried out or vegetation is maintained by the National Rivers Authority or an internal drainage board,
- unless the National Rivers Authority or the internal drainage board consents or the work is done by, or under a scheme prepared by, a coast protection board on which the National Rivers Authority or the internal drainage board 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 [<sup>F15</sup>the Ancient Monuments and Archaeological Areas Act 1979]; or
- (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.

#### Textual Amendments

- F11** Words substituted by virtue of [Defence \(Transfer of Functions\) Act 1964 \(c. 15\), s. 3\(2\)](#)
- F12** S. 47(b) substituted by [Telecommunications Act 1984 \(c. 12, SIF 96\), ss. 2, 109, 110\(2\), Sch. 4 para. 27](#)
- F13** S. 47(c) substituted (E.W.) by [Water Act 1989 \(c. 15, SIF 130\), ss. 58\(7\), 101\(1\), 141\(6\), 160\(1\)\(2\)\(4\), 163, 189\(4\)–\(10\), 190, 193\(1\), Sch. 25 para. 11\(7\), Sch. 26 paras. 3\(1\)\(2\), 17, 40\(4\), 57\(6\), 58](#)
- F14** Words substituted by virtue of [Water Resources Act 1963 \(c. 38\), Sch. 3 para. 4](#)
- F15** Words substituted by virtue of [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\), s. 64\(2\), Sch. 4 para. 2](#)

#### Marginal Citations

- M10** 1865 c. 125.

48 ..... F16

#### Textual Amendments

- F16** S. 48, Sch. 3 repealed by [Statute Law Revision Act 1953 \(c. 5\)](#)

#### 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 <sup>M11</sup>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

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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 <sup>M12</sup>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 <sup>M13</sup>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 [<sup>F17</sup><sup>M14</sup>Sea Fisheries Regulation Act 1966];

“local highway authority” means a highway authority other than the [<sup>F18</sup>Secretary of State];

“maritime . . . <sup>F19</sup> district” means a . . . <sup>F19</sup> 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 [<sup>F20</sup>Secretary of State];

“mortgage” includes any charge or lien for securing money or money’s worth, and “mortgagee” shall be construed accordingly;

[<sup>F21</sup>“nautical miles” means international nautical miles of 1,852 metres;]

“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;

.....<sup>F22</sup>  
subject to the provisions of [<sup>F23</sup>the next following subsection][<sup>F23</sup>subsections (2) and (2A) of this section]“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 [<sup>F23</sup>the next following subsection][<sup>F23</sup>subsections (2) and (2A) of this section]“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;

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

“Tweed Commissioners” means the Commissioners appointed under the <sup>M15</sup>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.

[<sup>F24</sup>(2A) For the purposes of Part II of this Act the expression “sea” includes any part of the sea within the seaward limits of the territorial sea of the United Kingdom, and the expression “seashore” shall be construed accordingly.]

(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”, . . . <sup>F25</sup>, “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”;

<sup>F26</sup>

“Minister’ means the Secretary of State”; and “ ’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 ”

[<sup>F27</sup>and the following definitions shall be inserted in the alphabetically appropriate place—

“local roads authority” has the meaning given to it by section 151(1) of the Roads (Scotland) Act 1984;

“road” has the meaning given to it by section 151(1) of the Roads (Scotland) Act 1984;]

#### Textual Amendments

**F17** Words substituted by virtue of [Interpretation Act 1889 \(c. 63\), s. 38\(1\)](#)

**F18** Words substituted by virtue of [S.I. 1970/1681](#)

**F19** Words repealed by [Local Government Act 1972 \(c. 70\), Sch. 30](#)

**F20** Words substituted by virtue of [S.I. 1951/142](#), 1900 (1951 I, pp. 1348, 1347), (W.) 1965/319 and (E.) 1970/1681

**F21** [S. 49\(1\)](#) definition of “nautical miles” inserted by [Territorial Sea Act 1987 \(c. 49, SIF 29:1\)](#), s. 3(1), [Sch. 1 para. 1\(2\)](#)

**F22** Definition of “river board” repealed by [Water Resources Act 1963 \(c. 38\), Sch. 14 Pt. I](#)

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*Status: Point in time view as at 01/02/1991.*

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- F23** S. 49(1) in the definitions of “sea” and “seashore” for “the next following subsection” there is substituted (E.W.S.) “subsections (2) and (2A) of this section” by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 36(7)(a), [Sch. 8 para. 1](#)
- F24** S. 49(2A) inserted (E.W.S.) by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 36(7)(b), [Sch. 8 para. 1](#)
- F25** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)
- F26** Definition of “maritime burgh or county” repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)
- F27** S. 49(4) definitions inserted (S.) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 38\(5\)](#)

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**Marginal Citations**

- M11** 1930 c. 44.  
**M12** 1894 c. 60.  
**M13** 1923 c. 16.  
**M14** 1966 c. 38.  
**M15** 1857 c. cxlviii.

**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.



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