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# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART IX

#### MISCELLANEOUS AND GENERAL

##### *The seashore etc.*

#### 120 Savings for Crown and other rights.

Subject to—

- (a) the provisions of the <sup>M1</sup>Coast Protection Act 1949, the <sup>M2</sup>Town and Country Planning (Scotland) Acts 1972 to 1974 and the Dumping at Sea Act 1974;
- (b) the functions of statutory undertakers and port authorities; and
- (c) any public rights of way

a district or islands council may exercise, with respect to the seashore and adjacent waters, the powers conferred on them by sections 121 and 122 of this Act and, with respect to inland waters, the powers conferred on them by the said section 121.

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

- C1 S. 120 extended by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(1)(3), [Sch. 16 para. 1\(1\)](#) (xxxvii), Sch. 17 paras. 33, 35(1)

#### Marginal Citations

- M1 1949 c. 74.  
M2 1974 c. 20.

#### 121 Control of the seashore, adjacent waters and inland waters.

- (1) Insofar as it is necessary to do so for the purpose of preventing nuisance or danger at, or preserving or improving the amenity of, or conserving the natural beauty of,

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the seashore, a district or islands council may, in accordance with this section, make byelaws—

- (a) regulating or prohibiting any activity by way of trade or business with, or in expectation of personal reward from, members of the public on the seashore;
  - (b) regulating the use of vehicles on the seashore;
  - (c) regulating the exercise of sporting and recreational activities on the seashore.
- (2) Byelaws under subsection (1) above may confine the exercise of any activity (including the use of vehicles or kinds of vehicles) specified in the byelaws to a part of the seashore specified in the byelaws and prohibit the exercise in that part of the seashore of any other activity (including such use) so specified.
- (3) A district or islands council may, in accordance with this section, make byelaws relating to the adjacent waters for the purpose of—
- (a) regulating the speed of pleasure boats in these waters;
  - (b) regulating the use of pleasure boats in these waters so as to prevent their navigation in a dangerous manner or without due care and attention or without reasonable consideration for other persons;
  - (c) requiring the use of effective silencers on pleasure boats in these waters;
  - (d) regulating the activities in these waters of divers, surfers, water skiers and persons engaged in similar recreational pursuits.
- (4) A district or islands council may make, in relation to inland waters, byelaws for the same purposes as they may, under subsections (1) and (3) above, make byelaws in relation to the seashore and adjacent waters.
- (5) Byelaws may be made under this section only if—
- (a) the district or islands council have complied with subsection (6) below and made such other inquiries as may be reasonably necessary to ascertain the existence and identity of each person having—
    - (i) in the case of byelaws under subsection (1) above, a proprietary interest in the seashore;
    - (ii) in the case of byelaws under subsection (3) above, a proprietary interest in relation to the adjacent waters;
    - (iii) in the case of byelaws under subsection (4) above, a proprietary interest in or in relation to the inland waters; and
    - (iv) in any case, a proprietary interest in any salmon fishings;
 

being a proprietary interest which may be affected by the byelaws;
  - (b) subject to subsection (7) below, every person having a proprietary interest such as is mentioned, in relation to the byelaws, in paragraph (a) above has consented to their being made; and
  - (c) the district or islands council have, in connection with their proposal to make the byelaws, consulted such person or body, if any, as appears to them to be representative of persons who engage in each sporting or recreational activity which may be affected by the byelaws.
- (6) The district or islands council shall give public notice of their proposal to make byelaws under this section and of the effect of subsection (5)(b) above in relation to that proposal in a newspaper circulating in the area where the byelaws are proposed to have effect.

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- (7) If a district or islands council have complied with subsections (5)(a) and (6) above, but the consent of a person whose consent is required under this section cannot be obtained because his existence or identity is unknown, or he cannot be found or fails to respond in any way to a request for his consent, the council may nevertheless proceed to make the byelaws but shall not proceed earlier than one month after the date of the advertisement under subsection (6) above or, if there were more than one advertisement, the later or last of those dates.
- (8) Byelaws made under this section may provide that persons contravening such provisions of the byelaws as may be therein specified as provisions contravention of which is an offence shall be liable, on summary conviction thereof, to a fine not exceeding £50 or such lesser sum as the byelaws may specify; and any offence against any such provision of such byelaws committed within adjacent waters may be inquired into and dealt with as if it had been committed within the area of the district or islands council concerned.
- (9) A district or islands council may on the seashore or in or on adjacent waters place notices or other indications advising the public as to any danger or health hazard connected with the seashore or those waters.
- (10) A district or islands council may provide staff for life saving and any boats or equipment which are appropriate for life saving.
- (11) A district or islands council, when exercising their powers under this section, shall have regard to the need to protect and maintain any public rights under the guardianship of the Crown to use the foreshore, adjacent waters or, as the case may be, inland waters.
- (12) In subsection (1) above, the reference to conserving natural beauty shall be construed in accordance with section 78(2) of the <sup>M3</sup>Countryside (Scotland) Act 1967.

#### Marginal Citations

M3 1967 c. 86.

## 122 Power to execute works on seashore.

- (1) A district or islands council may, in accordance with this section, on any part of the seashore or in or on adjacent waters or the bed thereof, execute any works for the purpose of preserving, improving or restoring amenity.
- (2) Works may be carried out under this section only if—
  - (a) the council have complied with subsection (4) below and made such other inquiries as may be reasonably necessary to ascertain the existence and identity of each person having, in the seashore or in relation to the adjacent waters or in the bed thereof or in any salmon fishings, a proprietary interest which may be affected by the works; and
  - (b) subject to subsection (5) below—
    - (i) every such person has consented to their being carried out;
    - (ii) in the case of works by the district council, they have obtained the consent of the river purification board within whose area the works are to be carried out; and

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- (iii) in the case of works by the district council, they have, if not obliged to give notice to the coast protection authority under section 17 of the <sup>M4</sup>Coast Protection Act 1949, obtained the consent of the regional council within whose area the works are to be carried out.
- (3) A district or islands council, when exercising their powers under this section, shall have regard to the need to protect and maintain any public rights under the guardianship of the Crown to use the foreshore and adjacent waters or the bed thereof.
- (4) The district or islands council shall—
- (a) give public notice of their proposal to carry out works under this section and of the effect of subsection (2)(b)(i) above in relation to that proposal in a newspaper circulating in the area where the works are proposed to be carried out; and
  - (b) notify the Crown Estate Commissioners of that proposal.
- (5) If a district or islands council have complied with subsections (2)(a) and (4) above but the consent of a person whose consent to the carrying out of the works is required under subsection (2)(b)(i) above cannot be obtained because his existence or identity is unknown or he cannot be found or if the consent of a person whose consent is required under subsection (2)(b) above cannot be obtained because he fails to respond in any way to a request for his consent, the council may nevertheless proceed to carry out the works but shall not so proceed earlier than one month after the date of the advertisement under subsection (4) above or, if there were more than one advertisement, the later or last of these dates.

#### Marginal Citations

M4 1949 c. 74.

### 123 Interpretation of sections 120 to 122.

- (1) In sections 120 to 122 of this Act—
- “adjacent waters” means—
- (a) waters within a distance from low water mark of ordinary spring tides not exceeding 1,000 metres; or
  - (b) where the width of the waters separating the area of one district council from that of another is less than 2,000 metres, measured by the shortest distance between the respective such low water marks in these areas, the waters within the median line between those respective low water marks;
- “inland waters” means any inland loch or non-tidal river, or lake or reservoir whether natural or artificial, and includes the bed and the shores or banks thereof;
- “proprietary interest” means the interest of a proprietor or lessee;
- “seashore” means the shore of the sea, that is to say, the land between the low water mark and the high water mark of ordinary spring tides and every cliff, bank, barrier, dune, beach, flat, esplanade or other land above the said high water mark adjacent to the shore, and to which the public have right of access;

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“statutory undertakers” has the meaning assigned to it by section 275 of the <sup>M5</sup>Town and Country Planning (Scotland) Act 1972, except that it also includes the Post Office, <sup>F1</sup>. . . and British Telecommunications.

(2) Sections 120 to 122 of this Act and this section shall apply to Crown land, that is to say, land an interest in which belongs to Her Majesty in right of the Crown or belongs to a government department or is held in trust for Her Majesty for the purposes of a government department and, for the purposes of giving or withholding consent under these sections in relation to such land, the appropriate authority shall be—

- (a) in relation to land an interest in which belongs to Her Majesty in right of the Crown and is within the administration of the Crown Estate Commissioners, these Commissioners;
- (b) in relation to land an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department;

and, if any question arises as to the authority which is the appropriate authority in relation to any Crown land, the question shall be determined by the Treasury.

#### Textual Amendments

- F1** S. 123(1): words in definition of “statutory undertakers” repealed (31.10.1994) by 1994 c. 21, ss. 67, 68(2)(d), Sch. 9 para. 28, **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**

#### Marginal Citations

- M5** 1972 c. 52.

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