



# Coast Protection Act 1949

1949 CHAPTER 74 12 13 and 14 Geo 6

## PART I

### COAST PROTECTION

#### *Execution of coast protection work*

#### **4 General powers of coast protection authorities.**

- (1) Subject to the following provisions of this Act, a coast protection authority shall have power to carry out such coast protection work, whether within or outside their area, as may appear to them to be necessary or expedient for the protection of any land in their area.
- (2) A coast protection authority may enter into an agreement with any other person for the carrying out by that person or by the authority, on such terms as to payment or otherwise as may be specified in the agreement, of any coast protection work which the authority have power to carry out under this Part of this Act.
- (3) A coast protection authority may acquire, whether by way of purchase, feu, lease or exchange, any land, whether within or outside their area, being land—
  - (a) required by them for the purpose of carrying out thereon any coast protection work which they have power to carry out under this Part of this Act, or
  - (b) for the protection of which they propose to carry out any such work as aforesaid, not being work of maintenance or repair.
- (4) Without prejudice to the powers hereinafter conferred on coast protection authorities, the foregoing provisions of this section shall have effect only for the purpose of removing any limitation imposed by law on the capacity of such an authority by virtue of its constitution; and the said provisions shall not authorise any act or omission on the part of such an authority which apart from this section is actionable at the suit of any person on any ground other than such a limitation.

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## 5 Objections to, and approval of, proposals to carry out coast protection work.

- (1) Subject to the provisions of this Act as to works schemes, a coast protection authority proposing to carry out any coast protection work, other than work of maintenance or repair, shall publish in one or more local newspapers circulating in the area of the authority and in such other manner (if any) as may be prescribed by regulations made by the Minister or as the Minister may in any particular case direct, such notice of that proposal, including an estimate of the cost of the work and containing a sufficient indication of the effect of subsection (3) of this section, as may be so prescribed or as the Minister may so direct, and shall serve a like notice [F1 on any [F2 river authority] or other drainage authority in whose area] [F1 on the National Rivers Authority and on any internal drainage board in whose district] any of the work is to be carried out.
- (2) Where regulations made by the Minister so prescribe or the Minister in any particular case so directs, a like notice shall be served on such other authorities or persons as may be specified in the regulations or direction.
- (3) Where a notice has been published by an authority under subsection (1) of this section, any person may serve on the Minister and on the authority, in the manner and within the period prescribed by regulations made by the Minister, notice of objection to the proposal.
- (4) Where notice of objection has been served under the last foregoing subsection and not withdrawn, and the ground of objection is that the proposed work will be detrimental to the protection of any land specified in the notice, or will interfere with the exercise by the objector of his functions under any enactment other than this Act, the Minister shall either cause a local inquiry to be held or shall give to the objector and to all other persons appearing to him to be affected by the proposal an opportunity of being heard by a person appointed by him for the purpose; and after considering the report of the person appointed to hold the inquiry or to hear objections, the Minister shall determine the objection:

Provided that—

- (a) where the objection is made by a [F2 river authority] or other drainage authority, fishery board (other than the Tweed Commissioners) or local fisheries committee, or by the harbour authority for a harbour to which the M1 Fishery Harbours Act 1915 applies, the powers of the Minister under this subsection shall be exercised jointly with [F3 the Minister of Agriculture, Fisheries and Food];
  - (b) where the objection is made by the Tweed Commissioners, the said powers shall be exercised jointly with the Secretary of State; and
  - (c) where the objection is made by any other harbour authority, or by a conservancy authority, [F4 navigation authority or highway authority] [F4 or navigation authority], or by the [F5 any of the Boards], the said powers shall be exercised jointly with the [F6 the Secretary of State.]
- (5) As soon as may be after the time for serving notices of objection under subsection (3) of this section has expired the Minister shall either approve the proposal or direct the authority not to carry out the proposed work or impose such modifications of the proposal or such conditions as to the carrying out of the work as he may think fit, having regard to the determination of objections as aforesaid.
  - (6) Nothing in this section shall prevent a coast protection authority from carrying out, without the provisions of this section having been complied with, any coast protection work which appears to them to be urgently necessary for the protection of any land

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in their area; but where work is so carried out [F7: in the area of any [F2: river authority] or other drainage authority and the coast protection authority is not a board on which the drainage authority are represented, the coast protection authority shall give to the drainage authority, before or as soon as possible after the commencement of the work, notice of the nature of the work.][F7: the coast protection authority shall, before or as soon as possible after the commencement of the work, give notice of the nature of the work —

- (a) to the National Rivers Authority where it is not represented on the coast protection authority; and
- (b) to any internal drainage board which are not so represented and in whose district the work is to be or has been carried out.]

- (7) In the application of this section to Scotland, subsection (4) shall have effect as if in the proviso for the words from “by a [F2: river authority]” to “any other harbour authority” there were substituted the words “by a harbour authority other than the authority for a harbour principally used by the fishing industry”, and as if for the words “the said powers” there were substituted the words “the powers of the Minister under this subsection”.

#### Textual Amendments

- F1** S. 5(1) for from “on any” to “whose area” there is substituted (E.W.) “on the National Rivers Authority and on any internal drainage board in whose district” 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(2)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F2** Words substituted by virtue of [Water Resources Act 1963 \(c. 38\)](#), **Sch. 3 para. 4**
- F3** Words substituted by virtue of [S.I. 1955/554 \(1955 I, p. 1200\)](#)
- F4** Words “or navigation authority” substituted for words “navigation authority or highway authority” (S.) by [S.I. 1955/1955 \(1955 I, p. 1205\)](#)
- F5** Words substituted by virtue of [Transport Act 1962 \(c. 46\)](#), **Sch. 2 Pt. I**. “Any of the Boards” means any of the Boards established by s. 1 of that Act
- F6** Words substituted by virtue of [S.I. 1970/1681](#)
- F7** S. 5(6) in subsection (6) for from “in the area” onwards there is substituted (E.W.) words commencing “the coast protection” 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(2)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

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

- C1** S. 5(4) proviso modified by [S.I. 1985/442, art.4\(4\)](#)
- C2** S. 5(4) para.(c) of the proviso amended (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), s. 67(2), **Sch. 4 para. 6(3)(b)**

#### Marginal Citations

- M1** 1915 c. 48.

## 6 Power to make schemes for carrying out work.

- (1) Where a coast protection authority propose that coast protection work (not being work of maintenance or repair) should be carried out on any land, and it appears to the authority—
- (a) that the work cannot be carried out except in the exercise of compulsory powers, or

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- (b) that persons interested in land benefited by the carrying out of the work ought to pay to the authority charges (hereinafter referred to as “coast protection charges”) in accordance with the following provisions of this Act in that behalf,

the authority may prepare a scheme (hereinafter referred to as a “works scheme”) for the carrying out of the work.

- (2) A works scheme shall—
- (a) indicate the nature of any work to be carried out by the authority on land vested in them or proposed to be acquired by them for the purposes of the scheme;
  - (b) specify the work (if any) to be carried out on land not so vested or proposed to be acquired; and
  - (c) specify the estimated cost of all work comprised in the scheme.
- (3) A works scheme shall not have effect unless confirmed by the Minister in accordance with the following provisions of this Act.

## **7 Works schemes providing for coast protection charges.**

- (1) A works scheme may indicate land (hereinafter referred to as “contributory land”) as land in respect of which coast protection charges are to be payable under the scheme on the ground that it will be benefited by the carrying out of the work provided for by the scheme.
- (2) Coast protection charges under a works scheme shall be levied by reference to interests in contributory land.
- (3) The coast protection charge payable by reference to any such interest shall not exceed the amount by which the value of the interest immediately after the time at which the works provided for by the scheme have been completed, calculated on the assumption that those works will in future be maintained without expense to the person entitled to the interest in question, is greater than the value of that interest would then be if the works had not been undertaken:

Provided that, if any of the work provided for by the scheme is carried out at the expense of the person entitled to the interest, the coast protection charge shall not exceed the said amount reduced by the reasonable cost of the carrying out thereof.

- (4) A works scheme which provides for the levying of coast protection charges shall either—
- (a) specify the persons by whom such charges are to be paid, the amount of the charge to be paid by each person and the interest in land by reference to which the charge is levied upon him; or
  - (b) state that the authority by whom the scheme is prepared will, within such period after the completion of the work as may be specified in the scheme, determine the interests in land by reference to which coast protection charges are to be levied and, in the case of each of those interests, the amount of the charge leviable in respect thereof;

and in a case falling within paragraph (b) of this subsection a coast protection charge shall be payable by the person who, at the time of the determination of the interest by reference to which the charge is to be levied, is entitled to that interest.

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- (5) Where a works scheme contains such a statement as is mentioned in paragraph (b) of the last foregoing subsection, the authority may, at any time within the period specified in the scheme, determine the charges to be levied thereunder as mentioned in that paragraph, and shall serve on each person upon whom a charge is leviable under the scheme a notice containing full particulars of their determination as to all the charges to be so levied.
- (6) Any person aggrieved by the determination of an authority under the last foregoing subsection may appeal to the Minister on the ground that the determination is inequitable or unduly onerous; and the Minister, after giving to the appellant and the authority and any other person appearing to him to be concerned an opportunity of being heard by a person appointed by him for the purpose, may confirm, reduce or cancel the charge levied upon the appellant as the Minister may think fit.
- (7) Any dispute arising in connection with a works scheme as to whether a charge under the scheme exceeds the amount permitted by subsection (3) of this section shall be determined by arbitration; and if on any such arbitration it is determined that the charge exceeds that amount, the charge shall be reduced accordingly and the scheme and any notice served thereunder shall have effect as if the amount of the charge expressed therein were the amount permitted by the said subsection (3) as determined on the arbitration.
- (8) In this section—
- (a) as respects England and Wales, the expression “interest” means the fee simple or an interest under a tenancy, and the expression “tenancy” includes a tenancy under an under-lease and a tenancy under an agreement for a lease or under-lease but does not include an option to take a tenancy and does not include a mortgage;
- (b) as respects Scotland, the expression “interest” means the interest of the proprietor of the dominium utile or, in the case of land other than feudal land, of the owner, or the interest of the tenant or sub-tenant under a lease or sub-lease;

and for the purposes of this section the value of an interest which is subject to a mortgage or heritable security shall be calculated as if the interest were not subject thereto.

## **8 Confirmation of works schemes.**

- (1) A coast protection authority by whom a works scheme is prepared shall publish, in one or more local newspapers circulating in the area of the authority and in such other manner (if any) as may be prescribed by regulations made by the Minister or as the Minister may in any particular case direct, a notice stating that the scheme has been prepared, naming a place where a copy thereof may be seen at all reasonable hours, and containing a sufficient indication of the effect of subsection (3) of this section, and shall serve copies of the scheme on the owner and occupier of any land, other than land vested in and occupied by the authority, on which the work provided for by the scheme is to be carried out, [F8 on any [F9 river authority] or other drainage authority in whose area][F8 on the National Rivers Authority and on any internal drainage board in whose district]any of the work is to be carried out, and on such other authorities or persons (if any) as may be prescribed by regulations made by the Minister or as the Minister may in any particular case direct.

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- (2) If the scheme provides for the levying of coast protection charges the persons on whom copies of the scheme are to be served shall include—
- (a) where the scheme specifies the persons by whom such charges are to be paid as mentioned in paragraph (a) of subsection (4) of the last foregoing section, each of those persons;
  - (b) where the scheme contains such a statement as is mentioned in paragraph (b) of that subsection, all owners of contributory land.
- (3) Where a notice has been published by an authority under subsection (1) of this section, any person may serve on the Minister and on the authority, in the manner and within the period, not being less than twenty-eight days, prescribed by regulations made by the Minister, notice of objection to the scheme.
- (4) Where notice of objection has been served under the last foregoing subsection and not withdrawn, and the ground of the objection is—
- (a) that the work provided for by the scheme, or any part thereof, is unnecessary;
  - (b) that the carrying out thereof in the manner provided by the scheme would cause hardship to the objector;
  - (c) that the land indicated by the scheme as contributory land includes land which ought not to be so indicated or does not include land which ought to be so indicated;
  - (d) in the case of a scheme which specifies the persons by whom coast protection charges are to be paid as mentioned in paragraph (a) of subsection (4) of the last foregoing section, that any other provision of the scheme as to such charges is inequitable or unduly onerous; or
  - (e) that the work provided for by the scheme will be detrimental to the protection of any land specified in the notice of objection, or will interfere with the exercise by the objector of his functions under any enactment,

the Minister shall either cause a local inquiry to be held or give to the objector and to all other persons appearing to the Minister to be affected by the scheme an opportunity of being heard by a person appointed by him for the purpose; and after considering the report of the person appointed to hold the inquiry or to hear objections, the Minister shall determine the objection:

Provided that—

- (a) where the objection is made by a [<sup>F9</sup>river authority] or other drainage authority, fishery board (other than the Tweed Commissioners) or local fisheries committee, or by the harbour authority for a harbour to which the <sup>M2</sup>Fishery Harbours Act 1915 applies, the powers of the Minister under this subsection shall be exercised jointly with the [<sup>F10</sup>Minister of Agriculture, Fisheries and Food];
  - (b) where the objection is made by the Tweed Commissioners, the said powers shall be exercised jointly with the Secretary of State; and
  - (c) where the objection is made by any other harbour authority, or by a conservancy authority, [<sup>F11</sup>navigation authority or highway authority][<sup>F11</sup>or navigation authority], or by the [<sup>F12</sup>any of the Boards], the said powers shall be exercised jointly with the [<sup>F13</sup>Secretary of State.]
- (5) As soon as may be after the time for serving notices of objection under subsection (3) of this section has expired, the Minister shall make such order either confirming the scheme, as prepared by the authority or with modifications, or quashing the scheme, as

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the Minister may think fit having regard to the determination of any objections under the last foregoing subsection:

Provided that except as hereinafter mentioned the Minister shall not modify a works scheme by indicating as contributory land any land not so indicated in the scheme as prepared by the coast protection authority, or by specifying as a person upon whom a coast protection charge may be levied any person not so specified in the scheme as so prepared, or by increasing the amount of any such charge specified in the scheme as so prepared.

- (6) Where it appears to the Minister that a works scheme should be modified as mentioned in the proviso to the last foregoing subsection, he shall direct the authority by whom the scheme was prepared to serve notice of the proposed modification on the owners of the land proposed to be indicated as contributory land or the persons proposed to be specified as persons upon whom coast protection charges may be levied or whose charges are proposed to be increased, as the case may be; and any person on whom notice is served as aforesaid may object to the proposed modification, and the provisions of subsections (3) and (4) of this section as to the service of notices of objection and the determination of objections shall, so far as applicable, apply accordingly with the substitution, for references to the scheme, of references to the proposed modification.
- (7) Subject to the provisions of subsection (7) of the last foregoing section, the provisions of Part III of the First Schedule to this Act as to the validity of orders shall apply to an order made by the Minister under subsection (5) of this section:

Provided that the Minister may direct in the case of any particular order that in lieu of the provisions of the said Part III as to the publication of notices there shall be substituted such provisions as, having regard to the nature of the order, the Minister considers best suited for bringing it to the notice of persons affected.

- [<sup>F14</sup>(8) A works scheme indicating land as contributory land shall, when operative, be a local land charge as respects the contributory land.]
- (9) In the application of this section to Scotland,—
- (a) subsection (4) shall have effect as if in the proviso for the words from “by a [<sup>F9</sup>river authority]” to “any other harbour authority” there were substituted the words “by a harbour authority other than the authority for a harbour principally used by the fishing industry”, and for the words “the said powers” there were substituted the words “the powers of the Minister under this subsection”;
- (b) subsection (8) shall be omitted, but as soon as may be after a works scheme indicating land as contributory land becomes operative, the authority by whom it was prepared shall record it in the appropriate Register of Sasines.

#### Textual Amendments

**F8** S. 8(1) for from “on any” to “whose area” there is substituted (E.W.) “on the National Rivers Authority and on any internal drainage board in whose district” 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(3), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58

**F9** Words substituted by virtue of [Water Resources Act 1963 \(c. 38\)](#), [Sch. 3 para. 4](#)

**F10** Words substituted by virtue of [S.I. 1955/554](#) (1955 I, p. 1200)

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- F11** Words “or navigation authority” substituted for words “navigation authority or highway authority” (S.) by [S.I. 1955/1955](#) (1955 I, p. 1205)
- F12** Words substituted by virtue of [Transport Act 1962 \(c. 46\)](#), [Sch. 2 Pt. I](#). “Any of the Boards” means any of the Boards established by s. 1 of that Act
- F13** Words substituted by virtue of [S.I. 1970/1681](#)
- F14** S. 8(8) substituted (1.8.1977) by [Local Land Charges Act 1975 \(c. 76\)](#), [Sch. 1](#)

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

- C3** S. 8(4) proviso modified by [S.I. 1985/442](#), [art. 4\(4\)](#)
- C4** S. 8(4) para.(c) of the proviso amended (E.W.) by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), s. 67(2), [Sch. 4 para. 6\(3\)\(b\)](#)

**Marginal Citations**

- M2** [1915 c. 48](#).

**9 Carrying out of work provided for by works schemes.**

- (1) Subject to the provisions of the next following subsection, where a works scheme prepared by an authority is confirmed by the Minister the authority shall have power to take all necessary steps for carrying out the work provided for by the scheme.
- (2) Where a works scheme specifies work to be carried out on land neither vested in the authority nor proposed to be acquired by them for the purposes of the scheme, the owner of the land may, at any time not later than the expiration of six weeks after the confirmation of the scheme, serve a notice on the authority stating that he proposes to carry out the work; and where such a notice is served and not withdrawn, the authority shall not, except in accordance with the next following subsection, carry out that work.
- (3) Where an owner by whom a notice has been served under the last foregoing subsection fails to carry out the work to which the notice relates in accordance with the scheme, the authority may give notice to him that unless the work is so carried out within such period as may be specified in the notice the authority will themselves carry out the work; and if where such a notice has been given by the authority the work is not so carried out within the said period, the authority shall have power to take all necessary steps for carrying out the work in accordance with the scheme.
- (4) Section five of this Act shall not apply to any proposal of a coast protection authority to carry out work provided for by a works scheme.

**10 Recovery of coast protection charges.**

- (1) A coast protection charge levied upon any person under a works scheme shall become due—
  - (a) in the case of a charge the amount of which is specified in the scheme, on the completion of the work provided for by the scheme, and
  - (b) in any other case, on the service upon him of a notice specifying the amount of the charge:

Provided that if the charge is disputed, either by any question being required to be determined by arbitration or by an appeal to the Minister in accordance with the foregoing provisions of this Act in that behalf, the charge shall not become due until the dispute is finally determined.



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(2) A coast protection authority to whom a coast protection charge is payable by any person may, if he so requires, by order declare that it shall be payable by instalments over a period specified in the order not exceeding thirty years, with interest at such [<sup>F15</sup>rate as may be determined by regulations made by the Minister.][<sup>F15</sup>reasonable rate as may be determined by the authority]

(3) Any such instalment, or any part thereof, may, at any time after it has fallen due, be recovered from the person for the time being entitled to the interest in land by reference to which the charge was levied; and where that person is the owner the instalment, or any part thereof, may be recovered from the occupier for the time being of the land, and, if recovered from the occupier, may be deducted by him from the rent of the land:

Provided that an occupier shall not be required under this subsection to pay at any one time any sum in excess of the amount which was due from him on account of rent at, or has become due from him on account of rent since, the date on which he received a demand from the authority together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.

(4) An order may be made under subsection (2) of this section at any time with respect to the unpaid balance of any coast protection charge, so however that the period for repayment shall not in any case extend beyond thirty years from the time when the charge first became due.

(5) The making of an order under the said subsection (2) as respects a coast protection charge shall not prevent the charge from being discharged at any time by the payment to the coast protection authority of the unpaid balance of the charge together with any accrued interest thereon.

(6) Where the interest by reference to which a coast protection charge is levied is subject to a mortgage, then, at the time while the mortgagee is in possession or in receipt of the rents or profits, the charge or any instalment in respect thereof for the time being due and remaining unpaid shall be payable by the mortgagee, and not by the person entitled to the interest.

(7) Where at a time when a coast protection charge or any instalment in respect thereof is due and remains unpaid a person is in receipt of the rents and profits of land as agent for the person entitled to the interest by reference to which the charge is levied, the charge or instalment may, subject to the next following subsection, be recovered from the agent.

(8) Where a coast protection authority claim to recover any sum in respect of a coast protection charge from a person who proves that—

- (a) he acts, in the capacity by reason of which the claim is made, merely as agent or trustee for some other person; and
- (b) he has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid; but an authority who are, or would be, debarred by the foregoing provisions of this subsection from recovering the whole of any such sum from an agent or trustee may recover the whole or any unpaid balance thereof from the person on whose behalf the agent or trustee acts.

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- (9) References in this section to the payment or recovery of an instalment in respect of a coast protection charge shall be construed as including references to the payment or recovery, as the case may be, of any accrued interest in respect of the charge.

#### Textual Amendments

- F15** S. 10(2): for the words from 'rate' to 'the Minister' there is substituted (E.W.) the words from 'reasonable' to 'the Authority' by Local Government Planning and Land Act 1980(c. 65, SIF 81:1), s. 1(6), Sch. 6 para. 5.

## 11 Incidence of coast protection charges, etc.

- (1) Any amount paid by a mortgagee in respect of a coast protection charge or in respect of expenses incurred in carrying out work under a works scheme shall be treated as if it were secured by the mortgage, with the like priority and with interest at the same rate as the mortgage money:

Provided that, without prejudice to the recovery of interest, the said amount shall not be recoverable from the mortgagor personally.

- (2) The following provisions shall have effect as to the raising of money in particular cases for the payment of coast protection charges and of expenses incurred in carrying out work under a works scheme, that is to say—
- (a) the purposes authorised for the application of capital money by section seventy-three of the <sup>M3</sup>Settled Land Act 1925, [<sup>F16</sup>by that section as applied by section twenty-eight of the Law of Property Act 1925, in relation to trusts for sale,] and by section twenty-six of the <sup>M4</sup>Universities and College Estates Act 1925, and the purposes authorised by section seventy-one of the <sup>M5</sup>Settled Land Act 1925, [<sup>F16</sup>by that section as applied as aforesaid,] and by section [<sup>F17</sup>thirty] of the <sup>M6</sup>Universities and College Estates Act 1925, as purposes for which moneys may be raised by mortgage, shall include the payment of any such charge or expenses;
  - (b) any such charge or expenses which are payable by the Commissioners of Crown Lands in respect of lands under their management may, with the approval of the Treasury, be charged as a principal sum to the account of the capital of the land revenues of the Crown, but the Treasury may direct that any sum so charged shall be repaid out of the income of those revenues within such time and by such instalments as may be specified in the directions;
  - (c) <sup>M7</sup>the purposes authorised by section twenty-five of the Act of the fifty-seventh year of King George the Third, chapter ninety-seven, for the application of moneys arising by any such sale of annuities standing in the name or to the account of the Duchy of Lancaster as is therein mentioned shall include the payment of any such charge or expenses in respect of land belonging to the said Duchy; and
  - (d) the purposes authorised by section eight of the <sup>M8</sup>Duchy of Cornwall Management Act 1863 <sup>M9</sup>, as amended by section one of the Act of the thirty-first and thirty-second years of Queen Victoria, chapter thirty-five, for the advancement of parts of such gross sums as are therein mentioned shall include the payment of any such charge or expenses in respect of land forming part of the possessions of the said Duchy.

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(3) In the application of this section to Scotland, the last foregoing subsection shall have effect as if for paragraph (a) there were substituted the following paragraph—

“(a) for the purpose of paying any such charge or expenses, a trustee, a liferenter or an heir of entail in possession shall have power to expend capital money and to sell, or to borrow money on the security of, the estate or any part thereof, heritable as well as moveable;”

and as if paragraphs (c) and (d) were omitted.

#### Textual Amendments

**F16** Words in s. 11(2)(a) repealed (E.W.) (1.1.1997) by 1996 c. 47, s. 25(2), [Sch.4](#); S.I. 1996/2974, [art.2](#)

**F17** Word substituted by [Universities and College Estates Act 1964 \(c. 51\)](#), [Sch. 3 Pt. II](#)

#### Marginal Citations

**M3** 1925 c. 18.

**M4** 1925 c. 24.

**M5** 1925 c. 18.

**M6** 1925 c. 24.

**M7** 1817 c. 97.

**M8** 1863 c. 49.

**M9** 1868 c. 35.

## 12 General powers of maintenance and repair of works.

- (1) Where it appears to a coast protection authority that for the protection of land in their area any works are in need of maintenance or repair, the authority may serve on the owner and occupier of the land on which the works are situated a notice specifying the work of maintenance or repair which the authority consider to be necessary and a period after the expiration of which the authority will carry out that work if it has not been previously completed.
- (2) If at the expiration of the period specified in a notice under the last foregoing subsection the work so specified has not been completed, the authority may take all necessary steps for carrying out the work.
- (3) If it appears to a coast protection authority to be urgently necessary for the protection of land in their area that any works should be repaired immediately, the authority may take all necessary steps for repairing them without having served any notice under subsection (1) of this section, or notwithstanding that the time for completing the work specified in any such notice has not expired.
- (4) Nothing in this section shall authorise a coast protection authority to carry out any work of maintenance or repair on works which the British Transport Commission, or an Executive established by or under section five of the <sup>M10</sup>Transport Act 1947, have for the time being power to maintain.

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

**C5** Powers of British Transport Commission and Executives established by or under [Transport Act 1947 \(c. 49\)](#) now exercisable by Boards established by [Transport Act 1962 \(c. 46\)](#) s. 1: *ibid*: Sch. 2 Pt. II para. 2

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#### Marginal Citations

M10 1947 c. 49.

### 13 Recovery of cost of maintenance of works not constructed under works schemes.

- (1) Where under the last foregoing section a coast protection authority have carried out any work of maintenance or repair on works not being works constructed, altered or improved under a works scheme and not being works in respect of which a scheme under this section has come into operation, the authority may, subject to the provisions of this section, on the completion of the work recover the reasonable cost of the carrying out of the work from the owner or occupier of the land on which the works are situated.
- (2) The right of recovery conferred by the last foregoing subsection shall not be exercisable unless a notice in respect of the work in question has been served under subsection (1) of the last foregoing section and the notice contained a statement that the works to be maintained or repaired are works to which this section applies, stated whether the authority propose to exercise their right of recovery against owner or against the occupier, and contained a sufficient indication of the effect of this section.
- (3) At any time within twenty-one days after service upon an owner or occupier of such a notice, he may complain in writing to a court of summary jurisdiction on any one or more of the following grounds, that is to say—
  - (a) that having regard to all the circumstances of the case it is equitable that the right of recovery conferred by subsection (1) of this section should be exercisable, as respects the whole or some part of the cost of carrying out the work, against whichever of the owner and the occupier is not the complainant;
  - (b) that having regard to all the circumstances of the case it is equitable that the coast protection authority should bear the whole or some part of the cost of carrying out the work;
  - (c) that any of the work specified in the notice under subsection (1) of the last foregoing section is not work of maintenance or repair; or
  - (d) that having regard to all the circumstances of the case, and in particular to the amount of the cost or the probability that there will be a recurrent need for maintenance or repair, the cost ought to be provided for by a scheme under this section.
- (4) A summons granted on a complaint under the last foregoing subsection shall be served on the coast protection authority and, if the complaint is made on the ground specified in paragraph (a) of the last foregoing subsection, on whichever of the owner and the occupier is not the complainant.
- (5) On a complaint under subsection (3) of this section the court may, if it thinks fit, make such one or more of the following orders as may appear to the court to be appropriate, having regard to the grounds of the complaint, that is to say an order—
  - (a) directing that the right of recovery conferred by subsection (1) of this section shall be exercisable, as respects the whole or such part as may be specified in the order of the cost of carrying out the work, against whichever of the owner and the occupier is not the complainant;
  - (b) debarring the authority from recovering the cost of carrying out the work or so much of that cost as may be specified in the order;

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- (c) declaring that any of the work specified in the notice under subsection (1) of the last foregoing section is not work of maintenance or repair; or
  - (d) debarring the authority from recovering the said cost but empowering them to make a scheme under this section.
- (6) Where under the last foregoing subsection the coast protection authority are empowered so to do, they may make a scheme under this section, and the provisions of sections six to eight and ten and eleven of this Act shall apply to any such scheme as they apply to a works scheme, but subject to the following modifications:—
- (a) subsections (1) and (2) of the said section six shall not apply, but the scheme shall specify the work of maintenance or repair for which provision is made by the scheme;
  - (b) in subsection (3) of section seven of this Act references to the said work shall be substituted for references to the work or works provided for by the scheme;
  - (c) in the said subsection (3) the reference to the maintenance of the works provided for by the scheme shall be construed as a reference to the maintenance of the works for whose maintenance or repair provision is made by the scheme;
  - (d) the grounds on which objection may be made to the scheme shall be that any of the work is unnecessary or that any provision of the scheme as to charges is inequitable or unduly onerous, and no other grounds, and the reference in subsection (1) of section eight of this Act to subsection (3) of that section shall be construed accordingly.
- (7) The Summary Jurisdiction Acts shall apply to the proceedings on any complaint under subsection (3) of this section; and where any party to the proceedings is aggrieved by the decision of the court on any such complaint he may appeal to [<sup>F18</sup>the Crown Court.]
- (8) Save as expressly provided in the last foregoing subsection, the determination by the court of a complaint under paragraph (c) of subsection (3) of this section shall be conclusive, as respects any right of recovery under this section, of the matter of the complaint.
- (9) In the application of this section to Scotland,—
- (a) for any reference to a court of summary jurisdiction there shall be substituted a reference to the sheriff, and for references to complaining, to a complainant and to a complaint there shall be substituted references to making an application, to a person making an application and to an application;
  - (b) in subsection (4) for the words “A summons granted on a complaint” there shall be substituted the words “Notice of an application made”; and
  - (c) subsection (7) shall be omitted.

#### **Textual Amendments**

**F18** Words substituted by [Courts Act 1971 \(c. 23\)](#), s. 56(2), [Sch. 9 Pt. I](#)

## **14 Compulsory acquisition of land.**

- (1) A coast protection authority may be authorised by the Minister to acquire by compulsory purchase any land which they are authorised by section four of this Act to acquire by agreement, and the [<sup>F19</sup>Acquisition of Land Act 1981], shall apply

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in relation to any such compulsory purchase [<sup>F20</sup>as if this Act had been in force immediately before the commencement of that Act]:

Provided that, in relation to any such land as is mentioned in paragraph (b) of subsection (3) of the said section four, the power conferred by this subsection shall be exercisable only if it appears that the value of the land immediately after the completion of the work will be greater than it would then be if the work had not been carried out; and in estimating for the purposes of this proviso the value of the land at that time it shall be assumed, as respects the works proposed to be constructed, altered or improved, that they will in future be maintained without expense to any person entitled to an interest in the land.

- (2) Any dispute arising under the proviso to the last foregoing subsection shall, on the application of any person concerned, be determined by arbitration; and for the purposes of [<sup>F21</sup>section 23(3) of the Acquisition of Land Act 1981], as applied by the last foregoing subsection, the provisions of this subsection shall be deemed to be a requirement of that Act.
- (3) In the application of this section to Scotland, for any reference to the [<sup>F22</sup>Acquisition of Land Act 1981], and to [<sup>F23</sup>section 23(3) thereof] there shall be substituted a reference to the <sup>M11</sup>Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947, and to paragraph 15 of the First Schedule thereto.

#### Textual Amendments

- F19** S. 14(1) words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34\(1\), Sch. 4 para. 1 Table](#)
- F20** S. 14(1) words repealed (E.W.) by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34\(3\), Sch. 6 Pt. I](#)
- F21** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34\(1\), Sch. 4 para. 7\(1\)](#)
- F22** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34\(1\), Sch. 4 para. 1 Table](#)
- F23** Words substituted by [Acquisition of Land Act 1981 \(c. 67, SIF 28:1\), s. 34\(1\), Sch. 4 para. 7\(2\)](#)

#### Marginal Citations

- M11** 1947 c. 42.

## 15 Provisions as to subsisting obligations to carry out coast protection work.

- (1) No person shall be liable, by reason only that he is subject to an obligation to which this section applies, to maintain or repair any works being either works constructed, altered or improved under a works scheme or works for whose maintenance or repair provision is made by a scheme under section thirteen of this Act.
- (2) This section applies to any obligation to carry out coast protection work to which a person would be subject by reason of tenure, custom, prescription or otherwise if this Act had not been passed.
- (3) Subject to the provisions of subsection (1) of this section, nothing in this Part of this Act shall operate to release any person from any obligation to which this section applies.
- (4) If any person who, by reason of any such obligation as aforesaid, is liable to carry out any coast protection work fails to carry out that work, any coast protection authority in whose area the work ought to be carried out or to whom it appears that the work is

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necessary or expedient for the protection of any land in their area may serve a notice on the person liable to carry out the work requiring him to carry it out within such period as may be specified in the notice, and if within that period he fails to comply with the notice, the authority by whom the notice was served may carry out the work and may recover from him any expenses reasonably incurred by the authority in carrying it out.

- (5) Where it is represented to the Minister by a coast protection authority that any sea defence commissioners have failed to carry out any coast protection work which the commissioners are authorised or required by their local Act to carry out and which is necessary or expedient for the protection of land in the area of the authority, the Minister may, after giving to the commissioners an opportunity of making representations to him with respect thereto, make an order authorising the coast protection authority to carry out the work and to recover from the commissioners any expenses reasonably incurred by the authority in carrying it out or such part of those expenses as the Minister may think fit.

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