



Coast Protection Act 1949

1949 CHAPTER 74

PART I

COAST PROTECTION

General and supplementary provisions relating to Part I

16 Consent of coast protection authority required to carrying out of coast protection work

- (1) Subject to the provisions of the next following section, any person who carries out any coast protection work, other than work of maintenance or repair, without the consent in writing of the coast protection authority in whose area the work is to be carried out, or in contravention of any conditions subject to which that consent is granted, shall be guilty of an offence under this Act.
- (2) Without prejudice to any proceedings under the last foregoing subsection, where any person has constructed, altered or improved any works in contravention of that subsection or of any such condition as aforesaid, the said coast protection authority may serve a notice on him requiring him, within such period (not being less than thirty days) as may be specified in the notice, to remove the works or to make such alteration therein as may be so specified.
- (3) If within the period specified in a notice under the last foregoing subsection the person on whom the notice is served fails to comply therewith, the coast protection authority may themselves remove or alter the works, as specified in the notice, and if they do so they shall be entitled to recover the expense thereof from the person on whom the notice was served.
- (4) Where for the purposes of subsection (1) of this section application is made to a coast protection authority for their consent, they shall, before determining the application, give notice thereof to any coast protection authority whose area adjoins their area and to any river board or other drainage authority whose area comprises the whole or any part of their area, and shall consider any representations made by any such authority.

- (5) A coast protection authority in England or Wales shall have power to institute proceedings for a contravention of subsection (1) of this section.

17 Notification to coast protection authority of coast protection work to be carried out by certain authorities

- (1) Subsection (1) of section sixteen of this Act shall not apply to the carrying out of work—
- (a) by a coast protection authority ;
 - (b) by any body or person upon whom any powers or duties relating to the protection of land have been conferred or imposed by or under any enactment other than this Act;
 - (c) by a highway authority for the protection of a highway ;
 - (d) by the British Transport Commission, or an Executive established by or under section five of the Transport Act, 1947, for the protection of a railway; or
 - (e) by a harbour authority.
- (2) Work excluded from the operation of the last foregoing section by virtue only of paragraphs (b) to (e) of the last foregoing subsection shall not be carried out except in accordance with the following provisions of this section ; and any body or person who contravenes the provisions of this subsection shall be guilty of an offence under this Act.
- (3) Before carrying out any such work as aforesaid the body or person in question (in this section referred to as " the undertakers ") shall give to the coast protection authority in whose area the work is to be carried out, to any coast protection authority whose area adjoins that area, and to any river board or other drainage authority whose area comprises the whole or any part of that area, not less than twenty-eight days' notice of their intention in that behalf, specifying the work to be carried out; and where notice is so given—
- (a) the undertakers shall not carry out the work before the expiration of the notice ; and
 - (b) if before the expiration of the notice any authority or board to whom the notice has been given serves notice of objection on the Minister and on the undertakers, the undertakers shall not (unless the objection is withdrawn) carry out the work except in accordance with any direction given under the following provisions of this section.
- (4) Where notice of objection has been served under the last foregoing subsection and has not been withdrawn, the Minister and any other Minister being a Minister concerned, after affording to the undertakers and to the objectors and, if the objectors are not the coast protection authority in whose area the work is to be carried out, to that authority, an opportunity of being heard by a person appointed by the said Ministers for the purpose, shall determine the objection.
- (5) Where an objection has been determined under the last foregoing subsection, the appropriate Minister shall either direct that the undertakers shall be at liberty to carry out the work (whether as specified in the notice given by them under subsection (3) of this section or subject to such modifications or conditions as the appropriate Minister may think fit, having regard to the determination of the objection as aforesaid) or shall direct the undertakers not to carry out the work.

- (6) A coast protection authority in England or Wales shall have power to institute proceedings for a contravention of subsection (2) of this section.
- (7) Nothing in this section shall prevent any body or person from carrying out, without the provisions of this section having been complied with, any coast protection work which appears to them or him to be urgently necessary for the protection of any land; but where any work is so carried out, being work to which subsection (2) of this section applies, the undertakers shall, before or as soon as possible after the commencement of the work, give to the coast protection authority in whose area the work is carried out notice of the nature of the work.
- (8) In this section the expression " the appropriate Minister " in relation to a notice of objection served under subsection (3) thereof,—
- (a) if the undertakers are a body or person mentioned in paragraph (b) of subsection (1) of this section, means any Minister concerned with the exercise by that body or person of their or his functions under the relevant enactment;
 - (b) if the undertakers are a harbour authority for a harbour to which the Fishery Harbours Act, 1915, applies, means the Minister of Agriculture and Fisheries; and
 - (c) in any other case, means the Minister of Transport;
- and any question arising under paragraph (a) of this subsection shall be determined by the Treasury.
- (9) For the purposes of subsection (4) of this section, a Minister shall be deemed to be a Minister concerned if he is the appropriate Minister or, in a case where the notice of objection was served by a river board or other drainage authority and the appropriate Minister is not the Minister of Agriculture and Fisheries, if he is the appropriate Minister or the Minister of Agriculture and Fisheries.
- (10) In the application of this section to Scotland, paragraph (b) of the last but one foregoing subsection shall have effect as if for the words from " to which the Fishery Harbours Act " to the end of the paragraph there were substituted the words " principally used by the fishing industry, means the Minister; and ".

18 Prohibition of excavation etc., of materials on or under the seashore

- (1) Subject to the provisions of this section, and notwithstanding anything contained in any other enactment, it shall be unlawful to excavate or remove any materials (other than minerals more than fifty feet below the surface) on, under or forming part of any portion of the seashore to which the provisions of this section are applied.
- (2) The provisions of the last foregoing subsection shall not affect the excavation or removal of any materials by the Minister of Transport in the exercise of the powers conferred upon him by Part II of this Act, or the excavation or removal thereof by any other person in compliance with a notice served by that Minister under the said Part II.
- (3) A coast protection authority may make an order applying the provisions of this section to any such portion of the seashore within their area or lying to seaward therefrom as may be described in the order:

Provided that the order may, as respects the whole of that portion of the seashore of any such part thereof as may be specified in the order, except from the provisions of subsection (1) of this section the carrying out of operations of any such class as may

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be so specified, and any such exception may be either unconditional or subject to such conditions as may be specified in the order.

- (4) An order under this section shall be made in accordance with the provisions of the Second Schedule to this Act, and, subject to the provisions of Part II of that Schedule as to interim orders, shall not have effect unless confirmed by the Minister as therein mentioned.
- (5) The authority by whom an order has been made under subsection (3) of this section may grant to any person a licence, as respects any portion of the seashore described in the order, to do anything which would otherwise be a contravention of subsection (1) of this section, and any such licence may be granted subject to such conditions as the authority may determine :

Provided that a licence granted under this subsection shall not render lawful anything which would be unlawful if subsection (1) of this section had not been enacted.

- (6) An order under subsection (3) of this section may provide that this subsection shall have effect as respects any part specified in the order of the area to which the order relates, being a part of the area with which any drainage authority so specified is particularly concerned; and where an order so provides, the coast protection authority shall consult with the drainage authority before granting a licence under the last foregoing subsection relating to land in that part of the area.
- (7) Any person who, without such a licence as aforesaid, excavates or removes any materials in contravention of subsection (1) of this section, or fails to comply with any condition subject to which any such licence was granted, shall be guilty of an offence under this Act.
- (8) It shall be the duty of a coast protection authority to enforce the provisions of this section as respects any portion of the seashore to which those provisions are applied by an order made by them.
- (9) The Coast Protection Act, 1939, shall cease to have effect.
- (10) Notwithstanding the repeal of the said Act of 1939, any order made, or deemed for the purposes of that Act to have been made, under section one of that Act, if in force immediately before the commencement of this Act, shall continue in force and have effect as if it had been made under this section by the appropriate coast protection authority and confirmed by the Minister in accordance with the provisions of the Second Schedule to this Act, or, if it is an interim order made by virtue of the proviso to subsection (1) of section one of the said Act of 1939, as if it had been made by the appropriate coast protection authority as an interim order in accordance with the provisions of Part II of the said Second Schedule ; and any order continued in force as aforesaid may be amended or revoked accordingly.

In this subsection the expression " the appropriate coast protection authority " means the coast protection authority for the area which includes the portion of the seashore specified in the order continued in force, or, if that portion of the seashore includes the areas or parts of the areas of two or more coast protection authorities, means, as to so much of that portion of the seashore as falls within the area of any of the authorities, that authority.

- (11) Nothing in this section shall be construed as authorising a coast protection authority in Scotland to institute proceedings for any offence under this Act.

19 Provisions as to compensation

- (1) Where on a claim being made under this section it is shown—
- (a) that the value of an interest of any person in land has been depreciated, or that any person has suffered damage by being disturbed in his enjoyment of land, in consequence of the carrying out of coast protection work by a coast protection authority in the exercise of the powers conferred by this Part of this Act, or
 - (b) that the value of such an interest as aforesaid has been depreciated in consequence of the refusal of consent for which application has been made under section sixteen of this Act, or in consequence of the granting of such consent subject to conditions,
- the coast protection authority shall pay to that person compensation equal to the amount of the depreciation or damage:
- Provided that a person shall not be entitled to compensation under paragraph (a) of this subsection unless the act or omission causing the depreciation or disturbance would have been actionable at his suit if it had been done or omitted otherwise than in the exercise of statutory powers.
- (2) A claim for compensation under this section shall be made to the coast protection authority within twelve months of the completion of the work, the refusal of consent, or the imposition of conditions, giving rise to the claim.
- (3) Any dispute arising under this section shall be determined by arbitration.
- (4) Where any interest in land is subject to a mortgage.—
- (a) any compensation under this section which is payable in respect of depreciation of the value of that interest shall be assessed as if the interest were not subject to the mortgage;
 - (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
 - (c) a mortgagee shall not be entitled to claim any such compensation in respect of his interest as such ; and
 - (d) the compensation payable in respect of the interest subject to the mortgage shall be paid by the coast protection authority to the mortgagee or, where there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.
- (5) In this section the expression " interest" includes any estate in or right over land.
- (6) In the application of this section to Scotland.—
- (a) for references to a mortgage, to a mortgagee and to the first mortgagee there shall be substituted respectively references to a heritable security, to a creditor in a heritable security, and to the creditor whose heritable security has priority over any other heritable securities secured on the land; and
 - (b) any reference to land shall include a reference to salmon fishings.

20 Contributions towards expenses of coast protection

- (1) Where the Minister undertakes to make, or makes, a grant under the next following section towards expenditure incurred under this Act by the council of a county district

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in England or Wales, the council of the county within which the county district is situated shall pay to the council of the county district a contribution towards that expenditure of such amount and payable at such time as may be agreed between the two councils, or as, in default of agreement, may be determined by the Minister subject to the following provisions of this section.

- (2) The amount determined by the Minister under the last foregoing subsection of a contribution towards any expenditure shall not without the consent of the county council—
- (a) exceed the amount of the grant which the Minister has made, or has undertaken to make, under the next following section towards that expenditure, or
 - (b) be such that the amount of the contribution, together with the amount of any other contributions which, by virtue of any agreement or determination made under the last foregoing subsection, the county council have paid or have become liable to pay (whether to the same county district council or to any other such council) in the same financial year, exceeds the product of a rate of one penny in the pound levied over the whole county:

Provided that in the case of a contribution determined by the Minister to be of a capital nature, paragraph (b) of this subsection shall apply as if the amount thereof were the amount so determined to be the annual amount which would have to be provided for the payment of principal and interest in respect of a loan made by the Public Works Loan Commissioners to the council and repayable by twenty equal annual instalments of principal and interest combined, being a loan of an amount equal to the actual amount of the contribution and where this proviso has effect, then for the purposes of the said paragraph (b) (but not for any other purpose) the council shall be deemed to have become liable as aforesaid to pay, in each of the next nineteen financial years, a contribution of the amount determined as aforesaid.

- (3) So much of any contribution as is agreed between the county council and the county district council to be attributable to the protection of any highway for which the council was the highway authority when the relevant expenditure was incurred, or in default of such agreement so much thereof as is determined jointly by the Minister and the Minister of Transport to be so attributable, shall be disregarded for the purposes of the last foregoing subsection.
- (4) The council of a county in England or Wales may pay such contributions as they, think fit towards any expenses incurred by any person other than the council of a county district within the county in respect of coast protection work carried out within the county or appearing to the council to be work for the protection of any land in the county.
- (5) The council of a county borough in England or Wales or the council of a burgh in Scotland, not being a coast protection authority or a constituent authority of a coast protection board, may if they think fit defray, or contribute towards, the cost of carrying out any coast protection work which appears to the council to be necessary or expedient for the protection of any land in their area.
- (6) A coast protection authority may defray, or contribute towards, the cost of carrying out any coast protection work, whether within or outside their area, which appears to the authority to be necessary or expedient for the protection of any land in their area.
- (7) The council of a county in Scotland shall pay towards the expenses incurred under this Act by the council of a small burgh in the county in respect of coast protection work carried out, in whole or in part, for the protection of a road for the maintenance

and management of which the council of the county are responsible such contributions as may be agreed between the two councils or as, in default of agreement, may be determined by the Minister.

21 Exchequer grants

- (1) Subject to such conditions as the Treasury may determine, the Minister may make grants towards any expenditure—
 - (a) incurred under this Act by a coast protection authority; or
 - (b) incurred by the council of a county in the carrying out of coast protection work under the enactments relating to highways; or
 - (c) incurred, whether before or after the commencement of this Act, by the council of a county, county borough or county district in respect of any coast protection work begun since the fourteenth day of August, nineteen hundred and forty-five, being work carried out by that council and approved by the Minister for the purposes of this paragraph, or carried out by some other person under an agreement so approved whereby the council undertook to defray or contribute towards the expenses thereof.
- (2) Subject to such conditions as aforesaid the Minister may make grants to the Seaford Urban District Council for the provision of funds for meeting expenditure incurred by the Commissioners for the Newhaven and Seaford Sea Defence Works.
- (3) In the application of this section to Scotland—
 - (a) in paragraph (b) of subsection (1) of this section for the words " incurred by the council of a county " there shall be substituted the words " incurred by a local highway authority "; and
 - (b) in paragraph (c) thereof for the words " county borough or county district " there shall be substituted the words " or of a burgh " .

22 Power to use for incidental purposes land acquired for coast protection

- (1) The provisions of the Local Government Act, 1933, as to the disposal and appropriation of land by a local authority, and those provisions as applied by order under section two of this Act, shall have effect in relation to land acquired by a coast protection authority, whether by agreement or compulsorily, being land falling within paragraph (b) of subsection (3) of section four of this Act, as the said provisions have effect in relation to land of a local authority which is not required for the purpose for which it was acquired or is being used.
- (2) It is hereby declared that any power of the council of a county borough or county district in England or Wales, or the council of a burgh or county in Scotland, under any other enactment to provide concert halls, entertainment rooms, reading rooms, pavilions, restaurants or other places for the provision of meals or refreshments, bandstands, public conveniences or other buildings on land belonging or let to them, to lay out public parks, pleasure grounds or recreation grounds on such land, or to adapt or use land for any other public purpose, shall be exercisable in relation to any land acquired by them under this Part of this Act for the purpose of carrying out thereon any coast protection work, notwithstanding that the land continues to be required for that purpose or for works constructed in the course of carrying out the work; but the said power shall not be exercised so as to interfere with the use of the land for the said purpose, or with the maintenance or repair of such works, so long as it is required for the said purpose or so long as such works are required to be maintained.

- (3) In the application of this section to Scotland, subsection (1) shall have effect as if for the reference to the Local Government Act, 1933, there were substituted a reference to the Local Government (Scotland) Act, 1947, and as if the words " and those provisions as applied by order under section two of this Act " were omitted.

23 Power of coast protection authority to sell materials

- (1) A coast protection authority may sell any materials which have been severed by them from any land when carrying out work in the exercise of powers conferred by this Part of this Act and which are not before the expiration of fourteen days from the date of their severance claimed by the person to whom they belong.
- (2) Where a coast protection authority sell any materials under this section, they shall pay the proceeds to the person to whom the materials belonged.

24 Provisions as to arbitrations

- (1) In arbitrations as to any question which under this Part of this Act is expressly required to be determined by arbitration, the reference shall be to the Lands Tribunal.
- (2) Rules 2 to 4 of the Rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, (which provides rules for valuation on a compulsory acquisition) shall apply for the purposes of any such arbitration.
- (3) For the purposes of any such arbitration, section five of the said Act of 1919 (which relates to costs) shall have effect with the substitution for the references to the acquiring authority of references to the coast protection authority.
- (4) This section shall apply to Scotland with the substitution for the words " the Lands Tribunal " in subsection (1) thereof of the words " the Lands Tribunal for Scotland " :

Provided that until sections one to three of the Lands Tribunal Act, 1949, come into force as respects Scotland the expression " the Lands Tribunal for Scotland " shall be construed as meaning an official arbiter appointed under the Acquisition of Land (Assessment of Compensation) Act, 1919, and the following provisions of the said Act of 1919 that is to say, section three thereof (which relates to procedure), section five thereof (which relates to costs) as modified by sections five and ten of the said Act of 1949, but with the substitution for references to the acquiring authority of references to the coast protection authority, and section six thereof (which relates to the statement of special cases) as modified by section ten of the said Act of 1949, shall apply for the purposes of the arbitration.

25 Powers of entry and inspection

- (1) Subject to the provisions of this section, any person authorised by a coast protection authority shall, on producing, if so required, some duly authenticated document showing his authority, have a right at all reasonable hours—
- (a) to enter upon any land on which a power to carry out work is conferred on the authority by the provisions of this Act other than section four thereof;
- (b) to enter upon any land to which entry is reasonably necessary in order to obtain access to any land on which a power to carry out work is conferred on the authority by any of the provisions of this Act;

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- (c) for the purpose of determining whether, and if so in what manner, any functions of the authority under this Act are to be exercised, or whether any provision of any enactment (including this Act) relating to such functions or any notice, order, direction or byelaw served, given or made under any such enactment is being or has been complied with, to enter upon any land and inspect or survey the land;
 - (d) without prejudice to the generality of the last foregoing paragraph, to enter upon any land in order to estimate, for the purposes of this Part of this Act, the amount of any compensation payable thereunder or the value of any interest in the land.
- (2) Section nineteen of this Act shall apply to depreciation and disturbance caused by the exercise of the powers conferred by paragraphs (a) and (b) of the last foregoing subsection as it applies to depreciation and disturbance arising as mentioned in the said section nineteen.
- (3) Admission to any land used for residential purposes shall not be demanded as of right under this section unless twenty-four hours' notice of the intended entry has been given to the occupier.
- (4) If it is shown to the satisfaction of a justice of the peace, or in Scotland a justice of the peace or the sheriff, on sworn information in writing—
 - (a) that admission to any land which any person is entitled to enter under this section has been refused to that person, or that refusal is apprehended, or that the land is unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency; and
 - (b) that there is reasonable ground for entry on the land for the purpose for which entry is required,the justice or sheriff may by warrant under his hand authorise that person to enter on the land, if need be by force:

Provided that such a warrant shall not be issued, unless the justice or sheriff is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the land is unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency.
- (5) Any person entitled to enter upon any land by virtue of any right of entry under this section may take with him such other persons as may be necessary, and on leaving any unoccupied land which he has entered by virtue of such right shall leave it as effectually secured as he found it.
- (6) Any power of entry conferred by paragraph (a) or (b) of subsection (1) of this section shall include power to authorise the entry or passage of such persons, vehicles, plant and materials as may be necessary, and to authorise the carrying out of work for facilitating their passage.
- (7) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.
- (8) Any person who wilfully obstructs a person exercising a right conferred by or under this section shall be guilty of an offence under this Act.
- (9) If—
 - (a) any person who in compliance with the provisions of this Act or of a warrant issued thereunder is admitted into a factory or workplace discloses, otherwise

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than in the performance of his duty, to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret; or

- (b) any member or officer of a coast protection authority to whom by reason of his official position any information obtained as aforesaid is disclosed, discloses, otherwise than in the performance of his duty, that information to any person;

he shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

26 Power of coast protection authorities to require information as to ownership of land

- (1) A coast protection authority may, for the purpose of enabling them to perform any of their functions under this Part of this Act, require the occupier of any land, and any person who either directly or indirectly receives rent in respect of any land, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, owner, creditor in a heritable security, lessee or otherwise.
- (2) Any person who having been required by a coast protection authority in pursuance of this section to give to them any information fails to give that information or knowingly makes any misstatement in respect thereof shall be liable on summary conviction to a fine not exceeding five pounds.

27 Acquisition by coast protection authority of right of passage for facilitating coast protection work

- (1) Where, for providing convenient access to land on which any coast protection work has been or is proposed to be carried out, it appears to a coast protection authority necessary to obtain a right of passage over other land, the authority may, by agreement or compulsorily, secure the creation of such a right in their favour either in perpetuity or for such term (whether fixed or determinable by notice) as they consider requisite.
- (2) In this section the expression "right of passage" means a right of passage for persons, vehicles, plant and materials, and includes a right to carry out work for facilitating their passage.
- (3) The provisions of the Lands Clauses Acts as to the acquisition of land by agreement or compulsorily, the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, the Acquisition of Land (Authorisation Procedure) Act, 1946, and the Lands Tribunal Act, 1949, and the provisions of this Act relating to the acquisition of land, shall with such adaptations, exceptions and modifications as may be prescribed by regulations made by the Minister apply to securing the creation of such rights as aforesaid as they apply to the acquisition of land.
- (4) Without prejudice to the generality of the last foregoing subsection, regulations thereunder may provide—
- (a) in the case of rights created for a term, for the payment of compensation either in one sum or periodically, or partly in one way and partly in the other;
- (b) for authorising or requiring the coast protection authority to carry out such measures for reinstating the land as may be specified by or under the regulations, and for adjusting compensation accordingly.

- (5) A coast protection authority may acquire by agreement, whether by way of purchase, feu, lease or exchange, any land required by them for providing convenient access to land on which any coast protection work has been or is proposed to be carried out, or may purchase any land required by them as aforesaid compulsorily in accordance with the provisions of subsection (1) of section fourteen of this Act.
- (6) In the application of this section to Scotland, for any reference to the Acquisition of Land (Authorisation Procedure) Act, 1946, there shall be substituted a reference to the Acquisition of Land (Authorisation Procedure) (Scotland) Act, 1947.

28 Power of Minister to facilitate coast protection work

- (1) Where a person, not being a coast protection authority, desires to carry out any coast protection work in accordance with a works scheme or with a notice served under section twelve of this Act, and the work cannot be carried out by reason of any covenant or other restriction affecting his power to carry out the work, or of the objection, absence or disability of any person whose land it is reasonably necessary to enter for the purpose of carrying it out or across whose land it is reasonably necessary, in order to obtain access to the land on which it is to be carried out, to exercise the like rights as can be created in favour of a coast protection authority under the last foregoing section he may apply to the Minister for an order under this section authorising him to carry out the work or to exercise such rights, as the case may be.
- (2) Where a coast protection authority desire to carry out any coast protection work on land belonging to the authority, and the work is work which they are empowered to carry out by section four of this Act but are prevented from carrying out by reason of any covenant or other restriction affecting their enjoyment of the land, the authority may apply to the Minister for an order under this section authorising them to carry out the work.
- (3) An application under this section shall contain particulars of the proposed work and of any land required to be entered or across which the rights in question are required to be exercised and any such further particulars as the Minister may in any particular case require; and the applicant shall serve notice of the application on any person known to him to be entitled to enforce any such covenant or restriction as aforesaid, and, in the case of an application under subsection (1) of this section, on the occupier of any land required to be entered or across which the rights in question are required to be exercised and on any other person by reason of whose objection the application is made.
- (4) Any person on whom notice of an application is served under this section, may, within four weeks after the service thereof, serve notice of objection on the applicant and on the Minister; and where such notice of objection is served and not withdrawn, the Minister shall give to the objector and the applicant an opportunity of being heard by a person appointed by him for the purpose.
- (5) At any time after the Minister is satisfied that the time for serving notice of objection to an application under this section has expired and that every objector has had an opportunity of being heard as aforesaid, he may, after considering the report of any person appointed by him to hear objections, make an order authorising the applicant to carry out the work or enter on the land or exercise the said rights, as the case may be, subject to such conditions, if any, as may be specified in the order; and any such order may require the applicant to pay to any person affected such compensation as may be provided for in the order.

29 Default powers of Minister

- (1) If complaint is made to the Minister that a coast protection authority have failed to take sufficient measures for the protection of any land in their area, or he is of the opinion that an investigation should be made into the need for any such measures or the sufficiency of any measures so taken, he may cause a local inquiry to be held into the matter.
- (2) If after a local inquiry has been held under this section the Minister is satisfied that there has been such a failure on the part of a coast protection authority, he may make an order declaring them to be in default and directing them to exercise such of their powers under this Act as may be specified in the order in such manner and within such time as may be so specified.
- (3) If the authority declared to be in default by an order made under this section fail to comply with any requirement thereof, the Minister, in lieu of enforcing the order by mandamus or otherwise, may make an order transferring to himself such of the powers of the authority as he thinks fit, or may make an order transferring those powers to the council of the county in which, according to the nature of the default, they ought to be exercised:

Provided that this subsection shall not, as respects anything to be done within the area of a county borough, authorise the transfer to a county council of any powers of a coast protection authority being either the council of the borough or a coast protection board on which the council of the borough is represented.

- (4) Where any functions are transferred to a county council under this section—
 - (a) the expenses incurred by the county council in discharging those functions shall, except in so far as they may be met by any contribution made by the county council, be a debt due from the authority in default to the county council, and shall be defrayed as part of the expenses of that authority under this Act, and the authority shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them;
 - (b) the county, council, for the purpose of the functions transferred to them, may on behalf of the authority in default borrow money subject to the like conditions, in the like manner, and on the security of the like revenues as that authority might have borrowed for the purpose of those functions;
 - (c) the county council may charge the said revenues with the payment of the principal and interest of the loan, and the loan, with the interest thereon, shall be paid by the authority in default in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on those revenues by that authority; and
 - (d) the county council shall keep separate accounts of all receipts and expenditure in respect of the transferred functions.
- (5) Where the Minister has transferred any functions to himself under this section, any expenses incurred by him in discharging those functions shall be paid in the first instance by him, but the amount of those expenses as certified by the Minister shall on demand be paid to him by the authority in default and shall be recoverable by him from them, and that authority shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them.

- (6) Any order made under subsection (3) of this section may provide for the transfer to the Minister or the county council, as the case may be, of such of the property and liabilities of the authority in default -as, in the opinion of the Minister, may be necessary or expedient; and when any such order is revoked the Minister may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable as to any property or liabilities held by him or by the county council for the purposes of the functions transferred.
- (7) In the application of this section to Scotland, subsection (3) shall have effect as if for the reference to mandamus there were substituted a reference to proceedings under section ninety-one of the Court of Session Act, 1868, and as if for the words from " or may make an order " to the end of the subsection there were substituted the words " or, if the authority declared to be in default are the council of a small burgh within the meaning of the Local Government (Scotland) Act, 1947, may make an order transferring those powers to the council of the county in which the burgh is situated. "

30 Transfer and compensation of officers, and superannuation rights

- (1) An order constituting or dissolving a coast protection board, an order under the last foregoing section transferring or retransferring functions of a coast protection authority, and an agreement setting up or dissolving a joint committee under section three of this Act, shall make such provision (if any) as the Minister may require as to the transfer, compensation and pension rights of officers and servants of the authorities concerned.
- (2) References in the last foregoing subsection to an order constituting a coast protection board and to an agreement setting up a joint committee shall be construed respectively as including references to an order and an agreement varying the constitution of such a board or committee, as the case may be.
- (3) In this section the expression " the authorities concerned " means—
- (a) in relation to an order constituting a coast protection board or an agreement setting up a joint committee, the constituent or appointing authorities ;
 - (b) in relation to an order or agreement varying the constitution of such a board or committee, the board or committee, the constituent or appointing authorities, and any authority which on the variation taking effect will be one of the constituent or appointing authorities;
 - (c) in relation to an order or agreement dissolving such a board or committee, the board or committee and the constituent or appointing authorities;
 - (d) in relation to an order under the last foregoing section, the coast protection authority and, where the order transfers or retransfers functions to or from a county council, that council.

31 Repeal or amendment of local Acts

- (1) If it appears to the Minister that any provision of a local Act in force at the commencement of this Act is inconsistent with any of the provisions of this Part of this Act, or is no longer required, or requires to be amended, having regard to the powers and duties conferred and imposed by this Part, he may by order repeal or amend that provision as he may consider appropriate; and any order under this section may contain such incidental, consequential or supplemental provisions as appear to the Minister expedient for the purposes of the order.

Status: This is the original version (as it was originally enacted).

- (2) The provisions of the First Schedule to this Act shall apply to orders made under this section:

Provided that the provisions of Part II of that Schedule shall not apply so as to make an order under this section subject to special parliamentary procedure by reason of any objection thereto if—

- (a) the order, or so much of the order as is the subject of the objection, relates only to the constitution or functions of any sea defence commissioners, or provides for the dissolution of any such commissioners; and
 - (b) the order is made on the application of the commissioners, or on the application of a coast protection authority with the concurrence of the commissioners.
- (3) Any order under this section made after the expiration of two years from the passing of this Act shall be subject to special parliamentary procedure.
- (4) The power to make orders conferred by this section shall be exercisable by statutory instrument.

32 Application to the Crown

- (1) Subject to the provisions of this section, this Part of this Act shall be binding on the Crown and shall apply in relation to any Crown land as it applies in relation to any other land.
- (2) Except with the consent of the appropriate authority, no interest in Crown land shall be acquired by compulsory purchase under this Part of this Act.
- (3) Except with the consent of the appropriate authority, nothing in this Part of this Act shall operate so as to require the Crown or that authority to pay any coast protection charge in respect of any land, or authorise any person to enter upon any Crown land.
- (4) An order under section eighteen of this Act shall not bind the Crown if the order has effect without being confirmed by the Minister.
- (5) In this section the expression " Crown land " means land an interest in which belongs to His Majesty in right of the Crown or of the Duchy of Lancaster, or to the Duchy of Cornwall, or land an interest in which belongs to a government department or is held in trust for His Majesty for the purposes of a government department; and the expression " the appropriate authority " in relation to any land means—
- (a) in the case of land belonging to His Majesty in right of the Crown, the Commissioners of Crown Lands or other government department having the management of that land;
 - (b) in the case of land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
 - (c) in the case of land belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints; and
 - (d) in the case of land belonging to a government department or held in trust for His Majesty for the purposes of a government department, the Minister in charge of that department;

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

33 Provisions as to land belonging to ecclesiastical corporations

- (1) Where under the foregoing provisions of this Part of this Act any coast protection charge or instalment of such a charge, or any cost recoverable under subsection (1) of section 13 of this Act, is payable or recoverable in respect of land belonging to an ecclesiastical corporation, the Church Commissioners may—
 - (a) apply any moneys or securities held by them for the corporation in discharging the whole or any part of the sums payable or recoverable;
 - (b) if the land belongs to a benefice, make grants out of their corporate funds in or towards the discharge of any such sum, or make a loan in or towards the discharge thereof as if the discharge thereof were included in the purposes for which such a loan can be made under the provisions of the Clergy Residences Repair Act, 1776, and the Acts or Measures amending that Act.
- (2) In this section the expression "ecclesiastical corporation" means any ecclesiastical corporation within the meaning of the Episcopal and Capitular Estates Act, 1851, and includes the incumbent of a benefice; and the expression "benefice" has the meaning assigned to it by section forty-seven of the Tithe Act, 1936.