

[26 GEO. 5. &
1 EDW. 8.]

*East Lothian County
Council Act, 1936.*

[Ch. xli.]



CHAPTER xli.

An Act to empower the county council of the county of East Lothian to control the seashore and lands adjoining the same within the said county and for other purposes.

A.D. 1936.

[29th May 1936.]

WHEREAS the county council of the county of East Lothian (hereinafter referred to as "the County Council") are the local authority for the county of East Lothian (hereinafter referred to as "the county") exclusive of the burghs therein :

And whereas the county is bounded on the north by the North Sea and the Firth of Forth and it is expedient that the powers in relation to the seashore within the county in this Act contained should be conferred upon the County Council and that the County Council should be empowered by agreement to acquire lands as by this Act provided :

And whereas it is expedient that the further provisions contained in this Act should be enacted :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present

A.D. 1936. Parliament assembled and by the authority of the same
— as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the East Lothian
County Council Act 1936.

Act
divided
into Parts.

2. This Act is divided into Parts as follows :—

Part I.—Preliminary.

Part II.—Seashore.

Part III.—Finance.

Part IV.—Miscellaneous.

Interpre-
tation.

3. In this Act unless otherwise expressly provided
or unless there be something in the subject or context
repugnant to such construction the several words and
expressions to which meanings are assigned by the Public
Health (Scotland) Act 1897 or the Act of 1889 or the
Act of 1929 (as hereinafter in this section defined) have
the same respective meanings And in this Act unless
otherwise provided or unless the subject or context
otherwise requires the following expressions shall have
the meanings hereinafter assigned to them (namely) :—

“ County Council ” means the county council of the
county of East Lothian ;

“ County ” means the county of East Lothian
exclusive of any burgh therein ;

“ District council ” means the district council of a
district within the county ;

52 & 53 Vict.
c. 50.
19 & 20
Geo. 5. c. 25.

“ Act of 1889 ” and “ Act of 1929 ” mean respec-
tively the Local Government (Scotland) Act
1889 and the Local Government (Scotland)
Act 1929 and any Act amending or extending
those Acts respectively ;

“ Seashore ” includes all parts of the beach above
and below high-water mark ;

“ Bathing machine ” includes any tent van hut shed
or other erection of whatever nature (whether
moveable or collapsible or not) used or intended

to be used for or in connection with bathing or let or intended to be let for hire for any period to bathers;

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“ Sheriff ” means the sheriff of the Lothians and Peebles and includes his substitutes;

“ Daily penalty ” means a penalty for each day on which an offence is continued after conviction thereof.

PART II.

SEASHORE.

4. Subject to the provisions of this Act and to any existing rights of property—

Jurisdiction of
County
Council
over
seashore.

(1) The County Council shall have jurisdiction over the seashore within the county for the purposes following (viz.) :—

(a) Preventing nuisance and preserving and improving the amenity of the county;

(b) Regulating the use of the seashore by pleasure boats or vessels or aircraft let for hire;

(c) Regulating the use of the seashore for riding and driving;

(d) Regulating the use of the seashore for bathing recreation and general purposes; and

(e) Granting authority on such terms and conditions as they think fit to any person to provide chairs or seats and allowing such person to make reasonable charges for the use of the same;

and shall have power to make byelaws for the said purposes or any of them and such byelaws may relate to the whole or any part of the county Provided that no such byelaws affecting the foreshore below high-water mark shall come into operation until the consent of the Board of Trade thereto has been obtained :

(2) No person shall erect or use any booth stall or stand or any other structure or use any motor

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car or any vehicle for the sale of goods wares or merchandise of any kind nor shall any person sell any goods wares or merchandise or let out the use of any chair or seat on the seashore within the county or enclose or fence any part of the seashore except under authority from the County Council and only at such places thereon and on such terms and subject to such conditions as the County Council may appoint and any person who shall contravene this enactment shall be liable to a penalty not exceeding forty shillings :

- (3) The County Council on any part of the seashore belonging to them or which they may acquire or on any other part of the seashore with the consent of any person having right thereto may erect and maintain retaining walls or embankments for the purpose of protecting land from the sea and for levelling up of the land enclosed by such walls or embankments or carry out works for the purpose of improving the amenity of the seashore and may also construct maintain or protect footpaths roads or promenades :
- (4) No person who does not possess or who fails to exhibit to any constable or officer of the County Council requiring him so to do a written authority from a proprietor or other person having right to grant the same shall without the consent of the County Council remove sand or gravel from the foreshore within the county below high-water mark of ordinary spring tides or within fifty yards above the said high-water mark and any person who shall contravene this enactment shall be liable to a penalty not exceeding five pounds :
- (5) No person shall erect occupy or use any tent shed or other structure upon the seashore within the county except under authority from the County Council and only at such places thereon as the County Council may appoint and any person who shall contravene this enactment shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

5.—(1) Subject to the provisions of this Act it shall not be lawful for any person having or claiming right to the seashore to remove or carry away or authorise or permit the removal or carrying away of sand or other matter from any part of the seashore within the county to such an extent as will affect the amenity thereof and the County Council shall have power to make byelaws in relation to the whole or any part of the county for regulating and where necessary for preserving amenity prohibiting the removal of sand or other matter from the seashore. Provided that no such byelaws affecting the foreshore below high-water mark shall come into operation until the consent of the Board of Trade thereto has been obtained.

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Protection
of seashore.

(2) Any dispute as to whether any sand or other matter is being or may be removed to such an extent as will affect the amenity of the seashore shall be settled by an arbiter to be nominated by the sheriff on the application of either party to such dispute.

6. Subject to the provisions of this Act and to any existing rights of property—

Bathing
machines.

(a) The County Council may grant licences for such number of bathing machines on any part of the seashore within the county as they may think fit;

(b) No person shall use or let any bathing machine unless it is licensed by the County Council and every person acting in contravention of this provision shall be liable to a penalty not exceeding one pound and to a daily penalty not exceeding ten shillings;

(c) The person having control of every bathing machine licensed as aforesaid shall affix to or mark upon and keep affixed to or marked upon the same such number or other identification mark as the County Council may require. Any person offending against this provision shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings.

7. Subject to any existing rights of property—

Byelaws as
to bathing
machines
and bathing.

(1) The County Council may make such byelaws in relation to the whole or any part of the

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seashore within the county as they think fit for the following purposes (that is to say):—

(a) For fixing the stands of bathing machines on the seashore and the limits within which persons shall bathe;

(b) For regulating the occupation of such stands by bathing machines and apportioning the same temporarily among the owners of such machines;

(c) For preventing any indecent exposure of the persons of the bathers;

(d) For regulating the manner in which and the times at which the bathing machines shall be used and the charges to be made for the same;

(e) For regulating the distance at which boats and vessels let for hire, for the purpose of sailing or rowing for pleasure shall be kept from persons bathing within such prescribed limits;

(f) For regulating the manner in which the persons in charge of such bathing machines shall conduct themselves in their employment;

(g) For regulating the manner in which such bathing machines shall be furnished provided kept and numbered or marked;

(h) For regulating the hours during which the persons in charge of such bathing machines may exercise their calling;

(i) For punishing the misconduct or misbehaviour of persons in charge of such bathing machines:

(2) The County Council shall have power to make byelaws in relation to the whole or any part of the seashore within the county regulating bathing from the seashore when bathing machines are not used fixing the places within which persons of each sex shall bathe and the time or times for such bathing and for preventing any indecent exposure of the persons of the bathers.

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8. The County Council may provide and maintain drags life-buoys and other implements for the prevention of drowning and employ such persons as superintendents and servants for that purpose on such terms as the County Council think fit.

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Power to
provide
drags life-
buoys &c.

9.—(1) The County Council may from time to time as they think fit by agreement acquire by purchase or feu or lease any part of the seashore and any lands adjacent or near to the seashore within the county or any interest therein for the purpose of preserving or improving the amenities of the county or forming foot-paths roads or promenades along across or adjoining any such part of the seashore or lands adjacent or near thereto.

Acquisition
of lands by
agreement.

(2) Subject to the terms of any agreement under which any part of the seashore or such lands have been or may be so acquired by or leased to the County Council the County Council may on any part or parts thereof construct erect or provide and maintain bathing machines shelters chairs seats booths stalls stances lavatories cloakrooms and other erections and conveniences and provide facilities for the playing of games or for recreation and may demand and recover rents or charges for the use thereof or admission thereto and the County Council may let any part or parts of such lands for any of such purposes at such rent and for such period and upon and subject to such terms and conditions as they may think fit.

(3) The County Council may make byelaws for regulating the use of any such lands or any part or parts thereof and for preventing nuisance and preserving or improving the amenities thereof.

10. The County Council shall not under the powers of this Part of this Act construct on under or over the shore or bed of the sea or of any creek bay arm of the sea or navigable river communicating therewith below high-water mark of ordinary spring tides any work without the previous consent of the Board of Trade to be signified in writing under the hand of one of the secretaries under-secretaries or assistant-secretaries of the Board of Trade and then only according to such plan and under such restrictions and regulations as the Board of Trade may approve of in writing under hand as last aforesaid and

Works
below high-
water mark
not to be
con-
structed
without
consent of
Board of
Trade.

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where any such work may have been constructed the County Council shall not at any time alter or extend the same without obtaining previously to making any alteration or extension the like consent or approval. If any work be commenced altered extended or completed contrary to the provisions of this section the Board of Trade may abate and remove the same and restore the site thereof to its former condition at the cost and charge of the County Council and the amount of such costs and charges shall be a debt due from the County Council to the Crown and shall be recoverable accordingly.

PART III.

FINANCE.

Expenses of
execution
of Act.

11.—(1) Any expenses incurred by the County Council in the execution of the provisions of this Act and not otherwise provided for shall be defrayed out of such rate leviable by the County Council and payable by owners and occupiers in equal proportions as the County Council may determine.

(2) Such expenses shall not except with the consent of the Secretary of State exceed the produce of a rate of threepence in the pound leviable within the landward part of the county.

Power to
borrow.

12. The County Council may under and subject to the provisions (so far as applicable) of the Act of 1889 and subsection (2) of section 23 of the Act of 1929 from time to time independently of any other borrowing power borrow at interest for and in connection with any of the purposes of this Act to which capital is properly applicable (including the payment of such costs charges and expenses as are referred to in the section of this Act of which the marginal note is "Costs of Act") the sums requisite for those respective purposes together with the costs and expenses of and incidental to the borrowing.

PART IV.

MISCELLANEOUS.

Delegation
of powers.

13. Without prejudice to any powers of delegation of the County Council the County Council may subject to the provisions of subsection (6) of section 12 of the

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Act of 1929 if they think fit by resolution upon and subject to such terms and conditions as may be specified therein appoint a committee consisting partly of members of the County Council and partly of members of a district council or district councils to act as the agent of the County Council to carry out any of their powers or duties under Part II of this Act.

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14. The provisions of sections 183 to 187 of the Public Health (Scotland) Act 1897 (which relate to byelaws made under that Act) shall extend and apply to any byelaws made by the County Council under this Act:

As to
byelaws.
60 & 61 Vict.
c. 38.

Provided that in the application of section 185 of the said Act to any such byelaws the Secretary of State shall be substituted for the Local Government Board for Scotland as confirming authority and that before confirming any byelaws made by the County Council under the section of this Act of which the marginal note is "Jurisdiction of County Council over seashore" relating to the use of the seashore by aircraft the Secretary of State shall consult with the Secretary of State for Air:

Provided further that in making such byelaws the County Council shall have regard to the special circumstances of the seashore within the county or of the part thereof to which such byelaws relate.

15. Any penalty under this Act or under any byelaws or regulations made under this Act unless otherwise specially provided for may be recovered in manner provided by the Summary Jurisdiction (Scotland) Acts.

Recovery of
penalties.

16. Nothing in the sections of this Act of which the marginal notes are "Jurisdiction of County Council over seashore" "Bathing machines" and "Byelaws as to bathing machines and bathing" respectively shall take away prejudice or affect any existing estate right or privilege of any proprietor of lands and heritages adjacent to any part of the seashore within the county in or over the seashore ex adverso of such lands and heritages.

Saving
rights of
proprietors.

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Saving for
minerals.

17. Nothing in this Act shall restrict the taking of minerals by underground workings from under the seashore by any person entitled thereto.

Crown
rights.

18. Nothing in this Act shall affect prejudicially any estate right power privilege or exemption of the Crown or shall subject to the provisions of this Act any lands buildings or works vested in or occupied by the Crown or any department of His Majesty's Government except to such extent as His Majesty or such department may voluntarily agree and in particular nothing herein contained shall authorise the County Council to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land heritages subjects or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of Crown Lands or of the Board of Trade respectively without the consent in writing of the Commissioners of Crown Lands or the Board of Trade as the case may be on behalf of His Majesty first had and obtained for that purpose.

Costs of
Act.

19. The costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the County Council out of any funds (not being in the nature of capital) rates or revenues belonging to them or under their control or out of moneys to be borrowed for that purpose under this Act Provided that any moneys borrowed by the County Council for the purposes of this section shall be repaid within five years from the passing of this Act.

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