



# Coast Protection Act 1949

1949 CHAPTER 74 12 13 and 14 Geo 6

## PART II

### PROVISIONS FOR SAFETY OF NAVIGATION

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

- C1 Pt. II, except s. 34(1)(b) extended by [Continental Shelf Act 1964 \(c. 29\)](#), s. 4(1) to any part of the sea bed in an area of designated under s. 1(7) of that Act

#### 34 Restriction of works detrimental to navigation.

- (1) Subject to the provisions of the next following section, no person shall without the consent in writing of the [<sup>F1</sup>Board of Trade] carry out any of the following operations, that is to say,—
- (a) construct, alter or improve any works on, under or over any part of the seashore lying below [<sup>F2</sup>the level of mean high water springs],
  - (b) deposit any object or any materials on any such part of the seashore as aforesaid, or
  - (c) remove any object or any materials from any part of the seashore lying below [<sup>F3</sup>the level of mean low water springs],
- [<sup>F4</sup>if the operation (whether while being carried out or subsequently) causes or is likely to result in obstruction or danger to navigation.]
- (2) The said [<sup>F1</sup>Board of Trade] may, as a condition of considering an application for consent under this section, require to be furnished with such plans and particulars of the proposed operation as he may consider necessary; and on receipt of any such application [<sup>F1</sup>they] may cause notice of the application, and of the time within which and the manner in which objections thereto may be made, to be published in such manner as [<sup>F1</sup>they] may consider appropriate for informing persons affected thereby, and, before granting [<sup>F1</sup>their] consent, may, if [<sup>F1</sup>they think] fit, direct a local inquiry to be held.

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(3) If the [<sup>F1</sup>Board of Trade are] of opinion that any operation in respect of which application is made to [<sup>F1</sup>them] under this section will cause or is likely to result in obstruction or danger to navigation, [<sup>F1</sup>they] shall either refuse [<sup>F1</sup>their] consent or give [<sup>F1</sup>their] consent subject to such conditions as [<sup>F1</sup>they] may think fit, having regard to the nature and extent of the obstruction or danger which it appears to [<sup>F1</sup>them] would otherwise be caused or be likely to result.

[<sup>F5</sup>(3A) Any reference in subsection (1) or (3) above to an operation being likely to result in obstruction or danger to navigation shall, in the case of an operation falling within subsection (1)(a) above, be construed as including a reference to its being likely to result in obstruction or danger to navigation by reason of any use intended to be made of the works in question when constructed, altered or improved.]

(4) A consent of the [<sup>F1</sup>Board of Trade] under this subsection may be given so as to continue in force, unless renewed, only if the operation for which the consent is given is begun or completed within such period as may be specified in the consent; and any renewal of such a consent may be limited in the like manner.

[<sup>F6</sup>(4A) Any condition subject to which the Secretary of State has given his consent for an operation falling within subsection (1)(a) of this section—

- (a) shall (subject to paragraph (d) below) either remain in force for a specified period or remain in force without limit of time;
- (b) shall (in addition to binding the person to whom the consent is given) bind, so far as is appropriate, any other person who for the time being owns, occupies, or enjoys any use of, the works in question;
- (c) may, if the condition relates—
  - (i) to the provision of any lights, signals or other aids to navigation, or
  - (ii) to the stationing of guard ships in the vicinity of the works in question or to the taking of any other measures for the purpose of, or in connection with, controlling the movements of ships in the vicinity of those works,

be varied by the Secretary of State in the interests of the safety of navigation (whether or not the operation has been completed) in such manner as he thinks fit for the purpose of enhancing the effectiveness of any such aids or measures as are mentioned in sub-paragraph (i) or (ii) above; and

- (d) may, if the Secretary of State thinks fit, be revoked by him.]

(5) ..... <sup>F7</sup>

Textual Amendments	
<b>F1</b>	Words substituted by virtue of <a href="#">S.I. 1965/145</a> . Powers of Board of Trade exercisable concurrently by Secretary of State: <a href="#">S.I. 1970/1537</a>
<b>F2</b>	Words substituted by <a href="#">Merchant Shipping Act 1988 (c. 12, SIF 111)</a> , s. 36(2)(a), <a href="#">Sch. 8 para. 1</a>
<b>F3</b>	Words substituted by <a href="#">Merchant Shipping Act 1988 (c. 12, SIF 111)</a> , s. 36(2)(c), <a href="#">Sch. 8 para. 1</a>
<b>F4</b>	Words substituted by <a href="#">Merchant Shipping Act 1988 (c. 12, SIF 111)</a> , s. 36(2)(c), <a href="#">Sch. 8 para. 1</a>
<b>F5</b>	<a href="#">S. 34(3A)</a> inserted by <a href="#">Merchant Shipping Act 1988 (c. 12, SIF 111)</a> , s. 36(3), <a href="#">Sch. 8 para. 1</a>
<b>F6</b>	<a href="#">S. 34(4A)</a> inserted by <a href="#">Merchant Shipping Act 1988 (c. 12, SIF 111)</a> , s. 36(4), <a href="#">Sch. 8 para. 1</a>
<b>F7</b>	<a href="#">S. 34(5)</a> repealed by <a href="#">Statute Law Revision Act 1953 (c. 5)</a>

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

- C2** S. 34 power to exclude s. 34 conferred by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 37(1), [Sch. 8 para. 1](#)
- C3** S. 34(1) excluded by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), s. 44(3)
- C4** S. 34(1) by [S.I. 1983/1127](#), [art. 2\(4\)](#) it is directed that the civil aviation and shipping functions of the Board of Trade which at 11.8.1983 were exercisable concurrently with any other Minister of the Crown should cease to be exercisable by the Board of Trade
- C5** S. 34(2)(3) by [S.I. 1983/1127](#), [art. 2\(4\)](#) it is directed that the civil aviation and shipping functions of the Board of Trade which at 11.8.1983 were exercisable concurrently with any other Minister of the Crown should cease to be exercisable by the Board of Trade
- C6** S. 34(4) by [S.I. 1983/1127](#), [art. 2\(4\)](#) it is directed that the civil aviation and shipping functions of the Board of Trade which at 11.8.1983 were exercisable concurrently with any other Minister of the Crown should cease to be exercisable by the Board of Trade

**35 Operations excepted from s. 34.**

- (1) The following operations shall be excepted from the restriction imposed by subsection (1) of the last foregoing section, that is to say—
- (a) anything done on, under or over a part of the seashore lying within any area closed by a lock or other artificial means against the regular action of the tide;
  - (b) the carrying out of any coast protection work approved by the Minister as mentioned in the next following subsection;
  - (c) the carrying out of any dredging operations (including the deposit of dredged materials) authorised by any local Act in accordance with the provisions thereof;
  - (d) the construction, alteration or improvement of any works more than fifty feet below the surface in connection with the getting of minerals;
  - (e) any work to which the consent of the [<sup>F8</sup>Secretary of State], either alone or jointly with any other government department, is required by virtue of any local Act, or by virtue of such Act and any notice given and published by the [<sup>F8</sup>Secretary of State] under section nine of the <sup>M1</sup>Harbours Transfer Act 1862;
  - (f) any work which a conservancy authority or a harbour authority or a navigation authority is empowered to carry out for the removal of any vessel sunk or stranded or of anything causing or likely to cause obstruction or danger to navigation;
  - (g) any work carried out by, or in accordance with a licence or permission granted by, such an authority in pursuance of any Act, where—
    - (i) the Act requires that if the approval of the [<sup>F9</sup>Board of Trade] is not previously obtained to the work other conditions must be complied with, and
    - (ii) the said approval has been so obtained or the said conditions are complied with.
- (2) For the purposes of paragraph (b) of the last foregoing subsection, any coast protection work shall be deemed to have been approved by the Minister—
- (a) if an objection to the proposal to carry out the work was determined under the provisions of Part I of this Act and the work does not contravene any directions given or modifications or conditions imposed by the Minister under those provisions, or if the work is carried out in accordance with a works scheme;

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- (b) if the Minister has made, or agreed to make, a grant under the said Part I towards expenditure incurred or to be incurred in carrying out the work or has consented to the borrowing of money by a coast protection authority for the purpose of defraying or contributing to expenditure so incurred or to be incurred.

#### Textual Amendments

- F8** Words substituted by virtue of [Defence \(Transfer of Functions\) Act 1964 \(c. 15\), s. 3\(2\)](#)  
**F9** Words substituted by virtue of [S.I. 1965/145](#). Powers of Board of Trade exercisable concurrently by Secretary of State: [S.I. 1970/1537](#)

#### Marginal Citations

- M1** [1862 c. 69](#).

### 36 Enforcement of s. 34.

- (1) Any person who—
- (a) carries out any operation in contravention of the provisions of subsection (1) of section thirty-four of this Act, or
  - (b) fails to comply with any condition subject to which any consent of the <sup>[F10]</sup>Board of Trade] has been given under that section,
- shall be guilty of an offence under this Act.

<sup>[F11]</sup>(1A) Where a person is bound by any condition subject to which any such consent has been given under that section but is not the person to whom the consent was given, then, for the purposes of subsection (1) of this section, he shall not be taken to have failed to comply with the condition unless—

- (a) he has been served by the Secretary of State with a notice requiring him to comply with the condition within such period (not being less than thirty days) as may be specified in the notice; and
  - (b) he has failed to comply with the condition within that period]
- (2) Without prejudice to any proceedings under <sup>[F12]</sup>subsection (1) of this section], where any person has constructed, altered or improved any works or deposited any object or materials on the seashore in contravention of the said section thirty-four or has failed to comply with any condition subject to which any consent of the <sup>[F10]</sup>Board of Trade] has been given under that section, the <sup>[F10]</sup>Board of Trade] may serve a notice on that person 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 alterations therein as may be so specified or to remove the object or materials, as the case may be, or, if it appears to the <sup>[F10]</sup>Board of Trade] urgently necessary so to do, may <sup>[F10]</sup>themselves] remove or alter the works or remove the object or materials.
- (3) If within the period specified in any notice under the last foregoing subsection the person upon whom the notice is served fails to comply therewith, the <sup>[F10]</sup>Board of Trade] may <sup>[F10]</sup>themselves] remove or alter the works or remove the object or materials as specified in the notice.
- (4) Where under either of the two last foregoing subsections the <sup>[F10]</sup>Board of Trade] themselves remove or alter] any works or removes any object or materials, <sup>[F10]</sup>they] shall be entitled to recover the expense thereof, as certified by <sup>[F10]</sup>them] from the

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person [<sup>F13</sup>on whom the notice was served under subsection (2) of this section or (if no such notice was served) from the person] by whom the works were constructed, altered or improved, or the object or materials was or were deposited.

- (5) A harbour authority in England or Wales shall have power to enforce the provisions of section thirty-four of this Act.

#### Textual Amendments

- F10** Words substituted by virtue of S.I. 1965/145. Powers of Board of Trade exercisable concurrently by Secretary of State: S.I. 1970/1537
- F11** S. 36(1A) inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 36(5)(a), **Sch. 8 para. 1**
- F12** Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 36(5)(b), **Sch. 8 para. 1**
- F13** Words inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 36(5)(c), **Sch. 8 para. 1**

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

- C7** S. 36(1)(b by S.I. 1983/1127, **art. 2(4)** it is directed that the civil aviation and shipping functions of the Board of Trade which at 11.8.1983 were exercisable concurrently with any other Minister of the Crown should cease to be exercisable by the Board of Trade
- C8** S. 36(2)(3) by S.I. 1983/1127, **art. 2(4)** it is directed that the civil aviation and shipping functions of the Board of Trade which at 11.8.1983 were exercisable concurrently with any other Minister of the Crown should cease to be exercisable by the Board of Trade
- C9** S. 36(4) by S.I. 1983/1127, **art. 2(4)** it is directed that the civil aviation and shipping functions of the Board of Trade which at 11.8.1983 were exercisable concurrently with any other Minister of the Crown should cease to be exercisable by the Board of Trade

### [<sup>F14</sup>36A Imposition by Secretary of State of safety requirements in cases of emergency.

- (1) Where at any time after the Secretary of State has given his consent for an operation falling within section 34(1)(a) of this Act (“the relevant consent”), it appears to him—
- (a) that any danger to navigation has arisen by reason of—
- (i) any substantial damage to any works to which that consent relates, or
- (ii) any other substantial and unforeseen change in the state or position of any such works, and
- (b) that it is urgently necessary to do so in the interests of the safety of navigation, he may, by notice served on the person to whom the consent was given, impose on that person such requirements as he thinks fit with respect to any of the matters referred to in subsection (2) below.
- (2) Those matters are—
- (a) the provision on, or in the vicinity of, the works in question of any lights, signals or other aids to navigation, and
- (b) the stationing of guard ships in the vicinity of those works.
- (3) Where the person on whom a notice is served under subsection (1) above fails to comply with any requirements of the notice within the period of 24 hours beginning with the time when it is served on him or as soon after the end of that period as is reasonably practicable, the Secretary of State may make such arrangements as he thinks fit for the purpose of securing that those requirements are implemented.

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- (4) Where under subsection (3) above the Secretary of State makes any such arrangements, he shall be entitled to recover the cost, as certified by him, of making those arrangements from such one or more of the following, namely—
- (a) the person to whom the relevant consent was given, and
  - (b) any other person or persons who is or are, in accordance with section 34(4A) (b) of this Act, bound by any condition subject to which that consent was given,
- as he thinks fit.
- (5) Once the requirements of a notice under subsection (1) above have been complied with by the person on whom it was served, or implemented in accordance with arrangements made by the Secretary of State under subsection (3) above, those requirements shall, subject to subsection (6) below, be treated for the purposes of this Part of this Act as conditions subject to which the relevant consent was given.
- (6) Section 34(4A) (a) and (d) of this Act shall not apply to any such requirements; but if it appears to the Secretary of State (whether on the application of any person or otherwise) that the circumstances giving rise to the urgent necessity for the imposition of the requirements no longer exist, he shall revoke them by notice served on the person to whom the relevant consent was given.
- (7) Where the Secretary of State has served a notice under subsection (1) above in respect of any particular circumstances, subsection (5) above shall not preclude him from serving a further notice under subsection (1) in respect of those circumstances.
- (8) A notice may be served by the Secretary of State under subsection (1) above whether or not—
- (a) the operation in question has been completed, or
  - (b) any condition was imposed by him, on giving the relevant consent, with respect to any of the matters referred to in subsection (2) above.]

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**Textual Amendments**

**F14** S. 36(A) inserted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 36(6), [Sch. 8 para. 1](#)

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**Changes to legislation:**

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