



CHAPTER 39.

An Act to make further and better provision for the protection of the coast of Great Britain against erosion; and for other purposes connected with the matter aforesaid.

[13th July 1939.]

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 Parliament assembled, and by the authority of the same, as follows :—

Power of Board of Trade to restrict excavation, &c., of materials on or under the seashore.

1.—(1) Where the Board of Trade are of opinion that it is desirable for the protection of any part of the coast of Great Britain from erosion, or for the prevention of damage to any lands, including harbour works, by the action of the sea, that such an order as is hereinafter mentioned should be made, the Board may, subject to compliance with the provisions contained in the First Schedule to this Act (relating to procedure, the holding of public inquiries, and the approval or confirmation of orders by Parliament) by order prohibit, restrict or impose conditions as to the excavation, removal or other disturbance of all or any materials, on, under or forming part of such portions of the seashore as may be specified in the order, except minerals more than fifty feet below the surface :

Provided that, where the Board are satisfied that on account of urgency it is expedient that an order should be made forthwith, they may make an interim order

without complying with the provisions contained in the said Schedule, but any such interim order shall only continue in force until an order made in compliance with such provisions as aforesaid comes into force or until the Board have decided that it is not expedient that such an order should be made, and if no such order is made by the Board within six months after the making of the interim order, the Board shall be deemed to have decided that it is not expedient to make an order.

(2) An order under this section, whether or not confirmed by Parliament, may be revoked, or amended by a subsequent order made under and in accordance with this section.

(3) An order under this section may apply to any seashore—

(*a*) belonging to His Majesty in right of the Crown;

(*b*) belonging to His Majesty in right of the Duchy of Lancaster;

(*c*) forming part of the possessions of the Duchy of Cornwall.

(4) Every order made under this section shall be binding on the Crown.

(5) An order made under this section shall be binding on all persons, including the owners of and persons interested in any part of the seashore comprised in the order, and any drainage authority or harbour, local or other authority having jurisdiction over the area comprised in the order or any part thereof, and all highway authorities, and shall have effect notwithstanding the provisions of any public general or local or private Act, or any alleged custom or prescriptive right to the contrary:

Provided that, if it appears to the Board of Trade that such an order will operate to prevent or impede the performance by any person of any duty imposed upon him, the order may for the purpose of relieving the person from the duty or from any penalty, liability or disability attaching to the non-performance thereof, repeal or modify the provisions of any local Act to such extent and in such manner as the Board think proper.

(6) Where such an order is in force as respects any part of the seashore, the Board of Trade may grant to any person a licence to do any act or thing which would otherwise be unlawful by virtue of the order. Any such licence may be either absolute or subject to conditions.

(7) When an order has been made under this section, any person who, without such licence as aforesaid, acts in contravention of the order, or who having obtained such a licence contravenes or fails to comply with any condition subject to which the licence was granted, shall be guilty of an offence under this section and shall be liable on summary conviction to a fine not exceeding fifty pounds and in the case of a continuing offence to an additional fine not exceeding five pounds for every day during which, after the person has been convicted thereof, the offence continues.

(8) Nothing in this section, or in any licence granted thereunder, shall affect the right of any person to prohibit, restrict or impose conditions as to the excavation, removal or other disturbance of any materials if he might have exercised that right if no order had been made under this section :

Provided that in the exercise of any such right no person may permit the doing of any act or thing which would otherwise be unlawful by virtue of an order made under this section.

(9) No order made under this section shall apply to the seashore adjacent to so much of any channel or river as is above any lock or sluice.

(10) Section fourteen of the Harbours Act, 1814, as amended by section sixteen of the Harbours Transfer Act, 1862 (which enables the Board of Trade to prohibit the removal of shingle and ballast from the shores or banks of ports, harbours and havens), and section twenty-eight of the said Act of 1814 (which provides that nothing in the said Act shall affect certain rights or powers enjoyed or exercised by corporations, lords of manors and other persons) shall cease to have effect : 54 Geo. 3. c. 159. 25 & 26 Vict. c. 69.

Provided that any order in force at the date of the passing of this Act under the said section fourteen shall continue in force notwithstanding the repeal of that section and shall, for all the purposes of this Act, be deemed to be an order made under this section.

(11) Where the Board of Trade cause any inquiry to be held under this Act, the Board may direct that the whole or any part of the costs incurred by the Board in relation to such inquiry (including the remuneration of any independent engineer appointed to hold the inquiry, and such reasonable sum not exceeding five guineas a day as the Board may determine for the services of any officer of the Board engaged in the inquiry) shall be paid, as the Board may direct, by any person who applied for the order or objected to the order being made, and the Board may certify the amount of costs to be paid by any person, and any amount so certified shall be recoverable as a debt due to the Crown or summarily as a civil debt.

(12) For the purposes of this Act, unless the context otherwise requires :—

The expression " coast " includes the banks of any estuary or of any tidal river so far up that river as the tide flows.

The expression " materials " includes minerals and growing seaweed, but does not include drift seaweed.

The expressions " harbour authority " and " conservancy authority " have the same meanings as in the Merchant Shipping Act, 1894.

57 & 58 Vict. c. 60.

The expression " minerals " includes coal and stone and any metallic or other mineral substance.

The expression " navigation authority " means any person or body of persons having powers under any Act of Parliament to work or maintain a canal or other inland navigation (including a navigation in tidal water).

The expression " seashore " means the bed and shore of the sea and of every channel, creek, bay or

estuary, and of every river so far up that river as the tide flows, and any cliff, bank, barrier, dune, beach, flat or other land adjacent to the shore.

The expression "local Act" includes a provisional order confirmed by Parliament.

Savings. 28 & 29 Vict. c. 125.

2.—(1) Nothing in this Act shall affect the powers conferred upon the Admiralty under the Dockyard Ports Regulation Act, 1865.

(2) Nothing in this Act or any order made thereunder shall affect any powers or duties of the Postmaster General under the provisions of the Telegraph Acts, 1863 to 1926.

(3) Nothing in this Act or any order made thereunder shall take away, diminish, or prejudice any rights, powers, or privileges in relation to conserving, maintaining, or improving the navigation of a tidal water or constructing, improving, repairing, or maintaining a dock, wharf, pier, embankment, or other work conferred by any public general or local or private Act on any harbour authority, conservancy authority, or navigation authority.

(4) Nothing in this Act or any order made thereunder shall take away, diminish, or prejudice any powers to construct and maintain sea defence works (including river embankments), conferred upon any person by any public general or local or private Act.

Provisions as to acts of Board of Trade.

3. Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board, any secretary, under secretary or assistant secretary of the Board or any person authorised in that behalf by the President.

Application to Scotland.

4. This Act shall apply to Scotland subject to the following modifications :—

(*a*) a reference to the Edinburgh Gazette shall be substituted for the London Gazette ;

(*b*) any expenditure falling to be met by a local authority under this Act, shall be defrayed in the case of a county or town council, out of such rate payable by owners and occupiers

in equal proportion as the council may determine, and in the case of a district council, out of the district council rate;

(*c*) subsection (11) of section one shall have effect as if the word " summarily " were omitted.

Short title, repeal and extent.

5.—(1) This Act may be cited as the Coast Protection Act, 1939.

(2) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) This Act shall not extend to Northern Ireland.

SCHEDULES.

FIRST SCHEDULE.

Section 1.

PROCEDURE FOR MAKING ORDERS UNDER SECTION ONE.

PART I.

General Provisions.

1. Before making an order under section one of this Act, the Board of Trade shall cause notice of their intention to make the order and of the place where copies of the draft order may be inspected and obtained, and of the time within and manner in which objections to the draft order may be made, to be published in the London Gazette and in such other manner as they think best adapted for informing persons affected.

2. The Board shall consider any objections which may be duly made to the draft order, and may in any case order a public local inquiry to be held with respect to any objections to the draft order.

3. Where any such local inquiry is held, the Board shall consider the report of the person holding the inquiry and shall make such modifications of the draft order, if any, as they think expedient in consequence of the report.

4. After a draft order has been settled by the Board, the Board shall publish the draft in such manner as they think best adapted for informing persons affected, together with a notice that the draft order as so settled is to be laid before Parliament for approval in accordance with the subsequent provisions of this Part of this Schedule unless within such period, not being less than thirty days, as may be stated in the notice, a memorial is presented to the Board by some person having an interest, right or privilege conferred on him by any local or private Act which would be affected by the order, specifying the interest, right or privilege claimed and praying that the order shall not become law without confirmation by Parliament in accordance with Part II of this Schedule.

5. If no such memorial has been presented during the said period, or if every such memorial has been withdrawn, the Board may cause the draft order as so settled to be laid before both Houses of Parliament, and if both Houses by resolution approve the draft, the Board may make the order and the order on being so made shall be of full force and effect.

1ST SCH. —*cont.*

6. If any such memorial has been presented as aforesaid and has not been withdrawn, the Board may make the order, but any order so made shall be provisional only and shall have no effect unless and until confirmed by Parliament.

PART II.

Provisional Orders.

1. The Board may submit to Parliament for confirmation any provisional order made by them in pursuance of this Schedule.

2. If while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein the Bill so far as it relates to that order may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills.

3. The Board may revoke either wholly or partially any provisional order made by them before the order is confirmed by Parliament, but such a revocation shall not be made while the Bill confirming the order is pending in either House of Parliament.

Section 5.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
54 Geo. 3. c. 159.	The Harbours Act, 1814.	Sections fourteen and twenty-eight.
25 & 26 Vict. c. 69.	The Harbours Transfer Act, 1862.	In section sixteen the words " fourteen and ".

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