

## COAST PROTECTION ACT 1963

### LONG TITLE

An Act to provide for the making and execution of coast protection schemes and to provide for other matters connected with the matters aforesaid.

[20th May, 1963.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

#### Interpretation.

1.—In this Act— "certificate of completion" means a certificate issued under subsection (1) of section 18; "coast protection scheme" means a scheme under section 6; "the Commissioners" means the Commissioners of Public Works in Ireland; "county" includes county borough and, in relation to a county, borough, "council" shall be construed as meaning the corporation of the borough; "local authority" means a body which is— ( a ) the council of a county, ( b ) the corporation of a county or other borough, or ( c ) the council of an urban district; "promoting authority" means a council who have made a declaration under subsection (3) of section 2, being, in a case in which one of two or more councils of counties has been named pursuant to subsection (4) of that section, the council so named; "protected lands" has the meaning specified in paragraph (b) of section 7; "reserved function" means— ( a ) in the case of a corporation of a county borough, a reserved function for the purposes of the enactments relating to the management of that county borough, and ( b ) in any other case, a reserved function for the purposes of the County Management Acts, 1940 to 1955.

Investigation of proposed coast protection works and declaration for promotion of coast protection scheme.

2.—(1) The council of a county may investigate, where they consider it expedient to do so, any proposals for coast protection works within the county. (2) ( a ) Where an investigation is made under subsection (1) of this section, the council shall cause a report to be prepared and submitted to them on the location and extent of the relevant encroachment of the sea, the extent of the land and other property being damaged or endangered, the works (if any) which may be practicable and desirable to prevent the continuance of the encroachment and the estimated cost of the works. ( b ) In the case of an encroachment of the sea affecting land in two or more counties, the councils of the counties may make an arrangement under which one of the councils causes a single report in relation to the whole of the encroachment to be made and submitted to each of the councils. (3) ( a ) Where a report is submitted under subsection (2) of this section to the council of a county, the council, if satisfied that land within the county is being progressively damaged by the continuing encroachment of the sea, as distinct from occasional or abnormal storms, and that the encroachment is liable to endanger the safety of a harbour, the buildings or amenities of a residential area or other valuable property, may declare that the promotion of a coast protection scheme is expedient and that the Commissioners should be asked to carry out a preliminary examination. ( b ) Where— (i) the council of a county have considered a report submitted under subsection (2) of this section and have decided not to make a declaration under this subsection, and (ii) the proposals are for coast protection works wholly within an urban district, the council shall send the report to the council of the urban district. ( c ) Where a report is sent under paragraph (b) of this subsection to the council of an urban district, the council, if satisfied that land within the urban district is being progressively damaged by the continuing encroachment of the sea, as distinct from occasional or abnormal storms, and that the encroachment is liable to endanger the safety of a harbour, the buildings or amenities of a residential area or other valuable property, may, with the consent of the Minister for Local Government and subject to the council of a county having undertaken to make such contribution to the balance referred to in paragraph (b) of section 16 of this Act as that Minister has approved of, declare that the promotion of a coast protection scheme is expedient and that the Commissioners should be asked to

carry out a preliminary examination. (4) If, in the case of encroachment of the sea affecting land in two or more counties, each of the councils of the counties make a declaration under subsection (3) of this section, the councils shall name one council as the authority to promote the coast protection scheme. (5) It shall be lawful for the council of a county and their offices, agents and servants to enter on any lands at all reasonable times and there do all such things as may appear to them to be necessary or expedient for the purposes of the preparation of a report under subsection (2) of this section. (6) The consideration of a report and the making of a declaration under this section shall each be a reserved function.

Preliminary examination by the Commissioners.

3.—(1) On receipt by the Commissioners from the promoting authority of— ( a ) a certified copy of a resolution by the promoting authority for the purposes of subsection (3) of section 2 of this Act, ( b ) a copy of the report under subsection (2) of section 2 of this Act, ( c ) an undertaking by the promoting authority that if, after the carrying out by the Commissioners of a preliminary examination of the encroachment of the sea, the Commissioners make a determination under paragraph (a) of subsection (1) of section 4 of this Act or the promoting authority make a declaration under paragraph (a) of subsection (1) of section 5 of this Act, the promoting authority will pay the amount which will become appropriate to be paid by them when a notice under subsection (1) of section 26 of this Act has been served, and ( d ) a map or plan showing in sufficient detail the site of the encroachment of the sea and the extent of the land and other property being damaged or liable to be endangered thereby, the Commissioners may undertake a preliminary examination of the encroachment of the sea. (2) In a case in which the encroachment of the sea affects land in two or more counties, the reference in paragraph (a) of subsection (1) of this section to a certified copy of a resolution by the promoting authority for the purposes of subsection (3) of section 2 of this Act shall be construed as a reference to certified copies of resolutions by the councils of those counties for those purposes. (3) It shall be lawful for the Commissioners and their officers, agents and servants to enter on any lands at all reasonable times and there do all such things as may appear to them to be necessary or expedient for the purposes of the making of a preliminary examination under this section.

Determination by the Commissioners.

4.—(1) On completion of a preliminary examination under section 3 of this Act, the Commissioners shall— ( a ) determine that the circumstances are not such as to warrant a full examination and the preparation and execution of a coast protection scheme, or ( b ) determine that the circumstances are such that the preparation and execution of a coast protection scheme is feasible. (2) Where the Commissioners make a determination pursuant to paragraph (a) of subsection (1) of this section, they shall so report to the promoting authority and shall set out in the report in such manner and such detail as they consider necessary the reasons upon which the determination is based. (3) Where the Commissioners make a determination pursuant to paragraph (b) of subsection (1) of this section, they shall inform the promoting authority and at the same time transmit to that authority a report (accompanied by such maps or plans as they may consider necessary) setting out in such manner and detail as they may consider necessary the extent of the land and other property being damaged or liable to be endangered, the works which they consider practicable and desirable to prevent the continuance of the encroachment of the sea and an estimate of the cost of such works.

Further declaration by promoting authority.

5.—(1) Where, pursuant to subsection (3) of section 4 of this Act, the Commissioners report a determination by them that the circumstances are such that the preparation and execution of a coast protection scheme is feasible, the promoting authority, after consideration of the report, shall— ( a ) declare that a coast protection scheme is not to be proceeded with, or ( b ) declare that the Commissioners should be asked to prepare and execute a coast protection scheme. (2) A declaration under paragraph (b) of subsection (1) of this section shall include a declaration that the promoting authority will make in relation to the coast protection scheme— ( a ) any contribution which may become proper to be made by them under section 16 of this Act, and ( b ) any payment which may become proper to be made by them consequent upon a notice served under subsection (2) or subsection (3) of section 26 of this Act. (3) The consideration of a report and the making of a declaration under this section shall be a reserved function.

Preparation of coast protection scheme.

6.—(1) On receipt by the Commissioners from the promoting authority of a certified copy of a resolution by the promoting authority for the purposes of paragraph (b) of subsection (1) of section 5 of this Act, the Commissioners may, subject to the consent of the Minister for Finance and to any conditions stipulated by him, prepare a scheme for the prevention of the relevant encroachment of the sea and shall send a copy of the scheme to the promoting authority and to any other council who named the promoting authority. (2) It shall be lawful for the Commissioners and their officers, agents or servants to enter on any lands at all reasonable times and there do all such things as may appear to them to be necessary or expedient for the purposes of the preparation of a scheme under this section.

Matters to be shown in scheme.

7.—A coast protection scheme shall show, either in the body of the scheme or by means of appropriate maps, drawings, plans, sections and schedules annexed thereto— ( a ) the works proposed to be undertaken pursuant to the scheme and their proposed site, ( b ) the lands and other property encroached upon or liable to be endangered (in this Act referred to as the protected lands) which such works are intended to protect, ( c ) the lands proposed to be compulsorily acquired or substantially interfered with, the easements, fisheries, water-rights, navigation-rights and other rights proposed to be compulsorily acquired, restricted, terminated or otherwise interfered with and the roads and bridges (whether public or private) proposed to be diverted, removed or otherwise interfered with, ( d ) the reputed proprietors, owners and rated or other occupiers of the several lands proposed to be compulsorily acquired or substantially interfered with and of the several easements, fisheries, water-rights, navigation-rights and other rights and private roads and bridges proposed to be compulsorily acquired, restricted, terminated or otherwise interfered with, ( e ) the estimated cost of the works (inclusive of the estimated expenses generally of executing the scheme) and, as respects such cost (inclusive as aforesaid), the percentage thereof (not exceeding eighty) which the Minister for Finance is prepared to contribute thereto.

Declaration by promoting authority on receipt of scheme.

8.—(1) Where the promoting authority receive a copy of a coast protection scheme sent pursuant to subsection (1) of section 6 of this Act, they shall either— ( a ) declare that the scheme is not to be proceeded with, or ( b ) declare that the scheme is to be proceeded with. (2) Where a declaration has been made under paragraph (b) of subsection (1) of this section, the promoting authority shall— ( a ) publish in *Iris Oifigiúil*, and in one or more newspapers circulating in the county of the promoting authority and any other county the council of which named the promoting authority pursuant to this Act, a notice stating that the coast protection scheme has been prepared and also stating the place or places at which and the period, not being less than one month, during which a copy of the scheme will be available for inspection in pursuance of this section, ( b ) cause the copy of the coast protection scheme sent to them by the Commissioners to be exhibited in their principal offices or other convenient place during the period specified in that behalf in the notice referred to in the foregoing paragraph and shall permit the copy to be inspected during office hours by any person claiming to be interested therein. (3) The making of a declaration under this section shall be a reserved function.

Notice to reputed proprietors, occupiers, etc.

9.—(1) Where the promoting authority have made a declaration under paragraph (b) of subsection (1) of section 8 of this Act in relation to a coast protection scheme, they shall— ( a ) serve on any person named in the scheme as a reputed proprietor, owner or rated or other occupier of any land proposed to be compulsorily acquired or substantially interfered with or of any easement, fishery, water-right, navigation-right or other right or of any private road or bridge proposed to be compulsorily acquired, restricted, terminated or otherwise interfered with a notice stating that the scheme has been prepared, specifying the place or places at which and the period during which a copy of the scheme will be available for inspection in pursuance of this Act and informing him that the scheme proposes the compulsory acquisition of or interference with some land, right or other property (which land, right or

property and the proposed interference (if any) shall be fully described in the notice) reputed to be owned or occupied by him; ( b ) serve on every person who is the local authority (not being a council to which a copy of the scheme has been sent in pursuance of subsection (1) of section 6 of this Act) charged with the maintenance of any public road or bridge proposed in the scheme to be diverted, removed or otherwise interfered with a notice informing such authority of the preparation of the scheme and of the diversion, removal or interference proposed in the scheme to be made in respect of such road or bridge, and ( c ) serve on one or more of the persons who are the trustees of any trust fund for the upkeep of works which may be interfered with by the execution of the scheme a notice stating that the scheme has been prepared and that execution thereof may interfere with those works. (2) A notice served on any person in pursuance of this section shall contain a statement informing him that he may, within two months after the service of the notice on him, send to the promoting authority all such observations (if any) as he thinks proper in regard to the matters to which the notice relates. (3) A person on whom a notice is served in pursuance of this section may, at any time within two months after the service of the notice on him, send to the promoting authority all such observations (if any) in regard to the matters to which the notice relates as he thinks proper. (4) A notice required by this section to be served on any person may be served by registered post and, where the address of such person is not known, the envelope containing the notice may be addressed to him at the lands or the place or situation of the right or property to which the notice relates.

#### Confirmation of scheme.

10.—(1) When the time limited by section 9 of this Act for the sending to the promoting authority of observations in regard to a coast protection scheme, by persons on whom a notice has been served pursuant to that section, has expired, the promoting authority shall examine the observations duly sent and shall furnish to the Commissioners a report setting out those observations and the alterations (if any) (by way of variation, omission or addition) which they propose should be made in the scheme. (2) Where a report under subsection (1) of this section is furnished to the Commissioners, they shall examine the report and shall either— ( a ) determine that no alteration is to be made in the scheme, or ( b ) determine the alterations (by way of variation, omission or addition) which are to be made therein. (3) ( a ) Where the Commissioners make a determination under subsection (2) of this section, they shall give notice of the determination to the promoting authority and thereupon that authority shall either— (i) declare that the scheme is not to be proceeded with, or (ii) declare that the scheme is to be proceeded with. ( b ) The making of a declaration under this subsection shall be a reserved function. (4) On receipt by the Commissioners from the promoting authority of a certified copy of a declaration under subparagraph (ii) of paragraph (a) of subsection (3) of this section, the Commissioners shall submit the coast protection scheme, accompanied by a copy of the notice sent pursuant to subsection (3) of this section, to the Minister for Finance. (5) Where a coast protection scheme is submitted under subsection (4) of this section, the Minister for Finance, after consultation with the Minister for Local Government, the Minister for Transport and Power and such other Minister or Ministers as he may consider necessary, may— ( a ) make an order refusing to confirm the scheme, or ( b ) make an order confirming the scheme, either without alterations or with such alterations (by way of variation, addition or omission) as he may consider necessary, and shall send a copy of the order to the Commissioners and to the promoting authority. (6) ( a ) Where an order under this section confirms a coast protection scheme with alterations (by way of variation, addition or omission), the order shall have no effect if, within one month after the receipt of a copy of the order, the promoting authority declare that the scheme is not to be proceeded with. ( b ) The making of a declaration under this subsection shall be a reserved function. (7) Within two months after the receipt of a copy of an order under this section confirming a coast protection scheme, the promoting authority, unless they have made a declaration under subsection (6) of this section, shall serve a copy of the order— ( a ) on each of the reputed proprietors, owners and rated or other occupiers of the several lands proposed to be compulsorily acquired or substantially interfered with and of the several easements, fisheries, water-rights, navigation-rights and other rights and private roads and bridges proposed to be acquired, restricted, terminated or otherwise interfered with, ( b ) on every person who is the local authority (not being a council to which a copy of the scheme has been sent in pursuance of subsection (1) of section 6 of this Act) charged with the maintenance of any public road or bridge proposed to be diverted, removed or otherwise interfered with, and (c) on one or more of the persons who are the trustees of any trust fund for the upkeep of works which may be interfered with by the execution of the scheme.

(8) A copy required by subsection (7) of this section to be served on any person may be served by registered post and, where the address of such person is not known, the envelope containing the copy may be addressed to him at the lands or the place or situation of the right or property concerned.

Powers conferred by order confirming scheme.

11.—(1) Where an order confirming a coast protection scheme has been made under this Act, the order shall operate to confer upon the Commissioners power— ( a ) to construct, execute and complete the works specified in the scheme with such additions, omissions, variations and deviations as may be found necessary in the course of the work, ( b ) to enter on any land and there do all such acts and things as may be necessary for or incidental to the construction, execution or completion of the said works with such additions, omissions, variations and deviations as aforesaid, ( c ) to acquire compulsorily the several lands, easements, fisheries, water-rights, navigation-rights and other rights proposed in the scheme to be so acquired, and, if the Commissioners think fit so to do, to enter on any such lands or exercise any of such easements, fisheries, water-rights, navigation-rights and other rights before the conveyance or ascertainment of price of such lands, easements or rights, ( d ) to interfere substantially with any land proposed in the scheme to be so interfered with and, if the Commissioners so think fit, to enter on and so interfere with such land before any ascertainment of compensation in respect thereof, ( e ) to restrict, terminate or otherwise interfere with any easements, fisheries, water-rights, navigation-rights or other rights proposed in the scheme to be compulsorily restricted, terminated or interfered with, and to divert, remove or otherwise interfere with any roads or bridges proposed in the scheme to be diverted, removed or interfered with and, if the Commissioners so think fit, to do any of the things aforesaid before any ascertainment of compensation in respect thereof, ( f ) to employ contractors to execute all or any part of the said works, and ( g ) to do all such other acts and things as, in the opinion of the Commissioners, may be necessary or proper for or incidental to the due carrying out of the scheme and are not specifically provided for by this Act. (2) As respects contractors such as are referred to in paragraph (f) of subsection (1) of this section, the order confirming the coast protection scheme shall also operate to confer upon them such of the powers specified in that subsection as may be appropriate for the purposes of their contract.

Duties in regard to public roads and bridges.

12.—(1) Where a coast protection scheme confirmed under this Act provides for the diversion, removal, or other interference of or with a road or bridge (in this section referred to as the original road or bridge) the responsibility for the maintenance of which lies on a local authority, the following provisions shall have effect: ( a ) where the execution of the scheme involves the closing of the original road or bridge to traffic, the Commissioners shall either, as they think proper, construct and (while the original road or bridge is so closed to traffic) maintain a temporary road or bridge sufficient to carry traffic of such quantity and character as normally uses the original road or bridge, or by order made with the consent of the Minister for Local Government prescribe an alternative route to be used while the original road or bridge is so closed to traffic; ( b ) the Commissioners shall, before the completion of the execution of the scheme, do whichever of the following things they think proper, that is to say: (i) restore the original road or bridge to its former condition, or (ii) after consultation with the Minister for Local Government, construct a new permanent road or bridge sufficient to carry the like amount (in quantity and character) of traffic as the original road or bridge was able to carry and not substantially less convenient in gradient and curve than the original road or bridge, or (iii) with the consent of the Minister for Local Government, so improve (by reconstruction, strengthening, widening, or otherwise) an existing alternative road or bridge that it will be sufficient to carry the traffic which will be likely to use it and will not be substantially less convenient than the original road or bridge; ( c ) where the Commissioners construct a permanent new road or bridge or improve an existing alternative road or bridge and such road or bridge confers substantially greater advantages on the public of any county or urban district than the original road or bridge, whether by affording an improved means of communication or otherwise, the Commissioners shall certify the cost of such new road or bridge or of such improvement (as the case may be) and the Minister for Local Government shall certify what part of that cost in his opinion ought reasonably to be borne by the council of that county or urban district, and thereupon a sum equal to the part so certified of that cost shall be paid by that council to the Commissioners; ( d ) if any doubt, dispute, or question arises

as to whether the Commissioners, in the construction or maintenance of any temporary road or bridge or the restoration of the original road or bridge or the improvement of an existing alternative road or bridge (as the case may be) pursuant to this section, have complied with the relevant provisions of this section, or as to whether a permanent new road or bridge constructed by the Commissioners or an existing alternative road or bridge improved by the Commissioners (as the case may be) confers substantially greater advantages on the public of any county or urban district than the original road or bridge, the doubt, dispute, or question shall be decided by the Minister for Local Government. (2) The Commissioners may agree with the appropriate local authority for the doing by that authority of anything which the Commissioners are required or authorised by subsection (1) of this section to do, and may further agree to make to that authority payment for or towards the cost of the doing by them of that thing. (3) Where the Commissioners have completed in pursuance of this section the construction of a new permanent road or bridge or the improvement of an existing alternative road or bridge, they shall hand over to the appropriate local authority, and that authority shall accept, the road or bridge so constructed or improved. (4) Nothing in this section shall operate to impose on the Commissioners any duty or responsibility in respect of the maintenance of any new permanent road or bridge constructed by them in pursuance of this section or any road or bridge similarly restored or improved by them.

Acquisition of and compensation for lands, rights, etc.

13.—(1) As soon as may be after the date of an order under this Act confirming a coast protection scheme, the Commissioners shall proceed to acquire the several lands, easements, fisheries, water-rights, navigation-rights and other rights proposed in the scheme to be compulsorily acquired, save that it shall not be obligatory on the Commissioners to acquire any land, easement, fishery, water-right, navigation-right or other right proposed in the scheme to be compulsorily acquired as respects which the Commissioners become of opinion that the acquisition thereof is not necessary for the purpose of executing the scheme. (2) The compensation to be paid by the Commissioners for lands, easements, fisheries, water-rights, navigation-rights and other rights compulsorily acquired in pursuance of subsection (1) of this section to the several persons entitled thereto or having estates or interests therein or entitled to or having estates or interests in the lands over or in respect of which the rights so to be acquired are exercisable shall, in default of agreement, be fixed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by subsequent enactments. (3) It shall not be obligatory on the Commissioners to make any interference with any land, easement, fishery, water-right, navigation-right, or other right or any road or bridge, proposed in a coast protection scheme to be compulsorily made, as respects which the Commissioners become of opinion that the making thereof is not necessary for the purpose of executing the scheme. (4) The amount of compensation payable to any person on account of the compulsory substantial interference with any land or the compulsory restriction, termination, or other interference of or with any easement, fishery, water-right, navigation-right, or other right or the diversion, removal, or other interference of or with any private road or bridge under or in pursuance of a coast protection scheme, shall, in default of agreement, be fixed under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, as amended by subsequent enactments, in like manner as if such compensation were the price of land compulsorily acquired. (5) sections 69 to 83 of the Lands Clauses Consolidation Act, 1845, shall apply to any compensation payable by the Commissioners under this section and the conveyance to the Commissioners of any land or right acquired by them under this section, and for the purposes of such application the Commissioners shall be deemed to be the promoters of the undertaking. (6) No action shall lie at law or in equity against the Commissioners or any officer, agent, or servant of the Commissioners in respect of any act, matter, or thing in respect of which compensation is payable by virtue of this section or the next section.

Compensation for certain interferences with land, etc.

14.—(1) Any person who suffers any loss or damage by reason of any interference (other than an interference to which a notice served pursuant to paragraph (a), (b) or (c) of subsection (1) of section 9 of this Act refers) by the Commissioners during the construction of any works under this Act with any land owned or occupied by him or any easement, fishery, water-right, navigation-right, or other right

belonging to him shall, subject to the provisions of this Act, be entitled to be paid by the Commissioners compensation in respect of such loss or damage. (2) Every claim for compensation under this section shall be made in writing to the Commissioners within one year after the interference to which the claim relates is begun. (3) Compensation under this section shall, in default of agreement, be determined by arbitration pursuant to the Arbitration Act, 1954.

Matters to be regarded in assessment of compensation.

15.—When assessing compensation in pursuance of either of the two immediately preceding sections, the arbitrator shall in every case have regard to any benefit to any property (whether it is or is not the property in respect of which the compensation is claimed) of the person claiming the compensation which is occasioned by or may reasonably be expected to arise from the execution of the coast protection scheme in relation to which the compensation is claimed and, in particular, the arbitrator— ( a ) shall, in the case of a claim in respect of water-rights, have regard to any alternative water supply provided by the Commissioners, and ( b ) shall, in the case of a claim in respect of interference with water or a watercourse providing power for a mill or other industrial concern, have regard to the extent to which the power so provided was used for an industrial purpose during the ten years next preceding the date of the confirmation of the coast protection scheme, and shall also have regard to any alternative source of power provided by the Commissioners.

Provisions of moneys for carrying out scheme.

16.—The moneys necessary to defray the costs and expenses incurred in executing a coast protection scheme confirmed pursuant to this Act (including the cost of any preliminary examination made by the Commissioners, the cost of the preparation of the scheme and all compensation and other moneys payable and all incidental expenditure) shall, save as otherwise directed by this Act) be provided as follows: ( a ) the Minister for Finance shall contribute, out of moneys to be provided by the Oireachtas, the amount which represents such percentage of the said moneys as is equal to the percentage shown, in the scheme as confirmed, as the percentage which the Minister for Finance is prepared to contribute, ( b ) the balance shall be contributed by the promoting authority.

Contributions to amount payable by promoting authority.

17.—(1) There shall be contributions to the balance referred to in paragraph (b) of section 16 of this Act in accordance with the following provisions: ( a ) in case the promoting authority is the council of a county, the corporation of any borough (not being a county borough) or council of any urban district in which the whole or any part of the protected lands are situate shall contribute such amount as they may, with the consent of the Minister for Local Government, have agreed upon with the promoting authority, ( b ) in case the promoting authority is the council of an urban district, any council of a county shall contribute such amount as they may, with the consent of the Minister for Local Government, have agreed upon with the promoting authority, ( c ) any harbour authority within the meaning of the Harbours Act, 1946, shall contribute such amount as they may, with the consent of the Minister for Transport and Power, have agreed upon with the promoting authority, ( d ) there shall be a contribution by any owner or occupier of any of the protected lands consisting of the amount received or recovered pursuant to any agreement, between such owner or occupier and the promoting authority, providing for the making by such owner or occupier of a contribution towards such balance, ( e ) in case the promoting authority was named pursuant to subsection (4) of section 2 of this Act, the other council of a county or each other council of a county who named the promoting authority shall contribute such amount as, in default of agreement with the promoting authority, may be determined by the Minister for Local Government. (2) As respects any such agreement as is referred to in paragraph (a), (b), (c) or (d) of subsection (1) of this section, the promoting authority and the other party stated in the paragraph are hereby authorised, subject to the provisions of the paragraph, to enter into and carry out the agreement and any amount payable thereunder may, in default of being duly paid, be recovered as a simple contract debt in any court of competent jurisdiction. (3) A harbour authority may, for the purposes of making a contribution under this section, borrow money under section 120 of the Harbours Act, 1946, as amended by section 6 of the Harbours Act, 1947, as if such purposes were purposes in connection with their harbour. (4) Money

borrowed pursuant to subsection (3) of this section may be lent by means of an issue from the Local Loans Fund as if such loan constituted a local loan within the meaning of the Local Loans Fund Acts, 1935 to 1961, and was authorised by an Act of the Oireachtas.

#### Certificate of completion.

18.—(1) Where, as respects the works comprised in a coast protection scheme confirmed pursuant to this Act, the Commissioners are satisfied that the works have been completed in accordance with the scheme (with such additions, omissions, variations and deviations as may have been found necessary in the course of the work), the Minister for Finance shall issue a certificate certifying that the works have been completed as aforesaid. (2) A certificate of completion shall show, either in the body of the certificate or by means of appropriate maps, drawings, plans, sections and schedules annexed thereto— ( a ) the works which have been completed, ( b ) the protected lands, and ( c ) the total cost of the works. (3) A certificate of completion shall be conclusive evidence that the works shown thereby have been completed in accordance with the relevant coast protection scheme (with such additions, omissions, variations and deviations as may have been found necessary in the course of the work). (4) The following provisions shall have effect in relation to the issue under this section of a certificate of completion: ( a ) the Minister for Finance shall cause to be published in *Iris Oifigiúil*, and in one or more newspapers circulating in the county of the promoting authority and any other county the council of which named the promoting authority pursuant to this Act, a notice stating that the Minister for Finance proposes to issue the certificate and that any person may, within two months after the date of the publication of the notice in *Iris Oifigiúil*, send to the Minister for Finance an objection to the issue of the certificate; ( b ) simultaneously with or as soon as may be after the publication of the notice in *Iris Oifigiúil*, the Minister for Finance shall send to the promoting authority and any other council which named the promoting authority a copy of the notice; ( c ) the council to whom a copy of the notice has been so sent or any other person may, within two months after the date of the publication of the notice in *Iris Oifigiúil*, send to the Minister for Finance an objection in writing stating that such council or person objects to the issue of the certificate and the grounds of the objection; ( d ) the Minister for Finance shall consider any objection sent as aforesaid and shall take such steps in regard thereto as he thinks proper; ( e ) the certificate shall not be issued less than two months after the date of the publication of the notice in *Iris Oifigiúil*. (5) The power conferred by paragraph (c) of subsection (4) of this section shall, in the case of a local authority, be a reserved function.

#### Trust funds in respect of existing embankments.

19.—(1) Where, on the issue of a certificate of completion, a trust fund, whether vested in the Public Trustee, the Irish Land Commission or trustees, exists for the maintenance (whether permanently or during a specified period or otherwise) of an existing embankment (either alone or in conjunction with other works), being an embankment the necessity for which or part of which has been obviated by the works to which the certificate of completion relates, such of the following provisions as are applicable shall have effect : ( a ) if the necessity for the whole of the existing embankment has been obviated and the trust fund relates to the existing embankment alone, the trust fund shall, as soon as may be after the issue of the certificate of completion, be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs; ( b ) if the necessity for part only of the existing embankment has been obviated and the trust fund relates to the existing embankment alone, the Judicial Commissioner of the Irish Land Commission shall, on the application of the Commissioners and on notice to all parties concerned and having given those parties an opportunity of being heard, apportion the trust fund as between the part of the existing embankment the necessity for which has been obviated and the residue of the existing embankment, and thereupon the portion of the trust fund which is so apportioned to the part of the existing embankment the necessity for which has been obviated shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs; ( c ) if the necessity for the whole of the existing embankment has been obviated and the trust fund relates to the existing embankment and also to other works, the Judicial Commissioner of the Irish Land Commission shall, on the application of the Commissioners and on notice to all parties concerned and having given those parties an opportunity of being heard, apportion the trust fund as between the existing embankment and the other works, and thereupon the portion of the trust fund which is so apportioned to the existing embankment

shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs; ( d ) if the necessity for part only of the existing embankment has been obviated and the trust fund relates to the existing embankment and also to other works, the Judicial Commissioner of the Irish Land Commission shall on the application of the Commissioners and on notice to all parties concerned and having given those parties an opportunity of being heard, apportion the trust fund as between, on the one hand, the part of the existing embankment the necessity for which has been obviated and, on the other hand, the residue of the existing embankment and the other works, and thereupon the portion of the trust fund which is so apportioned to the part of the existing embankment the necessity for which has been obviated shall be paid into or disposed of for the benefit of the Exchequer in such manner as the Minister for Finance directs; ( e ) where the trust fund or part thereof is required by any of the foregoing provisions of this subsection to be paid into or disposed of for the benefit of the Exchequer, it shall be lawful for the Public Trustee, the Irish Land Commission or the trustees (as the case may be) to sell, for the purpose of making the payment or disposition, the whole or so much as may be necessary of the investments (if any) then representing the trust fund; ( f ) where under any of the foregoing provisions of this subsection the whole of the trust fund is required to be paid into or disposed of for the benefit of the Exchequer, whichever of them, the Public Trustee, the Irish Land Commission or the trustees, the trust fund was vested in immediately before the payment or disposal shall, immediately upon the payment or disposal, be discharged by virtue of this Act from the trusts and duties upon which they so held the trust fund (whether by virtue of a deed of trust, a scheme, or otherwise), and any other persons who were, immediately before the payment or disposal, in a fiduciary capacity in relation to the trust fund shall similarly be discharged from the trusts and duties imposed on them by virtue of that capacity; ( g ) where under any of the foregoing provisions of this subsection a portion only of the trust fund is required to be paid into or disposed of for the benefit of the Exchequer, paragraph ( f ) of this subsection shall apply and have effect in relation to that portion of the trust fund as if it were the whole of the trust fund, but nothing in this Act shall operate to relieve or discharge in respect of the residue of the trust fund the Public Trustee, the Irish Land Commission or the trustees (as the case may be) or any other person from any trust or duty for the time being imposed on them or him (whether by deed of trust, scheme, or otherwise) in respect of the trust fund so far as the trust or duty relates to the residue of the existing embankment. (2) In this section— "embankment" means an artificial watercourse, drain, embankment or other work constructed for the protection of land, and includes all sluices, sluice-gates, pumps, weirs, watercourses and other works forming part of or essential to the effective operation of any such embankment or work; "existing embankment" means an embankment constructed (whether before or after the passing of this Act) for the protection of land purchased under the Land Purchase Acts or the subject of proceedings under those Acts, whether the embankment was constructed before or after such purchase or the institution of proceedings therefor and whether it was constructed by a former landlord or other person or by or under the supervision of the Irish Land Commission.

#### Maintenance of works.

20.—(1) The works to which a certificate of completion relates shall be maintained in proper repair and effective condition by the Commissioners and the Commissioners may do all such things as may appear to them to be necessary for or incidental to such maintenance. (2) In addition and without prejudice to the general powers conferred on the Commissioners by subsection (1) of this section, it shall be lawful for the Commissioners, for the purposes of maintenance referred to in that subsection, to execute such improvements to works as appear to them to be minor matters properly capable of being regarded as maintenance. (3) It shall be lawful for the Commissioners and their officers, agents and servants to enter on any lands at all reasonable times and there do all such things as may appear to them to be necessary for or incidental to any maintenance or improvements referred to in this section. (4) The Commissioners may employ contractors to effect any maintenance or improvements referred to in this section and the contractors may exercise such of the powers specified in this section as may be appropriate for the purposes of their contract. (5) ( a ) In this subsection "beach material" has the same meaning as in the Foreshore Act, 1933. ( b ) A person shall not remove beach material which is beside, or not more distant than one hundred yards from, any works required by this section to be maintained by the Commissioners save under and in accordance with a licence. ( c ) Licences for the purposes of this subsection may be granted by the Commissioners. ( d ) A person who contravenes paragraph ( b ) of this subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds. ( e

) Where a licence is granted under this subsection in respect of the removal by a person of beach material, the grant shall not operate to remove any obligation which may lie on that person to obtain a licence under the Foreshore Act, 1933, or the State Property Act, 1954, authorising the removal. (6) No action shall lie against the Commissioners, in respect of loss occasioned by the failure of works required by this section to be maintained by the Commissioners, unless it is shown to the satisfaction of the Court that the failure was due solely to neglect by the Commissioners of their obligation to maintain the works.

#### Prohibition on interference with works.

21.—(1) A person shall not pull down, remove or injure any works constructed or in course of construction by the Commissioners under a coast protection scheme or do any act which hinders the efficient operation of any such works. (2) A person who contravenes subsection (1) of this section shall be guilty of an offence and, on summary conviction thereof, shall be liable to a fine not exceeding fifty pounds or, in the discretion of the Court, to imprisonment for a term not exceeding six months or to both such fine and such imprisonment and shall also be liable, in the case of a continuing offence, to a fine not exceeding five pounds for every day during which the offence is continued.

#### Bye-laws.

22.—(1) Where the Commissioners are required by section 20 of this Act to maintain any works, they may make bye-laws for the protection of the works. (2) No bye-law made under this section shall be of any force or effect unless or until it has been confirmed by the Minister for Finance. (3) Where the Minister for Finance confirms a bye-law made under this section, a notice of the confirmation shall be published in *Iris Oifigiúil* and in one or more newspapers circulating in the district in which the works to which the bye-law relates are situate. (4) A document purporting to be a copy of a bye-law made under this section and having endorsed on it a certificate purporting to be sealed with the seal of the Commissioners declaring it to be a true copy of the bye-law shall be received in evidence in any proceedings (whether civil or criminal) in any Court as conclusive evidence of the contents of the bye-law and that it was duly made and confirmed in accordance with this section and is in force. (5) A person who, by act or omission, contravenes a bye-law made under this section and in force shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding ten pounds.

#### Abandonment of works.

23.—(1) Where the Commissioners are required by section 20 of this Act to maintain any works and they are at any time of opinion that, owing to causes outside their control, the works or any part or parts thereof are no longer capable of being maintained at any reasonable cost, they may apply to the Minister for Finance for an order under this section. (2) Where an application is made by the Commissioners under subsection (1) of this section— ( a ) the Minister for Finance may, if he is satisfied that the works to which the application relates or any part or parts thereof are, owing to causes outside the control of the Commissioners, no longer capable of being maintained at any reasonable cost, by order authorise the abandonment of the works or such part or parts, ( b ) the order shall operate to relieve the Commissioners from their obligation to maintain the works or such part or parts thereof, ( c ) the order may direct the Commissioners to take specified steps to prevent the abandoned works from becoming dangerous or a nuisance, ( d ) if the order contains any such direction, the Commissioners shall comply therewith.

#### Apportionment of land purchase annuities, etc.

24.—Where land acquired under this Act is subject, in conjunction with other land, to a land purchase annuity or other annual payment payable to the Irish Land Commission or to the Commissioners, the Irish Land Commission or the Commissioners (as the case may be) may apportion the annuity or annual payment in such manner as they consider proper between the land so acquired and the other land or may charge the whole of the annuity or other payment on any part of the land subject thereto in exoneration of the residue of that land.

Payment of certain debts out of compensation.

25.—Where compensation is payable under this Act by the Commissioners to a person and any money is due and owing by that person to a Minister of State, the Revenue Commissioners, the Irish Land Commission or the Commissioners, it shall be lawful for the Commissioners to pay and discharge out of the compensation the money so due and owing by that person and to pay to him only the balance (if any) of the compensation remaining after such payment and discharge.

Payment of certain amounts to the Commissioners.

26.—(1) Where a determination under paragraph (a) of subsection (1) of section 4 or a declaration under paragraph (a) of subsection (1) of section 5 of this Act is made, the Commissioners shall serve on the promoting authority by post a notice stating the amount certified by the Commissioners as being the amount of the costs and expenses incurred by the Commissioners in respect of the preliminary examination and demanding payment by the promoting authority to the Commissioners of one-half of that amount. (2) Where a declaration under paragraph (a) of subsection (1) of section 8, a declaration under subparagraph (i) of paragraph (a) of subsection (3) or subsection (6) of section 10 or an order under paragraph (a) of subsection (5) of section 10 of this Act is made, the Commissioners shall serve on the promoting authority by post a notice stating the amount certified by the Commissioners as being the amount of the costs and expenses incurred by the Commissioners in relation to the coast protection scheme and demanding payment by the promoting authority to the Commissioners of one-half of that amount. (3) Where the Commissioners carry out maintenance or improvements referred to in section 20 or comply with a direction referred to in paragraph (c) of subsection (2) of section 23 of this Act, they shall serve on the promoting authority by post a notice stating the amount certified by the Commissioners as being the amount of the costs and expenses incurred by the Commissioners in carrying out the maintenance, improvements or direction and demanding payment by the promoting authority to the Commissioners of that amount. (4) The amount demanded by a notice served under this section shall be payable to the Commissioners by the promoting authority and, in default of payment, shall be recoverable as a simple contract debt in any court of competent jurisdiction. (5) ( a ) Where the Commissioners carry out maintenance or improvements at Rosslare Strand, subsections (3) and (4) of this section shall apply as if the maintenance or improvements were referred to in section 20 of this Act and the council of the county of Wexford were the promoting authority. ( b ) In the foregoing paragraph— the reference to maintenance at Rosslare Strand shall be construed as a reference to maintenance in proper repair and effective condition of the coast protection works at Rosslare Strand in the county of Wexford which were commenced by the Commissioners in the year 1957; the reference to improvements at Rosslare Strand shall be construed as a reference to any improvements to those works executed by the Commissioners which appear to them to be minor matters properly capable of being regarded as maintenance. (6) If, in a case in which a notice is served under subsection (1) or subsection (2) of this section, the land and other property being damaged or liable to be endangered by encroachment of the sea are situate partly in the functional area of the promoting authority and partly in the functional area of another local authority or the functional areas of other local authorities, the other local authority or each other local authority shall make, to the amount demanded by the notice, a contribution of such amount as may be agreed upon between them and the promoting authority or, in default of agreement, may be fixed by the Minister for Local Government. (7) If, in a case in which a notice is served under subsection (3) of this section, a local authority or local authorities contributed pursuant to paragraph (a) of subsection (1) of section 17 of this Act, that local authority or each of those local authorities shall make, to the amount demanded by the notice, a contribution of such amount as may be agreed upon between them and the promoting authority or, in default of agreement, may be fixed by the Minister for Local Government. (8) If, in a case in which a notice is served under subsection (3) of this section, a harbour authority or harbour authorities contributed pursuant to paragraph (c) of subsection (1) of section 17 of this Act, that harbour authority or each of those harbour authorities shall make, to the amount demanded by the notice, a contribution of such amount as may be agreed upon between them and the promoting authority or, in default of agreement, may be fixed by the Minister for Local Government after consultation with the Minister for Transport and Power.

#### Public inquiries.

27.—(1) Where a report has been submitted under section 2 of this Act, the Minister for Finance, if he considers it necessary, may at any time before the making of the order under subsection (5) of section 10 of this Act, cause a public inquiry to be held by a person appointed by him, in relation to the proposals for coast protection. (2) The following provisions shall have effect in relation to a public inquiry under this section: ( a ) the Minister for Finance shall publish in *Iris Oifigiúil*, and in one or more newspapers circulating in the county of the promoting authority and any other county the council of which named the promoting authority pursuant to this Act, a notice stating that the inquiry will be held at the time (not being less than three weeks after the first publication of the notice) and place specified in the notice, ( b ) all persons who in the opinion of the person holding the inquiry are interested therein shall be entitled to appear and be heard (in person or by solicitor or counsel) and adduce evidence at the inquiry, ( c ) the person holding the inquiry shall have power by notice in writing signed by him to summon witnesses and to require the production of books and other documents, and any person so summoned who fails to attend the inquiry and give evidence thereat and any person who fails or refuses to produce any book or other document the production of which is so required shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding ten pounds, ( d ) all evidence at the inquiry shall be given on oath, which oath the person holding the inquiry is hereby empowered to administer, and any person who gives false evidence at the inquiry shall be guilty of perjury and be punishable accordingly, ( e ) the person holding the inquiry shall be entitled to adjourn the inquiry as he thinks fit and shall also have power to inspect and examine, and for that purpose to enter upon, any lands and premises affected by the relevant encroachment of the sea.

#### Expenses of Commissioners.

28.—The expenses incurred by the Commissioners in giving effect to this Act and in the administration thereof shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

#### Short title.

29.—This Act may be cited as the Coast Protection Act, 1963.