



AN BILLE CAOMHANTA COSTA, 1956.
COAST PROTECTION BILL, 1956.

Mar a tugadh isteach.
As introduced.

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AN BILLE CAOMHANTA COSTA, 1956.
COAST PROTECTION BILL, 1956.

BILL

entitled

AN ACT TO PROVIDE FOR THE MAKING AND 5
EXECUTION OF COAST PROTECTION SCHEMES AND
TO PROVIDE FOR OTHER MATTERS CONNECTED
WITH THE MATTERS AFORESAID.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS :

Interpretation.

1.—In this Act—

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“certificate of completion” means a certificate issued under
subsection (1) of section 20;

“coast protection scheme” means a scheme under *section 8;*

“the Commissioners” means the Commissioners of Public Works
in Ireland;

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“county” includes a county borough and, in relation to a county
borough, “council” shall be construed as meaning the corporation
of the borough;

“the executing authority” means—

(a) in a case in which an order under *section 12* specifies that 20
a coast protection scheme is to be executed by the
council of a county—that council, and

(b) in a case in which an order under that section specifies
that a coast protection scheme is to be executed by the
Commissioners—the Commissioners;

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“local authority” means a body which is—

(a) the council of a county,

(b) the corporation of a county or other borough,

(c) the council of an urban district, or

(d) the commissioners of a town;

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“promoting authority” means a council of a county who have
passed a resolution under *subsection (1) of section 2*, being, in a
case in which one of two or more councils of counties has been
named pursuant to *subsection (2) of that section*, the council so
named;

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“protected lands” has the meaning specified in *paragraph (b) of
section 9;*

“reserved function” means—

(a) in the case of a corporation of a county borough, a
reserved function for the purposes of the enactments 40
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.

2.—(1) Where the council of a county are satisfied that land within the county is being progressively damaged by encroachment of the sea and that the encroachment, if permitted to continue, is liable to endanger the safety of a harbour, the buildings or amenities of a residential area or other valuable property, the council may declare that the promotion of a coast protection scheme in relation to the encroachment is expedient.

Declaration that promotion of coast protection scheme is expedient.

(2) 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 this section, the councils shall name one council as the authority to promote the coast protection scheme.

(3) The making of a declaration under this section shall be a reserved function.

3.—(1) Where the promotion of a coast protection scheme is declared under *section 2* of this Act to be expedient, the promoting authority shall cause a report to be prepared on the nature and probable causes of the relevant encroachment of the sea, the extent and value of the land and other property being damaged or liable to be endangered thereby, the works (if any) which may be practicable and desirable to prevent the continuance of such encroachment and an estimate of the cost of such works.

Preparation of report.

(2) It shall be lawful for the promoting authority 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 an examination and the preparation of a report under this section.

(3) Where—

- (a) the promoting authority cause an examination to be made and a report to be prepared under this section, and
- (b) 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 costs and expenses incurred by the promoting authority in respect of the examination and report, 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.

4.—(1) After consideration of the report under *section 3* of this Act, the promoting authority shall—

Declaration or request by promoting authority after consideration of report.

- (a) declare that a coast protection scheme is not to be proceeded with,
- (b) declare that a coast protection scheme is to be prepared and (subject to confirmation in accordance with this Act) executed by the promoting authority, or
- (c) if advised that the preparation of a coast protection scheme appears to be practicable and desirable but that the works involved are of such difficulty or magnitude as to be incapable of successful execution by the promoting authority, request the Commissioners to undertake a further examination with a view to determining whether the preparation and execution of a coast protection scheme is practicable and desirable.

(2) The resolution by which a request is made under this section to the Commissioners to undertake a further examination shall include a declaration that the promoting authority will pay to the Commissioners in accordance with this Act the costs and expenses incurred by the Commissioners in carrying out such examination. 5

(3) The consideration of a report, the making of a declaration and the making of a request under this section shall each be a reserved function.

Further
examination
by the
Commissioners.

5.—(1) On receipt by the Commissioners of—

- (a) a certified copy of the resolution by which a request is made under *section 4* of this Act for a further examination, 10
- (b) a copy of the relevant report made to the promoting authority, and
- (c) a map or plan showing in sufficient detail the site of the relevant encroachment of the sea and the extent of the land and other property being damaged or liable to be endangered thereby, 15

the Commissioners may undertake such further examination.

(2) 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 an examination under this section. 20

(3) Where the Commissioners have completed an examination under this section, they shall serve on the promoting authority by post a notice stating the amount of the costs and expenses incurred by the Commissioners in respect of such examination and the amount so stated 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. 25 30

(4) Where—

- (a) an amount referred to in *subsection (3)* of this section is payable by the promoting authority, and 35
- (b) 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, 40

the other local authority or each other local authority shall make, to that amount, 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. 45

Determination
by the
Commissioners.

6.—(1) On completion of a further examination under *section 5* of this Act, the Commissioners shall—

- (a) determine that the circumstances are not such as to justify the preparation and execution of a coast protection scheme, 50
- (b) determine that the circumstances are such as to justify the preparation and execution of a coast protection scheme and that the scheme should be prepared and executed by the promoting authority, or
- (c) determine that the circumstances are such as to justify the preparation and execution of a coast protection scheme and that the scheme should be prepared and executed by the Commissioners. 55

(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 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 so 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 nature and probable causes of the relevant encroachment of the sea, the extent and value of the land and other property being damaged or liable to be endangered thereby, the works which they consider practicable and desirable to prevent the continuance of the encroachment and an estimate of the cost of such works.

(4) Where the Commissioners make a determination pursuant to *paragraph (c) of subsection (1)* of this section, they shall so inform the promoting authority.

70 7.—(1) Where the Commissioners, pursuant to *subsection (3) of section 6* of this Act, inform the promoting authority that the circumstances are such as to justify the preparation and execution of a coast protection scheme and that the scheme should be prepared and executed by the promoting authority, the promoting authority, after consideration of the report transmitted by the Commissioners, shall—

Further determination by promoting authority.

(a) declare that a coast protection scheme is not to be proceeded with, or

30 (b) declare that a coast protection scheme comprising the works considered by the Commissioners to be practicable and desirable is to be prepared and (subject to confirmation in accordance with this Act) executed by the promoting authority.

(2) The consideration of a report and the making of a declaration under this section shall each be a reserved function.

8.—(1) Where the promoting authority make a declaration under *paragraph (b) of subsection (1) of section 4* or *paragraph (b) of subsection (1) of section 7* of this Act, they may prepare a scheme for the prevention of the relevant encroachment of the sea.

Preparation of coast protection scheme.

40 (2) Where the Commissioners make a determination under *paragraph (c) of subsection (1) of section 6* of this Act, they 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.

45 (3) It shall be lawful for the promoting authority or the Commissioners (as may be appropriate) 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 pursuant to this section of a coast protection scheme.

9.—A coast protection scheme prepared by the promoting authority or the Commissioners shall show, either in the body of the scheme or by means of appropriate maps, drawings, plans, sections and schedules annexed thereto—

Matters to be shown in scheme.

55 (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, including the estimated expenses generally of executing the scheme,
- (f) the several sources from which the moneys necessary for executing the scheme are to be provided and the amount to be provided from each source.

Sending of
copies of
scheme, etc.

10.—(1) Where a coast protection scheme has been prepared by the promoting authority, the promoting authority shall—

- (a) send a copy of the scheme to the Commissioners,
- (b) send a copy of the scheme to any other council of a county who named the promoting authority pursuant to this Act,
- (c) prepare a copy of the scheme for exhibition by the promoting authority pursuant to *subsection* (2) of this section, and
- (d) publish in the *Iris Oifigiúil*, and 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 scheme has been prepared by the promoting authority 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 *subsection* (2) of this section.

(2) A council of a county to whom a copy of a coast protection scheme has been sent under *paragraph* (b) of *subsection* (1) of this section, or who have prepared a copy of a coast protection scheme pursuant to *paragraph* (c) of that subsection, shall cause the copy to be exhibited in their principal offices or other convenient place during the period specified in that behalf in the notice referred to in *subsection* (1) of this section and shall permit the copy to be inspected during office hours by any person claiming to be interested therein.

(3) Where a coast protection scheme has been prepared by the Commissioners, the Commissioners shall—

- (a) send a copy of the scheme to the promoting authority and to any other council of a county who named the promoting authority pursuant to this Act,
- (b) publish in the *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 scheme has been prepared by the Commissioners 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 *subsection* (4) of this section.

- (4) A council of a county to whom a copy of a coast protection scheme has been sent under *paragraph (a) of subsection (3)* of this section shall cause the copy to be exhibited in their principal offices or other convenient place during the period specified in that behalf
5 in the notice referred to in *subsection (3)* of this section and shall permit the copy to be inspected during office hours by any person claiming to be interested therein.

11.—(1) Simultaneously with or as soon as may be after the sending of a copy of a coast protection scheme by the promoting
10 authority pursuant to *paragraph (b) of subsection (1) of section 10* of this Act or by the Commissioners pursuant to *paragraph (a) of subsection (3)* of that section, the promoting authority or the Commissioners (as the case may be) shall—

Notices to
reputed
proprietors,
occupiers,
etc.

15 (a) serve on every 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
20 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
25 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,

30 (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 *section 10* of this Act) charged with the maintenance of any public road or bridge proposed in the scheme to be diverted, removed or otherwise
35 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

40 (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.

45 (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 or the Commissioners (as the case may be) all such observations (if any) as he thinks proper in regard to the matters to which the notice relates.

50 (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 or the Commissioners (as the case may be) all such (if any) observations in regard to the matters to which the notice relates as he thinks proper.

55 (4) A notice required by this section to be served on any person may be served by 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.

12.—(1) When the time limited by *section 11* of this Act for the sending to the promoting authority, of observations in regard to a coast protection scheme prepared by them, 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) which they propose should be made in the scheme. 5

(2) Where a report under *subsection (1)* of this section is furnished to the Commissioners, the Commissioners shall examine the report and the relevant scheme and, for the purposes of the examination, may if they consider it necessary, cause a public inquiry to be held, by a person appointed by the Commissioners, with respect to the observations set out in the report. 10

(3) When the Commissioners have completed an examination under *subsection (2)* of this section and have considered the report of such (if any) inquiry as they may have caused to be held pursuant to that subsection, the Commissioners, after consultation with the Minister for Local Government, the Minister for Industry and Commerce and such other Minister or Ministers as they may consider necessary, may— 15 20

(a) make an order refusing to confirm the relevant coast protection scheme, or

(b) subject to the consent of the Minister for Finance, make an order confirming such scheme either without alteration or with such alterations (by way of variation, addition or omission) as they consider proper. 25

(4) When the time limited by *section 11* of this Act for the sending to the Commissioners, of observations in regard to a coast protection scheme prepared by them, by persons on whom a notice has been served pursuant to that section has expired, the Commissioners shall examine the observations duly sent and, for the purposes of the examination, may, if they consider it necessary, cause a public inquiry to be held, by a person appointed by the Commissioners, with respect to those observations. 30 35

(5) Where the Commissioners have completed an examination under *subsection (4)* of this section and have considered the report of such inquiry (if any) as they may have caused to be held pursuant to that subsection, the Commissioners shall present the scheme, accompanied by a statement of any alterations (by way of variation, addition or omission) which they consider should be made therein, to the Minister for Finance for confirmation. 40

(6) Where a coast protection scheme is submitted under *subsection (5)* of this section to the Minister for Finance, that Minister, after consultation with the Minister for Local Government, the Minister for Industry and Commerce and such other Minister or Ministers as he may consider necessary, may— 45

(a) make an order refusing to confirm the scheme, or

(b) make an order confirming the scheme either without alteration or with such alterations (by way of variation, addition or omission) as he considers proper. 50

(7) An order under this section confirming a coast protection scheme shall specify—

(a) in case the scheme was prepared by the council of a county—that the scheme is to be executed by that council, and 55

(b) in case the scheme was prepared by the Commissioners—that the scheme is to be executed by the Commissioners.

(8) Within one month after the making of an order under this section confirming a coast protection scheme, the executing authority shall serve a copy of the order—

- 5 (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,
- 10 (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 *section 10* of this Act) charged with the maintenance of any public road or bridge proposed to be diverted, removed or otherwise interfered with, and
- 15 (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.

(9) A copy required by *subsection (8)* of this section to be served on any person may be served by 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.

(10) Where—

- 25 (a) an order refusing to confirm a coast protection scheme is made under *subsection (3)* of this section, and
- (b) the relevant 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,
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the other local authority or each other local authority shall make, to the costs and expenses incurred by the promoting authority in respect of the preparation of the scheme and in respect of any notices under *section 10* of this Act in relation to the scheme, 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.

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40 **13.—**(1) Where an order confirming a coast protection scheme has been made under this Act, the order shall operate to confer upon the executing authority power—

Powers conferred by order confirming scheme.

- (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,
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- (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,
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- (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 executing authority 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,
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- (d) to interfere substantially with any land proposed in the scheme to be so interfered with and, if the executing authority so think fit, to enter on and so interfere with such land before any ascertainment of compensation in respect thereof,
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- (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 executing authority so think fit, to do any of the things aforesaid before any ascertainment of compensation in respect thereof, 5
- (f) to employ contractors to execute all or any part of the said works, and 10
- (g) to do all such other acts and things as, in the opinion of the executing authority, 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. 15

(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. 20

Duties in regard to public roads and bridges.

14.—(1) Where a coast protection scheme confirmed under this Act provides for the diversion, removal, or other interference of or with a public road or bridge (in this subsection referred to as the original road or bridge), 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 executing authority 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 ; 25 30
- (b) the executing authority shall, before the completion of the execution of the scheme, do whichever of the following things they think proper, that is to say : 35
 - (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 40 45
 - (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 ; 50
- (c) where the executing authority 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 (not being, where the executing authority is the council of a county, that county) or urban district than the original road or bridge, whether by affording an improved means of communication or otherwise, the executing authority shall certify the cost of such new road or bridge or of such improvement (as the case may be) and 55 60

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 deemed to be an expense of the maintenance by that council of main, county or urban roads (as the case may be) and shall be paid by them to the executing authority;

(d) if any doubt, dispute, or question arises as to whether the executing authority, 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 executing authority or an existing alternative road or bridge improved by the executing authority (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) 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.

15.—(1) As soon as may be after the date of an order under this Act confirming a coast protection scheme, the executing authority 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 executing authority 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 executing authority become of opinion that the acquisition thereof is not necessary for the purpose of executing the scheme.

Acquisition
of and
compensation
for lands,
rights, etc.

(2) The compensation to be paid by the executing authority 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 executing authority 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 executing authority 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.

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(5) Sections 69 to 83 of the Lands Clauses Consolidation Act, 1845, shall apply to any compensation payable by the executing authority under this section and the conveyance to the executing authority of any land or right acquired by them under this section, and for the purposes of such application the executing authority shall be deemed to be the promoters of the undertaking.

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(6) No action shall lie at law or in equity against the executing authority or any officer, agent, or servant of the executing authority in respect of any act, matter, or thing in respect of which compensation is payable by virtue of this section or the next section.

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Compensation
for certain
interferences
with land,
etc.

16.—(1) Any person who suffers any loss or damage by reason of any interference (other than a compulsory acquisition or interference under this Act) by the executing authority 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 executing authority compensation in respect of such loss or damage.

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(2) Every claim for compensation under this section shall be made in writing to the executing authority within one year after the interference to which the claim relates is begun.

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(3) Compensation under this section 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.

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Matters to be
regarded in
assessment of
compensation.

17.—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—

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(a) shall, in the case of a claim in respect of water-rights, have regard to any alternative water supply provided by the executing authority, 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 executing authority.

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Disposal of
surplus land,
etc.

18.—(1) As soon as conveniently may be after the issue of a certificate of completion, the executing authority shall inquire and determine whether any, and, if so, what, lands, easements, fisheries, water-rights, navigation-rights and other rights acquired by them under this Act are unnecessary and not required for the proper working and maintenance of the works to which the certificate relates.

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(2) Any lands, easements, fisheries, water-rights, navigation-rights or other rights determined by the executing authority in pursuance of *subsection (1)* of this section to be unnecessary and not required as mentioned in that subsection may be sold or otherwise disposed of by the executing authority, for the benefit of such of the contributors referred to in *paragraphs (a), (b), (c) and (e)* of *subsection (1)* of the next following section as have made contributions towards the costs and expenses of executing the relevant coast protection scheme, in proportion to their respective contributions.

19.—(1) 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 the preparation of the scheme, all compensation and other moneys payable and all incidental expenditure) shall, save as otherwise directed by this Act, be provided as follows :

Provision
of moneys
for carrying
out scheme.

(a) the Minister for Finance may contribute, out of moneys to be provided by the Oireachtas, such amount, not exceeding one-half of such costs and expenses, as he considers proper,

(b) 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,

(c) any harbour authority within the meaning of the Harbours Act, 1946 (No. 9 of 1946), shall contribute such amount as they may, with the consent of the Minister for Industry and Commerce, 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 costs and expenses,

(e) as respects the balance of such moneys—

(i) in case the promoting authority was named pursuant to *subsection (2)* of *section 2* of this Act, the balance shall be contributed by the promoting authority and the other council of a county or councils of counties who named the promoting authority in such proportions as, in default of agreement, may be determined by the Minister for Local Government, and

(ii) in any other case, the balance shall be contributed by the promoting authority.

(2) The council of a county may, for the purposes of making a contribution under this section, borrow money under Article 22 of the Schedule to the Local Government (Application of Enactments) Order, 1898, in like manner as if such purposes were mentioned in that Article, and money so borrowed shall not be reckoned as part of the debt of the council for the purposes of that Article.

(3) The corporation of a borough (not being a county borough) or the council of an urban district may, for the purposes of making a contribution under this section, borrow money under the Local Government (Sanitary Services) Acts, 1878 to 1952, as if such purposes were purposes for which the corporation or council are authorised to borrow under those Acts, and money so borrowed shall not be reckoned as part of the debt of the corporation or council for the purposes of any limitation on borrowing imposed by these Acts.

(4) A harbour authority may, for the purposes of making a contribution under this section, borrow money under section 120 of the Harbours Act, 1946 (No. 9 of 1946), as amended by section 6 of the Harbours Act, 1947 (No. 34 of 1947), as if such purposes were purposes in connection with their harbour.

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(5) Money borrowed pursuant to 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 1956, and was authorised by an Act of the Oireachtas.

Certificate
of completion.

20.—(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 Commissioners shall issue a certificate certifying that the works have been completed as aforesaid.

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(2) Before issuing a certificate of completion in a case in which the works were carried out by the council of a county, the Commissioners shall cause the works to be examined by an engineer appointed by the Commissioners, and shall consider his report on the works.

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(3) For the purpose of enabling the Commissioners to cause an examination under subsection (2) of this section to be made, the council of a county concerned shall, where they have become of opinion that the works have been completed (with such additions, omissions, variations and deviations as may have been found necessary in the course of the works), send to the Commissioners a notification, in such form and containing such particulars as the Commissioners may require, of that opinion.

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(4) 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.

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(5) 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).

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Trust funds in
respect of
existing
embankments.

21.—(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:

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(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;

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- 5 (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 executing authority and on notice to all parties
concerned and having given those parties an oppor-
tunity of being heard, apportion the trust fund as
10 between the part of the existing embankment the neces-
sity 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
15 Finance directs;
- 20 (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 executing authority 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
25 the other works, and thereupon the portion of the trust
fund which is so apportioned to the existing embank-
ment shall be paid into or disposed of for the benefit
of the Exchequer in such manner as the Minister for
Finance directs;
- 30 (d) if the necessity for part only of the existing embank-
ment 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 execu-
ting authority and on notice to all parties con-
35 cerned 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
40 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
45 directs;
- 50 (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 invest-
ments (if any) then representing the trust fund;
- 55 (f) where under any of the foregoing provisions of this sub-
section 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 dis-
60 posal 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
65 the payment or disposal, in a fiduciary capacity in rela-
tion 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.

Payment of
certain debts
out of
compensation.

22.—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.

Apportionment
of land
purchase
annuities, etc.

23.—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.

Maintenance
of works.

24.—(1) The works to which a certificate of completion relates shall be maintained in proper repair and effective condition by the council of a county who were the promoting authority.

(2) For the purposes of maintenance referred to in *subsection (1)* of this section, it shall be lawful for the council of a county and their officers, agents and servants to enter upon any lands at all reasonable times and there to do all such things as may appear to them to be necessary for or incidental to such maintenance.

(3) (a) In this subsection “beach material” has the same meaning as in the Foreshore Act, 1933 (No. 12 of 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 council of a county save under and in accordance with a licence.

- (c) Licences for the purposes of this subsection may be granted by the council of a county concerned.
- (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 Fore-shore Act, 1933, or the State Property Act, 1954 (No. 25 of 1954), authorising the removal.

(4) No action shall lie against the council of a county, in respect of loss occasioned by the failure of works required by this section to be maintained by the council, unless it is shown to the satisfaction of the court that the failure was due solely to neglect by the council of their obligation to maintain the works.

(5) Where—

- (a) the council of a county carry out maintenance referred to in *subsection (1)* of this section, and
- (b) another local authority or other local authorities contributed pursuant to *section 19* of this Act to the costs and expenses incurred in carrying out the relevant coast protection scheme,

such other local authority or each such other local authority shall make, to the costs and expenses incurred in carrying out the maintenance, a contribution of such amount as may be fixed by agreement between them and that council of a county or, in default of agreement, may be fixed by the Minister for Local Government.

(6) Where the council of a county is required by this section to maintain any works, they shall furnish in each year to the Commissioners a report in relation to the works and the report shall be in such form and contain such particulars as the Commissioners may require.

25.—(1) The Commissioners may at any time, whether of their own motion or at the request of the Minister for Local Government, cause an inspection to be made of any works required by *section 24* of this Act to be maintained by the council of a county.

Failure of council to maintain works.

(2) Where the Commissioners, as a result of an inspection under *subsection (1)* of this section of works required to be maintained by the council of a county, are satisfied that maintenance or repair work is immediately necessary in respect of such works, the Commissioners may serve by post on the council a notice stating that the Commissioners are satisfied that specified maintenance or repair work is immediately necessary in respect of such works and requiring the council to execute that maintenance or repair work within a specified period.

(3) Where a notice under *subsection (2)* of this section is served on the council of a county—

- (a) the council shall forthwith execute to the satisfaction of the Commissioners the maintenance or repair work specified in the notice,
- (b) if the council fail to execute the maintenance or repair work specified in the notice to the satisfaction of the Commissioners within the period specified in that behalf in the notice, it shall be lawful for the Commissioners to enter and to execute or complete (as the case may be) such work,

(c) if the Commissioners execute or complete such work, the Commissioners shall serve on the council by post a notice stating the amount of the costs and expenses incurred by the Commissioners in the execution or completion (as the case may be) of such work and the amount so stated shall be payable to the Commissioners by the council and, in default of payment, shall be recoverable as a simple contract debt in any court of competent jurisdiction. 5

(4) Where—

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(a) the council of a county execute work pursuant to paragraph (a) of subsection (3) of this section, and

(b) another local authority or other local authorities contributed pursuant to section 19 of this Act to the costs and expenses incurred in executing the relevant coast protection scheme, 15

the other local authority or each other local authority shall make, to the costs and expenses incurred in executing such work, a contribution of such amount as may be fixed by agreement between them and the council of a county or, in default of agreement, may be fixed by the Minister for Local Government. 20

(5) Where—

(a) an amount referred to in paragraph (c) of subsection (3) of this section is payable by the council of a county, and

(b) another local authority or other local authorities contributed pursuant to section 19 of this Act to the costs and expenses incurred in executing the relevant coast protection scheme, 25

the other local authority or each other local authority shall make, to that amount, a contribution of such amount as may be fixed by agreement between them and the council of a county or, in default of agreement, may be fixed by the Minister for Local Government. 30

Abandonment
of works.

26.—(1) Where the council of a county required by section 24 of this Act to maintain works 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 Commissioners for an order under this section. 35

(2) Where an application is made by the council of a county under subsection (1) of this section— 40

(a) the Commissioners, after such inquiry as they may consider necessary, may, if they are satisfied that the works to which the application relates or any part or parts thereof are, owing to causes outside the control of the council, no longer capable of being maintained at any reasonable cost, by order authorise the abandonment of the works or such part or parts, 45

(b) the order shall operate to relieve the council from their obligation to maintain the works or such part or parts thereof, 50

(c) the order may direct the council to take specified steps to prevent the abandoned works from becoming dangerous or a nuisance,

(d) if the order contains any such direction, the council shall comply therewith. 55

(3) Where—

(a) the council of a county comply with a direction referred to in paragraph (c) of subsection (2) of this section, and

(b) another local authority or other local authorities contributed pursuant to section 19 of this Act to the costs and expenses incurred in executing the relevant coast protection scheme, 60

the other local authority or each other local authority shall make, to the costs and expenses incurred in complying with the direction, a contribution of such amount as may be agreed upon between them and the council of a county or, in default of agreement, may be fixed by the Minister for Local Government.

27.—(1) The council of a county required by *section 24* of this Act to maintain any works may make bye-laws for the protection of the works. Bye-laws.

(2) No bye-law made under this section shall be of any force or effect unless or until it is confirmed by the Commissioners.

(3) Where the Commissioners confirm a bye-law made under this section, a notice of the confirmation shall be published in the *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 by the council of a county, and having on it a certificate purporting to be signed by the secretary of the council 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 approved of 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.

28.—The following provisions shall have effect in relation to a public inquiry under this Act: Public inquiries.

(a) the Commissioners shall publish in the *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 coast protection scheme in relation to which the inquiry is held 5 or by any observations on such scheme.

Expenses of
Commissioners.

29.—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.

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Short title.

30.—This Act may be cited as the Coast Protection Act, 1956.

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An tAire Airgeadais a thug isteach.

*Do hordaiodh ag Dáil Éireann a chlóbhualadh,
18 Iúil, 1956.*

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BILL

(as introduced)

entitled

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

Introduced by the Minister for Finance.

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