

Queensland



ANNO SEPTIMO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 17 of 1968

An Act to Provide for the Protection of Beaches against, and for the Restoration of Beaches from, Erosion or Encroachment by the Sea and for those Purposes to Establish an Authority and an Advisory Board and to Confer and Impose upon them certain Functions and Powers

[ASSENTED TO 19TH APRIL, 1968]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. (1) **Short title.** This Act may be cited as "*The Beach Protection Act of 1968.*"

(2) **Commencement of Act.** Except as herein otherwise provided this Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*.

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

PART I—PRELIMINARY;

PART II—THE AUTHORITY AND THE ADVISORY BOARD;

PART III—FUNCTIONS, &C., OF THE AUTHORITY AND OF THE ADVISORY BOARD;

PART IV—GENERAL PROVISIONS.

3. Meaning of terms. (1) In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

- “ Authority ”—The Beach Protection Authority as constituted under this Act;
- “ Beach erosion control district ”—A part of the coast which is declared under this Act to be a beach erosion control district;
- “ Board ”—The Beach Protection Advisory Board as constituted under this Act;
- “ Coast ”—All land, including the bed and banks of any river, stream, watercourse, lake or other body of water,—
 - (a) which is situated above mean high-water mark at spring tides of the main sea within one-quarter mile, measured by the shortest distance, of that mark;
 - (b) which is situated between mean high-water mark of the main sea and mean low-water mark at spring tides of the main sea;
 - (c) which is situated below mean low-water mark at spring tides of the main sea within one mile, measured by the shortest distance, of that mark:

This definition applies with respect to every island forming part of the State of Queensland;

- “ Co-ordinator-General ”—The Co-ordinator-General of Public Works within the meaning of “ *The State Development and Public Works Organisation Acts, 1938 to 1964* ”;
- “ Court ”—The Local Government Court constituted under “ *The City of Brisbane Town Planning Acts, 1964 to 1967* ”;
- “ Engineer ”—The Engineer in the Department of the Co-ordinator-General of Public Works who for the time being is designated by the Co-ordinator-General to be the Engineer to the Authority;
- “ Minister ”—The Premier and Minister for State Development or other Minister of the Crown for the time being charged with the administration of this Act: The term includes a Minister of the Crown temporarily performing the duties of the Minister administering this Act;
- “ Owner ”—The person other than Her Majesty who for the time being is entitled to receive the rent of any land either on his own account or on account of some other person or who if the same were let to a tenant at a rack-rent would be entitled to receive the rent thereof: the term also includes the holder of any lease or license or permission from the Crown, or any person deriving title thereunder;
- “ Restricted access area ”—A part of a beach erosion control district which is declared under this Act to be a restricted access area;
- “ Secretary ”—The Secretary to the Co-ordinator-General: The term includes a person acting temporarily in or performing the duties of that office;
- “ Unoccupied Crown land ”—All land except land which is for the time being—
 - (a) lawfully granted or contracted to be granted in fee simple by the Crown;

(b) subject to any lease or licence lawfully granted by the Crown.

In this definition "land" includes land below mean high-water mark of the main sea at spring tides and "licence" includes an authority to prospect, permit or dredging claim under any Act relating to mining.

(2) In relation to any locality the Governor in Council by Order in Council may amend the definition "Coast" by, in paragraph (a), substituting for the distance one-quarter mile a greater distance.

On and from the date of the publication in the *Gazette* of such an Order in Council all land in the locality specified in the Order in Council which is situated above and within such greater distance (measured as prescribed by the said paragraph (a)), of mean high-water mark at spring tides shall be included in and be part of the coast under and for the purposes of this Act.

4. Interpretation. To the extent of any inconsistency between any provision of this Act and any provision of "*The Petroleum (Submerged Lands) Act of 1967*," the provision of the latter Act shall prevail.

PART II—THE AUTHORITY AND THE ADVISORY BOARD

5. The Authority. (1) There is hereby constituted a Beach Protection Authority.

(2) (a) The Authority shall consist of a Chairman and five other members each of whom shall, subject to subsection (3) of this section, be appointed by the Governor in Council by notification published in the *Gazette*.

(b) The Authority may be established by the appointment of the Chairman and other members thereof at any time after the passing of this Act.

(3) The Chairman and other members of the Authority shall be respectively—

- (a) in the case of the Chairman, the Co-ordinator-General of Public Works;
- (b) a representative of the Department of Lands who shall be nominated by the Minister for the time being administering that Department;
- (c) a representative of the Department of Harbours and Marine who shall be nominated by the Minister for the time being administering that Department;
- (d) a representative of the Department of Mines who shall be nominated by the Minister for the time being administering that Department;
- (e) a representative of the Department of Local Government who shall be nominated by the Minister for the time being administering that Department;
- (f) a representative of the group of Local Authorities, other than Brisbane City Council, the Areas whereof respectively include any part of the coast or any island adjacent to the coast who shall be nominated by the Executive of the Local Government Association of Queensland (Incorporated).

(4) If, in respect of the first or any subsequent appointment of the whole number of the members of the Authority, a person is not nominated as required by the Minister for appointment as the representative referred to in paragraph (f) of subsection (3) of this section, the Minister may

nominate a person for appointment as that representative and the Governor in Council may appoint such nominee to be a member of the Authority as that representative.

(5) Subject to this Act the Chairman and other members of the Authority shall be appointed to hold office for such period not exceeding three years as is determined by the Governor in Council and stated in the notification of their appointments published in the *Gazette*, but any person appointed a member of the Authority shall, if qualified, be eligible for re-appointment (but subject, where prescribed, to nomination as prescribed).

6. Body corporate. (1) The Authority shall be a body corporate under the name and style of "The Beach Protection Authority," and by that name shall have perpetual succession and an official seal and be capable in law of—

- (a) suing and being sued;
- (b) compounding or proving in any court of competent jurisdiction all debts or sums of money due to it;
- (c) taking, acquiring by grant, purchasing or taking on lease property (whether situated in Queensland or elsewhere);
- (d) surrendering to the Crown or selling, leasing, assigning, transferring, or otherwise dealing with property (whether situated in Queensland or elsewhere);
- (e) doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

(2) All courts, judges, justices and persons acting judicially shall take judicial notice of the seal of the Authority affixed to any document, notice or other writing and, until the contrary is proved, shall presume that it was duly affixed.

(3) For the purposes of this Act the Authority shall be a constructing authority under "*The Acquisition of Land Act of 1967.*"

7. Advisory Board. (1) The Beach Protection Advisory Board shall be established in accordance with this Act.

Such Board shall not be established until after the Authority has been established by the first appointment of the Chairman and other members thereof.

(2) The Board shall consist of such members as the Governor in Council by Order in Council from time to time prescribes.

(3) Until the Governor in Council otherwise prescribes the members of the Board shall be as follows:—

- (a) one representative of the Department of the Co-ordinator-General of Public Works who shall be nominated by the Minister for the time being administering that Department and who shall be the Chairman of the Board;
- (b) one representative of the Department of Mines who shall be the member of the Authority who is the representative of that Department;
- (c) one representative of the Department of Local Government who shall be the member of the Authority who is the representative of that Department;
- (d) one representative of the Department of Lands who shall be the member of the Authority who is the representative of that Department;

- (e) one representative of the Department of Harbours and Marine who shall be the member of the Authority who is the representative of that Department;
- (f) one representative of the Department of Forestry who shall be nominated by the Minister for the time being administering that Department;
- (g) one representative of the Civil Engineering Department of the University of Queensland who shall be nominated by the Senate of the University;
- (h) one representative of the group comprising the Council of the City of Gold Coast and the Councils of the Shires of Albert and Redland who shall be a member of one of those Councils nominated by them;
- (i) one representative of the group comprising the Councils of the Shires of Caboolture, Landsborough, Maroochy, and Noosa who shall be a member of one of those Councils nominated by them;
- (j) one representative of the group of Local Authorities north of the Shire of Noosa the Areas whereof respectively include any part of the coast or any island adjacent to the coast, who shall be a member of one of those Councils nominated as prescribed;
- (k) one representative of the Rutil and Zircon Development Association, Queensland Advisory Committee, who shall be nominated by that Committee;
- (l) one member nominated by the Minister who, without limit to his power to make such nomination, may do so from names submitted to him as specified by him.

(4) (a) The members of the Board shall be appointed by the Governor in Council.

(b) Notice of the appointment of any person to be a member of the Board (including to fill any casual vacancy thereon) shall be published in the *Gazette*.

(c) In respect of the first and every subsequent appointment of the whole number of the members of the Board the Minister shall cause the persons, bodies or associations of persons, and groups of Local Authorities who, pursuant to subsection (3) of this section, may nominate respectively a representative for appointment as a member of the Board to be notified as he deems fit of a date on or before which he requires such nominations to be furnished to him at the address stated by him.

If any such nomination is not furnished to the Minister as required by him, he may nominate a person as the representative in question and the Governor in Council may appoint that person a member of the Board as that representative.

(5) (a) Subject to subsection (1) of this section the first appointment of the whole number of the members of the Board may be made at any time after the passing of this Act.

(b) The second appointment of the whole number of members of the Board shall be made in the month of July, one thousand nine hundred and seventy, and subsequent such appointments shall be made in the month of July in every third year thereafter.

(c) Subject to this Act every person appointed a member at the first or any subsequent appointment of the whole number of members of the Board shall hold office for the term prescribed by paragraph (d) of this subsection.

(d) The term referred to in paragraph (c) of this subsection shall—

- (i) commence on the date of the appointment of the whole number of members of the Board by reason whereof the person in question is a member thereof; and
- (ii) end on the date of the next following appointment of such whole number unless the person in question is then again appointed.

(e) Subject to this Act members of the Board, including members appointed to fill casual vacancies, shall be eligible for re-nomination and re-appointment.

8. Disqualifications from office. A person who—

- (a) is not of the full age of twenty-one years; or
- (b) is an undischarged bankrupt or takes advantage of the laws in force for the time being relating to bankruptcy; or
- (c) has been convicted in Queensland of an indictable offence or has been convicted elsewhere than in Queensland in respect of an act or omission which if done or made by him in Queensland would have constituted an indictable offence; or
- (d) is a patient within the meaning of “*The Mental Health Acts, 1962 to 1964*”; or
- (e) is concerned or participates in the profits of a contract with the Authority,

shall not be qualified to be or to continue as a member of the Authority or of the Board:

Provided that a person shall not be disqualified from being or continuing as a member of the Authority or the Board solely because he is concerned or participates in a transaction with the Authority in respect of—

- (a) a sale, purchase or lease of land, or an agreement for such a sale, purchase or lease;
- (b) a contract for the publication of advertisements in a public newspaper or journal;
- (c) a sale of goods to or the performance of work for the Authority *bona fide* in the ordinary course of business, not exceeding the sum or value of one thousand dollars in the aggregate in any year.

9. Vacation of office. (1) A member of the Authority or the Board shall be deemed to have vacated his office as such member if he—

- (a) dies; or
- (b) by reason of a provision of section eight of this Act he is not qualified to be or to continue as a member of the Authority or, as the case may be, the Board;
- (c) is absent, without leave granted by the Authority or, as the case may be, Board from three consecutive meetings of the Authority or, as the case may be, Board of which due notice has been given to him; or
- (d) resigns such office by writing under his hand delivered to the Secretary; or

- (e) in the case of a member of the Board specified in paragraphs (h), (i) and (j) of subsection (3) of section seven of this Act, ceases to be a member of the Local Authority whereof he was a member when nominated; or
- (f) is removed from office by the Governor in Council (who is hereby thereunto authorized).

(2) In section eight of this Act and this section the term " member " includes a deputy for a member.

10. Casual vacancies. (1) If from any cause, other than expiration of the term of office, a vacancy occurs in the office of a member of the Authority or Board the Governor in Council (subject to nomination as prescribed in the case of any such office where nomination of a representative for appointment thereto is prescribed) may appoint a person to fill the vacancy.

(2) If, in the case of any such office where nomination of a representative for appointment thereto is prescribed, a nomination of a person to fill the casual vacancy is not furnished to the Minister within fourteen days, or such longer time as the Minister may allow, after the occurrence of the vacancy, the Minister may nominate a person for appointment to the Authority or, as the case may be, the Board, and the Governor in Council may appoint such person to fill the vacancy.

(3) The person appointed to fill such a vacancy shall, subject to this Act, hold office for the remainder of his predecessor's term of office.

11. Defects in appointments, &c. (1) No act or proceeding of the Authority or of the Board shall be invalid or illegal in consequence only of the number of the members of the Authority or of the Board not being complete at the time of such act or proceeding.

(2) All acts and proceedings of the Authority or of the Board shall, notwithstanding any defect in the appointment of any member of the Authority or of the Board, or that any member of the Authority or of the Board was at the time in question disqualified or disentitled to act as such be as valid as if such member had been duly appointed and qualified to act as such, and as if the Authority or, as the case may be, the Board had been properly and fully constituted at the time in question.

(3) Where by or under any Act it is provided that the holder of any office shall devote the whole of his time to the duties of such office or shall be prohibited from engaging in employment other than such office such provision shall be construed so as not to disqualify such holder from holding that office and also the office of a member of the Authority or of the Board or from receiving and retaining any allowance or expenses payable to him as such member.

12. Payments to members. Members of the Authority and of the Board may be paid such allowances or expenses, or both, as the Minister may decide.

Any such payments shall be payable from the Fund and may differ in amounts between members of the Authority and the Board respectively or as between different members of either of them.

13. Proceedings of the Authority and of the Board. (1) (a) The Authority shall meet at such times and places as are fixed by the Chairman.

(b) The Secretary shall give to each member not less than fourteen days prior notice of the time and place of any meeting.

Where, in the opinion of the Chairman, it is necessary for the Authority to meet by reason of any emergency, such notice as the Chairman directs shall be sufficient prior notice to a member of the time and place of the meeting.

(2) The Board shall meet at such times and places as are prescribed or, in so far as not prescribed, as and when and where it is summoned to meet by its Chairman.

The Chairman at the request of at least three members of the Board shall summon a meeting thereof:

Provided that if the time and place thereof is not prescribed, the first meeting after the first and any subsequent appointment of the whole number of the members of the Board shall be held at a time and place appointed by the Minister.

(3) The Chairman of the Authority or of the Board shall preside at all meetings thereof at which he is present.

In the absence of the Chairman a member elected by and from the members present shall preside at the meeting in question.

(4) The person presiding at a meeting of the Authority or of the Board shall have a vote and, in the event of an equality of votes, a second or casting vote.

(5) At any meeting of the Authority or of the Board, not less than one-half of the members in office for the time being shall constitute a quorum.

If a quorum is not present within half an hour after the time appointed for a meeting, the members present or the majority of them, or any one member if only one is present, may adjourn the meeting to any time not later than fourteen days from the date of such adjournment:

Provided that nothing in this Act shall be construed so as to prevent the adjournment of any meeting to a later hour of the same day on which it was appointed to be held.

(6) Subject to subsections (4) and (5) of this section all questions at a meeting of the Authority or of the Board shall be decided by a majority of votes of the members present at the meeting.

If any member fails to vote, his vote shall be counted in the negative.

14. Deputies for members. (1) A member of the Authority or of the Board may by notice in writing given to the Secretary appoint a person to be his deputy and the Minister may approve the appointment.

(2) In the absence of a member of the Authority or of the Board from a meeting thereof, a deputy for that member appointed and approved as prescribed by subsection (1) of this section is entitled to attend that meeting and when so attending shall be deemed to be a member:

Provided that a deputy, whether for the Chairman or another member, shall not preside at any meeting.

(3) Appointment or approval as prescribed by subsection (1) of this section of a deputy may be in respect of a particular meeting or a particular period of time or may be made generally.

The appointment or approval may be revoked at any time.

15. Committees of the Board. (1) The Board may from time to time—

- (a) appoint Committees;
- (b) delegate to a Committee the exercise and performance of any of the matters prescribed by section thirty-five of this Act either generally or for a specified purpose.

(2) A Committee shall consist wholly of members of the Board.

The Board shall fix its number and quorum and appoint its Chairman.

(3) A Committee—

- (a) may meet from time to time and may adjourn from place to place as, subject to any direction of the Board, it considers proper;
- (b) shall report on its functions and actions to the Board.

16. Officers and employees. (1) The Secretary to the Co-ordinator-General of Public Works shall be the Secretary of the Authority and of the Board.

(2) The Accountant of the Department of the Co-ordinator-General of Public Works shall be the Accountant of the Authority and of the Board.

(3) There shall be an Engineer of the Authority who shall be such Engineer in the Department of the Co-ordinator-General of Public Works as the Co-ordinator-General designates.

(4) Other officers may be appointed for the purposes of this Act pursuant to "*The Public Service Acts, 1922 to 1965*," and any such appointee may be appointed to and hold office for the purposes of this Act in conjunction with any office already held by him under that Act.

(5) The Authority may employ such employees and workmen as may be necessary for the exercise and performance of the functions, powers and duties of the Authority, and otherwise for ensuring the execution of the objects and purposes of this Act.

Subject to any applicable award of any industrial court, commission, or tribunal the Authority shall pay to such employees and workmen such remuneration as it thinks proper.

17. Power to borrow. (1) Subject to this Act, the Authority may, from time to time, borrow money—

- (a) from the Treasurer;
- (b) by the sale of debentures; or
- (c) partly in one and partly in the other of the ways specified in provisions (a) and (b) of this subsection.

(2) Before entering into negotiations to borrow money by the sale of debentures the Authority shall obtain the sanction of the Treasurer authorizing it to enter upon such negotiations and, for this purpose, shall furnish the Treasurer with such information as he requires.

(3) The Authority shall not borrow money pursuant to negotiations sanctioned by the Treasurer unless the authority of the Governor in Council thereto is first obtained.

Such authority, if given, shall be given by way of Order in Council.

The Order in Council shall declare the amount that may be borrowed, the purposes for which the loan is to be borrowed, the currency of the loan, the amount of interest payable thereon, the terms and conditions for the redemption of the loan, whether by yearly, half-yearly or quarterly payments or by payments into a sinking fund and such other conditions as the Governor in Council thinks proper to impose.

(4) The Authority shall be a local body under and within the meaning of "*The Local Bodies' Loans Guarantee Acts, 1923 to 1957*," the provisions whereof shall, subject to such modifications as the Governor in Council prescribes (whether generally or in respect of a particular loan or advance) apply and extend accordingly.

18. Resolution before borrowing. Before proceeding to borrow money the Authority shall, at a special meeting called for the purpose, pass a resolution to borrow that money.

19. Application of loan moneys. All moneys borrowed by the Authority shall be expended for the purpose for which the Authority was authorized to borrow the same and not otherwise.

If any amount of a loan remains unexpended upon the completion of the purpose for which such loan was borrowed such amount shall be applied as the Treasurer directs.

20. Repayment of Treasury loans. (1) Every loan advanced by the Treasurer under the provisions of this Act shall be liquidated by the payment to the Treasurer by the Authority on the first days of January and July respectively, in every year of such instalments of principal and interest at the prescribed rate as will permit the said loan to be wholly redeemed within the prescribed period of the said loan, and such sums shall continue to be payable until all the moneys advanced from time to time by the Treasurer, together with the interest accrued thereon, have been so paid.

The Treasurer may at any time make any adjustment which he considers necessary to be made with respect to the period of any loan or the calculation of interest thereon or with respect to any other matter requiring adjustment.

(2) In the months of February and August respectively, in every year, the Treasurer shall cause to be published in the *Gazette* a statement showing, with respect to any loan which has been advanced to the Authority by the Treasurer under this Act, the amount of money which is then overdue and in arrear and also the total of the principal sum then remaining unpaid.

If thereafter on the thirtieth day of April, or the thirty-first day of October respectively, any part of such money so overdue and in arrear remains unpaid or if the Treasurer pays any money under a guarantee given by him in relation to moneys borrowed by the Authority under the authority of this Act, the Treasurer may, by notification published in the *Gazette*, appoint a receiver to collect on his behalf and to pay to the Treasury all or any moneys from time to time due and owing to the Authority to the amount stated in such notification.

The Treasurer may from time to time make all such orders and give all such directions with respect to the powers and duties of such receiver and the management by him of the affairs of the Authority as the Treasurer thinks proper, and judicial notice shall be taken of such orders and directions.

Upon his appointment such receiver shall from the date stated in such notification be the only person legally entitled to receive the revenues of the Authority, and shall be deemed to that extent, and for that purpose to be a "public accountant" within the meaning of "*The Audit Acts, 1874 to 1967.*"

(3) A receiver may be appointed under this section either in respect of the income of the Authority generally or in respect of specified income.

21. Debentures. (1) All debentures issued under the authority of this Act—

- (a) shall, subject to this Act, be issued in such series at such times and places in or outside the State, and in such manner as the Authority thinks fit;
- (b) shall, with interest thereon, be a charge upon the revenues of the Authority subject to any prior debentures issued according to law;
- (c) shall bear interest at the rate and be redeemable at such date or dates and at such place or places in or outside the State as prescribed in the Order in Council referred to in subsection (3) of section seventeen of this Act;
- (d) may, with the consent of the holder thereof, be paid off at any time previous to the due date thereof at not more than the amount of the principal remaining unpaid at the time in respect thereof or, with the consent of the Governor in Council, at a premium, with interest thereon to the date of payment only.

(2) Interest secured by any such debentures shall be payable at such times and at such place or places in or outside the State as prescribed in the Order in Council referred to in subsection (3) of section seventeen of this Act.

(3) (a) Every debenture issued under the authority of this Act—

- (i) shall be sealed with the seal of the Authority and signed by the Chairman and Secretary of the Authority and, when so sealed and signed, shall be taken to have been duly issued;
- (ii) shall be numbered consecutively so that no two debentures in one and the same series shall at any time bear the same number;
- (iii) shall have set forth therein the places and times at which the principal and interest are payable.

(b) A debenture issued under the authority of this Act may, at the option of the lender, have annexed thereto for every payment to grow due thereon (whether of principal or interest or principal and interest) a coupon and such debenture and coupon shall, unless the Governor in Council has otherwise prescribed in the Order in Council whereby the loan concerned was authorized, be transferable by delivery and payment to any person in possession of such debenture or coupon of the sum named therein shall discharge the Authority from all liability in respect of that debenture or coupon.

When a debenture or coupon is not transferable by delivery that fact shall be expressly stated on the face thereof.

(c) In the case of a debenture issued under the authority of this Act with coupons the holder of such a coupon, whether the same be separated from such debenture or not, shall be entitled to receive payment from the Authority of the sum named therein upon presentation on or after the due date for payment thereof at the place where the same is expressed to be made payable.

(d) In the case of a debenture issued under the authority of this Act without coupons, the lender or, in the event of a transfer of such debenture, the transferee for the time being, shall, subject to this paragraph, be entitled to receive payments from the Authority in respect of principal or interest or both in accordance with the terms and conditions of such debenture.

A transferee with respect to whom the Authority has not been given notice as prescribed shall not be entitled to receive, and the Authority shall not be liable to make to such a transferee, any payment in respect of any debenture issued without coupons except under attachment by process of law and then only to the extent of moneys due and payable to such transferee under the debenture and unpaid by the Authority to the lender or a prior transferee.

The entitlement of a transferee with respect to whom the Authority has been given notice as prescribed to receive any payment in respect of a debenture issued without coupons shall be subject to any payment which, having become due and payable under such debenture before the Authority was given such notice, was made by it to the lender or a prior transferee.

In this paragraph the expression "notice as prescribed" means a notice in writing signed by the transferor and transferee and verified to the satisfaction of the Authority.

(e) A lender of money to the Authority may agree to accept a standard form of debenture but shall not be bound so to do.

22. (1) Loan to be authorized investment. Unless expressly forbidden by the instrument (if any) creating the trust, an investment by a trustee of trust funds in a loan raised under the authority of this Act shall be and be deemed to be an authorized investment by the trustee pursuant to the provisions of section four of "*The Trustees and Executors Act of 1897*" (as amended by subsequent Acts) and such Act shall be read and construed accordingly.

(2) **Notice of trusts not to be received.** The Authority or an officer, servant or agent of the Authority shall not receive and shall be deemed to have not received notice of any trust express, implied or constructive in relation to any debentures issued under the authority of this Act and the Authority or any such officer, servant or agent shall not be bound to see to the execution of any trust to which any such debentures may be subject.

(3) **Lender not bound to enquire as to validity of security.** A person advancing money to the Authority and receiving in consideration therefor any debentures duly issued shall not be bound to enquire whether the issue of such debentures was in fact duly authorized or into the application of the money so advanced or be in any way responsible for the non-application or misapplication thereof.

23. Brokerage. The Authority may pay moneys by way of brokerage in relation to the making, procuring, negotiating, or obtaining the loan of any money which the Governor in Council has authorized the Authority to borrow:

Provided that no moneys shall be paid by the Authority by way of brokerage in relation to the loan of any moneys borrowed by it unless the Treasurer has approved of the payment of brokerage, which approval may be given by the Treasurer subject to such terms and conditions as he thinks fit.

Section fourteen of "*The Money Lenders Acts, 1916 to 1962*," shall not apply or extend to brokerage which the Authority is authorized, by this section, to pay and which brokerage has been approved by the Treasurer and is agreed to be paid by the Authority subject to the terms and conditions (if any) imposed by the Treasurer.

24. Remedies of debenture holders. If the Authority makes default in making a payment whether of principal or interest to the holder of any debenture or coupon issued by the Authority under the authority of this Act such holder may make application to and procure all necessary orders and directions from the Supreme Court for the appointment of a receiver and such court shall have power to make all such orders for the appointment of such a receiver and for his removal and the appointment of another in his place as may be necessary and to make any orders and give any directions which such court thinks proper.

A receiver appointed pursuant to this section shall be deemed to be an officer of such court and shall act under its direction.

25. (1) Remuneration of receiver. A receiver appointed by the Treasurer pursuant to section twenty of this Act shall be entitled to such commission or remuneration for his services as the Treasurer orders.

A receiver appointed by the Supreme Court pursuant to the last preceding section shall be entitled to such commission or remuneration as the court orders.

The commission or remuneration of a receiver shall be payable out of the revenue of the Authority in relation to which he was appointed.

(2) Powers and duties of receiver. A receiver, whether appointed by the Treasurer or the Supreme Court, may collect all the revenue payable to the Authority or, in the case of his appointment in respect of specified income, all of that income, and, for the purposes of this section, a receiver shall be deemed to be the Authority and may exercise all the powers of the Authority.

A receiver shall pay and apply all moneys received by him in the course of his receivership as follows:—

- (a) firstly, in payment of the costs, charges and expenses of collection and of his commission or remuneration;
- (b) secondly, if he was appointed by the Treasurer, in payment of the amount due and payable to the Treasurer including any money paid by the Treasurer under a guarantee given by the Treasurer in relation to moneys borrowed by the Authority under the authority of this Act together with interest on such amount at such rate as is specified by the Treasurer and, if he was appointed by the Supreme Court upon the

application of a holder of any debenture or coupon, in payment, subject to any order of the court, to such holder or to and amongst the holders of debentures or coupons of the same series as such holder or to the holders of debentures or coupons generally in such order of priority as the court thinks fit the amount due and payable to such holder or, as the case may be, holders;

- (c) thirdly, in payment of the residue of such moneys to the Authority.

26. Moneys recoverable as debt. If the Authority makes default in making a payment referred to in section twenty-four of this Act, the person to whom such payment should have been made may recover the amount in respect of which such default has been made as a debt by action against the Authority in any court of competent jurisdiction.

27. Regulations relating to loans. The power conferred on the Governor in Council by section sixty of this Act to make regulations includes the power to make such regulations relating to the raising and repayment of loans under the authority of this Act and, without limiting the generality of the foregoing power—

- (a) prescribing the form of and the manner of the issuing of debentures, providing for the keeping and inspection of and the taking of copies of or extracts from the register of debentures and providing for lost or defaced debentures or coupons and the destruction of discharged debentures or coupons;
- (b) prescribing matters relating to the raising of loans outside the State;
- (c) providing for sinking funds and other methods for the repayment of moneys borrowed, providing for and appointing trustees of a debt redemption fund with respect thereto and prescribing the powers, functions and duties of such trustees and regulating and controlling all or any matters with respect to such debt redemption fund, trustees, sinking funds or other methods aforesaid;
- (d) providing for the incorporation of any trustees so appointed.

28. Illegal borrowing. (1) A person who lends money to the Authority otherwise than in accordance with this Act or some other Act shall have no remedy or right whatsoever to recover money from the Authority in respect of that loan.

(2) If any moneys are appropriated from any fund for the purpose of repaying any money borrowed otherwise than in accordance with this Act or some other Act or paying interest thereon, the members of the Authority who have consented to the misappropriation of such moneys for that purpose shall be jointly and severally liable to refund the same with interest at the rate of eight per centum per annum, and the same may be recovered from such members or any of them by action in any court of competent jurisdiction at the suit of the Treasurer who, on recovery of the same, shall pay the amount recovered into the fund concerned but shall be entitled to full costs of suit including costs as between solicitor and client.

(3) The provisions of this section shall be construed so as not to prejudice the operation of the provisions of subsection (3) of section twenty-two of this Act.

29. Beach Protection Fund. (1) There shall be established in the Treasury a Fund to be called "The Beach Protection Authority Fund", in this Act called the "Fund".

(2) There shall be paid into the Fund—

- (a) all moneys paid to the Authority by way of loan for the purposes of this Act;
- (b) all moneys appropriated by Parliament for the purposes of this Act;
- (c) all other moneys paid to the Authority for the purposes of this Act.

(3) Without derogating from any other provision of this Act, there shall be paid out of the Fund all expenditure necessarily incurred in the exercise and performance of the functions of the Authority under this Act.

30. (1) Budget. Before the thirty-first day of July in each financial year (beginning with the financial year commencing on the first day of July next following the date of the coming into operation of this Act) the Authority shall lodge with the Minister in or to the effect of the prescribed form or, in so far as a form is not prescribed, in accordance with this section, a budget for that financial year in respect of the Fund wherein the Authority shall estimate as accurately as possible—

- (a) the amount to be disbursed by the Authority during the financial year in question and during the first two months of the next succeeding financial year in the proper exercise by the Authority of its powers and functions under this Act and in carrying this Act into effect;
- (b) the amounts expected to be received from the several sources of income of the Authority and from other payments prescribed to be made into the Fund during the financial year in question.

Every such budget shall be subject to the approval of the Governor in Council and, until so approved, shall have no force or effect.

(2) **Revision and approval of budget.** The Minister or a person appointed by him shall revise every such budget and, where it appears to the Minister that any amount therein has been over-estimated or under-estimated or that any item of disbursement included therein should not be included or that any amount or item that should be included therein has been omitted, the Minister shall amend the budget in such way as he thinks reasonable and shall recommend the budget (as amended, should the case require it) for the approval of the Governor in Council.

When the Governor in Council has approved of a budget such budget, whether or not it has been amended pursuant to this subsection, shall be binding on the Authority.

(3) **Emergent expenditure.** (a) Subject to the provisions of paragraph (b) of this subsection, the Authority shall confine its disbursements within the items and the amounts contained in the applicable budget as approved by the Governor in Council.

(b) If at any time it appears to the Authority that an extraordinary circumstance has arisen which requires it to make a disbursement which was not provided for in the applicable budget or which exceeds the amount estimated in respect of that disbursement in such budget the Authority shall, before making the disbursement or excess disbursement, by resolution approve that such disbursement or excess disbursement be made.

(c) Before the thirty-first day of July in each year the Authority shall lodge with the Minister a return showing particulars of all disbursements and excess disbursements made under paragraph (b) of this subsection during the financial year ending on the thirtieth day of June last preceding and the circumstances in which each such disbursement or excess disbursement was made and shall apply to the Minister for approval in accordance with this subsection of the making of each such disbursement or excess disbursement.

(d) When an application is made under paragraph (c) of this subsection—

- (i) the Authority shall supply such information as the Minister requires;
- (ii) each such disbursement or excess disbursement may be approved by the Minister if the making of the same has not resulted in the Authority's exceeding the total amount of the items of expenditure included in its budget (as approved) for the financial year in question excluding the amount provided for in that budget by way of disbursement for the first two months of the next succeeding financial year but, otherwise, by the Governor in Council.

(4) **Surplus and deficit to be shown.** If the Fund contains a surplus or shows a deficit at the end of a financial year the Authority shall take such surplus or deficit into account in the preparation of its budget for the next succeeding financial year, a surplus to be shown as a receipt of revenue by the Authority for that succeeding financial year and a deficit to be shown as a disbursement for that succeeding financial year.

31. Form of budget until a form is prescribed. Until a form of budget is prescribed each budget shall show—

- (a) particulars of each item of estimated receipt and estimated disbursement for the financial year in question;
- (b) the aggregate amounts of estimated receipts and estimated disbursements shown in the budget (if any) for the last preceding financial year;
- (c) the aggregate amounts actually received and disbursed during the last preceding financial year;
- (d) such other information as is prescribed.

32. Variation in dates. If, in respect of any particular financial year, the Minister is of opinion that the circumstances of the case warrant it he may appoint a date later than and in lieu of the date prescribed by section thirty of this Act as the date by which the Authority is to lodge its budget with the Minister and, in respect of such financial year, that section shall be construed as if the date so appointed appeared in the place of the date prescribed therein.

33. Accounts and audit. (1) In respect of the Authority, its Accountant shall provide and keep such books of account and records as are from time to time prescribed or, in so far as not prescribed, as are required by the Auditor-General.

(2) At least once in each year the Auditor-General shall audit the accounts of the Authority and shall have, with respect to such audit and accounts, all the powers and authorities conferred on him by "*The Audit Acts, 1874 to 1967*," and shall report thereon.

(3) The Accountant shall be responsible for the safe custody and proper order of all books of account, agreements and records relating to the business of the Authority and shall compile such records and make such entries therein as the Auditor-General directs.

(4) A person shall not destroy or mutilate any book of account, agreement or record relating to the business of the Authority except with the consent of the Auditor-General first had and obtained.

PART III—FUNCTIONS, &C., OF THE AUTHORITY AND OF THE ADVISORY BOARD

34. Functions of the Authority. (1) The functions of the Authority shall be—

- (a) the carrying out of investigations with respect to erosion or encroachment by the sea of or upon lands of the coast and for that purpose the Authority shall continue and complete any such investigation which is being carried on by the Co-ordinator-General at the coming into operation of this Act;
- (b) the investigating and planning of preventive and remedial measures in respect of erosion or encroachment by the sea of or upon lands of the coast;
- (c) the recording and evaluating of the results of such investigations and plans;
- (d) the exercising and performing of the powers and authorities conferred upon it by this Act.

(2) In respect of any investigation the Authority shall have all the powers, authority, protection and jurisdiction of a Commission under "*The Commissions of Inquiry Acts, 1950 to 1954*," save such powers, authority, and jurisdiction as are confined to a Chairman of a Commission when that Chairman is a Judge of the Supreme Court.

35. Functions of the Board. The Board may of its own motion and shall if thereunto directed by the Authority—

- (a) consider matters pertinent to the protection of beaches generally or any particular beach from erosion or encroachment by the sea;
- (b) consider matters pertinent to the declaration of beach erosion control districts either generally or in relation to a particular district or districts;
- (c) make recommendations to the Authority in connexion with any matter considered pursuant to paragraphs (a) or (b) of this section.

36. Beach erosion control districts. (1) Upon the recommendation of the Authority the Governor in Council by Order in Council may from time to time—

- (a) declare any part of the coast to be a beach erosion control district;
- (b) assign a name or number, or both, to any such district;
- (c) abolish any such district;
- (d) amalgamate two or more such districts into one such district;
- (e) amend the boundaries of any such district so as to exclude therefrom any part thereof or to include therein any part of the coast which is not included in such a district;
- (f) exclude from any such district any part thereof and declare that part to be a beach erosion control district or include it in another such district.

(2) The Governor in Council shall not include the whole or part of the limits of any harbour as defined pursuant to "*The Harbours Acts, 1955 to 1966*," within any beach erosion control district unless the recommendation of the Minister for the time being administering those Acts has been obtained thereto.

(3) The boundaries of any beach erosion control district or of any part of such district may be sufficiently described by reference to a plan or map kept in the office of the Surveyor-General of Queensland.

A copy of such plan or map shall be kept in the office of the Local Authority into the Area whereof the beach erosion control district extends or, if it extends into the Areas of two or more Local Authorities, then in the office of each such Local Authority.

Such plan or map and every such copy thereof shall be open to public inspection at all times during which the office of the said Surveyor-General or of the Local Authority is open for the transaction of public business.

(4) The boundaries of a beach erosion control district as declared for the time being by the Governor in Council shall not be affected by any change in the mean high-water mark or the mean low-water mark of the main sea, or in both such marks.

37. Scheme for beach protection. (1) As soon as may be after the declaration of a beach erosion control district the Authority shall prepare a scheme for the protection of beaches within such district against erosion, or encroachment by the sea, or both (according as it deems necessary).

(2) When the scheme is prepared the Authority shall—

- (a) furnish a copy of the scheme to the Local Authority into the Area whereof the beach erosion control district in question extends or, if it extends into the Areas of two or more Local Authorities, then to each such Local Authority;
- (b) by advertisement published at least once in at least one newspaper circulating in the locality in which the beach erosion control district in question is situated, give notice that a copy of the scheme is open for inspection for the period specified in the advertisement at the office or offices respectively of the Local Authority or Local Authorities named in the advertisement.

(3) A Local Authority which, pursuant to paragraph (a) of subsection (2) of this section, is furnished with a copy of the scheme, shall keep such copy open for public inspection at its office at all times when its office is open for the transaction of public business during the period of ninety days next following the date when the copy was furnished to it.

(4) During the inspection period of ninety days or within one week after its termination any person (including a Local Authority which is furnished with a copy of the scheme) who considers that he will be aggrieved by the carrying out of any works proposed by the scheme may object to the scheme.

The objection shall be in writing, shall be addressed to the Secretary and shall set out the grounds of objection and the facts and circumstances relied on by the objector in support of those grounds.

A ground of objection may be that the implementation of the scheme will impose an undue financial burden on the objector.

An objection may be made by a group of persons.

An objection may be posted to or lodged with any Local Authority at the office whereof a copy of the scheme is required to be kept open for public inspection, and such Local Authority shall forthwith forward to the Secretary every objection received by it.

(5) The Authority shall forthwith consider every objection made as prescribed by subsection (4) of this section and received by the Secretary not later than one week after the termination of the inspection period.

For the purposes of this subsection an objection received by a Local Authority pursuant to subsection (4) of this section shall be deemed to have been received by the Secretary.

38. Approval of scheme. (1) The Authority shall furnish to the Minister for submission to the Governor in Council, and the Minister shall submit to the Governor in Council—

- (a) the scheme;
 - (b) every objection duly made to the scheme;
 - (c) the representations by the Authority in respect of such objections;
 - (d) such other information and particulars with respect to the scheme and objections thereto as the Minister requires.
- (2) The Governor in Council may—
- (a) approve the scheme as submitted;
 - (b) approve the scheme subject to such alterations or modifications as the Governor in Council determines;
 - (c) reject the scheme.

39. Implementation of scheme. (1) When a scheme is approved by the Governor in Council, the Authority may arrange with the Local Authority into the Area whereof the beach erosion control district in question extends for the carrying out by such Local Authority of such works and the taking and doing by it of the steps and things necessary to implement the scheme.

Where the beach erosion control district in question extends into the Areas of two or more Local Authorities, arrangements may be made with each of them for the carrying out by it of such works and the taking and doing by it of such steps and things necessary to implement the scheme as are required for that purpose to be carried out, taken and done in or in relation to its Area.

Any works to be carried out or carried out in accordance with an arrangement made under this subsection are in this Act called "beach protection works".

(2) Arrangements made under subsection (1) of this section may include a programme listing in relation to successive financial years the works, steps and things to be carried out, taken and done by the Local Authority in question for the purpose of implementing the scheme.

(3) A Local Authority may as a function of Local Government carry out, take and do works, steps and things pursuant to arrangements in that behalf made by the Authority with it under subsection (1) of this section.

(4) A Local Authority shall maintain any beach protection works (the carrying out of which maintenance is hereby declared a function of Local Government).

40. Authority may carry out works for Local Authority. The Authority may—

- (a) carry out on behalf of any Local Authority any beach protection works the cost of which shall be charged to the Local Authority;
- (b) supervise on behalf of any Local Authority the carrying out of any beach protection works, the cost of which supervision shall be charged to the Local Authority.

41. Amendment of scheme. (1) A scheme may be amended from time to time as prescribed by this section.

(2) The provisions of sections thirty-seven and thirty-eight of this Act shall, with and subject to all necessary adaptations, apply with respect to any amendment of the scheme.

(3) When a scheme is amended as prescribed by this section, the scheme as so amended shall become and be the scheme in question.

42. Application of provisions of Harbours Acts. Nothing in this Act shall exclude the operation of the provisions of sections eighty-six and ninety-one of "*The Harbours Acts, 1955 to 1966*" in relation to the carrying out or maintenance of any beach protection works.

43. Protection from wind erosion. (1) Every owner of land situated in a beach erosion control district shall, at his own cost, at all times protect such land from wind erosion.

(2) (a) The Authority may direct a Local Authority into the Area whereof a beach erosion control district extends to serve upon an owner of land in such district a notice in writing requiring him to take the action specified in the direction, and if so specified within the time or times specified in the notice, for the purpose of performing his obligations under subsection (1) of this section.

(b) A Local Authority thereunto directed by the Authority under paragraph (b) of this subsection shall serve upon the owner of land in question a notice in writing containing the requirements directed by the Authority.

(c) The action required by a direction and a notice pursuant to a direction under this section may be any or all of the following, namely:—

- (i) the construction and maintenance of any works;
- (ii) the planting and cultivation of any vegetation;
- (iii) the preservation and cultivation of any subsisting vegetation;
- (iv) the refraining from altering the natural configuration of the land;
- (v) the taking or doing of any other step or thing necessary or expedient in the opinion of the Authority to protect the land from wind erosion

(d) A direction and a notice pursuant to a direction under this subsection may require that any action specified therein be not taken without the prior permission of the Authority.

(3) (a) If an owner of land fails to comply in any respect with the requirements of a notice under subsection (2) of this section—

- (i) the Local Authority as a function of Local Government shall as soon as may be itself comply with those requirements;
- (ii) the owner shall be liable to pay to the Local Authority all costs incurred by it in complying with those requirements and any amount thereof unpaid to the Local Authority upon demand may be recovered by it by action as for a debt in any court of competent jurisdiction;
- (iii) the owner shall be guilty of an offence against this Act and liable to a penalty of not more than one hundred dollars and additionally, in the case of any such offence which is continued, twenty dollars for each and every day on which it is continued.

(b) Subparagraphs (i) and (ii) of paragraph (a) of this subsection apply—

- (i) irrespective of whether or not proceedings for an offence under subparagraph (iii) of paragraph (a) of this subsection in respect of the failure concerned have been instituted or concluded;
- (ii) so as not to exempt an owner from liability to be punished under subparagraph (iii) of paragraph (a) of this subsection.

(4) (a) Where a notice under subsection (2) of this section is subsisting in respect of any land at the time when the land is sold or agreed to be sold, the purchaser shall be bound by the notice as from the date of the sale or agreement to sell as if it had been served upon him, and shall be liable accordingly.

(b) On or before the date of the sale or agreement to sell, the vendor shall give to the purchaser a statement in writing that the land is subject to a notice under subsection (2) of this section and shall accompany such statement with the notice or a copy thereof.

A person who fails to comply with this paragraph (b) is guilty of an offence against this Act and liable to a penalty of not more than one hundred dollars.

44. Control of building operations. (1) A person shall not erect or alter, or cause or allow to be erected or altered, a structure on any land in a beach erosion control district without the authority of a permit under this section or contrary in any respect to the terms and conditions of a permit under this section.

(2) Application for a permit under this section shall be made to the Local Authority in the Area whereof the land is situated or, where the Local Authority is the applicant to the Authority (it being hereby declared that this section applies to Local Authorities) in the manner prescribed and shall contain or be accompanied by the prescribed information and particulars.

The Local Authority shall forward the application together with the information and particulars appertaining to it to the Authority.

(3) The Authority may at its discretion grant or refuse to grant a permit under this section or may grant it subject to such terms and conditions as the Authority deems fit.

(4) The Authority may grant a permit under this section for a limited period as specified in the permit and in that event the permit shall cease to be in force at the expiration of the period specified therein unless the Authority (which is hereby thereunto authorized) sooner extends the period thereof.

(5) (a) Where a structure is erected or altered contrary in any respect to the provisions of this section then, notwithstanding that proceedings for an offence against this section have not been instituted or concluded in respect of the contravention, the Authority may serve a notice on the owner of the land in question, or on the person who is actually erecting or altering the structure, or on both of them, requiring that the structure in question be removed or, in the case of alteration, be restored to its former state and that all such other steps and things be done and taken as in the opinion of the Authority are necessary to restore the land in question, including vegetation thereon, to the state it was in immediately prior to the commencement of the erection or alteration.

(b) A notice under this subsection may specify a time within which a person served therewith shall comply with the requirements of the notice.

Where the notice is served on both the owner of the land in question and the person who is actually erecting or altering the structure, they shall be jointly and severally bound by the requirements of the notice.

(c) Upon failure of the person or persons bound by a notice under this section to comply in every respect with the requirements thereof, the Authority may itself comply with those requirements irrespective of whether or not proceedings for an offence under this section in respect of such failure have been instituted or concluded.

This paragraph (c) applies so as not to exempt a person bound by the notice from liability to be punished for any offence under this section.

(d) The Authority may sell by public tender or by public auction any materials derived from the removal of any structure or, in the case of alteration, from the restoration of any structure and, if it makes any such sale, shall apply the proceeds thereof towards the costs of the sale and of the removal or restoration, as the case may be, and shall pay any surplus to the owner of the land.

In the event that the Authority makes no such sale or that the proceeds of such a sale are insufficient to defray such costs, the Authority may recover such costs or the undefrayed balance thereof from any person bound by the notice by action as for a debt in any court of competent jurisdiction.

(6) A person who contravenes or fails to comply with any provision of subsection (1) or subsection (5) of this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding five hundred dollars and additionally to a penalty not exceeding fifty dollars for each and every day on which he continues the offence after he is convicted therefor.

(7) In this section—

- (a) “alter” includes alter, add to, remove, take away from, or modify in any respect and also includes commencing or continuing the alteration, adding to, removal, taking away from or modification;
- (b) “erect” includes erect, construct, make or place and also includes commencing or continuing the erection, construction, making or placing;
- (c) “structure” includes any building, wall, fence, pillar, post, roadway or path or other structure or erection.

(8) A permit under this section shall not authorize, justify or excuse any act or omission which is an offence against any law other than this Act.

(9) In respect of the erection or alteration of a structure on any land in a beach erosion control district, a Local Authority or other authority shall not grant any approval, consent or permission—

- (a) unless and until the Authority has granted a permit under this section; or
- (b) contrary in any respect to the terms and conditions of a permit granted by the Authority under this section.

45. Opening of road or subdivision of land in beach erosion control district. A Local Authority shall not approve an application to open a road or to subdivide land in a beach erosion control district unless and until the applicant satisfies it that the Authority has consented to the opening of the road or to the subdivision, as the case may be.

46. Compensation for injurious affection. (1) Subject to this Act, a person whose estate or interest in land is injuriously affected by—

- (a) the refusal of the Authority to grant a permit under section forty-four of this Act; or
- (b) the refusal of the Authority to consent to the opening of a road or to a subdivision of land under section forty-five of this Act,

shall, subject to and in accordance with this section be entitled to obtain compensation from the Authority in respect, of such injurious affection.

(2) (a) Every claim for compensation under this section shall be made to the Authority in the prescribed form.

The claimant shall fully complete and sign such form and lodge it with the Authority.

The Authority shall not be obliged to consider the claim until all information reasonably required by the form to be supplied has been supplied by the claimant.

(b) A claim shall be deemed to have been made on the date on which it was received by the Authority.

(c) The time within which a claim under this section may be made shall be six months after the date of the refusal in question.

On application the Court may, if it deems just in the circumstances, extend such time upon such conditions, including as respects costs, as it deems fit, and may do so whether or not such time has expired.

(d) If within forty days after the receipt by the Authority of a duly completed claim for compensation under this section the Authority has not made a decision on the claim, or having made a decision thereon, has not communicated its decision to the claimant, or if the Authority having made a decision thereon and communicated the same to the claimant within the time aforesaid the claimant is not satisfied with such decision, the claimant may apply to the Court, which shall have jurisdiction to hear and determine the claim.

(3) A claimant for compensation under this section shall satisfy the Court—

(a) in the case of a refusal to grant a permit under section forty-four of this Act, that, if the permit had been granted, the erection or, as the case may be, alteration of the structure in question in accordance with the information and particulars contained in or accompanying the application for the permit would have been lawful in every respect and that every relevant approval, consent or permission of the Local Authority or any other authority whomsoever required in the case would, if the Authority had granted the permit, have been granted;

(b) in the case of refusal to consent to the opening of a road or to a subdivision, that, except for such refusal, the Local Authority or any other authority concerned would have approved the application to open the road or to subdivide the land in question.

Unless the claimant satisfies the Court as prescribed by this subsection, the Court shall not award him any compensation.

47. Acts, &c., prohibited in beach erosion control district. (1) On any unoccupied Crown land in any beach erosion control district a person shall not without the permission in writing of the Authority or contrary in any respect to the terms and conditions of such a permit—

(a) depasture or cause or allow to be depastured or have in his possession or under his control any stock;

(b) damage any vegetation;

(c) interfere with any sand, stone, gravel, rock, clay or other earth;

(d) interfere with any beach protection works;

(e) traverse any vehicle or ride or drive any animal;

(f) drain or cause or allow to be drained or to flow any water or other fluid across or through such land.

A person who contravenes any provision of this subsection shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding five hundred dollars and additionally, in the case of any such offence which is continued, fifty dollars for each and every day on which it is continued.

(2) The Authority may serve upon any owner or, if the owner is not the occupier, the occupier of land in a beach erosion control district a notice in writing prohibiting him from—

(a) depasturing or causing or allowing to be depastured or having in his possession or under his control on his land any stock;

(b) damaging any vegetation on his land;

- (c) interfering with any sand, stone, gravel, rock, clay or other earth on his land;
- (d) traversing any vehicle or riding or driving any vehicle on his land.

For the purposes of this subsection "prohibiting" includes controlling and regulating.

A person who contravenes a notice under this section shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding five hundred dollars and additionally, in the case of any such offence which is continued, fifty dollars for each and every day on which it is continued.

(3) In this section—

- (a) "stock" includes camels, cattle, horses, asses, sheep, goats or swine and the young thereof;
- (b) "vegetation" includes trees, plants and any other vegetable growth;
- (c) in relation to vegetation "damage" includes remove, fell, cut down, ringbark, dig up, pull out, poison, damage by fire, whether intentionally or unintentionally, or interfere in any way with the natural growth of;
- (d) in relation to beach protection works or sand, stone, gravel, rock, clay or other earth "interfere with" includes destroy, remove, take, dig up, use, or interfere with in any way.

48. Restricted access area. (1) In respect of any unoccupied Crown land in any beach erosion control district the Authority, by notification published in the *Gazette*, may declare such land to be a restricted access area.

The boundaries of such area may be described in the notification in any manner which in the opinion of the Authority sufficiently identifies them.

(2) By the notification declaring any unoccupied Crown land to be a restricted access area or by a further notification published in the *Gazette* the Authority may regulate and control the use of the land comprised in the area, which power to regulate and control includes power—

- (a) to prohibit any person whomsoever from entering or being in the area;
- (b) to prohibit any person whomsoever from entering or being in the area except for a purpose specified by the Authority;
- (c) to prohibit any person whomsoever from entering or leaving the area except at a point specified by the Authority;
- (d) where access is prohibited except for the purpose of traversing the area, to prohibit any person whomsoever from traversing the area except by a route and by the means specified by the Authority or to use any route so specified except for the purpose of traversing the area;
- (e) to prohibit the entry of vehicles into the area.

(3) The power of the Authority to prohibit pursuant to subsection (2) of this section entry of vehicles into a restricted access area includes power—

- (a) to limit the prohibition to vehicles of the class or classes of vehicle specified in the notification;

- (b) to except from the prohibition vehicles of the class or classes of vehicles specified in the notification, or any vehicle or vehicles specified in the notification, or any vehicle or vehicles used for any purpose specified in the notification;
- (c) to prohibit vehicles from entering or leaving the area except at a point or points specified in the notification or from traversing the area except by a route specified in the notification.

(4) Any person who enters, is in or traverses any restricted access area contrary in any respect to any prohibition imposed by the Authority pursuant to subsection (2) of this section shall be guilty of an offence against this Act and liable to a penalty of not more than one hundred dollars.

(5) A person who drives or rides a vehicle into or in a restricted access area contrary in any respect to any prohibition imposed by the Authority pursuant to subsection (2) of this section or who is in charge of a vehicle which is in a restricted access area contrary in any respect to such a prohibition shall be guilty of an offence against this Act and liable to a penalty of not more than two hundred dollars.

PART IV—GENERAL PROVISIONS

49. Powers of entry, &c. (1) For the purposes of this Act any member, officer, employee, contractor or agent of the Authority or a Local Authority or any person authorized by the Authority or a Local Authority in that behalf may—

- (a) enter upon any land, for the purpose of making any inspection, valuation, survey or taking levels;
 - (b) affix or set up thereon trigonometrical stations, survey pegs, marks, or poles, and from time to time alter, remove, inspect, reinstate and repair the same;
 - (c) dig and bore into the land so as to ascertain the nature of the soil, and set out the lines of any works thereon;
 - (d) do all things necessary for the purposes aforesaid.
- (2) The power to enter upon any land includes power to—
- (a) re-enter from time to time;
 - (b) remain upon that land for such time as is necessary to achieve the purpose of the entry;
 - (c) take such assistants, vehicles, materials, equipment or things as are necessary to achieve the purpose of the entry.

(3) Not less than seven days' notice in writing shall be given to the occupier or, if there is no occupier, the owner of the land of the intention to enter thereon, and the authority under which the person entering claims to enter or has entered shall, if required by such owner or occupier, be produced and shown.

- (4) Every person who—
 - (a) without due authority, destroys, mutilates, defaces, takes away, or alters the position of any trigonometrical station, survey peg, mark, or pole fixed or set up by any person under the authority of this section; or

(b) wilfully obstructs or attempts to obstruct any person acting under the authority of this section, shall be guilty of an offence against this Act and liable to a penalty not exceeding two hundred dollars.

(5) The Authority or, as the case may be, Local Authority shall be liable for compensation for the actual damage (if any), done to the land by reason of the exercise of any power conferred by this section.

This subsection applies subject to subsection (4) of section fifty of this Act.

Compensation pursuant to this subsection may be claimed and agreed upon or determined as prescribed by subsections (3) and (5) of section fifty of this Act.

50. Temporary occupation of land. (1) The Authority or a Local Authority may temporarily occupy and use any land for the purpose of constructing, maintaining or repairing any works including any beach protection works, and may—

- (a) take therefrom stone, gravel, sand, earth, and other material;
- (b) deposit thereon any material;
- (c) form and use temporary roads thereon;
- (d) manufacture bricks or other materials thereon;
- (e) erect workshops, sheds, and other buildings of a temporary nature thereon.

(2) The Authority or, as the case may be, a Local Authority or the person having the charge of the works shall, before occupying or using any land as herein provided, and except in the case of accident requiring immediate repair, give to the occupier or, if there is no occupier, the owner thereof not less than seven days' notice in writing, and shall state in such notice the use proposed to be made of the land and an approximate period during which such use is expected to continue.

(3) The owner of the land or any other person having an estate or interest in the land may, at any time during such occupation or within three months thereafter give notice in writing to the Authority or, as the case may be, the Local Authority that he claims compensation; and subject to giving such notice if the land is not taken the owner and all persons having any interest in the land may recover under this Act compensation for all damage done, but not exceeding the compensation which would have been payable had the land been taken.

(4) No compensation shall be payable for any act or thing done under this section, the right or authority to exercise which is reserved by any Act, or by any regulation, Crown grant, or other instrument, except to the extent therein mentioned, notwithstanding that the terms and conditions imposed by such Act, regulation, grant, or instrument have not been performed.

(5) The Authority or, as the case may be, the Local Authority and the claimant may agree upon the amount of compensation to be paid under this section or they may agree that such amount be determined by the Court, in which case such amount shall, upon the reference of either of them, be determined by the Court as if the land had been taken and the claim were limited to the compensation recoverable under this section.

51. Contracts by the Authority. Contracts entered into by the Authority may be made as follows:—

- (a) a contract which if made between natural persons would be required by law to be in writing under seal may be made by the Authority in writing under the common seal of the Authority;
- (b) a contract which if made between natural persons would be required by law to be in writing signed by the parties to be charged therewith may be made by the Authority in writing signed by the Chairman or by two members of the Authority acting by the direction of the Authority;
- (c) a contract which if made between natural persons would be valid in law although not reduced into writing may be made without writing by the Chairman or by two members of the Authority acting by the direction of the Authority,

and any contract so made shall be effectual in law and shall bind the Authority and all other parties thereto and may be varied or discharged in the manner in which it is authorized to be made.

52. Erection of signs by Authority. (1) The Authority may install upon any unoccupied Crown land within or on the boundary of a beach erosion control district or restricted access area any sign or signs indicating such district or area and any matter or thing prohibited or authorized in relation to the place or places specified on the sign or, as the case may be, signs.

(2) Any person who without lawful authority demolishes, destroys, pulls down, erases, removes, defaces or otherwise damages or interferes with a sign installed pursuant to subsection (1) of this section shall be guilty of an offence against this Act.

53. Obstruction of authorized persons. Any person who obstructs, resists or hinders any person, authorized by or under this Act to perform any work, or to do any act or thing, in the exercise of his authority commits an offence against this Act and is liable to a penalty not exceeding one hundred dollars.

54. Offences generally. (1) Any person who contravenes or fails to comply with any provision of this Act commits an offence against this Act, and, except where a specific penalty is otherwise provided for that offence, is liable to a penalty not exceeding three hundred dollars.

(2) Without derogating from any other provision of this Act, any person who after being convicted of an offence against this Act continues in the contravention or failure to comply for which he has been so convicted commits an offence which shall be deemed to be a continuing offence and, except where a specific penalty is prescribed shall be liable to a penalty not exceeding twenty dollars for each day during which such offence continues.

(3) All offences against this Act may be prosecuted by way of summary proceedings under "*The Justices Acts, 1886 to 1966.*"

Every such proceeding may be taken upon the complaint of any person authorized in writing by the Chairman of the Authority or the Secretary.

55. Evidentiary aids. In any proceeding under or for the purposes of this Act—

- (a) it shall not be necessary to prove—
 - (i) the boundaries of any beach erosion control district or any restricted access area or that any place is within such a district or area, but this shall not prejudice the right of any defendant to prove the limits of any such district or area;
 - (ii) the signature of the Chairman of the Authority or of the Secretary;
 - (iii) the authority of any complainant to make the complaint in question;
 - (iv) the appointment of any officer;
 - (v) the authority of any officer to do any act or give any order;
- (b) an allegation or averment in any complaint that—
 - (i) any person is or is not or was or was not at any time or date mentioned in the complaint the holder of a permit or approval under this Act;
 - (ii) that any place is within a beach erosion control district;
 - (iii) that any sign was a sign installed pursuant to this Act, shall be *prima facie* evidence of the fact thereby alleged or averred and, in the absence of evidence to the contrary, shall be conclusive evidence of that fact.
- (c) a document purporting to be a duplicate original or copy of any approval, permit, order, notice or notification under this Act shall upon its production in evidence, be evidence thereof and of the matters contained therein, and in the absence of evidence to the contrary shall be conclusive evidence thereof and of such matters.

56. Proof of proceedings of Authority. An entry in a book kept by the Secretary for the purpose of recording the proceedings of the Authority which purports to be an entry relating to a proceeding of the Authority and to be signed by the Chairman of the Authority and a certified copy or extract from such an entry which purports to be so certified by the Chairman of the Authority and the Secretary shall be *prima facie* evidence of the proceeding referred to in such entry and the validity of such proceeding.

In the case of an appointment of an acting Chairman of the Authority such an entry and a certified copy or extract of such an entry shall, as regards a person acting *bona fide* and doing business with the Authority, be conclusive evidence of such appointment, its validity, and the authority of the appointee to act as such.

57. Proof of documents. A document shall be taken to have been issued by or at the direction of the Authority until the contrary is proved—

- (a) if the document purports to be issued or written by or at the direction of the Authority and purports to be signed by the Chairman or a person acting as the Chairman of the Authority, or by the Secretary; or
- (b) if the document purports to be issued or written by or at the direction of the Authority and purports to be signed by the Secretary or by an officer of the Authority authorized in that behalf.

58. Service of document. Any document required by this Act to be served upon or given to any person shall be deemed to be lawfully served upon or given to that person if—

- (a) it is served personally upon that person or upon his agent authorized in that behalf; or
- (b) it is sent by prepaid post letter addressed to that person at his usual place of abode or his place of abode last known to the sender.

59. Limitation of liability. No act, matter, thing, recommendation or decision done or made in good faith by—

- (a) the Minister;
- (b) the Authority;
- (c) the members of the Authority or of the Board;
- (d) any officer, employee or agent of the Authority,

for the purpose of carrying out or giving effect to this Act, shall subject the Crown or any of them to any action, liability, claim or demand.

60. Regulations. (1) The Governor in Council may from time to time make regulations, not inconsistent with this Act, providing for all or any purposes, whether general or to meet particular cases, as are convenient for the administration of this Act or are necessary or expedient for carrying out the objects and purposes of this Act.

(2) The power to make with respect to any persons or any matters or things whatsoever, any regulation under this Act shall include power to make that regulation so that it may be of general or specially limited application according to time, place, purposes, class, description or circumstances, or otherwise as is prescribed, and so that any regulation of specially limited application may or may not differ from any other regulation of specially limited application with respect to the same persons, matters or things.

The power to make regulations with respect to any matter or thing shall include power to make regulations under this section prohibiting that matter or thing either generally or to meet particular cases.

(3) Without in any wise limiting or affecting any other provisions of this Act, the power to make regulations with respect to any matter shall include power to prescribe the amount of any penalty or punishment by imprisonment for any offence against any regulation, provided that any such penalty shall not exceed five hundred dollars and any such punishment by imprisonment shall not exceed a term of three months.

(4) Regulations may be made under this Act at any time after the passing of this Act.

61. Publication of Orders in Council and regulations. (1) Every Order in Council and regulation made under this Act shall—

- (a) be published in the *Gazette*;
- (b) upon its publication in the *Gazette*, be judicially noticed and such publication shall be conclusive evidence of the matters contained therein;

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- (c) take effect on and from the date of such publication, unless in the case of any such regulation a later date is specified in that or any other such regulation for its commencement when in such event it shall take effect from that later date; and
 - (d) be laid before the Legislative Assembly within fourteen sitting days after such publication if the Legislative Assembly is in session, and if not, then within fourteen sitting days after the commencement of the next session.

(2) If the Legislative Assembly passes a resolution, of which notice has been given at any time within fourteen sitting days after any such Order in Council or regulation has been laid before the Legislative Assembly, disallowing such Order in Council or regulation or part thereof, that Order in Council, regulation or part shall thereupon cease to have effect, but without prejudice to the validity of anything done thereunder in the meantime or to the power to make a new Order in Council, or, as the case may be, regulation.

62. Annual report. In each year the Authority shall furnish a report on the operations of this Act to the Minister who shall lay such report before the Legislative Assembly.