

Clause 272: The coastal access duty

619. This clause imposes a duty (described by *subsection (4)(a)* as the “coastal access duty”) on the Secretary of State and Natural England. *Subsections (2) and (3)* describe the duty by reference to two objectives.

620. *Subsection (2)* contains the first objective which is that there is a route around the whole of the English coast consisting of one or more long-distance routes and available to the public for recreational journeys on foot or by ferry (“the English coastal route”).

621. *Subsection (3)* contains the second objective which is that there is a margin of land along the length of the coast which the public can enjoy. It requires a margin to exist “in association with” the route, and provides that, subject to the exception mentioned below, the margin of land is to be “accessible to the public for the purposes of its enjoyment by them in conjunction with that route or otherwise”. This makes it clear that the route and the margin are linked objectives, but also makes it clear that the margin does not have to be accessed directly from the route. It may be accessed from another part of the margin (e.g. by walking along the foreshore to reach an isolated beach) or using a right of access under other legislation, such as a public right of way, or by other means. The exception to the requirement for the margin to be accessible to the public is the case where the land falls within any category of “excepted land” listed in Schedule 1 to the CROW Act, other than a category of land which is accessible to the public by virtue of any enactment or rule of law (as to which see the note to *subsection (5)(c)*).

622. *Subsection (4)(b)* allows Natural England and the Secretary of State to fulfil the duty in stages over a number of years. This means that the duty can be fulfilled on certain parts of the coast before other parts, and there is no time limit for completion of the duty.

623. *Subsection (5)* establishes that land will only be considered accessible to the public (as specified in the objectives) if it is accessible in certain ways. *Subsection (5)(a)* says that one way in which it will be considered accessible to the public is if it is accessible by virtue of

section 3A of the Countryside and Rights of Way Act 2000 ("the CROW Act"). This means that, for land to be accessible to the public under subsection (5)(a), access must be available under the right of access conferred by section 2(1) of the CROW Act, and this must be by virtue of it being coastal margin as defined in the new section 3A of the CROW Act (see clause 278). So land which is accessible under the CROW Act but which is not coastal margin will not fulfil the duty. The reason for this distinction is that certain aspects of the management regime for access land under the CROW Act may differ according to whether the land is coastal margin or other access land. Subsection (5)(a) goes on to say that this is subject to any exclusions or restrictions imposed by or under Part 1 of the CROW Act. Part 1 of the CROW Act deals with access to the countryside, and allows relevant authorities to make directions excluding the right of access or restricting it in certain ways (for instance the right might be exercisable only along certain routes). Part 1 of the CROW Act also makes the right of access under section 2(1) of the CROW Act subject to exceptions where land falls within a category of "excepted land" specified in Schedule 1 to the CROW Act, and where it is land which is treated by section 15 of the CROW Act as accessible to the public apart from the CROW Act; and it makes the right of access subject to certain general restrictions specified in Schedule 2 to the CROW Act. So subsection (5)(a) makes it clear that such exclusions or restrictions can be disregarded for the purpose of deciding whether there is a margin of land which is accessible to the public.

624. *Subsection (5)(b)* is another category of land which is considered accessible to the public for the purposes of this section. This is land which falls under any of the enactments or instruments specified in section 15 of the CROW Act. These enactments and instruments all provide for public access on foot and in some cases provide higher rights of access, e.g. on horseback.

625. *Subsection (5)(c)* provides that land will be considered accessible to the public where it is excepted land under the CROW Act (certain types of land set out in Schedule 1 to that Act), but only where it is accessible to the public by virtue of any other enactment or rule of law. The most common situation where this may apply is where the coastal route goes along a public highway. In order to avoid having two different access regimes applying to public highways, it is expected that the public highways will become a category of excepted land under the CROW Act as far as the coastal margin is concerned. Subsection(5)(c) therefore allows the English coastal route to follow a public highway, for example through built-up areas, and allows the margin to include such highways.

626. *Subsection (6)* makes it clear that the duty of Natural England and the Secretary of State to exercise their relevant functions regarding the second objective (making available a margin of land along the length of the English coast) refers to making land accessible to the public by means of section 3A of the CROW Act, as described in subsection (5)(a). Land within the margin may be accessible to the public under the mechanisms described in subsections (5)(b) and (c). However, if land is not accessible to the public, the only mechanism which Natural England and the Secretary of State are required to use to make it so accessible is the mechanism described in subsection (5)(a), i.e. provision under section 3A of the CROW Act, although they may decide to use other mechanisms. This reflects the fact that the legislation envisages that so far as any new right of access needs to be created to provide the coastal margin, the principal means of creating it is by way of an order under section 3A of the CROW Act.

627. *Subsection (7)* sets out what constitutes a journey by ferry for the purposes of the first objective, and makes it clear that the ferry does not have to be operating at all times of the day or year.

Clause 273: General provisions about the coastal access duty

628. This clause sets out the requirements imposed on Natural England and the Secretary of State as regards considerations that they have to take into account in discharging the coastal access duty. *Subsections (2) and (3)* set out these considerations.

629. *Subsection (4)* sets out which people are treated as having a “relevant interest in the land” for the purposes of subsection (3) (with the intention of striking a fair balance between the interests of the public and those with a relevant interest in land).

Clause 274: The coastal access scheme

630. This clause requires Natural England to draw up a scheme setting out the approach it will take when discharging its coastal access duty, and makes provision regarding this scheme, including provision for its approval by the Secretary of State. *Subsection (7)* provides that Natural England must act in accordance with an approved scheme in discharging its coastal access duty. *Subsection (8)* provides that Natural England cannot prepare or submit proposals for a long-distance route pursuant to the coastal access duty until there is an approved scheme. These two subsections taken together provide that any such proposals must be in accordance with an approved scheme. This does not prevent Natural England from carrying out preparatory work such as surveying land in preparation for preparing a report.

Clause 275: The English coast

631. The coastal access duty (clause 272) relates to the English coast. This clause defines the English coast, for the purposes of this Part of the draft Bill, by reference to its adjacency to the sea. It provides that the coast includes the coast of islands unless they are excluded.

632. *Subsection (2)* explains what an excluded island is. It says that islands are excluded unless they are “accessible islands” or they are specified by the Secretary of State by order. *Subsection (3)* sets out what constitutes an “accessible island”. This is an island to which it is possible to walk from the mainland of England or from another island (other than an excluded island) across the foreshore or by means of a bridge, tunnel or causeway. *Subsection (4)* provides that, for this purpose, it is possible to walk to an island even if it is possible at certain times, or during certain periods, only. *Subsection (5)* puts a condition on the Secretary of State’s power to specify an island by order. This is that the coast of the island must be sufficiently long to enable the public to make an extensive journey on foot (the language used in relation to long-distance routes by section 51 of the National Parks and Access to the Countryside Act 1949).

633. *Subsection (6)* says that the means of access to an accessible island (e.g. a bridge, tunnel or a causeway or the foreshore) is to be considered to be part of the English coast for the purposes of the first objective (the duty to secure the English coastal route). This is so that the English coastal route includes the means of access.

634. *Subsection (7)* says that this section is subject to clause 289 which makes provision about the application of this Part to the Isles of Scilly.

Clause 276: River estuaries

635. *Subsection (1)* provides that this clause applies where the coast is interrupted by a river.

636. *Subsection (2)* says that, for the purposes of ensuring the continuity of the route, Natural England may treat the relevant upstream waters of any river as if they were the sea. Clause 291 says that “the sea”, in this Part of the draft Bill, does not include any part of a river which is upstream of the seaward limit of the river’s estuarial waters. *Subsection (3)* defines the relevant upstream waters (which Natural England may treat as if they were the sea) as estuarial waters of the river upstream of the seaward limit of estuarial waters to the first bridge or tunnel by means of which the public may cross the river on foot, or to the first ferry, if it appears to Natural England that the ferry provides a more direct and convenient means of crossing.

637. *Subsection (4)* confirms that the requirements of clause 273(2) and (3) apply to Natural England when it is deciding whether to exercise the power conferred by subsection (2). It relates this requirement to a decision “in relation to a particular river”, which makes it clear that Natural England may come to different conclusions on different rivers. Anything done by Natural England in the exercise of its functions on the basis that the “the sea” includes the relevant upstream waters of a river is deemed to be done under the coastal access duty (*subsection (5)*).

638. *Subsection (6)* gives the Secretary of State a power corresponding to that given to Natural England by subsection (2).

639. *Subsection (7)* makes it clear that the Secretary of State’s decisions under subsection (2), and compliance with the requirements in clause 273(2) and (3), are independent of any

decision taken by Natural England. This means that the Secretary of State may make a different decision about whether waters of a river are to be treated as part of the sea.

Clause 277: Long-distance routes

640. This clause inserts new sections into the National Parks and Access to the Countryside Act 1949 ("the 1949 Act").

641. *Section 55A Proposals relating to the English coastal route.* *Subsection (1)* provides that Natural England may prepare a report proposing a coastal long-distance route, whether or not the requirements of section 51(1) of the 1949 Act are satisfied. This means that proposals may be made even though they relate to a route which does not enable an "extensive" journey, or when the greater part of the length of the route passes along roads used by vehicles. *Subsection (2)* makes it clear that it is immaterial that the public are already able to make journeys as described in section 51(1) of the 1949 Act by virtue of proposals for a long-distance route that have already been approved under that Act. This is because such existing routes may not be sufficient to discharge the coastal access duty.

642. *Subsections (4) and (5)* make provision for eroding coastlines or encroachment by the sea. *Subsection (4)(a)* provides that in these situations the report may set out proposals for the route to be determined in accordance with provision in the proposals rather than as shown on a map. This would allow Natural England to describe the route, for instance, by reference to distance from a cliff edge, so that the route would move inland as the coast eroded. *Subsection (4)(b)* says that where Natural England makes use of this flexibility, the map of the proposed route contained in the report (as required by section 51 of the 1949 Act) must show the position of the route at the time the map is drawn up. *Subsection (5)* makes it clear that Natural England may describe the route by reference to a cliff edge or a field boundary, "as it exists from time to time". That is to say, as the cliff edge or field boundary exists at the relevant time (the time at which the method for determining the route set out in the proposals falls to be applied).

643. *Subsections (6) and (7)* deal with alternative routes. *Subsection (6)* says that the report may include alternative routes which will come into effect at certain times of the year (for instance to avoid disturbing nesting birds) or at times when the normal route needs to be closed by direction under Chapter 2 of Part 1 of the CROW Act (for example for land management purposes or for reasons of danger to the public). *Subsection (7)*, taken together with *subsection (6)*, allows this alternative route to operate flexibly, by enabling specified periods of closure to be determined in accordance with the proposal or by a person specified in it, or determined by a person who is in turn determined in accordance with the proposal. For instance it may be that an alternative route should come into operation when a particular breed of bird starts to nest; the time may vary each year and so the alternative route may come into operation on the date that a warden determines that the birds are starting to nest and following the warden putting up a sign to say that the alternative route is in operation.

644. *Subsection (8)* clarifies that section 51(2) (which sets out what must be contained in a report proposing a long-distance route), and subsections (4) and (5) of this section, apply equally to any alternative route.

645. *Subsection (9)* makes it clear that the coastal access duty referred to in this section of the 1949 Act is the coastal access duty imposed under section 272(1) of the draft Bill.

646. *Section 55B Coastal margin.* This section deals with those aspects of a report under section 51 pursuant to the coastal access duty which relate to coastal margin. Clause 278 allows the coastal margin to be defined by reference to a long-distance route.

647. *Subsection (2)(a)* provides that the report under section 51 pursuant to the coastal access duty may provide for the landward boundary of the coastal margin to be drawn either wider or narrower than follows from the normal application of the new section 3A of the CROW Act, in order to make it coincide with a physical feature (as described in section 3A(2)(d) of the CROW Act). This can be used, for instance, to make the boundary of access land clearer on the ground or to bring additional land to the landward into the coastal margin. *Subsection (2)(b)* allows the same flexibility with regard to any alternative route. *Subsection (2)(c)* allows the same flexibility with regard to any land which is made an exception to land of a type to which the right of access does not apply (that is, land which is made an exception to excepted land as set out in Schedule 1 to the CROW Act).

648. *Subsection (3)* requires Natural England to include details in the report of any restrictions to, or exclusion of, the right of access that it intends to put in place if the proposals are approved, which will have effect when any right of access under the CROW Act comes into force. It makes clear that Natural England does not have to include such details if it does not believe that any restrictions or exclusions are appropriate. This will help the reader of the report fully to understand the implications of the proposals.

649. *Subsection (4)* sets out who Natural England is required to consult before the report is prepared. These requirements are in addition to requirements under section 51(4) of the 1949 Act. The subsection makes reference to "a relevant interest in affected land". For this purpose, "relevant interest" and "affected land" are defined in section 55H.

650. *Subsection (5)* requires the bodies mentioned in section 51(4) of 1949 Act, London borough councils and local access forums to provide certain information to Natural England when consulted under subsection (4). *Subsection (6)* requires the Secretary of State, when consulted by Natural England under subsection (4), to provide Natural England with information relating to any exclusion or restriction for the purposes of defence and national security which the Secretary of State proposes to make, and to notify Natural England if any information provided in this respect should not be made public, on the grounds of defence and national security. *Subsection (7)* requires Natural England to include information which it considers relevant on defence and national security exclusions or restrictions in the report. This is so that the report contains all of the information relevant to the proposals made in it. *Subsection (8)* prohibits Natural England from including information which the Secretary of State has specified should not be included on the grounds of defence and national security.

651. *Section 55C Consideration of reports made pursuant to the coastal access duty.* This section deals with procedures for inviting representations in relation to the report submitted by Natural England, and a decision on the report by the Secretary of State. *Subsection (1)* says that such a report is referred to in this section as a "coastal access report".

652. *Subsections (2) and (3)* enable the Secretary of State to make regulations about such matters as how the access proposals are advertised and how representations are made. *Subsection (4)* says that these representations must be considered by Natural England, and sent by it to the Secretary of State together with Natural England's comments. *Subsection (5)* provides that Natural England must send the Secretary of State a summary of any other

representations made to it. *Subsection (6)* says that the representations, the comments on them and the summary of other representations must be considered by the Secretary of State before he makes a decision on the coastal access report. *Subsection (7)* refers to the power under section 52 for the Secretary of State to approve, or approve with modifications, or reject proposals for a long-distance route, and says that this can be done for one or more parts of the route only. This means that if, for instance, proposals for a long-distance route are submitted in relation to a fifty-mile stretch of coastline, the Secretary of State could approve two ten-mile sections, reject a twenty-mile section and approve the remaining ten miles subject to certain modifications. *Subsection (8)* provides that the Secretary of State must take reasonable steps to notify those with a relevant interest (defined in section 55H(2)) in affected land (defined in section 55H(1)) of his decision on a coastal access report, as soon as practicable after making it. The Secretary of State may alternatively publish the information in a manner he considers will bring it to the attention of those with a relevant interest in affected land (such as on a website, perhaps). The Secretary of State must also notify each relevant interested body (defined in section 55C(9)).

653. *Section 55D Directions under Part 1 of the CROW Act.* This section provides that if approved proposals relating to a long-distance route provide that certain restrictions and exclusions on the right of access are to be put in place by Natural England under Chapter 2 of Part 1 of the CROW Act, it must put them in place. *Subsection (3)* makes it clear that Natural England can subsequently revoke or vary these in the usual way under the CROW Act.

654. *Section 55E Ferries for the purposes of the English coastal route.* This section should be read in conjunction with section 53 of the 1949 Act. Section 53 relates to ferries on long-distance routes and provides that they may be provided and operated (or provision may be made for them to be provided and operated) by the highway authority (or either or both of the authorities) for the highways that the ferry will connect – e.g. the highways on either side of a river crossing. As the English coastal route will not be confined to highways, a ferry for the purposes of the route might not connect two highways, but might instead connect two areas of access land. Section 55E provides that in this case the power lies with the highway authority responsible for the area in which the approach route to the ferry along the English coastal route lies.

655. *Section 55F Variation pursuant to the coastal access duty.* This section makes provision to ensure that the “procedural requirements” specified in section 55F(4) apply equally to any reports dealing with variations of the coastal route. With respect to any variation made to the coastal route by direction under section 55(2) (which deals with situations where the Secretary of State considers that a variation should be made but Natural England has not made a proposal), *subsection (2)* provides that the Secretary of State may make regulations for the procedural requirements specified in section 55F(4) to apply (with suitable modifications), and *subsection (3)* provides that the Secretary of State may only make a direction for such a variation if regulations mentioned under *subsection (2)* are in force.

656. *Section 55G Temporary diversions.* This section allows Natural England to establish a temporary route if the English coastal route or an official alternative route is closed by a direction under Chapter 2 of Part 1 of the CROW Act. *Subsection (2)* says that Natural England cannot do this if the direction is permanent; this is because in this case Natural England would be expected to establish a new route using a variation order under section 55. *Subsection (3)* enables Natural England to give a direction specifying a temporary route. *Subsection (4)* specifies that the temporary route can only be created over access land as defined by Part 1 of the CROW Act, land which is treated by section 15 of that Act as accessible to the public apart from that Act, a highway or other land the owner of which has agreed to the route insofar as it passes over the land which he owns. *Subsection (5)* provides that such a direction must be in writing and enables it to be revoked or varied subsequently.

Clause 278: Access to the coastal margin

657. This clause amends Part 1 of the CROW Act. *Subsection (2)(a)* includes coastal margin in the definition of access land in section 1(1) of the CROW Act. This has the effect of extending the right of access under section 2(1) of the CROW Act to the coastal margin, other than in relation to excepted land and land which is treated by section 15 of the CROW Act as accessible apart from that Act. *Subsection (2)(b)* inserts a definition of coastal margin into section 1(2) of the CROW Act. *Subsection (2)(c)* amends the definition of open country under the CROW Act. As a result, the definition of open country becomes "land which:

- a) appears to the appropriate countryside body to consist wholly or predominantly of mountain, moor, heath or down, and
- b) is not registered common land or coastal margin."

658. Open country is one of the categories of access land under section 1(1). So the effect of subsection (2)(c) is that where land appears to the appropriate countryside body to be mountain, moor, heath or down but has become coastal margin, the right of access under section 2(1) applies to it only by virtue of its being coastal margin. *Subsection (2)(d)* has a similar effect for land which is registered common land but has become coastal margin; for the purposes of Part 1 of the CROW Act it is not considered to be registered common land and the right of access under 2(1) applies to it by virtue of its being coastal margin. These provisions ensure that only one regime of access and access management under the CROW Act applies to the coastal margin.

659. *Subsection (3)* deals with how the right of access under the CROW Act relates to other enactments as regards prohibitions. The position for coastal land is different from the position for other land to which the right applies. As regards coastal land, prohibitions under any other enactments will apply, whether the enactment is local or general, public or private. So, for instance, rules prohibiting certain types of activities on beaches under a local byelaw will continue to apply. For other land to which the right of access under the CROW Act applies,

prohibitions under other enactments only apply if that other enactment is not a local or private Act.

660. *Subsection (4)* makes section 3 of the CROW Act apply to Wales only, rather than to England and Wales as at present.

661. *Subsection (5)* inserts a new section 3A into the CROW Act, section 3A (*Power to extend to coastal land etc: England*). *Subsection (1)* of the new section 3A allows the Secretary of State to make an order defining coastal margin in England. *Subsection (7)* requires orders under section 3A(1) to be approved by resolution of each House of Parliament. This is the same procedure as for orders under section 3 to modify provisions which apply to coastal land in Wales.

662. *Section 3A(2)* sets out ways in which the order may describe land, but is not an exclusive list. It sets out a number of ways in which land may be described by reference to the English coastal route. In the case of land described as mentioned in *Section 3A(2)(a)*, the land, taken as a whole, must be coastal land, as defined in section 3 of the CROW Act, in other words foreshore or land adjacent to the foreshore. In the case of land related to an alternative route, land included as a result of the boundary of the coastal margin being made to coincide with a physical feature, or land related to a temporary diversion, land can be specified which is not itself coastal land.

663. *Section 3A(3)* makes it clear that an order under section 3A(1) can be made describing land by reference to the English coastal route before any such route is in existence. This will allow the order to be made before any English coastal route is proposed, so that Natural England in proposing a route, and the Secretary of State when approving the proposals, can take account of the implications of that route for the coastal margin.

664. *Section 3A(4)* provides that an order under subsection (1) can modify the provisions of Part 1 of the CROW Act insofar as they apply to coastal margin. This is similar to the power in section 3 to modify provisions which apply to coastal land in Wales and would allow the Secretary of State, for instance, to modify the categories of excepted land which apply to the coastal margin.

665. *Section 3A(5)(a)* specifies particular things that provision made under section 3A(4) may do. It may for example confer functions on the Secretary of State or Natural England. Examples of this might be, in relation to the Secretary of State, a function of considering representations, and, in relation to Natural England, a function of making directions regarding exclusions or restrictions, if new grounds for exclusions or restrictions are introduced. *Section 3A(5)(b)* makes provision in relation to any description of land which is excluded from any category of excepted land. It enables an order to make similar provision in relation to land of that description as in relation to other access land. For example, where the route runs along a strip of land along the seaward edge of arable land (which is excepted land under the CROW Act), the area of coastal margin along that route could be enlarged or narrowed to allow it to coincide with a physical feature. *Section 3A(5)(c)* specifies that the order may disapply the appeal mechanism under section 30 of the CROW Act, which provides for appeals against a decision by the relevant authority regarding an application for an exclusion or restriction of the right of access, and provide for representations on such decisions and the review of such decisions by the Secretary of State.

666. *Section 3A(6)(a)* provides for a period of time, referred to as the access preparation period, between the approval of a coastal route and the right of access coming into force. This is to allow time for Natural England to make preparations such as doing work to sign the route and establishment works to make it suitable for public access (e.g. installing gates or steps) and to make directions with regard to restrictions and exclusions. *Subsection (6)(b)* allows Natural England to make directions for the exclusion or restriction of access which will come into force after the end of the preparation period. *Subsection (6)(c)* provides that land in the

coastal margin that was already open country or registered common land will continue to be treated as open country or registered common land until the end of the preparation period. This ensures that any existing rights of access over such land under the CROW Act continue until the end of that period. *Subsection (6)(c)(ii)* further makes clear that the position as regards occupier's liability will remain unchanged until the right of access to the land as coastal margin comes into force: once it does come into force the position as regards occupier's liability will be as set out in section 1(6AA) of the Occupiers' Liability Act 1984 (see clause 288).

667. *Section 3A(7)* provides that any exclusions or restrictions of the right of access relating to such land will cease to have effect at the end of the preparation period. Where appropriate, Natural England should have replaced any such exclusions or restrictions with directions forming part of the proposals for an English coastal route, and these replacement restrictions can be made to come into effect immediately after the end of the preparation period (subsection (6)(b)).

668. *Section 3A(8)* ensures that any direction made under subsection (6)(b) to take effect after the end of the preparation period will not be negated by subsection (7).

669. *Subsection 3A(9)* provides that subsections (6) and (7) do not apply where land is already dedicated as coastal margin. This is because, at the time that an order under section 3A(1) comes into force, the land is already treated as coastal margin by virtue of the dedication.

670. *Subsection (6)* of clause 278 amends section 16 of the CROW Act relating to dedication of land. It allows land in England which is coastal margin or adjacent to coastal margin to be dedicated as coastal margin. If the land is already coastal margin, the effect of dedicating it is that the restrictions in Schedule 2 to the CROW Act can be relaxed by the dedication if the dedicator so wishes. This subsection also provides that where land is dedicated as coastal margin, then if the land would otherwise be excepted land (within the meaning of Part 1 of the CROW Act) it is treated as if it were not excepted land, unless it is land which is accessible to the public under another enactment or rule of law (for instance, a public right of way). The subsection enables land adjacent to coastal margin to be dedicated as coastal margin, and in this case, in addition to the effects already described, the dedication ensures that the land is treated for the purposes of Part 1 of CROW as if it were coastal margin. Existing dedications can be amended so that land which is already dedicated as access land can also be dedicated as coastal margin.

671. *Subsection (7)* amends section 44 of the CROW Act to ensure that orders under section 3A(1) of that Act are subject to affirmative resolution procedure (like the existing orders under section 3 of that Act).

672. *Subsection (8)* amends section 45 of the CROW Act to include a definition of coastal margin. The definition is that definition set out in section 1(2) of that Act (as amended by this clause): "land which is of a description specified by an order under section 3A".

Clause 279: Extension of Chapter 3 of Part 1 of the CROW Act

673. This clause applies to land over which the coastal route passes which falls under any of the enactments set out in section 15 of the CROW Act. It provides for the powers of access authorities in relation to means of access to access land in Chapter 3 of Part 1 of the CROW Act to be exercisable by Natural England.

Clause 280: Agreements with respect to establishment and maintenance of the route

674. *Subsection (1)* provides for Natural England to enter into an agreement with the owner or occupier of any land where it thinks it appropriate for works to be carried out in order to meet its coastal access duty, as set out in clause 272. *Subsection (2)* enables the access authority to enter into a similar agreement. *Subsection (3)* defines the types of works that the agreement may include, including clearance or maintenance, drainage or levelling, the removal of an obstruction to use of the route, or the construction of a barrier.

675. *Subsection (4)* enables the works to be carried out by either the owner or occupier or by a contracting authority (which is defined in *subsection (8)* as being either Natural England or the access authority), and allows a contracting authority to make a contribution towards the costs of the works under the agreement if the works are carried out by the owner or occupier.

676. *Subsections (5) and (6)* enable a notice to be given by the contracting authority to the owner or occupier, if the owner or occupier required by the agreement to carry out the works fails to carry them out. *Subsection (6)* requires the contracting authority to give at least 21 days' notice before taking steps to carry out the works.

677. *Subsection (7)* enables the contracting authority to recover the costs of any works where a notice under *subsection (6)* has been given.

Clause 281: Establishment and maintenance of the route in absence of agreement

678. *Subsections (1) to (3)* enable Natural England or the access authority, to carry out any necessary works to enable Natural England to meet its coastal access duty (as set out in clause 272), where they are unable to conclude an agreement under clause 280.

679. *Subsection (4)* requires a period of not less than 21 days' notice to be given to the owner or occupier before any works can be carried out.

680. *Subsection (5)* requires that the notice given to the owner or occupier must provide details of how an appeal against the notice may be made.

681. *Subsection (6)* requires the notice to be given to each owner or occupier of any land to which the notice refers.

682. *Subsection (7)* enables Natural England or the access authority to take steps to carry out the works if any of the works which had been required under the notice have not been carried out before the end of the period specified in the notice.

Clause 282: Appeals relating to notices under section 281

683. This clause provides for appeals to be made against a notice given under clause 281, which relates to works carried out in relation to the establishment and maintenance of the route in the absence of an agreement. *Subsection (1)* enables the person given that notice, or any other owner or occupier of the land to which the notice relates, to appeal to the Secretary of State.

684. *Subsection (2)* sets out the grounds on which an appeal may be made. These are: that the notice requires the carrying out of works which are not necessary, that the works have already been carried out, or that the period specified in the notice after which Natural England or the access authority take steps to carry out the works is too short. *Subsection (3)(a)* allows the Secretary of State, where an appeal has been made, to confirm the notice (with or without modifications) and *subsection (3)(b)* allows him to cancel the notice.

685. *Subsection (4)* provides for sections 7 and 8 of, and Schedule 3 to, the CROW Act to apply to an appeal made under this clause. Those provisions, among other things, make provision enabling an appeal to take the form of a hearing and provision for the Secretary of State to delegate functions relating to appeals.

686. *Subsection (5)* allows the Secretary of State to make regulations as to the period and manner in which appeals may be made, the advertising of such an appeal and the manner in which appeals are to be considered.

687. *Subsection (6)* says that, where an appeal has been made, neither Natural England nor an access authority may exercise any of its functions relating to clause 281 until the appeal is determined by the Secretary of State or withdrawn.

Clause 283: Power for Natural England to fund works

688. This clause provides for Natural England to meet or contribute to the costs of any works of a kind which could be the subject of an agreement reached by either Natural England or an access authority under clause 280, or an agreement under section 35 of the CROW Act where it is exercised for the purposes of the coastal access duty.

Clause 284: Erection and maintenance of notices and signs

689. This clause allows Natural England to put up and maintain notices or signs about the English coastal route, including certain signs relating to the coastal margin over land over which the route passes and also land which is accessible to the public by virtue of an Order under section 3A of CROW. *Subsection (2)* provides that notices or signs may identify or provide information about the route, warn the public of obstacles or hazards, inform them of general restrictions on access to any area of coastal margin or inform them of any exclusion or restriction by virtue of Chapter 2 of the CROW Act. *Subsection (3)* provides that Natural England must consult with the owner and lawful occupier before erecting a notice or sign. *Subsection (4)* allows Natural England to meet or contribute towards the costs to others of erecting such notices and signs. *Subsection (5)* allows Natural England to delegate its powers under this section to the access authority.

690. *Subsection (6)(a)* provides for the powers in this section to apply equally to any official alternative route. *Subsection (6)(b)* provides for the powers in this section to apply equally to any temporary route. *Subsection (6)(c)* provides for the powers to apply once the access proposals have been approved, even if the right of access has not yet come into force; this allows Natural England to prepare for the right of access coming into force.

691. *Subsection (7)* provides that this clause does not apply in relation to a highway that is not a public footpath.

Clause 285: Removal of notices and signs

692. This clause allows Natural England and an access authority, where authorised by Natural England, to remove a notice or sign relating to the coastal margin which was erected under clause 284. *Subsection (2)* requires a person who has been authorised by either Natural England or the access authority to consult, as far as reasonably practicable, the owner and, if different, the lawful occupant of the land before removing a notice or sign.

693. *Subsection (3)* allows Natural England to meet or contribute towards the costs to others of removing notices and signs of a kind that could have been erected under that clause.

Clause 286: Powers of entry

694. This clause provides for powers of entry. *Subsection (1)* sets out the purposes for which a person authorised by Natural England may enter any land, including the need to survey that or any other land in preparing a report containing proposals for the coastal route. *Subsection (2)* sets out purposes for which a person authorised by either Natural England or the access authority may enter any land. These are; the need to determine whether any works are necessary under clause 280, to determine whether the public is able to exercise rights of access on land subject to section 15 of CROW Act, the need to consider an appeal made against a notice made under clause 282, and the need to erect, maintain or remove a notice or sign under either clauses 284 or 285.

695. *Subsection (3)* provides for the supplementary provisions in section 40(5) to (10) of the CROW Act, which apply to the exercise of rights of entry under section 40 of that Act, also to apply in relation to a person exercising the power of entry conferred by this clause. *Subsection (4)* modifies section 40(8) of the CROW Act as it relates to the coastal route.

696. *Subsection (5)* has the effect of applying the powers relating to compensation under section 41 of the CROW Act to a body by which an authorisation may be given under this clause.

Clause 287: Restricting liabilities of Natural England and the Secretary of State

697. *Subsection (1)* removes any duty of care owed by Natural England under the law of negligence in certain respects. There are many dangers on the coast. *Subsection (1)(a)* makes it clear that Natural England does not owe a duty of care under the law of negligence in preparing or proposing the coastal route. This is because Natural England cannot take responsibility for the safety of people who choose to use the route or associated access land. *Subsection (1)(b)* makes it clear that Natural England does not owe a duty of care under the law of negligence in connection with any failure by it to erect notices and signs warning of obstacles or hazards. Again, this is because Natural England cannot assume responsibility for erecting such notices and signs for every obstacle or hazard that exists. It is expected that

Natural England will only erect notices or signs when it is aware that there is an obstacle or hazard which is unusual or cannot be easily identified by the public. *Subsection (1)(c)* makes it clear that Natural England does not owe a duty of care under the law of negligence in connection with any failure by it to exclude or restrict access, except in association with an application made under section 24 of the CROW Act, which relates to a direction for the purposes of land management, or an application under section 25(1)(b) of that Act, which relates to a direction for the purpose of avoiding a danger to the public. *Subsection (2)* restricts the liability of anyone acting on Natural England's behalf in the same way.

698. *Subsection (3)* makes it clear that the Secretary of State does not owe any duty of care under the law of negligence when approving proposals for a coastal long-distance route or giving a direction for the variation of such proposals.

Clause 288: Occupiers' liability

699. The CROW Act amended section 1 of the Occupiers' Liability Act 1984 in certain respects including by removing the liability of occupiers of access land to those exercising the right of access and to trespassers, in respect of risks arising from natural features of the landscape "or any river, stream, ditch or pond whether or not a natural feature". This exclusion of liability is subject to certain safeguards and does not apply if the danger is due to anything done by the landowner with the intention of creating that risk, or being reckless as to whether that risk is created.

700. This clause extends this exclusion of liability, as regards land which is coastal margin, in respect of a risk resulting from any physical feature (whether of the landscape or otherwise), or a risk resulting from a person injuring themselves when not using a means of access in a proper manner, subject to the same safeguards. Coastal land includes many man-made features, such as war-time defences. Occupiers should enjoy the same reduced liability for these as they enjoy for natural features.

Clause 289: Isles of Scilly

701. This clause relates to the position of the Isles of Scilly. *Subsection (1)* says that clauses 272 to 276, 279 to 287, 290 and 291 do not apply to the Isles of Scilly unless there is an order made by the Secretary of State under *subsection (2)*. *Subsection (3)* requires the Secretary of State to consult the Council of the Isles of Scilly before making such an order.

702. Part 4 of the 1949 Act applies to the Isles of Scilly, but an order under section 111 can provide for it to apply as if those Isles were a separate county (and not part of Cornwall).

Subsection (4) makes it clear that such an order can be made in relation to Part 4 of that Act as amended by this Part of the draft Bill. Part 1 of the CROW Act does not apply to the Isles of Scilly unless an order is made under section 100 of that Act applying it there. *Subsection (5)* makes it clear that an order under section 100 of the CROW Act can be made in relation to Part 1 of that Act as amended by this Part of the draft Bill.

Clause 290: The Crown

703. This clause makes Part 9 of the draft Bill binding on the Crown and applies it to any Crown land. *Subsection (2)* sets out what constitutes "Crown land".

704. *Subsection (3)* enables the appropriate authority (as defined by *subsection (5)*) in relation to land held by or on behalf of the Crown to enter into an agreement under section 35 of the CROW Act (agreements with respect to means of access) by virtue of clause 279 or an agreement under clause 280 in respect of that Crown land. *Subsection (4)* provides that an agreement with respect to any other interest in Crown land (for example, a person entering an agreement in respect of his leasehold interest in Crown land) is of no effect unless it has been approved by the appropriate authority in relation to that land. *Subsection (5)* sets out what constitutes the "appropriate authority" in relation to different categories of Crown land.

705. *Subsection (6)* provides for any question as to which Crown authority is the appropriate authority for the purpose of making or approving an agreement under *subsection (3)* to be referred to the Treasury, whose decision is final.

Clause 291: Interpretation of this Part

706. A number of definitions are provided for words or expressions used in this Part.

Clause 292: Area in which functions of Natural England exercisable

707. This clause amends section 1 of the Natural Environment and Rural Communities Act 2006 (c. 16) in order to clarify the area over which Natural England may exercise its functions. *Subsection (2)* amends subsection (3) of the 2006 Act to make clear that the reference to England includes, where the context requires, the territorial sea adjacent to England (i.e. up to 12 nautical miles from baseline). *Subsection (3)* inserts a new subsection (3A) allowing for boundary changes to be made through Orders in Council.

708. It does not change the status quo. Natural England and its predecessor bodies have regularly undertaken research and given advice on relevant marine issues within territorial waters. However a new formulation of their territorial scope was expressed in the NERC Act which it has been suggested might restrict their scope. This clause puts that beyond doubt.