

An Administrative Regulation Pattern of Coastal Management for Mediterranean Sea: Spanish Shores Act, July 1988

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Abstract

The Spanish Shores Act of July the 28th, 1988 takes as starting point a series of circumstances that have negatively influenced in the present situation of the coast, mainly: concentration of people and uses in a space that is being increasingly smaller because several concurrent causes concerning physical, legal or administrative features.

Through the influence in that causes, the Act tries to improve the situation of the coastal line.

I. Introduction

The Shores Act, taking as a starting point these circumstances and respecting legitimately acquired rights, is aimed at reorientating this situation: preserving the zones that are saveable, preventing further deterioration where the situation is already negatively consolidated and recuperating, as far as budget limitations permit, situations whose permanence can only provoke an accelerated deterioration of the environment.

Preliminary title

Establishes the object of the Act and the aims which the administrative activity follows, which are:

- a) Define the portion of the coast which should be legally considered as public property and ensure its integrity and adequate preservation.
- b) Guarantee the public use of the sea, the shores and the remaining portion of the coastal public property.
- c) Regulate the rational use of said properties under terms which suit their nature and purpose and which respect the landscape, environment and historical heritage.
- d) Achieve and maintain an adequate level of water and shores quality.

The Shores Act, therefore, does not regulate and order all aspects that affect the coastline. The distribution of responsibilities that the Spanish Constitution establishes in this respect between the various Public Administrations gives the arrangement for territorial and urban planning to the Regional Governments and to Town Councils.

Title I

A) Defines the precise form of coastal public property.

It is made up by:

1. The seashore which in its turn is constituted by the two zones which are schematically defined as follows:
 - a) The foreshore: or the zone reached by the maximum seasonal waves or maximum tides. It also includes wet and low lying areas such as marshes, swamps, mudflats, etc.

This zone also extends along the river banks as far as the tidal reach.

b) Beaches: the definition coincides appreciably with ordinary concept, it includes berms and dunes. It is formed by sand transported by the sea, the wind or any other agent.

2. Territorial waters.

3. The natural resources of the economic zone and the continental shelf.

4. Other aspects of coastal public property are described such as land reclaimed from, or invaded by, the sea, vertical cliffs etc. along with islands in territorial waters or inland waters.

Title II

With the aim of assuring the preservation of public coastal property and its public use, the Act establishes easements and property limitations on neighboring land, and whose basic contents are as follows:

a) Protection Easement Zone: this affects a strip of 100 meters width from the landward limit of the seashore. (This width can vary depending on the Transition Provisions).

In this zone cultivation may be carried out without any type of permission. Other types of use require previous permission from the Administration, although the Act itself lays down a series of uses prohibited in this zone, among which are notable residential uses or important intercity roads with high traffic levels, at the same time it indicates uses which will ordinarily be authorized: those which by their nature should occupy the zone, those that provide services necessary for the use of public coastal property and open air sports installations.

b) Right of Passage Easement: affects a strip between 6 and 20 meters wide in which the passage of pedestrians and surveillance and rescue vehicles must be permitted.

c) Access to the Sea Easement: permitting the expropriation of land adjacent to public property in order to provide access where urban planning has not allowed for it, with a maximum separation between accesses in urban and development zones of 200 meters for pedestrians and 500 meters for motor vehicles.

All the limitations established by the Act in this title are minimum limits, the competent planning bodies can increase them by means of the corresponding regulations.

Title III

This title is dedicated to the regulation of the use of coastal public property.

Specially important is the limitation set down in article 32 with respect to possible uses in this property: it can only be used for those activities or installations that by their nature cannot be carried out or located elsewhere. In any case the prohibitions relating to the established uses for the protection easement zone still apply.

The use or occupation of public property shall be free with public access for those activities appropriate to the area.

Other types of uses or occupations require the existence of any of these titles:

a) Reservation: on behalf of the State Administration.

b) Allocation: to Regional Governments for new ports or routes of transport.

c) Authorization: for uses that involve special intensity, danger or profitability without permanent occupation of coastal public property, or that occupy it by means of a construction that can be dismantled.

Among the authorizations the following merit special attention:

cl) Those for seasonal services.

- c2) Disposal of liquid or solid waste into the sea. All these require authorization from the Administration, and from the Regional Governments specifically in the case of contaminating liquids.

The Act lays down severe limitations for the disposal of contaminating materials, only considering this possibility where no other exists and stipulating that rigorous precautions are taken.

- c3) Dredging and extraction of sand, stones and gravel.
- d) Concessions: regulating those occupations in coastal public property not previously described i.e. those not subject to reservation or allocation requiring permanent constructions or more than a year of implantation.

Title IV

The Act establishes that works in coastal public property shall be financed from the State budget, with possible contributions from Regional Governments, Local Governments, International Organization and private parties.

All occupation of public property shall be liable to a fee, which is set at 8% annually, calculated on a base determined by the value for tax purposes in comparable private use plus the annual nets profits of the activity.

Also established is the fee for the authorized disposal of contaminating wastes.

Title V

The Act describes the infringements of coastal legislation, the corresponding sanctions and the procedure for their determination and execution.

Title VI

As various Administrations have power in the coastal area, this title determines the responsibilities of each one and establishes the means of coordination.

The State administration is responsible basically for those duties established by the Act.

The Regional Authority is responsible for carrying out those duties relating to planning and zoning on the coast, urban planning; waste disposal and in general those granted in their Statutes.

Local Governments are responsible for reports on the fixing of boundaries, reservations, allocations and concessions in public property, maintaining beaches and public places in clean hygienic and healthy condition, etc.

Of special importance is the interconnection between urban zoning and planning and the protections and management of public property through the reports to be submitted to Central Administration prior to the approval of urban plans concerning to the coastal zone.

III. Conclusion

All these described by Act coordinated actions endeavor to achieve those objectives synthesized in the preamble of the Act: to guarantee the public character of coastal public property and conserve its natural characteristics, reconciling the necessities of progress with the imperatives of protection.