



CHAPTER lii.

An Act to confer further powers upon the county council of the west riding of Yorkshire in connection with the acquisition of lands to make further provisions in relation to highways and good government in the west riding to confer powers upon the county council and to enact provisions with respect to the finances of the west riding and the superannuation of certain officers and servants and for other purposes.

[30th July 1948.]

WHEREAS it is expedient that further powers should be conferred on the county council of the administrative county of the west riding of Yorkshire (hereinafter referred to respectively as "the Council" and "the county") in connection with the acquisition and disposal of lands:

And whereas it is expedient that further and better provision should be made with reference to roads and highways and for the good government improvement and finance of the county and the powers of the Council and in certain cases of other local authorities in the county with respect thereto should be enlarged as by this Act provided:

And whereas it is expedient that the provisions contained in this Act relating to the payment of superannuation allowances and other allowances to officers and servants contributing to the superannuation fund of the Council and of pensions to the widows of such officers and servants should be enacted:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

23 & 24 Geo. 5. c. 51. And whereas in relation to the promotion of the Bill for this Act the Council have complied with the requirements of Part XIII of the Local Government Act 1933:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows (that is to say):—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the West Riding County Council (General Powers) Act 1948.

Act divided into Parts.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Roads.

Part IV.—Superannuation.

Part V.—Finance.

Part VI.—Miscellaneous.

Part VII.—General.

Interpretation.

3.—(1) In this Act the several words and expressions to which meanings are assigned by the Lands Clauses Acts have the same respective meanings unless there be something in the subject or context repugnant to such construction.

(2) In this Act unless the subject or context otherwise requires—

“The county” means the administrative county of the west riding of Yorkshire;

“The Council” means the county council of the county;

“The Lands Clauses Acts” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 and the Town and Country Planning Act 1947;

“The Minister” means the Minister of Health;

9 & 10 Geo. 5. c. 57.

10 & 11 Geo. 6. c. 51.

- “The Act of 1933” means the Local Government Act 1933; PART I.
—cont.
23 & 24 Geo. 5.
c. 51.
- “District” means a borough or an urban or rural district in the county;
- “Local authority” means the council of a district;
- “Highway authority” means—
- (a) in the case of any county road except a claimed road as hereinafter defined and in the case of any other road (not being a trunk road) for the time being maintained by the Council the Council; and
- (b) in the case of any other highway (not being a trunk road or a highway repairable by the British Transport Commission) the local authority for the district in which the highway is situate;
- “Street” and “road” have the meanings assigned to the word “street” by the Public Health Act 1936; 26 Geo. 5. &
1 Edw. 8. c. 49.
- “Claimed road” means a county road in respect of which a local authority have claimed under section 32 of the Local Government Act 1929 to exercise and are exercising the functions of maintenance and repair; 19 & 20 Geo. 5.
c. 17.
- “Daily penalty” means a penalty for each day on which an offence is continued after conviction thereof;
- “The county fund” means the county fund of the county;
- “Statutory borrowing power” includes a power of borrowing money conferred on the Council by or under any enactment except paragraph (a) of subsection (1) of section 215 of the Act of 1933;
- “Statutory security” means any security in which trustees are for the time being authorised by law to invest trust moneys and any mortgage bond debenture debenture stock stock or other security created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include any annuities rentcharges or securities transferable by delivery; 38 & 39 Vict.
c. 83.
- “Authorised security” means any mortgage stock bond or other security which the Council are for the time being authorised to grant create or issue or upon or by means of which the Council are for the time being authorised to raise money;

PART I.
—cont.

“ Enactment ” includes this Act and any general or local Act order byelaw or regulation for the time being in force within the county;

“ Local enactment ” means any local Act or Order having the force of an Act byelaw or regulation for the time being in force within the county.

PART II.

LANDS.

Compensation
may be in
land.

4. The Council when they are required by any enactment to make compensation to any person interested in any lands may by agreement with such person make such compensation wholly or partly in works land or money but in the case of land for the alienation of which the consent of any government department is required only with such consent.

Power to re-
instate owners
of property.

5. The Council may enter into and carry into effect agreements and arrangements with the owners of or other persons interested in any lands or buildings which may be acquired by them under the provisions of any enactment with respect to the reinstatement of any such owners or other persons and with respect to the exchange of lands for that purpose and may pay or receive money for equality of exchange.

Retention and
disposal of
lands.

6.—(1) Notwithstanding anything in the Lands Clauses Acts to the contrary the Council may retain hold and use for such time and for such of their functions as they may think fit or may sell lease (whether in possession or reversion) exchange or otherwise dispose of in such manner and for such consideration and on such terms and conditions as they may think fit and in consideration either of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest therein acquired by them under any enactment and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposition of such lands or interest therein and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange.

(2) Provided that the Council shall not without the consent of the Minister sell lease exchange or otherwise dispose of any such lands or any interests therein at a price or rent or for a consideration of a value less than the current market value of such lands or interests but a purchaser or lessee shall not be concerned to inquire whether the consent of the Minister is necessary or has been obtained.

(3) Provided that nothing in this section shall be taken to dispense with the necessity for obtaining the consent of any government department to any sale lease or other disposition of any lands of the Council in any case in which such consent would be required under any Act if this section had not been enacted.

(4) Nothing in this section shall release the Council or any person purchasing or acquiring any lands from them under this section from any rents covenants restrictions reservations terms or conditions payable in respect of or affecting the lands other than the restrictions imposed by sections 127 to 131 of the Lands Clauses Consolidation Act 1845 but all such rents covenants restrictions reservations terms and conditions shall remain and be of as full force and effect and may be recovered exercised enjoyed and enforced in the like manner and to the same extent as if this section had not been enacted.

8 & 9 Vict.
c. 18.

(5) Capital money received by the Council in respect of a transaction under this section and not paid into the capital fund established under section 48 (Capital fund) of this Act shall be applied under and in pursuance of the provisions of section 166 of the Act of 1933.

7. Notwithstanding anything contained in the Lands Clauses Consolidation Act 1845 it shall be lawful for the High Court at any time not being less than twelve years after any sum has been deposited by the Council in the bank in pursuance of section 76 of that Act or deposited by the Council in the bank by way of security in pursuance of section 85 of that Act to order upon application by the Council that the money so deposited or the fund in which the sum shall have been invested together with the accumulations thereto shall be repaid or transferred to the Council:

Recovery of
deposit under
Lands Clauses
Act.

Provided that upon the application of any party making claim to the money deposited as aforesaid or any part thereof or to the lands in respect whereof the same shall have been deposited or any part of such lands or any interest in the same the High Court may order such money as has been repaid or transferred to the Council under the provisions of this section or any part thereof to be paid to the person making such claim and may make such other order in the premises as to the court shall seem fit.

PART III.

ROADS.

8.—(1) Subject to the provisions of this Act the Council may enter into and carry into effect agreements with the owner of any land or any person having any interest in land abutting on any county road in the county to give up land

Exchange for
improvement
of county
roads.

PART III.
—cont.

for the purpose of widening opening enlarging or otherwise improving such road in exchange for any part of such road or the roadside waste thereof which shall adjoin such first-mentioned land and which shall in the opinion of the Council not be required for public use or for approach to any property adjoining the same or for such other consideration (if any) as may be agreed on between the Council and such owner and such other person (if any).

(2) As from the date of any such exchange as aforesaid all public rights over the part of any such road or roadside waste so exchanged shall be extinguished.

(3) Notwithstanding any agreement entered into under this section the Postmaster-General shall continue to have the same powers and rights in respect of any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by him which remains in under upon over along or across the site of any part of a road or roadside waste exchanged for land as if the same had continued to be part of the road or roadside waste. Provided that if the Council or any person in whom such site is vested desires that such telegraphic line should be altered the enactments numbered (1) to (8) in section 7 of the Telegraph Act 1878 shall thereupon apply in all respects as though the Council or the said person (as the case may be) were undertakers within the meaning of the said Act.

41 & 42 Vict.
c. 76.

Carriage-
crossings at
ends of private
streets.

9.—(1) Subject to the provisions of this Act where the termination of a new street not being a highway repairable by the inhabitants at large abuts on any county road and the use of such street involves passage across or interference with any part of such road the Council may require the person by whom such street has been or is being laid out or constructed to construct across such part of the road a carriage-crossing of such materials and in such manner as they may prescribe.

(2) If the Council require the construction of any carriage-crossing across any part of a road they may execute such works as may be necessary to secure compliance with such requirement and recover the expenses of so doing from the person by whom such street has been or is being laid out or constructed.

(3) Nothing in this section shall impose on the person by whom such street has been or is being laid out or constructed any obligation to maintain any crossing constructed in pursuance of a requirement under this section.

(4) The provisions of this section shall not apply in respect of the termination of any street if it abuts on any road or part of a road to which section 1 or section 2 of the Restriction of Ribbon Development Act 1935 applied and has been

25 & 26 Geo. 5.
c. 47.

constructed with the consent of the Council and in conformity with any conditions attached thereto as provided by section 7 of the said Act.

(5) Nothing in this section shall extend or apply to any such new street as aforesaid in any case where a certificate of the clerk or surveyor of the local authority of the district in which such street is situate is produced to the Council within three months after the date of the passing of this Act certifying that such street had before that date been completed in accordance with plans and specifications approved and required by the local authority as a condition of declaring the street to be a highway repairable by the inhabitants at large but had not at that date been taken over by such authority.

10.—(1) No person shall habitually drive a horse-drawn or mechanically propelled vehicle across any kerbed gravelled or formed path or footway or across any grass verge or similar work on or abutting on a county road unless and until a communication has been made to the carriageway of such road for this purpose in accordance with permission granted under the Town and Country Planning Act 1947.

Prohibition of
vehicles on
grass verges
&c.

(2) Any person offending against the provisions of this section shall be liable to a penalty not exceeding five pounds for each such offence:

Provided that no proceedings shall be instituted under this section unless—

(a) the Council shall have given notice to such person requiring him to execute the works necessary for making such communication as is referred to in subsection (1) of this section and offering to execute the same on his behalf and at his cost; and

(b) such person within one month after the service of such notice upon him fails—

(i) to execute such works; or

(ii) to accept the offer of the Council to do the works on his behalf and to produce to the satisfaction of the Council proof of his ability to pay therefor.

(3) (a) The provisions of this section shall come into operation on but not until such date as may be fixed by a resolution of the Council of which date public notice shall be given by the Council by advertisement in one or more local newspapers circulating in the county. Every such advertisement shall also state the effect of the provisions of this section and the date on which those provisions shall come into operation

PART III.
—cont.

shall be not less than one month after the date of the publication of the advertisement or if the advertisement is published in more than one newspaper on different dates after the date of the first publication of the advertisement.

(b) A copy of the newspaper containing such advertisement shall be sufficient evidence of the publication of the advertisement.

Prohibition of
persons
vehicles &c.
on grass
margins.

11.—(1) In so far as the highway authority may indicate by notices conspicuously placed on or in proximity to any grass or other area which is situate in or forms part of or adjoins any street and is mown or maintained by the highway authority in an ornamental condition that such area is not intended for use by foot passengers horses cattle or vehicles any person who shall wilfully walk or otherwise proceed or lead ride or drive any horse cattle or vehicle on over or across any such area shall be liable to a penalty not exceeding twenty shillings.

20 & 21 Geo. 5.
c. 43.

(2) Nothing contained in this section shall affect the duty of a highway authority under section 58 (Provision of footpaths and grass or other margins) of the Road Traffic Act 1930.

Exercise by
Council of
powers with
respect to
county roads.

12.—(1) The Council shall with respect to county roads (not being claimed roads) and roads constructed by the Council or by some person under agreement with them which when completed are intended to become county roads have the functions of an urban district council or a local authority under the enactments mentioned in this section as amended by any subsequent enactment and those enactments shall apply accordingly.

(2) The enactments referred to in this section are as follows:—

10 & 11 Vict.
c. 34.
38 & 39 Vict.
c. 55.

The Towns Improvement Clauses Act 1847 (as incorporated with the Public Health Act 1875 as amended by the Public Health Act 1936)—

Section 68 (Houses projecting beyond line of street when taken down to be set back);

Section 69 (Future projections of houses &c. to be removed on notice);

Section 70 (Commissioners may cause existing projections to be removed and compensation to be made);

Section 71 (Doors in future not to be made to open inwards);

Section 72 (Doors opening outwards may be altered by commissioners);

Section 73 (Coverings for cellar doors to be made by occupier);

Section 74 (Waterspouts to be affixed to houses or buildings);

Section 75 (Ruinous or dangerous buildings to be taken down or secured by owners &c.);

Section 76 (The expenses to be levied by distress on the owner);

Section 77 (If owner cannot be found commissioners may take the house or ground making compensation provided by 8 & 9 Vict. c. 18);

Section 78 (Commissioners may sell the materials restoring to the owner overplus arising from the sale);

Section 79 (Bars to be erected across streets while repairs or alterations are making and lights placed at night);

Section 81 (Penalty for not lighting deposits of building materials or excavations);

Section 82 (Penalty for continuing deposits of building materials or excavations an unreasonable time);

Section 83 (Dangerous places to be repaired or inclosed):

The Town Police Clauses Act 1847 (as incorporated with the Public Health Act 1875)—10 & 11 Vict.
c. 89.

Section 28 (Penalty on persons committing any of the offences herein named) so far as it relates to the following offences:—

Every person who places or leaves any furniture goods wares or merchandise or any cask tub basket pail or bucket or places or uses any standing place stool bench stall or showboard on any footway or who places any blind shade covering awning or other projection over or along any such footway unless such blind shade covering awning or other projection is eight feet in height at least in every part thereof from the ground;

Every person who places hangs up or otherwise exposes to sale any goods wares merchandise matter or thing whatsoever so that the same project into or over any footway or beyond the line of any house shop or building at which the same are so exposed so as to obstruct or incommode the passage of any person over or along such footway;

PART III.

—cont.

53 & 54 Vict.

c. 59.

7 Edw. 7. c. 53.

The Public Health Acts Amendment Act 1890—

Section 35 (As to repair of cellars under streets):

The Public Health Acts Amendment Act 1907—

Section 30 (Dangerous places to be repaired or enclosed);

Section 31 (Fencing lands adjoining streets):

15 & 16 Geo. 5.

c. 71.

The Public Health Act 1925—

Section 24 (Projections against or in front of houses or buildings).

(3) The Council shall not in the exercise of the powers of this section perform or discharge any of the functions under the enactments mentioned in this section in any district in which such enactments are for the time being in force except at the request of and by agreement with the local authority of such district and during the continuance of such agreement such functions shall cease to be exercisable by such local authority in relation to the road to which the agreement applies:

Provided that nothing in this subsection shall prevent the Council from exercising any powers conferred on them by any other enactment.

(4) Any agreement made under the provisions of this section may relate to any one or more roads in a district.

(5) The functions conferred on the Council under the enactments referred to in this section shall not be exercised with respect to or so as to affect any advertisement. For the purpose of this section "advertisement" has the same meaning as in section 119 of the Town and Country Planning Act 1947.

Erection of
hoardings on
county roads.

13. Section 34 (Hoards to be set up during progress of buildings &c.) of the Public Health Acts Amendment Act 1890 shall extend to the whole of the county in reference to the county roads therein and for that purpose the Council shall be deemed to be an urban authority who have adopted that section and shall in reference to county roads (other than claimed roads) be substituted for the urban district council:

Provided that this section shall not apply in reference to any county road in a district the council of which have for the time being adopted the said section 34.

As to erection
of hoardings
&c. at street
corners.

14.—(1) No person shall place or erect in the county any hoarding wall (not being a wall forming part of the structure of a permanent edifice) or fence at or within a distance of ten yards from the corner of any street unless he has given to the highway authority notice of his intention so to do accompanied by plans and particulars of the hoarding wall or fence and the highway authority have approved the placing or erection thereof under this section.

(2) Within one month from the receipt of such a notice from any person the highway authority may give him notice that they disapprove the placing or erection of the hoarding wall or fence or that they approve it only subject to such conditions or to such modifications of the plans and particulars submitted to them as may be specified in the notice:

Provided that a notice shall not be given under this subsection except on the ground that the hoarding wall or fence would by obstructing the view of foot passengers or drivers of vehicles constitute a danger to the traffic in the streets upon adjoining or near to which it is proposed to be placed or erected or (as the case may be) would constitute such a danger unless placed or erected subject to the conditions or modifications specified in the notice.

(3) The highway authority may at any time within the said month give notice that they approve the placing or erection of the hoarding wall or fence in accordance with the plans and particulars submitted to them and if within the said month the highway authority have not given notice under the last foregoing subsection they shall be deemed for the purpose of this section to have approved the placing or erection of the hoarding wall or fence in accordance with those plans and particulars.

(4) Where the highway authority have approved the placing or erection of the hoarding wall or fence it shall not be placed or erected otherwise than in accordance with the plans and particulars submitted as aforesaid or if notice has been given under subsection (2) of this section of any conditions or modifications than in accordance with those conditions and with such plans and particulars as modified by the notice.

(5) Any person giving notice under subsection (1) of this section who is aggrieved by any decision of the highway authority under this section may appeal to the Minister of Transport who may make such order as he thinks fit and whose decision shall be final.

(6) Any person who places or erects any hoarding wall or fence in contravention of the provisions of this section shall be liable to a penalty not exceeding five pounds and the highway authority may remove the hoarding wall or fence so placed or erected and may recover the expense incurred by them in so doing from such person.

(7) For the purposes of this section the corner of any street shall be deemed to be the point at which the frontage or boundary line of that street (if necessary continued in a straight line) intersects the frontage or boundary line of any other street (if necessary similarly continued).

PART III.
—cont.

(8) The provisions of this section shall not apply to any part of a street with respect to which restrictions have been imposed under section 4 (Prevention of obstruction to view at corners) of the Roads Improvement Act 1925.

15 & 16 Geo. 5.
c. 68.

Frontage line.

15.—(1) The following provisions shall except as hereinafter provided apply to all county roads in the county and shall have effect in addition to and not in substitution for or in derogation of anything contained in any Act byelaw or regulation for the time being in force within the county or any district:—

- (a) Where any such road is in the opinion of the Council narrow or inconvenient or insufficient for the traffic or without any sufficiently regular line of frontage the Council may from time to time prescribe and define what shall thereafter be the line of frontage to be observed on either side of such road. The line which in any case the Council propose to prescribe and define shall be distinctly marked and shown on plans to be signed by their surveyor and deposited with the clerk of the Council and with the clerk to the local authority of the district in which the road is situate and such plans shall be at all reasonable times thereafter open for the inspection of the public without charge and one month at least before the Council formally prescribe and define the line they shall give notice of the deposit of the said plans to every owner lessee and tenant interested whose name and address they can ascertain;
- (b) No new building erection excavation or obstruction shall be made or placed nearer to the centre of the road than the line prescribed under this section except with the consent in writing of the Council which may be given for such period and upon and subject to such terms and conditions as they may deem expedient;
- (c) The Council may purchase and the owner and all other persons interested shall if required so to do by the Council sell any land lying between any line prescribed by the Council under this section and the road and the Council shall if required so to do by the owner thereof (not being a person whose interest in the land is that of a lessee for a term of which twenty-one years do not remain unexpired) purchase the land for the time being unbuilt upon lying between such line and the road;
- (d) Until any land purchased under the last preceding subsection is added to the road the occupier of the

land from which it is severed and other persons with his permission shall be entitled to reasonable access across the land so purchased to and from the road and shall have the same rights in regard to the laying down and maintenance in such lands of drains gas and water pipes and electric lines as if it were part of the road;

- (e) Whenever in any of the above cases the Council shall prescribe and define the said line to be observed they shall make full compensation to the owner and other persons interested in any land for any loss or damage they may sustain in consequence of the line of frontage being set back and the Council shall also make to the owner of any adjoining land or building and to all other persons interested in any such adjoining land or building full compensation in respect thereof for all damage loss or injury (if any) sustained by them to such land or building by reason of the Council prescribing and defining the said line to be observed.

(2) (a) The Lands Clauses Acts except section 92 of the Lands Clauses Consolidation Act 1845 shall apply in reference to the taking of land under this section and the amount of any compensation or purchase money payable under this section shall be ascertained under and in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Town and Country Planning Act 1947.

(b) In determining the amount of compensation or purchase money to be paid in respect of the acquisition under this section of any part of the lands of any person the enhancement in value of the adjoining lands of such person not so acquired or of any other lands of such person which are contiguous with such adjoining lands arising out of the execution of any works shall be fairly estimated and shall be set off against the said compensation or purchase money:

Provided that any such enhancement in value of the adjoining lands shall be estimated on the assumption that planning permission in respect of those lands would be granted under the Town and Country Planning Act 1947 for the operations or uses specified in the Third Schedule to that Act but for no other development.

(3) Any person who shall contravene any of the provisions of this section or shall fail to comply with any requirement made thereunder shall for every such offence be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds.

PART III.
—cont.
Urgent repairs
of private
streets.

16.—(1) In any street in a rural district in the county not being a highway repairable by the inhabitants at large the Council may execute such repairs as are in their opinion urgently required to prevent or remove danger to persons or vehicles in the street and may themselves defray the cost of the repairs out of the county fund:

Provided that the cost of the repairs executed in any street in any year under this section shall not exceed ten pounds per one hundred yards of the length of the street.

(2) The exercise by the Council of their powers under this section shall not prejudice their powers under any statutory provision for the time being in force in the county relating to private street works or under subsection (2) of section 25 of the Local Government Act 1894 or under section 19 of the Public Health Acts Amendment Act 1907.

56 & 57 Vict.
c. 73.

As to evasion
by owners of
private street
works
expenses.
55 & 56 Vict
c. 57.

17.—(1) If—

- (a) any owner of land fronting adjoining or abutting on a street within the meaning of section 150 of the Public Health Act 1875 or of the Private Street Works Act 1892 or of corresponding provisions in any local Act (each of which is in this section referred to as "the said enactments") conveys sells leases or otherwise disposes of the part or any portion of the part of that land which fronts adjoins or abuts on that street; and
- (b) any expenses of works executed by the local authority under the said enactments in or in relation to that street are apportioned on such part or portion of that land; and
- (c) the local authority are unable to recover such expenses in whole or in part from the person to whom such part or portion of that land was conveyed sold leased or disposed of by the sale of such part or portion of that land; and
- (d) a court of summary jurisdiction is satisfied that such conveyance sale lease or disposal was intended for the purpose of evading the payment of any expenses under the said enactments;

then such expenses or so much thereof as has not been recovered by the local authority may to such extent as the court may determine be recovered from that owner in the same manner as expenses of the execution of works under the said enactments may be recovered as though he had not made such conveyance sale lease or disposal and as though the said amount of the said expenses had been apportioned on the land of that owner which before such conveyance sale

lease or disposal was made fronted adjoined or abutted on such street.

PART III.

—cont.

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(2) In this section "the local authority" means—

(a) in the case of a street situate in a rural district the Council; and

(b) in the case of a street in a borough or urban district the council of that borough or district.

18.—(1) No person (except in the execution of some act which he has lawful authority to perform) shall on any highway or in any open space to which the public have access within the county—

Damage to trees &c. on highways and in open spaces.

(a) remove or cut any turf; or

(b) pluck any bud blossom flower or leaf of any tree shrub or plant or remove cut or displace any plant if the tree shrub or plant has been planted by the person having control of the highway or open space for the purpose of improving the amenities thereof and a notice stating the effect of this paragraph is conspicuously placed in the neighbourhood of the tree shrub or plant.

(2) Any person offending against this section shall be liable to a penalty not exceeding forty shillings and to the payment of such further amount as appears to the court reasonable compensation for any damage so committed which last-mentioned amount shall be paid to the person having control of the highway or open space.

(3) Proceedings in respect of an offence created by this section shall not without the written consent of the Attorney-General be taken by any person other than a party aggrieved or where the offence relates to a highway the highway authority.

(4) Nothing in this section shall—

(a) apply to any open space vested in or under the control of the council of a district a board of conservators or the National Trust for Places of Historic Interest or Natural Beauty; or

(b) affect any right of any persons authorised by any enactment to open or break up any street or road or any land for the purpose of laying making altering repairing or renewing any main pipe sluice weir sewer electric line duct substation transformer station street-box drain tramway or trolley vehicle equipment or other apparatus.

PART III.
—cont.
Council may
provide bins
for litter.

19.—(1) The Council may provide and place and maintain on any roadside waste open space park or recreation ground belonging to or maintained by them and with the consent of the owner thereof on any other land within the county to which the public have access bins or other receptacles for the reception or deposit of litter and may from time to time empty and cleanse any such bins or receptacles.

(2) Any person who without lawful authority shall remove or otherwise interfere with any such bin or receptacle shall be liable to a penalty not exceeding forty shillings.

As to exercise
of certain
provisions of
Part III of
Act with
respect to
claimed roads.

20.—(1) The powers of the sections of this Act hereinafter mentioned (that is to say):—

Section 8 (Exchange for improvement of county roads);

Section 9 (Carriage-crossings at ends of private streets);

and

Section 15 (Frontage line);

shall not be exerciseable by the Council in respect of any claimed road but the said powers may be exercised by the local authority in whom such road is vested and the said sections shall be read and have effect accordingly as if references to such local authority were respectively substituted therein for the references to the Council.

(2) The Council may if they think fit contribute to the expenses incurred by any such local authority in exercising any of the said powers.

As to trunk
roads.

21. In—

Section 11 (Prohibition of persons vehicles &c. on grass margins); and

Section 18 (Damage to trees &c. on highways and in open spaces);

of this Act the expression “ the highway authority ” in relation to any trunk road shall with the consent of the Minister of Transport include the authority who are for the time being acting as his agent under the Trunk Roads Acts 1936 and 1946 with respect to that trunk road.

For protection
of Postmaster-
General.

22. Without prejudice to any other provision of this Act for his protection nothing in this Part of this Act shall affect any rights and privileges of the Postmaster-General under the Telegraph Acts 1863 to 1943.

For protection
of British
Transport
Commission.

23. Nothing contained in section 15 (Frontage line) of this Act shall apply to or affect any property belonging to the British Transport Commission and used or occupied for the purposes of their undertaking without the consent of the said

commission Provided that such consent shall not be unreasonably withheld and any question whether or not such consent has been unreasonably withheld shall be determined by the Minister of Transport.

PART III.
—cont.

24. For the protection of the British Electricity Authority the North Eastern Electricity Board the North Western Electricity Board and the Yorkshire Electricity Board (each of whom is hereinafter referred to as "the board") the following provisions shall unless otherwise agreed in writing between the board and the Council apply and have effect:—

For protection
of electricity
undertakers.

(1) In this section "apparatus" includes all or any electric lines and works (as defined in the Electric Lighting Act 1882) belonging to the board:

45 & 46 Vict.
c. 56.

(2) (a) Whenever the Council in exercise of the powers of section 8 (Exchange for improvement of county roads) of this Act propose to exchange any part of a road or the roadside waste thereof for land abutting on a county road the Council shall if any apparatus is situate in under upon over along or across such road or roadside waste at the date of such exchange give notice to the board of their proposals accompanied by a plan showing the position and dimensions of the portion of the road or roadside waste proposed to be exchanged;

(b) Notwithstanding any agreement entered into or grant or conveyance executed by the Council under the said section the board their engineers and workmen shall have and may exercise the same powers rights and privileges in respect of such apparatus as if the land in under upon over along or across which the apparatus is laid or placed had continued to be part of the road or roadside waste. Provided that the board may at their option and (if reasonably so required by the Council) shall alter the position of any such apparatus to such other position in under upon over along or across the road as altered under the said powers as may be reasonable:

(3) Not less than twenty-one days before the Council pursuant to section 9 (Carriage-crossings at ends of private streets) of this Act require the construction of a carriage-crossing across any part of a road in under upon over along or across which any apparatus is for the time being situate the Council shall give notice in writing to the board and if in consequence of the construction of the carriage-crossing it shall be reasonably necessary to alter the position of the apparatus the board may and (if so required by the Council)

PART III.
—cont.

shall alter the position of the apparatus to such position as may be reasonable:

(4) The board shall give to the Council not less than twenty-one days' notice of their intention to alter otherwise than on the requirement of the Council the position of any apparatus under the provisions of subsection (2) or subsection (3) of this section and shall at the same time deliver to the Council a plan and section of the proposed alteration. If such plan and section are not disapproved by the Council within twenty-one days from the receipt thereof the position of the apparatus shown thereon shall be deemed to be reasonable and the alteration of the position of the apparatus shall be deemed to be reasonably necessary:

(5) The Council shall repay to the board the reasonable expenses incurred by them in or in connection with—

(a) the alteration of the position of any apparatus under subsection (2) or subsection (3) of this section including in cases where such alteration is not reasonably practicable and new apparatus has to be provided and laid the reasonable cost of such provision and laying;

(b) the making good of any damage to any apparatus caused by or resulting from any act omission or default of the Council their officers servants and workmen in the exercise of the powers of this Part of this Act;

and the reasonable costs of and incidental to (i) the cutting off of any apparatus from any other apparatus and (ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this subsection:

Provided that if—

(A) the board provide and lay new apparatus in substitution for their existing apparatus and the existing apparatus was laid or placed more than seven and a half years before the laying of such new apparatus; or

(B) the expenses incurred by the board in or in connection with the alteration of the position of any apparatus under subsections (2) or (3) of this section are enhanced by—

(i) the substitution for the existing apparatus of apparatus of greater dimensions (other than length) or of greater capacity or apparatus of improved type; or

(ii) the laying or placing of apparatus at a depth of cover greater than that of the existing apparatus except where and to the extent to which such greater depth of cover is reasonably necessary;

the board shall themselves bear (in the case referred to in paragraph (A) of this proviso) such proportion of the cost of providing and laying the new apparatus as represents the estimated saving of expense to the board resulting from the consequent deferment of the date at which the existing apparatus would have required to be renewed and (in the case referred to in paragraph (B) of this proviso) such proportion of the expenses referred to in that paragraph as represents the amount by which such expenses exceed the cost which would have been incurred if the dimensions (other than length) or the capacity of the apparatus so laid or placed had been the same as those of the original apparatus or if the apparatus had been laid or placed at the same depth of cover as the existing apparatus:

- (6) Nothing in section 11 (Prohibition of persons vehicles &c. on grass margins) of this Act shall affect the rights of the board with respect to apparatus in under upon over along or across any area to which that section relates:
- (7) Notwithstanding anything in section 12.1 (Exercise by Council of powers with respect to county roads) of this Act the Council shall not perform or discharge any functions under the said sections 68 69 and 70 of the Towns Improvement Clauses Act 1847 with reference to any lands authorised to be used by the board for the generation transformation or distribution of electricity or to any building structure or erection on any such lands unless the consent of the board is obtained by the Council:

Provided that such consent shall not be unreasonably withheld and any question whether any such consent is unreasonably withheld shall be determined by the Minister of Transport:

- (8) Nothing in section 15 (Frontage line) of this Act shall without the consent of the board apply to or affect any property occupied or used by the board for the purposes of the business carried on by the board Provided that such consent shall not be unreasonably withheld and any question whether any such consent is unreasonably withheld shall be determined by the Minister of Transport:

PART III.
—cont.

- (9) (a) Any difference which may arise between the board and the Council under this section (other than a difference as to whether a consent is unreasonably withheld arising under subsection (7) or subsection (8) of this section or a difference as to the meaning or construction of this section which does not arise in the course of the arbitration) shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing agreement to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 and the Arbitration Act 1934 shall apply to any such arbitration;

52 & 53 Vict.
c. 49.
24 & 25 Geo. 5.
c. 14.

(b) In settling any difference under this section the arbitrator shall have regard to any duties or obligations which the board may be under in respect of any apparatus and may if he thinks fit require the Council to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

For protection
of gas
authorities.

25. The following provisions shall unless otherwise agreed in writing between the Council and the gas authority as hereinafter defined apply and have effect for the protection of the gas authority:—

(1) In this section—

“ apparatus ” means mains pipes service pipes or other underground apparatus laid down in the performance of statutory functions for the supply of gas;

“ gas authority ” means any authority authorised by an enactment to supply gas in the county and “ the gas authority ” means the gas authority to whom the apparatus in relation to which that expression is used belongs:

- (2) (a) Whenever the Council in the exercise of the powers of section 8 (Exchange for improvement of county roads) of this Act propose to exchange any part of a road or the roadside waste thereof for land abutting on a county road the Council shall if any apparatus is situate in or under such road or roadside waste at the date of such exchange give to the gas authority notice of their proposals accompanied by a plan showing the position and dimensions of the portion of the road or roadside waste proposed to be exchanged;

(b) Notwithstanding any agreement entered into or grant or conveyance executed by the Council under the said section the gas authority their engineers and workmen shall have and may exercise the same powers rights and privileges in respect of such apparatus as if the land in or under which the apparatus is laid or placed had continued to be part of the road or roadside waste. Provided that the gas authority may at their option and (if reasonably so required by the Council) shall alter the position of any such apparatus to such other position in or under the road as altered under the said powers as may be reasonable:

- (3) Not less than twenty-one days before the Council pursuant to section 9 (Carriage-crossings at ends of private streets) require the construction of a carriage-crossing across any part of a road in or under which any apparatus is for the time being situate the Council shall give notice in writing to the gas authority and if in consequence of the construction of the carriage-crossing it shall be reasonably necessary to alter the position of the apparatus the gas authority may and (if so required by the Council) shall alter the position of the apparatus to such other position as may be reasonable:
- (4) The gas authority shall give to the Council not less than twenty-one days' notice of their intention to alter otherwise than on the requirement of the Council the position of any apparatus under the provisions of subsection (2) or subsection (3) of this section and shall at the same time deliver to the Council a plan and section of the proposed alteration. If such plan and section are not disapproved by the Council within twenty-one days from the receipt thereof the position of the apparatus shown thereon shall be deemed to be reasonable and the alteration of the position of the apparatus shall be deemed to be reasonably necessary:
- (5) The Council shall repay to the gas authority the reasonable expenses incurred by them in or in connection with the alteration of the position of any apparatus under subsection (2) or subsection (3) of this section including in cases where such alteration is not reasonably practicable and new apparatus has to be provided and laid the reasonable cost of such provision and laying and the reasonable costs of and incidental to (i) the cutting off of any apparatus from any other apparatus and (ii) any other work or thing

rendered reasonably necessary in consequence of any such operations as are referred to in this subsection:

Provided that if—

(A) the gas authority provide and lay new apparatus in substitution for their existing apparatus and the existing apparatus was laid or placed more than seven and a half years before the laying of such new apparatus; or

(B) the expenses incurred by the gas authority in or in connection with the alteration of the position of any apparatus under subsection (2) or subsection (3) of this section are enhanced by—

(i) the substitution for the existing apparatus of apparatus of greater dimensions (other than length) or of greater capacity or apparatus of improved type; or

(ii) the laying or placing of apparatus at a depth of cover greater than that of the existing apparatus except where and to the extent to which such greater depth of cover is reasonably necessary;

the gas authority shall themselves bear (in the case referred to in paragraph (A) of this proviso) such proportion of the cost of providing and laying the new apparatus as represents the estimated saving of expense to the gas authority resulting from the consequent deferment of the date at which the existing apparatus would have required to be renewed and (in the case referred to in paragraph (B) of this proviso) such proportion of the expenses referred to in that paragraph as represents the amount by which such expenses exceed the cost which would have been incurred if the dimensions (other than length) or the capacity of the apparatus so laid or placed had been the same as those of the original apparatus or if the apparatus had been laid or placed at the same depth of cover as the existing apparatus:

- (6) Nothing in section 11 (Prohibition of persons vehicles &c. on grass margins) of this Act shall affect the rights of the gas authority with respect to apparatus in or under any area to which that section relates:
- (7) Notwithstanding anything in section 12 (Exercise by Council of powers with respect to county roads) of this Act the Council shall not perform or discharge any functions under the said sections 68 69 and 70 of the Towns Improvement Clauses Act 1847 with

reference to any lands specifically authorised by an enactment to be used by the gas authority for the manufacture or storage of gas or any building structure or erection erected on such lands for those purposes unless the consent of the gas authority is obtained by the Council:

Provided that such consent shall not be unreasonably withheld and any question whether such consent is unreasonably withheld shall be determined by the Minister of Transport:

- (8) (a) Any difference which may arise between the gas authority and the Council under this section (other than a difference as to whether consent is unreasonably withheld under subsection (7) of this section or a difference as to the meaning or construction of this section which does not arise in the course of the arbitration) shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing agreement to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 and the Arbitration Act 1934 shall apply to such arbitration;

(b) In settling any difference under this section the arbitrator shall have regard to any duties or obligations which the gas authority may be under in respect of any apparatus and may if he thinks fit require the Council to execute any temporary or other works so as to avoid as far as may be reasonably possible interference with any purpose for which the apparatus is used.

PART IV.

SUPERANNUATION.

26. In this Part of this Act except as otherwise expressly provided and unless the subject or context otherwise requires words and expressions to which meanings are assigned by the Act of 1937 have the same respective meanings And—

Interpretation
of Part IV
of Act.

“ The Act of 1937 ” means the Local Government Superannuation Act 1937; 1 Edw. 8. &
1 Geo. 6. c. 68.

“ The superannuation fund ” means the superannuation fund maintained by the Council under Part I of the Act of 1937;

“ The appointed day ” means such day as the Council may determine pursuant to section 27 (Commencement of Part IV of Act) of this Act to be the date

PART IV.
—cont.

on which the provisions of this Part of this Act shall come into operation;

“Contributory employee” means a contributory employee who is for the time being required to contribute to the superannuation fund pursuant to section 6 of the Act of 1937 and “contributory employees” shall be construed accordingly.

Commence-
ment of
Part IV of Act.

27. The following provisions of this Part of this Act shall come into operation on such day as the Council may by resolution determine:

Provided that not less than thirty days before the meeting of the Council at which such resolution is taken into consideration the clerk of the Council shall give notice in writing to the contributory employees of the effect of the said resolution and shall in such notice require every contributory employee to whom the notice is given to intimate in writing to the Council within thirty days after the receipt of the notice whether he desires that the provisions of this Part of this Act shall or shall not apply to him:

Provided further that any failure or omission to give such notice as aforesaid to any particular contributory employee shall not invalidate the resolution of the Council.

Application of
Part IV of Act.

28. This Part of this Act shall apply to—

(a) every person who becomes a contributory employee on or after the appointed day; and

(b) every person who immediately before the appointed day is a contributory employee and who—

(i) within thirty days after the receipt of the notice referred to in the first proviso to section 27 (Commencement of Part IV of Act) of this Act; or

(ii) (in the case of a person who becomes a contributory employee after the date on which such notice is given but before the appointed day or for any other reason does not receive such notice) within thirty days after the appointed day;

intimates in writing to the Council his desire that the provisions of this Part of this Act shall apply to him and any such person is in this Part of this Act referred to as a contributory employee to whom this Part of this Act applies.

New scale
of super-
annuation
allowances.

29.—(1) The provisions of this section shall apply to a contributory employee to whom this Part of this Act applies instead of subsections (2) (3) and (4) of section 8 (Eligibility for superannuation allowances and scale of allowances) of the Act of 1937 and the provisions of subsection (7) of the said

section 8 shall apply for the purposes of subsection (2) of this section as if the reference in the said subsection (7) to subsection (2) of the said section 8 included a reference to subsection (2) of this section.

(2) Subject to the provisions of this Part of this Act the superannuation allowance to be made to a contributory employee to whom this Part of this Act applies shall be on the following scale (that is to say):—

- (a) in respect of every completed year of contributing service one-eightieth of his average remuneration as defined in subsection (5) of section 8 of the Act of 1937 (in this Part of this Act called "average remuneration");
- (b) in respect of every year of non-contributing service one one hundred and sixtieth of his average remuneration:

Provided that in the case of any particular contributory employee to whom this Part of this Act applies the employing authority may on his becoming entitled to a superannuation allowance resolve that there shall be substituted for the said fraction of one one hundred and sixtieth any larger fraction not exceeding one-eightieth.

(3) No superannuation allowance payable to a contributory employee to whom this Part of this Act applies shall apart from any reduction thereof under regulations made under the National Insurance Act 1946 exceed forty-eightieths of his average remuneration and shall not in such a case as is referred to in paragraph (a) of subsection (1) of section 8 of the Act of 1937 be less than—

9 & 10 Geo. 6.
c. 67.

- (i) twenty-eightieths of such remuneration; or
- (ii) one-eightieth of such remuneration in respect of each year of contributing service which he has completed before ceasing to be employed by the employing authority or would have completed before attaining the age of compulsory retirement if he had continued to be a contributory employee until that age and one one hundred and sixtieth of such remuneration in respect of each year of non-contributing service;

whichever is the less.

(4) (a) Every superannuation allowance payable to a contributory employee to whom this Part of this Act applies shall be paid out of the superannuation fund.

(b) Payment of any such allowance shall be made at such intervals not being longer than three months as the Council may determine.

PART IV.
—cont.
Retiring
allowance.

30.—(1) A contributory employee to whom this Part of this Act applies who has completed ten years' service and is incapable of discharging efficiently the duties of his employment by reason of permanent ill health or infirmity of mind or body or who has attained the age of sixty years after completing five years' service and ceases to be employed by the employing authority for any reason other than resignation or dismissal in consequence of an offence of a fraudulent character or of grave misconduct shall on ceasing to be employed by the employing authority be entitled to receive a lump sum retiring allowance.

(2) The retiring allowance to be made to a contributory employee to whom this Part of this Act applies shall be a sum equal to the aggregate of the following amounts namely three-eighths of his average remuneration in respect of each completed year of contributing service and three one hundred and sixtieths of such remuneration in respect of each year of non-contributing service:

Provided that—

- (a) in the case of any particular contributory employee to whom this Part of this Act applies the employing authority may on his becoming entitled to a retiring allowance resolve that there shall be substituted for the said fraction of three one hundred and sixtieths or the fraction of one one hundred and sixtieth referred to in paragraph (b) and sub-paragraph (iv) of paragraph (c) of this proviso any larger fraction not exceeding three-eighths or in the cases referred to in the said paragraph (b) or the said sub-paragraph (iv) one-eighth;
- (b) in the case of a contributory employee in respect of whose service a widow's pension may become payable under section 33 (Widow's pension) of this Act the amount of the retiring allowance shall be a sum equal to the aggregate of the following amounts namely one-eighth of his average remuneration in respect of each completed year of contributing service and one one hundred and sixtieth of such remuneration in respect of each year of non-contributing service or such higher fraction as may be substituted in accordance with paragraph (a) of this proviso;
- (c) if in the case of a contributory employee who is a widower or who is divorced or judicially separated from his wife the death of the wife or the divorce or separation has taken place on or after the date on which this Part of this Act first applied to him the amount of the retiring allowance shall be a sum

equal to the aggregate of the following amounts (namely):—

(i) three-eighths of his average remuneration in respect of each completed year of contributing service since the date of the death of his wife or the divorce or the separation as the case may be;

(ii) one-eighth of such remuneration in respect of each completed year comprised in the remainder of his contributing service calculated as provided in section 34 (Reckoning of service) of this Act;

(iii) three one hundred and sixtieths of such remuneration (or such higher fraction as may be substituted in accordance with paragraph (a) of this proviso) in respect of each year of non-contributing service since the date of the death of his wife or the divorce or the separation as the case may be; and

(iv) one one hundred and sixtieth of such remuneration (or such higher fraction as aforesaid) in respect of each year comprised in the remainder of his non-contributing service calculated as provided as aforesaid;

(d) the maximum amount of the retiring allowance payable under this section shall not exceed—

(i) in the case of any such contributory employee as is referred to in paragraph (a) or paragraph (c) of this proviso one and a half times his average remuneration; or

(ii) in the case of any such contributory employee as is referred to in paragraph (b) of this proviso one-half of his average remuneration;

but for the purpose of calculating such maximum amount any increase in the retiring allowance authorised by subsection (3) of this section shall be disregarded; and

(e) if in the case of a contributory employee to whom no superannuation allowance is payable the amount of the retiring allowance calculated as aforesaid is less than the amount of his contributions together (except in the case of a contributory employee who voluntarily resigns after having attained the age of sixty years and before attaining the age of compulsory retirement) with compound interest thereon calculated to the date of his ceasing to be employed by the employing authority at the rate of three per centum per annum with half-yearly rests the retiring allowance shall be increased by the amount of the deficiency.

PART IV.
—cont.

(3) In the case of any such contributory employee as is referred to in paragraph (b) of section 28 of this Act (other than a contributory employee who immediately before the appointed day was entitled by virtue of any enactment or any scheme to the payment on his death of a sum of money by way of death gratuity or other similar benefit) the amount of the retiring allowance shall be increased by one-half of one per centum in respect of each completed year of contributing service during any period before the appointed day calculated in accordance with section 34 (Reckoning of service) of this Act and one-quarter of one per centum in respect of each year of non-contributing service during any such period calculated as aforesaid:

Provided that where the whole or any part of the retiring allowance payable to a contributory employee falls to be calculated in respect of any completed year of contributing service during any such period as aforesaid by reference to one-eightieth of his average remuneration or in respect of any year of non-contributing service during any such period as aforesaid by reference to one one hundred and sixtieth of such remuneration one and one-half per centum shall be substituted for one-half of one per centum in respect of each such completed year of contributing service and three-quarters of one per centum shall be substituted for one-quarter of one per centum in respect of each such year of non-contributing service:

Provided also that where a higher fraction than three one hundred and sixtieths or one one hundred and sixtieth is substituted in accordance with paragraph (a) of the proviso to subsection (2) of this section the amount of the retiring allowance shall be increased in respect of each year of non-contributing service by a percentage bearing the same proportion to one-quarter of one per centum or three-quarters of one per centum as the case may be as the substituted fraction bears to three one hundred and sixtieths or one one hundred and sixtieth (as the case may be).

(4) Every retiring allowance payable to a contributory employee under this section shall be paid out of the superannuation fund.

31.—(1) A contributory employee to whom this Part of this Act applies and who has completed more than five but less than ten years' service shall if he ceases to be employed on account of incapacity to discharge efficiently the duties of his employment by reason of permanent ill health or infirmity of mind or body and is not entitled to a retiring allowance be entitled to receive a short service gratuity of a sum equal to the amount of his average remuneration.

Short service
gratuity.

(2) Every such gratuity payable to a contributory employee under this section shall be paid out of the superannuation fund.

PART IV.
—cont.

32.—(1) If—

Death
gratuity.

(a) a contributory employee to whom this Part of this Act applies dies and at the date of his death he has completed five years' service; or

(b) a person who has after completing five years' service ceased for any reason other than his resignation or dismissal in consequence of an offence of a fraudulent character or of grave misconduct to be a contributory employee to whom this Part of this Act applies—

(i) dies within twelve months after so ceasing to be a contributory employee; or

(ii) after so ceasing in order to undertake national service dies within six months after the termination of such last-mentioned service;

without having received a return of his contributions to the superannuation fund or without having become entitled to a superannuation allowance or retiring allowance or short service gratuity or without again having become a contributory employee; or

(c) a person dies after having become entitled to a superannuation allowance in accordance with the scale prescribed by section 29 (New scale of superannuation allowances) of this Act or to a retiring allowance or short service gratuity under this Part of this Act without having received the whole of the retiring allowance or short service gratuity to which he is entitled;

then the Council shall pay to his legal personal representatives out of the superannuation fund a death gratuity of a sum equal to—

(i) three-eighths of his average remuneration in respect of each completed year of his contributing service and three one hundred and sixtieths thereof in respect of each year of his non-contributing service; or

(ii) the amount of his contributions together with compound interest on such amount calculated to the date on which he ceased to hold his employment at the rate of three per centum per annum with half-yearly rests; or

PART IV.
—cont.

- (iii) (except in the case mentioned in paragraph (b) of this subsection) his average remuneration;

whichever is the greatest:

Provided that—

- (i) in the case of any particular contributory employee or person in respect of whose service a death gratuity is payable under this section the employing authority may on a death gratuity becoming payable to his legal personal representatives resolve that there shall be substituted for the said fraction of three one hundred and sixtieths any larger fraction not exceeding three-eighths or that there shall be substituted for the fraction of one one hundred and sixtieth referred to in paragraph (ii) of this proviso any larger fraction not exceeding one-eighth;
- (ii) in the case of a contributory employee or person on whose death a widow's pension is payable under section 33 (Widow's pension) of this Act the amount of the death gratuity shall be a sum equal to one-eighth of his average remuneration in respect of each completed year of his contributing service and one one hundred and sixtieth thereof in respect of each year of his non-contributing service unless a smaller denominator is substituted in accordance with paragraph (i) of this proviso; and
- (iii) in the case of a person who dies after having become entitled to a superannuation allowance or a retiring allowance or short service gratuity there shall be deducted from the death gratuity a sum equal to the aggregate amount of any payments made on account of the said allowances or of the short service gratuity and in addition if the person was entitled to a superannuation allowance and had surrendered a part thereof any sum which would have been paid on account thereof but for the surrender.

(2) The amount of the death gratuity payable under this section to the legal personal representatives of a contributory employee or person shall not exceed—

- (i) where a widow's pension is payable under section 33 (Widow's pension) of this Act to the widow of such contributory employee or person one-half of his average remuneration; and
- (ii) where such a widow's pension is not payable one and a half times his average remuneration.

33.—(1) This section applies to the widow of—

PART IV.

—cont.

Widow's
pension.

(a) a person who at the time of his death was in receipt of or entitled to a superannuation allowance in accordance with the scale prescribed by section 29 (New scale of superannuation allowances) of this Act; or

(b) a contributory employee to whom this Part of this Act applies and who dies while in the service of the employing authority after completing ten years' service; or

(c) a contributory employee to whom this Part of this Act applies and who after completing ten years' service ceases for any reason other than his resignation or dismissal in consequence of an offence of a fraudulent character or of grave misconduct to be employed by the employing authority and dies within twelve months of his so ceasing but without having received any return of his contributions to the superannuation fund or without the payment of a transfer value having been made in respect of him;

but does not apply to any such widow if—

(i) her marriage took place on or after the day on which her husband ceased to be employed by the employing authority; or

(ii) her husband before ceasing to be employed or if he died while still in the service of the employing authority before dying had reached the age of compulsory retirement applicable to his case or not having reached that age had reached the age of sixty years and had completed forty years' service and the marriage had taken place after he had reached the age of compulsory retirement or the age of sixty years having completed forty years' service (as the case may be); or

(iii) she and her husband were at the date of his death judicially separated.

(2) A widow to whom this section applies shall subject to the provisions of this section be entitled during her life to the payment out of the superannuation fund of an annual pension.

(3) The annual amount of the pension payable under this section shall be—

(a) in the case of the widow of such a person as is referred to in paragraph (a) of subsection (1) of this section one-third of the annual amount of the superannuation allowance of which he was in receipt or to which he was entitled at the time of his death;

PART IV.
—cont.

- (b) in the case of the widow of such a contributory employee as is referred to in paragraph (b) or paragraph (c) of the said subsection (1) one-third of the annual amount of the superannuation allowance to which he would have been entitled if he had ceased under the circumstances mentioned in paragraph (a) of subsection (1) of section 8 of the Act of 1937 to be employed by the employing authority immediately before the date of his death and had on so ceasing been entitled to receive a superannuation allowance:

Provided that for the purpose of calculating pursuant to this subsection the superannuation allowance to which any such contributory employee as is referred to in paragraph (b) or paragraph (c) of subsection (1) of this section would have been entitled if he had ceased to be employed by the employing authority immediately before the date of his death the employing authority may resolve that there shall be substituted for the fraction of one one hundred and sixtieth referred to in paragraph (b) of subsection (2) of the said section 29 of this Act any larger fraction not exceeding one-eightieth:

Provided also that—

- (i) if in either case the age of the widow was less than that of her husband and she has no children or ceases to have any children included in her family within the meaning of the Family Allowances Act 1945 or her age was greater than that of her husband the widow's pension shall be reduced or increased (as the case may require) by such an amount as shall be certified to be just by an actuary; and
- (ii) if any such superannuation allowance as is mentioned in paragraph (a) or paragraph (b) of this subsection is or would have been reduced under regulations made under the National Insurance Act 1946 no account shall be taken of the reduction and such superannuation allowance shall for the purposes of this subsection be deemed to be the superannuation allowance which would have been payable but for any reduction under those regulations.

(4) Payment of a pension to a widow under this section shall be made at such intervals not being longer than three months as the Council may determine but if any widow in receipt of a pension under this section remarries such pension shall cease to be payable as from the date of remarriage:

(5) No pension shall be payable to a widow under this section in respect of any period during which she is cohabiting with a man as his wife.

(6) If a widow who is in receipt of a pension under this Part of this Act remarries or dies and the aggregate amount of the payments made to her by way of pension or to her husband or to the legal personal representatives of her husband by way of superannuation allowance retiring allowance or death gratuity is less than the amount of the death gratuity which would have been payable in respect of the death of her husband if no widow's pension had been payable in respect of her husband's service there shall be paid to her or to her legal personal representative as the case may require a sum equal to the deficiency.

34.—(1) For the purposes of section 30 (Retiring allowance) and section 32 (Death gratuity) of this Act— Reckoning of service.

(a) the service of an employee shall be calculated by reckoning all periods of his service;

(b) the contributing service of an employee shall be calculated by aggregating all periods of contributing service;

(c) the non-contributing service of any employee shall be calculated by deducting from his service calculated in accordance with paragraph (a) of this subsection all completed years of contributing service;

(d) if the non-contributing service as so calculated includes a fraction of a year that fraction shall if it amounts to or exceeds six months be treated as a year and in any other case be disregarded;

(e) in the case of a contributing employee employed whole time in a single employment who has formerly served as a part time employee the period of part time service shall be treated as though it were whole time service for a proportionately reduced period.

(2) (a) If a contributory employee to whom this Part of this Act applies has paid or pays a sum or sums in accordance with the provisions of the Fourth Schedule to the National Health Service (Superannuation) Regulations 1947 as amended by the National Health Service (Superannuation) (Amendment) Regulations 1948 and as extended and applied by this subsection he shall for the purposes of this Part of this Act be entitled to reckon as contributing service any period of non-contributing service in respect of which he has made or is in the course of making such payments.

(b) The provisions of the said Fourth Schedule as so amended as aforesaid shall with all necessary modifications and so far as applicable extend and apply to the payment of any such sum or sums as are referred to in paragraph (a) of this subsection and the calculation of the amount of any sum or sums to be paid thereunder.

PART IV.

—cont.

Non-return of
contributions
in certain
cases.

35.—(1) No payment shall be made under section 10 (Return of contributions in certain cases) of the Act of 1937—

- (a) to a contributory employee to whom no superannuation allowance is payable but to whom a retiring allowance is payable under section 30 (Retiring allowance) of this Act;
- (b) to a contributory employee to whom a short service gratuity is payable under section 31 (Short service gratuity) of this Act;
- (c) to the legal personal representatives of a contributory employee in respect of whom a death gratuity is payable under section 32 (Death gratuity) of this Act; or
- (d) to the legal personal representatives of a contributory employee who dies leaving a widow to whom a widow's pension is or may be payable under section 33 (Widow's pension) of this Act.

(2) For the purpose of paragraph (b) of subsection (3) of section 10 of the Act of 1937 there shall in every case be added to the amount received by way of superannuation allowance the amount of any retiring allowance payable under section 30 of this Act.

Repayments
to be made
to super-
annuation
fund in
certain cases.

36. If any extra charge is occasioned to the superannuation fund as the result of any resolution of the employing authority substituting a larger fraction of the average remuneration of any contributory employee than one one hundred and sixtieth or three one hundred and sixtieths (as the case may be) for the purpose of calculating in respect of any year of non-contributing service the amount of any superannuation allowance retiring allowance death gratuity or widow's pension payable in accordance with the provisions of this Part of this Act such extra charge shall be repaid to the superannuation fund by the employing authority by whom the resolution was passed.

Power to
compound
small annual
benefits.

37. Where any allowance or pension payable under this Part of this Act is an annual sum of an amount not exceeding twenty-six pounds the Council may discharge their liability in respect thereof by the payment of a lump sum representing the capital value of the annual sum.

Cesser of
section 9 of
Act of 1937
in certain
cases.

38. The provisions of section 9 (Allocation of part of superannuation benefits to wife or husband) of the Act of 1937 and of any rules made thereunder shall cease to apply in the case of any contributory employee to whom section 29 (New scale of superannuation allowances) of this Act applies and in respect of whose service a pension to his widow may become payable under section 33 of this Act.

39. Nothing contained in this Part of this Act shall prejudice or affect the rights as existing immediately before the appointed day of any person who immediately before that day is a contributory employee and who does not intimate to the Council within thirty days after the receipt by him of the notice referred to in section 27 (Commencement of Part IV of Act) of this Act or within thirty days after the appointed day (as the case may be) his desire that the provisions of this Part of this Act shall apply to him and the provisions of the Act of 1937 and of any rules or regulations made thereunder shall apply to such person as if this Part of this Act had not been enacted.

PART IV.
—cont.
Saving for
existing
employees.

PART V.

FINANCE.

40.—(1) The Council shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority the sum or sums requisite for the payment of the costs charges and expenses of this Act and they shall pay off all moneys so borrowed within such period as the Council may determine not exceeding five years from the date of the passing of this Act.

Power to
borrow.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Act or any scheme made under section 46 (Consolidated loans fund) of this Act and for the time being in force shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

41. Sections 213 and 214 of the Act of 1933 shall (subject to the provisions of any scheme made under section 46 (Consolidated loans fund) of this Act and for the time being in force) apply with respect to any sinking fund formed by the Council for the repayment of any money borrowed (otherwise than by the issue of stock) before the passing of this Act under any statutory borrowing power as if it had been borrowed by way of mortgage and the Council shall make such adjustments of any existing sinking fund as may be proper.

Application of
Act of 1933
to existing
sinking funds.

42.—(1) The Council may give notice to any person being registered as a holder of any authorised security (other than stock) that they intend to send interest or dividends to him

Dividend
warrants by
post.

PART V.
—cont.

by post if he does not object and if such person does not within fourteen days from the receipt of such notice give notice to the Council of such objection" the Council may from time to time send orders for the payment of interest or dividend warrants by post to the address of such person appearing in the register:

Provided that if such person gives notice to the Council that he desires such orders or warrants to be sent to another person at a given address the Council may from time to time send the same by post to such other person at such address.

(2) Where more persons than one are registered as joint holders of any authorised security any one of them may for the purpose of this section be regarded as the holder of the security unless notice in writing to the contrary has been given to the Council by any other of them.

(3) The posting by the Council of an order for the payment of interest or a dividend warrant in pursuance of this section shall as respects the liability of the Council be equivalent to the delivery of the order or warrant to the registered holder of the authorised security.

(4) Every order or warrant so sent by post shall be deemed to be a cheque and the Council shall in relation thereto be deemed a banker within the Bills of Exchange Act 1882.

45 & 46 Vict.
c. 61.Closing of
registers.

43.—(1) The Council may close any transfer book or any register of transfers of authorised securities (other than stock) during the whole period of thirty days or any shorter period next before the date on which interest on the authorised securities to which such transfer book or register relates is payable.

(2) The persons who on the date on which the transfer book or register is closed are entered therein as holders of any security of the class to which such transfer book or register relates shall as between the Council on the one hand and such persons or their transferees or assignees on the other hand be entitled to the interest next payable thereon.

Receipt in case
of persons not
sui juris.

44. If any money is payable to a holder of any authorised security being a minor the receipt of his guardian shall be a sufficient discharge to the Council.

As to exercise
of borrowing
powers.
8 & 9 Geo. 6.
c. 18.

45. It shall not be lawful to exercise the powers of borrowing conferred by this Act otherwise than in compliance with the provisions of the Local Authorities Loans Act 1945.

46.—(1) Notwithstanding anything contained in any other Act or Order relating to the Council on and after the thirty-first day of March one thousand nine hundred and forty-nine the Council may (if they think fit) establish a fund to be called "the consolidated loans fund" to which shall be paid—

- (a) all moneys borrowed by the Council by the issue of any authorised securities together with any moneys borrowed without security in connection with the exercise of any statutory borrowing power;
- (b) all moneys of a capital nature received by the Council whether from the sale of capital assets or otherwise except such as are paid to the capital fund established by the Council under section 48 (Capital fund) of this Act or are applied by the Council with due authority to another capital purpose; and
- (c) the appropriate sums provided in each year out of other funds of the Council to comply with the terms and conditions as to repayment attaching to their several borrowing powers or otherwise provided for the repayment of debt:

And there shall also be carried to the credit of the consolidated loans fund the unapplied balances of all moneys so borrowed or received and of all sums provided by the Council as aforesaid before the date on which the consolidated loans fund is established.

(2) The moneys of the consolidated loans fund shall be used or applied by the Council—

- (a) in the redemption of authorised securities the purchase of bonds or stock for extinction or the repayment of any moneys borrowed by the Council; and
- (b) in the exercise of any statutory borrowing power by transfer of the required amount to the appropriate fund and account of the Council:

And the moneys of the consolidated loans fund not used or applied in these ways or intended to be so used or applied within a reasonable period shall be invested in statutory securities and the sums realised by the sale of such securities shall be repaid on receipt to the consolidated loans fund and the moneys of the consolidated loans fund shall not except with the consent of the Minister be used or applied otherwise than as provided in this section.

(3) There shall also be transferred to the consolidated loans fund such sums as are necessary to meet the interest charges and the financing and other revenue expenses connected with the management of that fund and separate accounts shall be kept of those sums and their application.

PART V.
—cont.

(4) The Council may pay into the consolidated loans fund any moneys forming part of any reserve capital renewal repairs depreciation contingency insurance superannuation or other similar fund (hereinafter referred to as "the lending fund") and not for the time being required for the purposes for which the lending fund was established and such moneys shall be deemed to be moneys borrowed by the Council within the meaning of subsection (1) of this section and shall be used accordingly subject to the following conditions:—

- (a) The moneys so used shall be repaid to the lending fund as and when required for meeting the obligations for which the lending fund was established; and
- (b) There shall be paid out of the consolidated loans fund to the county fund an amount equal to the interest on any moneys so used and for the time being not repaid at such rate per centum per annum as may be determined by the Council to be equal as nearly as may be to the average rate of interest payable by the Council on their current borrowings and in the accounts of the county fund an amount equal to the interest as aforesaid (subject in the case of any of the said funds to any prescribed limit on the amount thereof) shall be credited to the lending fund.

(5) Save as in this section expressly provided all the obligations of the Council to the holders of authorised securities shall continue in force.

(6) (a) The powers conferred by this section shall not be put into operation by the Council except in accordance with a scheme to be approved by the Minister and such scheme may make provision for any matters incidental to the establishment and administration of the consolidated loans fund.

— (b) Any scheme approved under this section may be altered extended amended or annulled by any other scheme approved in like manner as the original scheme.

General
insurance
fund.

47.—(1) The Council may (if they think fit) establish a fund to be called "the insurance fund" with a view to providing a sum of money which shall be available for making good all such losses damages costs and expenses as may from time to time be specified in a resolution of the Council (in this section referred to as "the specified risks").

(2) The establishment of an insurance fund under this section shall not prevent the Council from insuring in one or more insurance offices against the whole or any part of all or any of the specified risks.

(3) In each year after the establishment of the insurance fund the Council shall pay into that fund either—

(a) such a sum as shall in their opinion be not less than the aggregate amount of the premiums which would be payable if the Council fully insured in some insurance office of good repute against the specified risks; or

(b) if the Council insure in some insurance office against the whole or part of all or any of the specified risks such sums as will together with the premiums paid for the last-mentioned insurance be not less than the aggregate amount aforesaid.

(4) When the insurance fund shall amount to the prescribed amount (as hereinafter defined) the Council may if they think fit discontinue the yearly payments to the fund but if the fund is at any time reduced below the prescribed amount the Council shall recommence and continue the yearly payments to that fund in accordance with subsection (3) of this section until the fund be restored to the prescribed amount.

(5) The Council shall provide the yearly payments aforesaid by contributions from the county fund and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking department or service of the Council which if the specified risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance.

(6) (a) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses damages costs and expenses in respect of the specified risks all moneys for the time being standing in the credit of the fund shall (unless applied in any manner authorised by this or any other Act) be invested in statutory securities and the interest and other annual proceeds received by the Council in respect of such investments shall be carried to the county fund as receipts for general county purposes.

(b) In addition to the sum required to be paid into the insurance fund by subsection (3) of this section the Council shall in every year so long as the fund is less than the prescribed amount carry to the credit of that fund out of the county fund an amount equal to the interest and other annual proceeds carried to the county fund in pursuance of the last preceding paragraph.

(c) If and so long as the insurance fund amounts to the prescribed amount the interest and other annual proceeds received by the Council in respect of or on investments forming part of the insurance fund and carried to the county fund

PART V.
—cont.

may be apportioned in the accounts of the Council between the several undertakings departments or services liable to contribute to the insurance fund in such shares or proportions as may be equitable.

(7) For the purposes of this section the Council may if they deem it expedient include in the specified risks risks of accident to any teacher employed in any voluntary school in the county.

(8) (a) The insurance fund shall be applied to meet any losses damages costs or expenses sustained by the Council in respect of the specified risks in the order of the dates on which such losses damages costs or expenses become ascertained and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses damages costs or expenses the Council may with the sanction of the Minister borrow at interest under and subject to the provisions of Part IX of the Act of 1933 such sums of money as will be necessary to make up the deficiency.

(b) The amounts of the annual charges in respect of interest on and repayment of principal of any sums so borrowed and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the county fund and charged in the accounts of the Council under the separate headings or divisions in respect of such undertakings departments or services of the Council and in such proportions as the Council may determine having regard to the risks through which such deficiencies arise.

(9) In this section " the prescribed amount " means such sum as may from time to time be prescribed by the Council.

Capital fund.

48.—(1) The Council may establish a fund to be called " the capital fund " to which they may pay any sums derived from the sale of any property belonging to the Council the balance of the county fund in hand on the thirty-first day in March in any year or any part of such balance and such other sums from the county fund (including a sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) as the Council may by resolution direct not being moneys directed by law to be applied to any other purpose:

Provided that—

(a) any sum directed by the Council to be paid to the capital fund from the county fund (exclusive of the sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) shall not exceed in any year the equivalent of four times the product

of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925 or such higher rate as the Minister may from time to time approve;

PART V.
—cont.
15 & 16 Geo. 5.
c. 90.

(b) payments into the capital fund shall cease to be made whenever the balance standing to the credit of the capital fund amounts to the sum of five hundred thousand pounds or such larger sum as the Council with the consent of the Minister may from time to time approve.

(2) The Council may apply the moneys in the capital fund for the purpose of defraying (to an amount not exceeding fifty thousand pounds in any one transaction or such greater sum as may be allowed by the Minister in any case) expenditure to which capital is properly applicable or in providing money for payments into sinking funds in respect of loans raised under any statutory borrowing power.

(3) (a) Pending the application of the capital fund to the purposes authorised in the foregoing subsection the moneys in the capital fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment of the moneys in the capital fund in the manner provided by the foregoing paragraph of this subsection and any income arising from the application of the capital fund to any authorised purposes shall be carried to and form part of the county fund.

(4) All moneys derived from the sale of any land belonging to the Council which are applied from the capital fund under the provisions of this section shall and all other moneys which are applied from the capital fund under these provisions may if the Council think fit be repaid from the account to which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the Council.

49.—(1) The Council may if they think fit in any year carry from the county fund or from the proceeds of the county precept to the credit of a fund to be called "the renewal and repairs fund" any sum not exceeding an amount equal to the equivalent of six times the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925. Provided that the maximum amount standing to the credit of the renewal and repairs fund shall not at any time exceed the sum of five hundred thousand pounds.

Renewal and
repairs fund.

PART V.
—cont.

(2) The renewal and repairs fund shall be applicable only to meet expenses requisite for the maintenance and upkeep of buildings and the upkeep and renewal of plant apparatus and appliances and shall be so applied from time to time for the purpose of equalising so far as may be the annual charge to revenue in respect of such expenses.

(3) (a) Pending the application of moneys forming part of the renewal and repairs fund to the purposes authorised in subsection (2) of this section such moneys shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment of the moneys in the renewal and repairs fund in the manner provided by this subsection together with any income arising from the application of the renewal and repairs fund to any authorised purposes shall be carried to and form part of the county fund and subject to the limitation imposed by the proviso to subsection (1) of this section an amount equivalent to such income shall be credited to the renewal and repairs fund.

Expenses of
local
authorities.

50. Any expenses which are incurred in pursuance of this Act by a local authority (including the council of a county district outside the county) and in respect of which no other provision is made shall be defrayed out of the general rate fund of their district.

PART VI.

MISCELLANEOUS.

Power for
Council to
contribute to
open spaces.

51. The Council may contribute such sums as they may see fit towards the expenses incurred by any local authority or properly constituted joint committee of any local authorities or any trustees or public bodies in the county in acquiring and laying out land as and for any open space or spaces for public use and recreation.

Payment of
expenses of
public enter-
tainments &c.

52. The Council may pay the reasonable expenses of the Council in providing public entertainments on the occasion of or otherwise in connection with public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in or visiting the county.

Supply of
goods by
Council
to other
authorities.

53.—(1) The Council may purchase and store and supply to an authority any goods or materials required for the discharge of the functions of that authority and for those purposes the Council and any authority may enter into and carry into effect agreements and do all such other acts as may be necessary or convenient.

(2) For the purposes of this section the expression "authority" means an authority discharging functions within the county of York being—

- (a) the council of a county borough or of a district or a joint committee appointed by two or more such councils;
- (b) any statutory or other body of persons discharging functions in pursuance of any statutory enactment or regulation made thereunder;
- (c) any university medical school or hospital management committee.

54.—(1) The provisions of sections 20 to 29 inclusive of the Weights and Measures Act 1889 and of any byelaws made by the Council thereunder (which provisions and byelaws relate to the sale of coal) shall also apply to the sale of coke within the county.

Sale of coke
and solid fuel.
52 & 53 Vict.
c. 21.

(2) If any seller of coke or any person in charge of any vehicle from which coke is being sold or offered or exposed for sale wilfully makes any false statement as to the weight of the coke or wilfully increases such weight by damping such coke or wilfully does any other act by which the purchaser of the coke shall be defrauded such seller or person in charge shall be liable for every such offence on the first occasion to a penalty not exceeding five pounds and on the second or any subsequent occasion to a penalty not exceeding ten pounds.

(3) Any inspector of weights and measures may with the consent of the Council prosecute before a court of summary jurisdiction any proceedings under or in pursuance of this section.

(4) The provisions of this section shall apply also to any solid fuel derived from coal or of which coal or coke is a constituent as if it were coke.

(5) (a) The provisions of this section shall come into operation on but not until such date as may be fixed by a resolution of the Council of which date public notice shall be given by the Council by advertisement in one or more local newspapers circulating in the county. Every such advertisement shall also state the effect of the provisions of this section and the date on which those provisions shall come into operation shall be not less than one month after the date of the publication of the advertisement or if the advertisement is published in more than one newspaper on different dates after the date of the first publication of the advertisement.

(b) A copy of the newspaper containing such advertisement shall be sufficient evidence of the publication of the advertisement.

55.—(1) In this section the expression “personal weighing machine” means any weighing machine which is used or exposed for use for the purpose of ascertaining the weight of a person—

- (a) for the use of which a charge is made; or
- (b) which is kept in any shop premises or place in the county to which the public have access.

(2) The owner or the person in charge of any personal weighing machine which is false or unjust shall be liable to a penalty not exceeding forty shillings or in the case of a second or any subsequent offence five pounds.

(3) A personal weighing machine shall not be used or exposed for use unless it has been examined and approved by an inspector of weights and measures of the Council and has been marked with a distinguishing mark by such inspector and after the expiration of twelve months from the coming into operation of this section every person who has in his possession or under his control any personal weighing machine which is not so marked shall be liable to a penalty not exceeding forty shillings or in the case of a second or subsequent offence five pounds and the machine shall be liable to be forfeited:

Provided that the provisions of this subsection shall not apply to a personal weighing machine in the possession or under the control of a travelling showman and used or exposed for use by him at a pleasure fair if at any time within the three months preceding such use or exposure for use such weighing machine has been examined and approved and marked by an inspector of weights and measures appointed by any local authority under the Weights and Measures Acts 1878 and 1889.

(4) If any person forges or counterfeits or removes any such distinguishing mark as is referred to in the last preceding subsection or knowingly exposes for use any personal weighing machine without any such mark or with such forged or counterfeit mark thereon he shall be liable to a penalty not exceeding five pounds and the machine shall be liable to be forfeited.

(5) (a) Any inspector of weights and measures of the Council may at all reasonable times inspect and examine any personal weighing machine in the county and may seize and detain any such machine which is liable to be forfeited under the provisions of this section and may for the purposes of such inspection and examination enter any place (whether open or closed) where there is reasonable cause to believe that there is a personal weighing machine which he is authorised to inspect and examine.

(b) Any person who neglects or refuses to produce for such inspection any personal weighing machine in his possession or on his premises or refuses to permit any such inspector of weights and measures to examine the same or obstructs the entry of such inspector or otherwise obstructs or hinders him from acting under this section shall be liable to a penalty not exceeding five pounds or in the case of a second or any subsequent offence ten pounds.

(6) The Council may make byelaws—

(a) generally with respect to the examination and inspection of personal weighing machines and the distinguishing marks to be fixed to personal weighing machines under this section and the circumstances and conditions under which such marks may be affixed or cancelled;

(b) with respect to the tests to be applied for the purpose of ascertaining the accuracy and efficiency of personal weighing machines;

(c) for fixing the fees to be paid to the Council for the examination approval and marking of personal weighing machines under this section or for the examination of such personal weighing machines as are found to be incorrect or defective;

(d) for fixing the limits of error to be allowed on examination and approval or on inspection and examination of any personal weighing machine under this section.

(7) (a) The provisions of this section other than subsection (6) thereof shall come into operation on but not until such date as may be fixed by a resolution of the Council of which date public notice shall be given by the Council by advertisement in one or more local newspapers circulating in the county. Every such advertisement shall also state the effect of the provisions of this section and the date specified therein as the date on which those provisions shall come into operation shall be not less than one month after the date of the publication of the advertisement or if the advertisement is published in more than one newspaper on different dates after the date of the first publication of the advertisement.

(b) A copy of a newspaper containing such advertisement shall be sufficient evidence of the publication of the advertisement.

(c) The provisions of subsection (6) of this section shall come into operation on the date of the passing of this Act.

(8) For the purpose of section 250 of the Act of 1933 the confirming authority as respects byelaws made under this section shall be the Board of Trade.

PART VI.

—cont.

Application
of certain
provisions of
Act in Batley
and Morley.

56.—(1) In the application to the borough of Morley or the borough of Batley of the provisions of section 54 (Sale of coke and solid fuel) and section 55 (Personal weighing machines) of this Act the said provisions shall be read and have effect as if references to the mayor aldermen and burgesses of the borough of Morley or the borough of Batley (as the case may be) were respectively substituted in those sections for the references therein to the Council and the powers conferred by the said sections shall not be exercisable by the Council within the borough of Morley or the borough of Batley.

II & 12 Geo. 5.
c. cxiii.

(2) Part XVI (Sale of coke) of the Batley Corporation Act 1921 shall be and is hereby repealed.

PART VII.

GENERAL.

As to appeals.

57.—(1) Any person aggrieved by any requirement refusal or other decision of the Council or a local authority or of any officer of the Council or a local authority under—

Section 9 (Carriage-crossings at ends of private streets);
or

Section 15 (Frontage line);

of this Act as applied (in the case of a local authority) by section 20 (As to exercise of certain provisions of Part III of Act with respect to claimed roads) of this Act may except when some other right of appeal is conferred by this Act appeal to a court of summary jurisdiction.

(2) The procedure upon any such appeal shall be by way of complaint for an order and the Summary Jurisdiction Acts shall apply to the proceedings.

(3) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the requirement refusal or decision was published or served upon the person desiring to appeal and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(4) In any case in which such an appeal lies the document notifying the requirement refusal or decision in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought unless these have been already stated in a notice to the person concerned informing him of his right to a hearing before the Council or the local authority (as the case may be) with regard to the same matter.

(5) Where a person aggrieved by any order determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal

to a court of quarter sessions he may except where otherwise expressly provided appeal to such a court.

(6) Where any requirement refusal order determination or other decision against which a right of appeal is conferred by this Act involves the execution of any work or the taking of any action—

(a) no proceedings in respect of any failure to execute the work or take the action shall be taken; and

(b) the Council or the local authority (as the case may be) shall not execute such work or take such action; until the time for appealing has expired or when an appeal is lodged until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(7) Where upon an appeal under this Act a court varies or reverses any requirement refusal or other decision of the Council or of a local authority (as the case may be) effect shall be given to the order of the court and in particular any necessary consent or other document shall be granted or issued.

58. Where under any enactment the Council give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the work or the doing of the act or thing without the required consent.

Breach of conditions of consent.

59. Whenever the Council or any of their officers under any enactment execute re-execute or alter any work or do any act or thing in default of the owner occupier or other person required to execute re-execute or alter such work or do such act or thing the Council or their officer shall not as between themselves and such owner occupier or other person in the absence of any negligence on their part or the part of any contractor or other person employed by them or him be liable to pay any damages penalties costs charges or expenses for or in respect of or consequent upon the executing re-executing or altering of such work or the doing of such act or thing and any such damages penalties costs charges or expenses paid by the Council in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such owner occupier or other person and shall be recoverable accordingly.

In executing works for owner Council liable for negligence only.

60. The sections of the Public Health Act 1936 hereinafter mentioned shall have effect as if they were re-enacted in this Act and in terms made applicable thereto and as if the expression "local authority" included the Council:—

Application of provisions of Public Health Act 1936.

Section 283 (Notices to be in writing; forms of notices &c.);

PART VII.
—cont.

- Section 284 (Authentication of documents);
Section 285 (Service of notices &c.);
Section 286 (Proof of resolutions &c.);
Section 293 (Recovery of expenses &c.);
Section 296 (Summary proceedings for offences);
Section 297 (Continuing offences and penalties);
Section 299 (Inclusion of several sums in one complaint &c.);
Section 304 (Judges and justices not to be disqualified by liability to rates);
Section 305 (Protection of members and officers of certain local authorities from personal liability); and
Section 328 (Powers of Act to be cumulative).

Damages and charges to be settled by court.

61. Where any damages expenses or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Act mentioned the amount of such damages expenses or charges in case of dispute respecting the same may be settled and determined by the court before whom any offender is convicted.

Inquiries.

62. The Minister and the Minister of Transport may hold such inquiries as the Minister or the Minister of Transport (as the case may be) may consider necessary in regard to the exercise of any powers conferred upon him or the giving of consents under this Act and section 290 of the Act of 1933 shall apply accordingly.

Saving for town and country planning.

63. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Costs of Act.

64. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the county fund or out of moneys to be borrowed for that purpose under this Act.

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