

ELIZABETH II



1970 CHAPTER lxxiv

An Act to confer further powers upon the mayor, aldermen and burgesses of the county borough of Southend-on-Sea; to make further provision with regard to highways and finance; and for other purposes. [17th December 1970]

WHEREAS—

(1) The borough of Southend-on-Sea (hereinafter referred to as “the borough”) is a county borough under the government of the mayor, aldermen and burgesses of the borough:

(2) It is expedient to make further provision with reference to highways and finance:

(3) It is expedient that the other provisions contained in this Act be enacted:

(4) The purposes of this Act cannot be effected without the authority of Parliament:

(5) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have 1933 c. 51. been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen'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:—

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Act may be cited as the Southend-on-Sea Corporation Act 1970.

(2) The Southend-on-Sea Corporation Acts 1875 to 1960 and this Act may be cited jointly as the Southend-on-Sea Corporation Acts 1875 to 1970.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Highways.

Part III.—Finance and superannuation.

Part IV.—Miscellaneous.

Part V.—General.

Interpretation.

3.—(1) In this Act the several words and expressions to which meanings are assigned by section 343 of the Act of 1936 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—

1933 c. 51.

“ the Act of 1933 ” means the Local Government Act 1933;

1936 c. 49.

“ the Act of 1936 ” means the Public Health Act 1936;

1937 c. 68.

“ the Act of 1937 ” means the Local Government Superannuation Act 1937;

1947 c. xxxiii.

“ the Act of 1947 ” means the Southend-on-Sea Corporation Act 1947;

1960 c. xliv.

“ the Act of 1960 ” means the Southend-on-Sea Corporation Act 1960;

1961 c. 62.

“ the Act of 1961 ” means the Trustee Investments Act 1961;

“ the borough ” means the county borough of Southend-on-Sea;

“ the Corporation ” means the mayor, aldermen and burgesses of the borough;

“ the council ” means the council of the borough;

“ enactment ” includes an enactment in this Act or in any general or local Act and any order, byelaw, scheme or regulation for the time being in force within the borough;

“ financial year ” means a period of twelve months ending on the 31st March;

- “ the fund ” means the superannuation fund maintained by the Corporation under Part I of the Act of 1937; PART I
—cont.
- “ gross rate income ” means the gross rate income as used in the determination of the product of a rate of one penny in the pound under rules made pursuant to section 113 of the General Rate Act 1967; 1967 c. 9.
- “ magistrates’ court ” has the same meaning as in the Magistrates’ Courts Act 1952; 1952 c. 55.
- “ public service vehicle ” has the same meaning as in section 117 of the Road Traffic Act 1960; 1960 c. 16.
- “ revenues ” has the same meaning as in section 218 of the Act of 1933;
- “ signature ” includes a facsimile of a signature by whatever process reproduced;
- “ the town clerk ” and “ the treasurer ” mean respectively the town clerk and the treasurer of the borough.

(3) Except where the context otherwise requires any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment including this Act.

PART II

HIGHWAYS

4. Section 73 (Damage to plants trees etc. on highways and in open spaces) of the Act of 1960 is hereby amended as follows:— Prohibition
of depositing
materials on
maintained
verges.

(1) for subsection (1) there shall be substituted the following subsection:—

“ (1) No person (except in the execution of some act which he has lawful authority to perform) shall—

(a) on any highway or in any open space to which the public have access within the borough—

(i) in the case of a maintained ornamental verge deposit or leave thereon materials which, or the depositing or leaving thereon of which, are or is likely to cause damage thereto; or

(ii) pluck any bud, blossom, flower, fruit or leaf of any tree, shrub or plant or remove, cut or displace any plant if the tree, shrub or plant has been planted or maintained by the person having control of the highway or open space for the purpose of improving the amenities thereof;

PART II
—cont.

(b) in any such open space cut any turf or deposit or leave thereon materials which, or the depositing or leaving thereon of which, are or is likely to cause damage thereto:

Provided that paragraph (a) of this subsection shall not apply except where a notice stating the effect of that paragraph is conspicuously placed within reasonable proximity of the verge, tree, shrub or plant.”;

(2) in subsection (2) for the words “forty shillings” there shall be substituted the words “five pounds”.

Control of
goods service
areas.

5.—(1) The council may by order made for the purposes of this section designate land, being land in the borough to which this section applies, as a service area:

Provided that—

(a) land shall not be so designated unless it is expedient to do so to prevent or reduce traffic congestion in a street in the borough caused by the loading or unloading of vehicles standing on any such street;

(b) the land shall not be so designated unless either—

(i) it belongs to the Corporation; or

(ii) it has been provided as an area for the loading or unloading of vehicles pursuant to planning permission;

(c) where the land is in the curtilage of premises and used in connection with only one shop, the order shall relate only to such part of the land as is required for loading or unloading vehicles, including obtaining access to or egress from the point at which vehicles are loaded or unloaded for the purpose of the business conducted at those premises.

(2) No person shall cause or permit any vehicle to wait on a service area designated under this section between the hours of 8 o'clock in the morning and 6 o'clock in the afternoon on a weekday otherwise than for the loading or unloading of that vehicle.

(3) This section applies to such part of any land, within the curtilage or vicinity of shop premises, as is used or intended to be used as a place where vehicles may wait for the loading or unloading of goods and includes a roadway not being a public highway.

(4) This section shall not apply to any property belonging to and used by the British Railways Board for their purposes.

(5) Nothing in this section shall apply to any vehicle being used by the Central Electricity Generating Board or the Eastern Electricity Board for or in connection with the placing, inspecting, repairing, maintaining, renewing or removing of any apparatus in or adjoining land designated as a service area under this section in circumstances where it is necessary that such vehicle shall wait for that purpose on land so designated.

(6) If any person contravenes the provisions of subsection (2) of this section he shall be liable, in the case of a first offence, to a fine not exceeding twenty pounds, and, in the case of a second or subsequent conviction, to a fine not exceeding fifty pounds.

(7) (a) If the council consider that an order should be made under this section they shall serve a draft thereof on the owner and occupier of the land and give notice to him that objections to the draft order may be made in writing within one month after the date of service of the notice.

(b) The council shall consider all such objections and shall afford to any owner or occupier who has made objection an opportunity of being heard by a committee of the council before the order is made.

(8) (a) After considering any objections duly made under the last foregoing subsection the council may make an order in the terms of the draft or in those terms as modified in such manner as the council, having considered any such objections, think fit.

(b) Any such order shall come into operation at the expiration of the period of one month after the service of the notice in pursuance of subsection (9) of this section or if an appeal is lodged when the appeal is disposed of or withdrawn or fails for want of prosecution and shall have effect for such period not exceeding five years as the council may determine but without prejudice to their power to make a further order in the same manner as the original order.

(9) When an order has been made by the council under this section they shall give notice thereof and of the right to appeal to the owner and occupier of the land and any such owner or occupier who is aggrieved by the order may appeal to a magistrates' court.

(10) In this section "shop premises" has the meaning assigned to it by section 1 of the Offices, Shops and Railway Premises Act 1963 and for the purposes of subsection (2) of this section the reference therein to loading or unloading of a vehicle shall include the carrying out of any operation which is required on the occasion of any such loading or unloading for compliance with the need for hygiene in connection with the sale of food to the public. 1963 c. 41.

PART III

FINANCE AND SUPERANNUATION

Power to
borrow.

6.—(1) The Corporation may borrow—

- (a) such sums as may be necessary for any of the purposes of this Act;
- (b) without the consent of any sanctioning authority, such sums as may be necessary for paying the costs, charges and expenses of this Act;

and, subject to the provisions of this section, Part IX of the Act of 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

(2) The Corporation shall repay sums borrowed under paragraph (b) of the foregoing subsection within five years from the date of borrowing.

(3) It shall not be lawful to exercise the powers of borrowing conferred by paragraph (a) of subsection (1) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

1946 c. 58.

Power to
Corporation
to raise
money by
issue of bills.

7. In addition to the modes of borrowing prescribed by the Act of 1933, the Corporation may raise money—

- (1) for any purpose for which the Corporation are authorised to borrow;
- (2) in anticipation of the receipt of revenues, for any purpose for which the revenues of the Corporation may properly be applied;

by means of bills (to be called “Southend-on-Sea Corporation bills” and in this section referred to collectively as “bills” and separately as a “bill”), subject to and in accordance with the following provisions:—

- (a) A bill shall be in the form prescribed by regulations made under this section and shall be for the payment of the sum named therein in the manner and at the date therein mentioned, being a date not more than twelve months from the date of the bill:
- (b) A bill shall entitle the holder thereof to payment at maturity of the sum expressed in the bill to be payable:
- (c) Bills may be offered for purchase (whether by tender or otherwise) in such manner and on such conditions as the Corporation may determine:

- (d) Bills shall be issued under the authority of a resolution passed by the council and shall bear the signature of the treasurer or of some other person authorised by the council:
- (e) The Corporation may make regulations providing for—
- (i) the preparation and form and the mode of issue, payment and cancellation of bills;
 - (ii) the issue of a new bill in lieu of one defaced, lost or destroyed;
 - (iii) the prevention, by the use of counterfoils or of a special description of paper or otherwise, of fraud in relation to bills;
 - (iv) the giving of a proper discharge on the payment of a bill:
- (f) The amount of money received in respect of a bill shall be deemed to be principal money raised by means of the bill and the difference between the amount payable in respect of a bill and the amount received in respect thereof shall be deemed to be interest on the principal money so raised:
- (g) The aggregate amount payable on bills current at any one time shall not (except by the amount payable on bills issued shortly before any other bills fall due in order to pay off the last-mentioned bills) exceed—
- (i) the sum of one million two hundred and fifty thousand pounds; or
 - (ii) one-fifth of the amount of the estimated gross rate income of the borough during the then current financial year;
- whichever is the greater:
- (h) Subject to the provisions of the last preceding paragraph the Corporation may renew a bill at maturity:
- (i) The Corporation may borrow for the purpose of repaying the principal money raised by bills but except as aforesaid any power of the Corporation to borrow shall be suspended to the extent of the amount which has been raised for capital purposes by the issue of bills.

PART III
—cont.

8. In addition to any other method by which the Corporation may raise any money which they are authorised to borrow, they may, with the consent of the Treasury and subject to such conditions as the Treasury may impose, raise the money by means of the issue of bearer bonds or other securities to bearer.

Power to raise money by issue of bearer bonds.

PART III
—cont.Power to
raise money
abroad.

9.—(1) Any method by which the Corporation are empowered by any enactment to raise any money which they are authorised to borrow shall, notwithstanding anything in such enactment, be deemed to include the raising of money by that method outside the United Kingdom or in any foreign currency.

(2) (a) The powers conferred by the foregoing subsection shall not be exercised except with the consent of the Treasury and subject to such conditions as the Treasury may impose.

(b) The enactments empowering the Corporation to raise money shall have effect in relation to a transaction authorised by this section for the raising of money in a foreign currency as if for any reference in those enactments to sterling there were substituted a reference to the foreign currency and for any reference therein to a sum expressed in terms of sterling there were substituted a reference to an equivalent sum expressed in terms of the foreign currency (adjusted where necessary to produce an amount which the Corporation consider appropriate having regard to all the circumstances of the transaction) at the rate of exchange current at the time when the transaction takes place.

Saving for
Exchange
Control Act
1947.

1947 c. 14.

Amendment
of power to
issue bonds.
1963 c. 46.

10. Nothing in the last two foregoing sections of this Act shall be taken as exempting the Corporation from the provisions of the Exchange Control Act 1947.

11.—(1) Section 7 of the Local Government (Financial Provisions) Act 1963 and Schedule 1 to that Act in their application to the Corporation shall have effect as if the following provisions were substituted for paragraph 1 in that schedule:—

“ 1.—(a) Subject to the provisions of sub-paragraph (b) of this paragraph bonds issued under this Act shall—

- (i) bear interest at such rate as the local authority may determine at the time of the issue of the bonds;
- (ii) be issued for such period as the local authority may determine being not less than a period of one year.

(b) For the purposes of sub-paragraph (a) of this paragraph—

- (i) bonds issued to and held continuously by building societies and persons and bodies of such other classes as the local authority may, with the consent of the Treasury, from time to time determine shall not be deemed to have been issued for a period of less than one year by reason only of the fact that the holder of such a bond has the right to claim pre-mature repayment under a stress clause;

- (ii) a bond shall not be deemed to have been issued for a period of less than one year by reason only of the fact that it is issued on the condition that it may at the discretion of the local authority be repaid upon the death of the holder or in any other case for the purpose of relieving hardship to the holder.”

PART III
—cont.

(2) Section 160 (Power to borrow by issue of bonds) of the Act of 1947 is hereby repealed.

12.—(1) Section 68 (Investment of superannuation fund) of the Act of 1960 shall have effect as if—

Investment
of super-
annuation
fund.

- (a) the following paragraph were substituted for paragraph (a) of subsection (1):—

“ (a) in or upon any investments for the time being authorised by law for the investment of trust funds; or ”;

- (b) the following paragraphs were substituted for paragraphs (e), (f) and (g) of subsection (1):—

“ (e) in or upon any of the stocks, funds or securities of the government of any foreign country or state; or

(f) in or upon the bonds, debentures, debenture stock, convertible debenture stock, obligations or securities of any company incorporated under any general or special Act of the United Kingdom Parliament or under any royal charter or registered or incorporated in any part of the world; or

(g) in or upon any guaranteed, preference or ordinary stock or shares or any preferred or deferred or other stock or shares of any company incorporated under any general or special Act of the United Kingdom Parliament or under any royal charter or registered or incorporated in any part of the world, being stock or shares which at the time of making the investment are quoted on any recognised stock exchange or similar institution; or

(h) in the purchase, whether alone or jointly or in common with any other person, of immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands, or of any share or interest in such immovable property, including any interest in such immovable property comprised in a building agreement providing for the grant of a lease of such property contingent on the erection or completion of the building specified in such agreement; or

PART III
—cont.

(i) in the advance of money upon the security of—

(i) immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands; or

(ii) any legal estate or interest in immovable property comprised in a building agreement as specified in paragraph (h) of this subsection;

and in any such case whether the security be taken by a separate and distinct mortgage or security made exclusively to the Corporation, or by a mortgage or security made jointly to the Corporation and any other person; or

(j) in undertaking or financing whether alone or jointly with any other person—

(i) the erection of a new building or the improvement or extension of an existing building; or

(ii) building operations or other development;

on land outside the borough—

(A) belonging to the Corporation or to any other person; or

(B) which is, or will be, held jointly by the Corporation and any other person; or

(k) upon the security of freehold or leasehold ground rents, land charges or rentcharges ”;

(c) in the proviso to subsection (1)—

(i) for the words “ paragraph (e) ” in both places where they occur there were substituted the words “ paragraph (g) ”;

(ii) for the words “ following qualifications ” there were substituted the words “ qualification that ”;

(iii) paragraphs (i) and (iii) were omitted; and

(iv) in paragraph (ii) for the word “ one-half ” there were substituted the words “ seventy-five per centum ”;

(d) after the proviso to subsection (1) there were added the following:—

“ Provided further that so long as the value of all the investments made under paragraph (h) and paragraph (j) of this subsection which form part of the fund is equal to or greater than one-quarter of the value of all the investments made under the said paragraph (g) which form part of the fund, no further investment shall be made under the said paragraph (h) or the said paragraph (j). ”;

(e) the following subsections were inserted after subsection (2):—

PART III
—cont.

“(2A) For the purposes of the foregoing provisions of this section an investment in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme established in the United Kingdom or elsewhere having the effect of enabling persons to participate in the profits and income arising from the acquisition, holding, management or disposal of such securities or of such property or interest in property as are specified in subsection (1) of this section shall be regarded as an investment in the securities or property in question.

(2B) All costs, charges and expenses incurred by the Corporation in investing moneys forming part of the fund or otherwise in relation thereto shall be paid by the Corporation out of the fund ”;

(f) the following subsection were substituted for subsection (3):—

“(3) In this section—

‘ participation certificate ’ means any document conferring upon the holder the right to participate in (or constituting evidence of the right of the holder to participate in) the profits or income arising from the acquisition, holding, management or disposal of a particular investment specified or described in the document;

‘ quoted on any recognised stock exchange or similar institution ’ in its application to stock or shares not registered in the United Kingdom means, in relation to a security, that the security has been granted an official quotation or is listed on a recognised security market or that dealing prices on such a market in respect of that security are published not less frequently than once a week;

‘ recognised security market ’ in its application to stock or shares not registered in the United Kingdom means a stock exchange, an association of stock and share dealers or an over-the-counter market recognised as a market or association in which dealings in the country concerned normally take place;

PART III
—cont.

1958 c. 45.

‘ recognised stock exchange ’ in its application to the United Kingdom means any body of persons which is for the time being a recognised stock exchange for the purposes of the Prevention of Fraud (Investments) Act 1958;

‘ securities ’ includes shares, debentures, treasury bills and tax reserve certificates;

‘ unit trust scheme ’ has the meaning assigned thereto by subsection (1) of section 26 of the Prevention of Fraud (Investments) Act 1958 ”.

(2) Accordingly section 68 (Investment of superannuation fund) of the Act of 1960 shall have effect as set out in Schedule 1 to this Act.

Power to Corporation to lend money to local authorities, etc.

13.—(1) The Corporation may lend to any local authority, upon such terms and conditions as may be agreed, such money as the Corporation think fit to lend and as the local authority are authorised to borrow for the purpose for which such money is proposed to be borrowed:

Provided that the powers of this subsection shall not be exercised unless—

(a) the local authority borrowing from the Corporation is either—

(i) an authority of which the Corporation is a constituent member; or

(ii) an authority to which the council appoint representatives; or

(iii) a member authority of a consortium of which the Corporation is also a member; or

(b) the sum lent by the Corporation is part of a larger sum borrowed by the Corporation by way of a stock issue, bond issue, foreign loan or issue of bills for their own needs and for the needs of another local authority seeking to raise money by the same means.

(2) Any sum borrowed by the Corporation for the purpose of this section shall be repaid within a period to expire not more than one year after that for which the same was lent by them to the local authority.

(3) Where any sum is borrowed by the Corporation for the purposes of this section it shall be lawful for the Corporation for

such periods as they may think fit to suspend any annual provision required to be made by virtue of any enactment for the time being in force for the repayment of the sum borrowed.

PART III
—cont.

(4) The Corporation shall be entitled to charge such rate of interest in respect of any particular loan under this section as may be agreed between the Corporation and the borrower:

Provided that the Corporation shall ensure so far as it is reasonably practicable to do so that having regard to all the circumstances existing at the time the loan is made the rate of interest agreed is such that no loss is incurred by the Corporation in respect of the loan.

(5) In this section “local authority” means the council of a county, county borough or county district and any other authority being a local authority as defined by section 34 of the Local Loans Act 1875, and includes any joint board if all the constituent authorities are such local authorities as aforesaid. 1875 c. 83.

14.—(1) Where the Corporation in the interests of efficiency terminate the employment of a contributor, who has attained the age of fifty-five years and completed ten years’ service, before he has attained the age of sixty-five years he shall be entitled to superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment: Benefits in certain cases of premature retirement.

Provided that this subsection shall not apply to a contributor if not later than one month after ceasing to hold his employment he notifies the Corporation in writing that he does not wish this subsection to apply to him.

(2) Where a contributor who has attained the age of fifty-five years and completed twenty-five years’ service, but has not attained pensionable age, terminates his employment at his own request, then superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment shall be payable in lieu of any entitlement to a return of contributions under section 10 of the Act of 1937:

Provided that—

- (i) where a person has become entitled to a superannuation benefit by virtue of this subsection he may, by notice given to the Corporation in writing at any time before any payment on account of such benefit has been made to him, elect that this subsection and any rights to which he is entitled thereunder shall cease to apply in relation to him as from the date on which such notice is given;

PART III
—cont.

(ii) unless the Corporation otherwise determine on compassionate grounds, no benefit shall be paid to a person by virtue of this subsection before the date on which he attains pensionable age.

(3) Where a person, who has become entitled to a superannuation benefit by virtue of subsection (2) of this section, dies before any payment on account of such benefit has been made to him, as from the date of his death the like benefits shall be payable in respect of him as would have been paid if he had died on the last day of his employment as a contributor.

(4) For the avoidance of doubt it is hereby declared that where a person is for the time being entitled to any benefit by virtue of subsection (2) of this section, that benefit shall be deemed to be a superannuation benefit for the purpose of the definition of “service” in subsection (1) of section 40 of the Act of 1937 whether or not any payment has been made to him on account thereof.

1953 c. 25. (5) For the purposes of section 16 of the Local Government Superannuation Act 1953 and of any rules made thereunder, a person entitled to a superannuation benefit by virtue of subsection (2) of this section shall be deemed to cease to hold his employment on the day immediately preceding the day on which that benefit first becomes payable to him and a superannuation benefit as aforesaid shall be deemed to be such a superannuation allowance or benefit as is referred to in subsection (1) of the said section 16.

(6) In this section—

“pensionable age” in relation to any person means the earliest age at which, if he were to remain a contributor without a break of service, he would, on ceasing to hold his employment, become entitled to superannuation benefit by reason of having, otherwise than under this section, attained such age and completed such period of service as is prescribed in the principal Acts or the regulations made thereunder or (as the case may be) in the corresponding provisions of any local Act or scheme or local Act scheme;

“the principal Acts” means the Local Government Superannuation Acts 1937 to 1953;

“superannuation benefit” includes any benefit which is or may be granted in pursuance of the principal Acts or the regulations made thereunder or in pursuance of any local Act or scheme or local Act scheme.

PART IV

MISCELLANEOUS

15.—(1) As from the appointed day there shall not be displayed on any private hire-car in the borough any sign or notice—

Misleading
signs on
motor
vehicles.

(a) which consists of or includes the word “ taxi ” or “ cab ”, whether in the singular or plural and whether alone or as part of another word; or

(b) which consists of the words “ for hire ”, or the form or wording of which is in any other way such as to suggest that the vehicle on which it is displayed is presently available to take up any passenger wishing to hire it, or would be so available if not already hired.

(2) As from the appointed day no advertisement—

(a) indicating that motor vehicles can be hired on application to a specified address or telephone number being the address or telephone number of premises in the borough; or

(b) on or near any such premises indicating that motor vehicles can be hired at those premises;

shall include the word “ taxi ” or “ cab ”, whether in the singular or plural and whether alone or as part of another word, unless the vehicles offered for hire are licensed cabs or the advertisement makes it clear that they are not.

(3) As from the appointed day any person who—

(a) drives a vehicle in respect of which subsection (1) of this section is contravened or causes or permits that subsection to be contravened in respect of any vehicle; or

(b) subject to subsection (4) of this section, issues, or causes to be issued, an advertisement which contravenes subsection (2) of this section;

shall be guilty of an offence and liable on summary conviction, in the case of a first offence under the paragraph of this subsection in question, to a fine not exceeding twenty pounds and, in the case of a second or subsequent offence under that paragraph, to a fine not exceeding fifty pounds.

(4) When a person is charged with an offence under paragraph (b) of subsection (3) of this section, it shall be a defence to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement in question for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under that paragraph.

PART IV
—cont.

(5) In this section—

“advertisement” includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or a cinematograph film, or by way of sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly;

“private hire-car” means a motor vehicle, other than a licensed cab or public service vehicle, which is used for the purpose of carrying passengers for hire or reward;

“licensed cab” means a vehicle licensed under section 37 of the Town Police Clauses Act 1847.

1847 c. 89.

(6) (a) In this section “the appointed day” means such day as may be fixed by resolution of the council subject to and in accordance with the provisions of this section.

(b) Different days may be fixed under this section for its several purposes.

(c) The Corporation shall cause to be published in a local newspaper circulating in the borough notice—

(i) of the passing of any such resolution and of the day fixed thereby; and

(ii) of the general effect of the provisions of this section coming into operation as from that day;

and the day so fixed shall not be earlier than the expiration of one month from the date of publication of the said notice.

(d) Either—

(i) a copy of any such newspaper containing any such notice; or

(ii) a photostatic or other reproduction certified by the town clerk to be a true reproduction of a page, or part of a page, of any such newspaper bearing the date of its publication and containing any such notice;

shall be evidence of the publication of the notice and of the date of the publication.

Inspection
and
certification
of taximeters.

16.—(1) The Corporation may require any taximeter or other similar apparatus used or intended to be used on any hackney carriage regularly plying for hire within the borough to be tested and inspected and they may also require any taximeter or other similar apparatus to be re-tested and re-inspected at such reasonable intervals of time as the Corporation may prescribe and no such taximeter or other similar apparatus shall be used or be continued in use unless the same be certified to register correctly and the expenses of such testing and certificate not exceeding one pound in any one year shall be borne by the owner of the hackney carriage.

(2) The Corporation shall issue a certificate in respect of any taximeter found by them to register correctly and such certificate shall be dated with the date upon which such taximeter was last tested and inspected.

(3) Any person using a taximeter or other similar apparatus which is not so certified or failing to submit the same for testing and inspection at such reasonable intervals of time as aforesaid shall be liable to a fine not exceeding ten pounds.

(4) The Secretary of State may make an order by statutory instrument to vary the sum specified by subsection (1) of this section.

(5) An order made under the last foregoing subsection may be revoked or varied by a subsequent order made in like manner.

(6) Any statutory instrument containing an order under subsection (4) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

17. The cost not exceeding two pounds per inspection incurred by the Corporation in carrying out inspections of vehicles for the purpose of determining whether hackney carriage licences should be granted therefor shall if the council so resolve be recoverable from the proprietors thereof. Recovery of cost of vehicle inspections.

18. The provisions of the Town Police Clauses Act 1847 and of section 171 of the Public Health Act 1875 shall extend to empower the Corporation to make byelaws for declaring that to the extent determined by such byelaws those provisions, the provisions of the last two foregoing sections and the byelaws of the Corporation in force with respect to hackney carriages shall apply to any motor vehicle, notwithstanding that it is not a hackney carriage, which is offered or let for hire with the services of a driver and to such drivers: Provisions as to motor vehicles let for hire.
1847 c. 89.
1875 c. 55.

Provided that this section shall not apply to—

- (a) any such vehicle which is kept by any person in connection with any business carried on by such person as a funeral director or owner of funeral vehicles available for hire and used wholly or mainly in connection with such business; or
- (b) any vehicle which is kept and used ordinarily for the purpose of being let on hire by the day or for longer periods of hire; or
- (c) a public service vehicle; or
- (d) any vehicle belonging to or used by the British Railways Board for the purpose of carrying passengers and their luggage to or from any of that board's railway stations or railway premises;

or to the drivers or conductors of such vehicles:

PART IV
—cont.

Provided also that nothing in this section shall empower the Corporation to fix the site of the stand or starting place of any motor vehicle standing or plying for hire in any railway station, railway premises or in any yard belonging to the British Railways Board except with the consent of that board.

Golf courses.

19.—(1) The Corporation may within or outside the borough provide a golf course, and for that purpose may provide such buildings, and execute such works, as may be necessary or expedient.

(2) References in the following provisions of this section to a golf course provided under this section shall include references to any buildings provided, or works executed, under the foregoing subsection, and to anything with which any such golf course or building is equipped by virtue of section 271 of the Act of 1936 as applied by this Act.

(3) The Corporation may exercise the powers contained in subsection (2) of section 67 of the Act of 1947 (which relates to the use of certain land for sports and games, etc.) in relation to any golf course provided under this section as if the land upon which the golf course is provided were land to which that subsection applies.

(4) No power conferred upon the Corporation by this section shall be exercised in such a manner—

- (a) as to be at variance with an express trust subject to which land or a building is held, managed or controlled by the Corporation, without an order of the High Court, or of the Charity Commissioners, or of the Secretary of State, or, where the trust instrument reserves to the donor, or any other person, the power to vary the trust, without the consent of the donor or that other person; or
- (b) as to contravene a covenant or condition subject to which a gift or lease of land or a building has been accepted by, or granted to, the Corporation, without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

As to burial
grants,
licences and
certificates of
registration.

20.—(1) Notwithstanding anything in any enactment—

- (a) a grant of the exclusive right of burial in any part of a burial ground or cemetery maintainable by the Corporation; and
- (b) any licence granted by the Corporation;

may be given under the hand of the town clerk or his duly authorised deputy instead of under the common seal of the Corporation.

(2) For the purposes of—

- (a) subsection (1) of this section; and
- (b) any certificate of registration issued by the Corporation;

a grant, licence or certificate of registration shall be deemed to be given under the hand of the town clerk or his duly authorised deputy if his signature is affixed to such grant, licence or certificate.

21.—(1) The Corporation may for the purpose of enabling them to perform any of their functions under—

- (a) this Act;
- (b) any enactment in force at the passing of this Act which authorises the Corporation to acquire land compulsorily;
- (c) any enactment mentioned in Schedule 2 to this Act; and
- (d) any local enactment in force at the passing of this Act which authorises the Corporation to serve notice upon the owner or occupier of lands or premises requiring the execution by such owner or occupier of works on such lands or premises or which authorises the Corporation to execute works on lands or premises within the borough;

Power to
require
information as
to ownership
of premises.

require—

- (i) the occupier and any person having an interest in any premises in the borough, and any person who either directly or indirectly receives rent in respect of such premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest in those premises whether as freeholder, mortgagee, lessee or otherwise or the name and address of any person known to him to receive either directly or indirectly the rent in respect of those premises; and
- (ii) any person who has sold or otherwise disposed of, leased or let any premises in the borough to state in writing the name and address of the person to whom he has sold or otherwise disposed of, leased or let those premises.

(2) Any person who having been required by the Corporation in pursuance of this section to give to them any information fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding twenty pounds.

(3) For the purposes of this section the expression “interest” includes any legal estate or interest in the premises or in any rentcharge issuing out of those premises.

PART IV
—cont.

(4) The provisions of any of the enactments referred to in paragraph (b) of subsection (1) of this section which contain power to require information as to the ownership of premises shall cease to apply to the Corporation in so far as they relate to the same subject-matter as this section.

Microfilming
of documents.

22.—(1) The Corporation may make and retain microfilm recordings of documents of the Corporation.

(2) Notwithstanding anything contained in any enactment, the Corporation may destroy any documents of the Corporation, other than minute books, of which they have made and retained microfilm recordings:

Provided that—

(a) the Corporation shall not under this section destroy records deposited with them under the Public Records Act 1958, or acquired or accepted by them under section 2 of the Local Government (Records) Act 1962; and

(b) the Corporation shall afford a right of access for the public to a microfilm recording of a document which has been destroyed in pursuance of this section equal to the right of access, if any, of the public to the document so destroyed.

(3) An enlargement of a microfilm recording of a document made in pursuance of this section shall be deemed for all purposes to be a copy of that document.

(4) Notwithstanding anything contained in any enactment or any rule of law, an enlargement of a microfilm recording of a document which has been destroyed in pursuance of this section shall be receivable in evidence for any purpose for which the document would have been receivable in any proceedings in any court in England or Wales if the town clerk certifies that—

(a) the document has been destroyed; and

(b) a microfilm recording of the document has been made; and

(c) the enlargement is an enlargement of that microfilm recording.

(5) In this section unless the context otherwise requires—

(a) “document” means the whole or part of a register, book, map, plan or other document and includes a notice, licence, certificate, scheme or order made, passed or granted by the council or any committee of the council;

1958 c. 51.
1962 c. 56.

(b) “ microfilm recording ” means a reproduction of a document on film which is a product of photography or any process akin to photography and is in general beyond legibility with the naked eye.

PART IV
—cont.

23. At any time after a period of six years from the date of the receipt by the Corporation of an application made to the Corporation for a decision, determination, grant, consent, agreement, approval or permission, the Corporation may destroy any documents received by them in connection with the application: Destruction of documents connected with applications.

Provided that nothing in this section shall authorise the Corporation to destroy the application and a copy of any plan or plans approved by them in connection therewith, together with any related certificate, consent, permit or other document issued pursuant to any enactment.

24. For the avoidance of doubt it is hereby declared that the Corporation or their duly authorised officer may on being requested to do so produce, for inspection by any person who satisfies them or their duly authorised officer that he has a genuine interest therein, any plans or drawings which have been lodged or deposited with them in connection with any application made to the Corporation pursuant to any enactment for a decision, determination, grant, consent, agreement, approval or permission. Inspection of plans relating to applications.

PART V

GENERAL

25.—(1) Any Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act. Local inquiries.

(2) Subsections (2) to (5) of section 290 of the Act of 1933 shall apply in relation to any such inquiry; and for that purpose the definition of “ department ” in subsection (8) of that section shall include any Minister of the Crown having functions under this Act.

(3) In this section “ Minister of the Crown ” has the same meaning as in the Ministers of the Crown (Transfer of Functions) Act 1946. 1946 c. 31.

26. The written consent of the Attorney-General shall be requisite for the taking of proceedings in respect of an offence created by or under this Act by any person other than a party aggrieved or the Corporation. Restriction on right to prosecute.

27.—(1) Section 300 of the Act of 1936 shall apply to appeals to a magistrates’ court under this Act; and sections 301 and 302 of that Act shall apply accordingly. Appeals.

PART V
—cont.

(2) Where any requirement, refusal or other decision of the Corporation against which a right of appeal is conferred by this Act—

- (a) involves the execution of any work or the taking of any action; or
- (b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision, or to use premises for any purpose for which they were lawfully used up to that time;

then, until the time for appealing has expired, or, if an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution—

- (i) no proceedings shall be taken in respect of any failure to execute the work, or take the action, nor shall the Corporation themselves execute the work or take the action; and
- (ii) that person may carry on that business, and use those premises for that purpose.

Protection of members and officers of Corporation from personal liability.
1875 c. 55.

28. Section 265 of the Public Health Act 1875 shall apply to the Corporation as if any reference in that section to the said Act of 1875 included a reference to this Act and as if any reference in that section to a member of a local authority included a reference to a member of a committee of a local authority or a sub-committee of such a committee.

Application of general provisions of Act of 1936.

29.—(1) The sections of the Act of 1936 mentioned in Part I of Schedule 3 to this Act shall have effect as if references therein to that Act included references to this Act.

(2) The section of the Act of 1936 mentioned in Part II of the said schedule shall have effect as if references therein to that Act included a reference to section 5 (Control of goods service areas) of this Act.

Costs of Act.

30. All the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act shall be paid by the Corporation.

SCHEDULES

SCHEDULE 1

Section 12.

SECTION 68 (INVESTMENT OF SUPERANNUATION FUND) OF THE
ACT OF 1960 AS AMENDED

(1) In its application to the Corporation subsection (3) of section 21 of the Local Government Superannuation Act 1937 shall have effect as if for the obligation to invest as mentioned in that subsection moneys forming part of but not for the time being required to meet payments to be made out of the superannuation fund maintained by the Corporation under that Act there were substituted an obligation to invest such moneys as follows (namely):—

- (a) in or upon any investments for the time being authorised by law for the investment of trust funds; or
- (b) in or upon any of the stocks funds or securities of any dominion, commonwealth, union, dependency or colony forming part of the British Commonwealth of Nations or any province or state having a separate local legislature and forming part of any such dominion, commonwealth, union, dependency or colony; or
- (c) in or upon any of the stocks, bonds, mortgages or securities of any municipality or county or district council or local or public authority or board in the United Kingdom or in any such dominion, commonwealth, union, dependency, colony, province or state as aforesaid authorised under any general or special Act of the United Kingdom Parliament or of the legislature concerned to issue the same; or
- (d) in or upon any stocks, shares, bonds, mortgages or securities the capital whereof or a minimum rate of dividend or interest whereon is guaranteed by the United Kingdom Government or by the government of any such dominion, commonwealth, union, dependency, colony, province or state as aforesaid; or
- (e) in or upon any of the stocks, funds or securities of the government of any foreign country or state; or
- (f) in or upon the bonds, debentures, debenture stock, convertible debenture stock, obligations or securities of any company incorporated under any general or special Act of the United Kingdom Parliament or under any royal charter or registered or incorporated in any part of the world; or
- (g) in or upon any guaranteed, preference or ordinary stock or shares or any preferred or deferred or other stock or shares of any company incorporated under any general or special Act of the United Kingdom Parliament or under any royal charter or registered or incorporated in any part of the world, being stock or shares which at the time of making the investment are quoted on any recognised stock exchange or similar institution; or

SCH 1.
—cont.

- (h) in the purchase, whether alone or jointly or in common with any other person, of immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands, or of any share or interest in such immovable property, including any interest in such immovable property comprised in a building agreement providing for the grant of a lease of such property contingent on the erection or completion of the building specified in such agreement; or
- (i) in the advance of money upon the security of—
- (i) immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands; or
- (ii) any legal estate or interest in immovable property comprised in a building agreement as specified in paragraph (h) of this subsection;
- and in any such case whether the security be taken by a separate and distinct mortgage or security made exclusively to the Corporation, or by a mortgage or security made jointly to the Corporation and any other person; or
- (j) in undertaking or financing whether alone or jointly with any other person—
- (i) the erection of a new building or the improvement or extension of an existing building; or
- (ii) building operations or other development;
- on land outside the borough—
- (A) belonging to the Corporation or to any other person; or
- (B) which is, or will be, held jointly by the Corporation and any other person; or
- (k) upon the security of freehold or leasehold ground rents, land charges or rentcharges;

with power of varying such investments from time to time by sale and reinvestment or otherwise:

Provided that the investment of such moneys as aforesaid in any investment of the nature specified in paragraph (g) of this subsection shall be subject to the qualification that no investment shall be made at any time when the value of all the investments made under the said paragraph (g) which form part of the superannuation fund equals or exceeds seventy-five per centum of the total value of the assets of that fund:

Provided further that so long as the value of all the investments made under paragraph (h) and paragraph (j) of this subsection which form part of the fund is equal to or greater than one-quarter of the value of all the investments made under the said paragraph (g) which form part of the fund, no further investment shall be made under the said paragraph (h) or the said paragraph (j).

(2) For the purposes of subsection (1) of this section the value of any investment of moneys forming part of the superannuation fund shall be treated as being the value of the investment at the time at which it was made.

SCH 1.
—cont.

(2A) For the purposes of the foregoing provisions of this section an investment in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme established in the United Kingdom or elsewhere having the effect of enabling persons to participate in the profits and income arising from the acquisition, holding, management or disposal of such securities or of such property or interest in property as are specified in subsection (1) of this section shall be regarded as an investment in the securities or property in question.

(2B) All costs, charges and expenses incurred by the Corporation in investing moneys forming part of the fund or otherwise in relation thereto shall be paid by the Corporation out of the fund.

(3) In this section—

“ participation certificate ” means any document conferring upon the holder the right to participate in (or constituting evidence of the right of the holder to participate in) the profits or income arising from the acquisition, holding, management or disposal of a particular investment specified or described in the document;

“ quoted on any recognised stock exchange or similar institution ” in its application to stock or shares not registered in the United Kingdom means, in relation to a security, that the security has been granted an official quotation or is listed on a recognised security market or that dealing prices on such a market in respect of that security are published not less frequently than once a week;

“ recognised security market ” in its application to stock or shares not registered in the United Kingdom means a stock exchange, an association of stock and share dealers or an over-the-counter market recognised as a market or association in which dealings in the country concerned normally take place;

“ recognised stock exchange ” in its application to the United Kingdom means any body of persons which is for the time being a recognised stock exchange for the purposes of the Prevention of Fraud (Investments) Act 1958;

1958 c. 45.

“ securities ” includes shares, debentures, treasury bills and tax reserve certificates;

“ unit trust scheme ” has the meaning assigned thereto by subsection (1) of section 26 of the Prevention of Fraud (Investments) Act 1958.

Section 21.

SCHEDULE 2

ENACTMENTS REFERRED TO IN SECTION 21 (1) (c) OF THIS ACT

1875 c. 55.	Public Health Act 1875.
1890 c. 59.	Public Health Acts Amendment Act 1890.
1907 c. 53.	Public Health Acts Amendment Act 1907.
1925 c. 71.	Public Health Act 1925.
1930 c. 44.	Land Drainage Act 1930.
1936 c. 49.	Public Health Act 1936.
1937 c. 40.	Public Health (Drainage of Trade Premises) Act 1937.
1950 c. 28.	Shops Act 1950.
1957 c. 56.	Housing Act 1957.
1959 c. 25.	Highways Act 1959.
1961 c. 34.	Factories Act 1961.
1961 c. 48.	Land Drainage Act 1961.
1961 c. 63.	Highways (Miscellaneous Provisions) Act 1961.
1961 c. 64.	Public Health Act 1961.
1961 c. 65.	Housing Act 1961.
1962 c. 38.	Town and Country Planning Act 1962.
1963 c. 41.	Offices, Shops and Railway Premises Act 1963.
1964 c. 56.	Housing Act 1964.
1968 c. 72.	Town and Country Planning Act 1968.
1969 c. 33.	Housing Act 1969.

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Southend-on-Sea Corporation Act 1970

CHAPTER lxxiv

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