Local Government Act 1929

1929 CHAPTER 17

PART III

ROADS AND TOWN PLANNING.

Roads.

29 County roads.

(1) The council of every county shall be the highway authority as respects every road in the county which at the appointed day is a main road, or which would, apart from this section, at any time thereafter have become a main road, and every such road and every other road as respects which a county council become by virtue of this Part of this Act the highway authority, shall be termed a county road, and all enactments relating to main roads shall as from the appointed day have effect as if for references therein to main roads there were substituted references to county roads.

(2) The council of every county shall, in relation to county roads in the county (not being roads with respect to which an urban district council have claimed or are deemed to have claimed to exercise the functions of maintenance and repair) have the like functions as with respect to main roads and all roads in relation to which they have those functions and the materials thereof and all drains belonging thereto shall vest in the county council, and where any other drain or any sewer is used for any purpose in connection with the drainage of any such road, the county council shall continue to have the right of using the drain or sewer for such purpose.

(3) , If any difference arises between the county council and any district council as respects the council in whom a drain is vested, or as to the use of any drain or sewer, the difference shall, if either council so require, be determined by the Minister.

(4) As from the appointed day, the council of every county shall exercise the functions of maintenance, repair and improvement of, or other dealing with, every bridge in the county repairable by the inhabitants at large which carries a county road, and section one hundred and nineteen of the Municipal Corporations Act, 1882 (which relates to the maintenance of borough bridges), shall cease to have effect as respects any

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bridge which carries a county road, and notwithstanding anything in subsection (2) of section thirty-five of the Local Government Act, 1888, no borough shall be exempt from contributing towards the costs incurred by a county council for the purpose of the maintenance, repair and improvement of, or other dealing with, bridges.

30 Transfer to county councils of functions with respect to highways in rural districts.

(1) As from the appointed day, every county council shall be the highway authority as respects such part of the county as is for the time being comprised in any rural district and as respects the highways therein, and as such shall have all such functions under the Highway Acts, 1835 to 1885, as were exercisable by rural district councils who by virtue of the Local Government Act, 1894, became successors of highway boards, and rural district councils shall cease to be highway authorities:

Provided that nothing in this section shall affect the functions of rural district councils under the Local Government Act, 1894, as respects rights of way and encroachments on roadside wastes, or any functions not being functions with respect to highways exercisable at the appointed day by rural district councils as successors to surveyors of highways or highway boards.

(2) As from the appointed day, a county council shall with respect to such part of the county as is for the time being comprised in any rural district have the functions of an urban district council or a local authority under the enactments mentioned in the first column of Parts I and II of the First Schedule to this Act, as amended by any subsequent enactment, subject however to such modifications as are mentioned in the second column of that Schedule; and those enactments shall apply accordingly.

(3) Functions under section one hundred and fifty of the Public Health Act, 1875, and under the enactments mentioned in the first column of Part I of the First Schedule to this Act shall as from the appointed day cease to be exercisable by rural district councils, and any rural district council who for the time being are invested with functions under any of the enactments mentioned in the first column of Part II of that Schedule shall not be entitled to exercise those functions except with the consent of the county council.

(4) Nothing in this section shall affect the right of any rural district council having such power to exercise the power of making byelaws under section one hundred and fifty-seven of the Public Health Act, 1875, with respect to the level, width and construction of new streets :

Provided that a rural district council before making any such byelaws shall consult with the county council, and if a rural district council do not within six months after a notice from the county council requiring them to do so exercise the power of making such byelaws, the county council may themselves exercise the power.

31 Transfer of classified roads in urban districts to county council.

(1) As from the appointed day, the county council shall be the highway authority as respects all classified roads which, immediately before the appointed day, were vested in the councils of urban districts within the county.

(2) When after the appointed day any road vested in an urban district council becomes a classified road, the county council shall thereupon become the highway authority as respects that road.

(3) It shall not be lawful for the Minister of Transport on or after the appointed day to make an order declaring that a road which is for the time being a classified road has ceased to be a county road.

(4) Section four of the Highways and Bridges Act, 1891, shall as from the appointed day cease to have effect so far as it provides that no order declaring that a county road within a municipal borough has ceased to be a county road and has become an ordinary road shall be made without the consent of the council of the borough having been first obtained; but before any such order is made by the Minister of Transport he shall consider any representation which the council of the borough may make with reference thereto and shall, if so requested by the council of the borough, hold a local inquiry.

(5) As from the appointed day, a county council shall, with respect to county roads, and roads which, when constructed, are intended to become county roads (not being roads with respect to which an urban district council have claimed or are deemed to have claimed to exercise the functions of maintenance and repair), have within an urban district in the county the functions of an urban district council or a local authority under the enactments mentioned in the first column of Parts III, IV and V of the First Schedule to this Act, as amended by any subsequent enactment, subject, however, to such modifications as are mentioned in the second column of that Schedule; and those enactments shall apply accordingly.

As respects such roads as aforesaid, functions under the enactments mentioned in the first column of Part III of the said Schedule shall, as from the appointed day, cease to be exercisable by an urban district council, and functions under the enactments mentioned in the first column of Parts IV and V of the said Schedule shall, as from the appointed day, be exercisable by the urban district council as well as by the county council; but as respects the functions mentioned in the first column of Part V of that Schedule, only with the consent of the county council.

(6) Where after the appointed day any area, being or forming part of a rural district, is by a provisional or other order constituted an urban district, the order may provide that any unclassified roads within that area shall continue to be county roads and where the order contains such a provision as respects any roads the order may provide for contributions being made by the urban district council to the county council towards the cost of the maintenance and repair of those roads of such amounts as may be agreed between the councils or, in default of agreement, determined by the Minister of Transport.

32 Rights of certain urban district councils to maintain county roads.

(1) Where an urban district has a population exceeding twenty thousand, the urban district council may claim to exercise the functions of maintenance and repair of any county road within their district, and if a claim is made within the time hereinafter limited, then, as from such date as is hereinafter mentioned, the urban district council shall be entitled to exercise those functions, and the road shall vest in that council, and for the purpose of the maintenance, repair and improvement of, and other dealing with, any such road, that council shall have the same functions as if they were as respects that road the highway authority and the road were an ordinary road vested in them.

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(2) Such claim as aforesaid must be made—

(a) in the case where the population of the urban district exceeds twenty thousand at the appointed day and the road is a road which will by virtue of the foregoing provisions of this Part of this Act become a county road on the appointed day, before the appointed day;

(b) in the case where the population of the urban district is found by the Registrar General's preliminary report on any census subsequent to the appointed day to exceed for the first time twenty thousand and the road is a county road at the date of the publication of the report, within twelve months after that date;

(c) in the case of any enactment adding an area to an existing urban district of which the population exceeds twenty thousand, within twelve months after the date when the enactment takes effect;

(d) in the case of any enactment constituting a new urban district or adding an area to an existing urban district, in consequence whereof the urban district becomes an urban district of which the population exceeds twenty thousand, within twelve months after the date when the enactment takes effect;

(e) in the case of any road which becomes a county road after the appointed day, or after the date mentioned in any of the last three foregoing paragraphs, as the case may require, within twelve months after the date when it so becomes a county road.

(3) The date as from which the right of maintenance and repair shall be exercisable shall—

(a) where the claim is made before the appointed day, be the appointed day;

(b) in any other case be the first day of April in the year following the calendar year in which the claim is made:

Provided that as respects any county roads which—

(a) may be declared by the Minister of Transport to be roads towards the construction or improvement of which by the county council advances have been made under the Development and Road Improvement Funds Act, 1909, as amended by any subsequent enactment, and to be roads the maintenance and repair of which should, having regard to the best means of promoting economy and efficiency in highway administration, remain vested in the county council; or

(b) being situate in a county within which at the commencement of this Act there was in force a local Act empowering urban district councils to relinquish any functions of maintenance and repair retained by them in pursuance of a claim made under subsection (2) of section eleven of the Local Government Act, 1888, are roads as respects which the urban district council were not exercising the functions of maintenance and repair at the commencement of this Act;

the date as from which the right of maintenance and repair claimed under this section shall be exercisable shall be deferred until such date as the Minister of Transport may by order determine, and every such order shall be laid before Parliament as soon as may be after it is made.

(4) Any urban district council for the time being so responsible for the maintenance and repair of any county road within their district may at any time, with the consent of the county council, relinquish their functions as regards the maintenance and repair of the county road, and as from the first day of April next after the date of relinquishment the county road and the functions of maintaining and repairing it shall vest in the

county council in like manner as if the urban district council had made no claim under subsection (1) of this section.

In the event of the county council withholding consent under this subsection, the urban district council may appeal to the Minister of Transport, who may make such order thereon as he thinks fit, and the order shall be binding on the county council and the urban district council.

(5) Where at the appointed day any urban district council are in pursuance of subsection (2) of section eleven of the Local Government Act, 1888, exercising the functions of maintaining and repairing any main road, then—

(a) if the population of the urban district exceeds twenty thousand at the appointed day the council thereof shall be deemed to have duly made a claim under this section as respects the road, unless before the appointed day they give to the county council notice in writing to the contrary;

(b) in any other case the right of the urban district council to maintain and repair the road shall as from the appointed day determine, and the road and the functions of maintaining and repairing it shall vest in the county council.

(6) For the purposes of this section—

(a) the expression "road" does not include county bridges; and

(b) the population of an urban district shall, subject as hereinafter provided, be ascertained according to the last census for the time being:

Provided that the population of an urban district at the appointed day shall be taken to be the estimated population of that district for the year nineteen hundred and twenty-eight.

33 Contributions by county councils to county roads maintained by urban district councils.

(1) Where an urban district council are in pursuance of the last foregoing section of this Act responsible for the maintenance and repair of a county road within their district, the county council shall—

(a) make annual payments (by quarterly instalments) towards the cost of the maintenance and repair of the road and any reasonable improvement connected with the maintenance and repair thereof, of such amount as may be determined in manner hereinafter provided; and

(b) contribute towards the expenses of any improvement of the road, not being expenses in connection with the maintenance and repair of the road, in any such case and to such extent, if any, as, failing agreement between the urban district council and the county council, may be determined by the Minister of Transport; and the Minister of Transport in making his determination shall have regard to the extent to which the improvement is required for the purposes of through traffic and local traffic respectively, and to the extent to which the improvement is of the nature of a town improvement,

(2) Every urban district council so responsible for the maintenance and repair of a county road shall, on or before the fifteenth day of December in each year, submit to the county council for their approval (which shall not be unreasonably withheld) a detailed estimate of the cost of maintenance and repair and reasonable improvement connected with the maintenance and repair of the road for the ensuing .financial year, and on such estimate being so approved, either with or without modifications, the amount

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to be paid by the county council under the last foregoing subsection in respect of such maintenance, repair and improvement shall be the amount of that estimate, or of that estimate as amended by any supplementary estimate submitted and approved as hereinafter provided, or such less sum as may have been actually expended thereon by the urban district council during the said financial year:

Provided that in no case shall a county council be liable to make a payment towards such costs until they are satisfied by a report of their surveyor or such other person as they may appoint for the purpose that the works of maintenance, repair or improvement are being or have been properly executed.

(3) The urban district council may at any time and from time to time submit a detailed supplementary estimate for the approval of the county council, which approval shall not be unreasonably withheld.

(4) Any question whether the approval of the county council has been unreasonably withheld, or whether any works of maintenance, repair or improvement are being or have been properly executed, or as to the liability of a county council to make a payment under this section shall be determined by the Minister of Transport.

34 Agreements between county councils and urban district councils with respect to unclassified roads.

As from the appointed day, a county council may by agreement with the council of any urban district within the county undertake, in consideration of such payments as may be agreed, the maintenance, repair and improvement of any unclassified road within the urban district, and any road with respect to which such an agreement is for the time being in force shall be vested in the county council, and that council and the urban district council, respectively, shall have in regard to it the same functions as they would have if it were a county road.

35 Delegation of road functions by county councils to district councils.

(1) The council of any district wholly or partly within a county may within three months after the commencement of this Act apply to the county council for the delegation to them as from the appointed day of the functions of the county council with respect to the maintenance, repair and improvement of, and other dealing with—
   (a) the whole of the unclassified roads, exclusive of county bridges, within the district or such part of the district as is within the county;
   (b) all or any of the classified roads, exclusive of county bridges, within the district or such part of the district as is within the county;
   (c) all or any of the county bridges within the district or such part of the district as is within the county.

(2) In so far as the application is in respect of unclassified roads, the county council shall grant the application unless they are satisfied that having regard to the best means of promoting economy and efficiency in highway administration throughout the county and to the particular circumstances of the district in respect of which the application is made the application ought not to be granted.

(3) In so far as the application is in respect of classified roads or county bridges, the county council shall have unfettered discretion whether or not to grant the application.

(4) Before the first day of October, nineteen hundred and twenty-nine, every county council shall prepare and submit to the Minister of Transport a statement specifying the applications made under this section and the council's decisions thereon, and in any case in which an application for the delegation of functions in respect of unclassified roads has been refused, the grounds on which the refusal was based and shall send to the council of every district who have made application under this section a copy of so much of the statement as affects the district, and the council of any district whose application for the delegation of functions relating to unclassified roads has not been granted by the county council may within one month after the receipt of such copy, or, if the county council have failed to comply with the provisions of this subsection, before the first day of November, nineteen hundred and twenty-nine, appeal to the Minister of Transport, who, if satisfied that the application should have been granted, may by order direct the county council to grant the application, and the county council shall comply with any direction so given.

(5) After the appointed day the council of any district wholly or partly within a county to whom any such functions as are mentioned in subsection (1) of this section are not for the time being delegated may apply to the county council for the delegation of those functions, and in the event of the county council refusing or failing within three months to grant the application so far as it relates to unclassified roads, the district council may within one month of such refusal or failure appeal to the Minister of Transport, who, if satisfied that the application should have been granted, may by order direct the county council to grant the application so far as it relates to unclassified roads; and the county council shall comply with any direction so given:

Provided that an application under this subsection shall not, without the consent of the Minister of Transport, be made except in the year nineteen hundred and thirty-four, the year nineteen hundred and thirty-nine or any succeeding year being the fifth year after the last year in which such an application might have been made.

(6) The council of any district wholly or partly within a county to whom any functions have been delegated under this section may, by giving notice in writing to the county council, relinquish those functions.

(7) The county council by whom any functions have been delegated to a district council under this section may, by giving notice in writing to the district council, determine the delegation:

Provided that, if and so far as the notice relates to unclassified roads, the district council shall be entitled within one month after receiving the notice, to appeal to the Minister of Transport who, if satisfied that the delegation of functions as respects unclassified roads should not be determined, may by order cancel the notice given by the county council.

(8) An application for the delegation of functions and a notice of the relinquishment of the delegation of functions or of the determination of the delegation of functions under the three last foregoing subsections of this section must be made before the first day of October in any year, and the delegation, relinquishment or determination shall take effect as from the first day of April in the next following year.

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36 Conditions and effect of delegation of functions.

(1) Where in pursuance of the last foregoing section functions are delegated to a district council, the district council, in the discharge of those functions, shall act as agents for the county council, and it shall be a condition of any such delegation—

(a) that the works to be executed and the expenditure to be incurred by the district council in the discharge of those functions shall be subject to the approval of the county council; and

(b) that the district council shall comply with any requirement of the county council as to the manner in which and the persons by whom any works are to be carried out and with any general directions of the county council as to the terms of contracts to be entered into for such purposes; and

(c) that the works shall be completed to the satisfaction of the county council;

and if at any time the county council are satisfied on the report of their surveyor or other person appointed for the purpose that any portion of a road with respect to which functions are so delegated is not in proper repair and condition, the county council may cause notice to be given to the district council requiring them to place the road in proper repair and condition, and if such notice is not complied with within a reasonable time, the county council may do anything that seems to them necessary to place the road in proper repair and condition.

(2) Where in pursuance of the foregoing section functions are delegated to a district council, then, so long as the, delegation is in force, the district council shall discharge as agents for the county council the functions of the county council within the district under the enactments mentioned in Part I or Part III of the First Schedule to this Act, as the case may require, except so far as those functions relate to roads with respect to which functions are not delegated to the district council:

Provided that—

(a) the county council may impose on the district council such conditions as they think fit with respect to any action to be taken by the district council in the discharge of such functions as aforesaid, and with respect to any work being completed to their satisfaction;

(b) if for the purpose of making any contribution towards the cost of private street works or for any other purpose in connection with such functions as aforesaid the district council desire to incur expenditure which in the opinion of the county council would not be properly chargeable as general county expenses, the district council shall have the same powers of raising money for the purposes of any such expenditure as they would have had if the functions under the said enactments had been directly vested in them;

(c) the surveyor of the district council shall be the surveyor for the purposes of the Private Street Works Act, 1892.

37 Amendment of law with respect to declaring roads to be county roads.

(1) The grounds on which an application by an urban district council can be made under section fifteen of the Highways and Locomotives (Amendment) Act, 1878, for an order declaring a road to be a county road shall include the ground that the road is a road situate in a part of the urban district which is of a rural character.

(2) If on an application made under section fifteen of the said Act a county council refuse to make an order declaring the highway which is the subject of the application to be a county road, or fail for a period of six months after the application to make such an

order, or if, having made such an order, the county council refuse or fail to confirm the order within six months of the making thereof, the applicant authority may appeal to the Minister of Transport who may, after considering any representations made by the county council, and, if the council so require, after holding a local inquiry, make an order declaring the highway to be a county road.

(3) An order of the Minister of Transport under this section shall have effect as if it were an order made and confirmed by the county council under the said section fifteen, and shall come into operation on such date as may be fixed by the order.

38 Saving as to highways repairable by persons other than highway authorities.

(1) Nothing in this Act with respect to main roads or county roads shall affect the liability of any person or body of persons to maintain and repair any highway or part of a highway not repairable by the inhabitants at .large, or, subject as hereinafter provided, affect any exemption from a highway rate granted under section thirty-three of the Highway Act, 1835, or under any other enactment, as continued by any scheme in force under section sixty-four of the Rating and Valuation Act, 1925:

Provided that for the purpose of securing the continued operation of any such exemption as aforesaid—

(a) the council of every county in which any such exemption is in force shall submit to the Minister a scheme making provision for the purpose aforesaid; and

(b) the provisions contained or incorporated in paragraphs (b), (c) and (d) of subsection (2) of the said section sixty-four and in the proviso to such subsection with respect to the making, approval and effect of schemes to be made thereunder shall apply to schemes to be made under this section with the substitution of references to county councils for references to rating authorities.

(2) For the purposes of this section, the expression "highway " includes any bridge carrying the highway.

39 Application of 38 & 39 Vict. c.55 s.308 in certain cases.

(1) In any case in which a public utility undertaking sustains damage by reason of the exercise by a county council, in relation to any road vested in them by virtue of this Part of this Act, of functions which before the road was so vested were only exercise-able in relation thereto by district councils under the powers of the Public Health Act, 1875, section three hundred and eight of that Act (which relates to compensation) shall apply as if for the reference therein to a local authority there were substituted a reference to the county council, and as if the functions had been exercised under the powers of that Act.

(2) In this section "public utility undertaking " means any company or authority which carries on a gas, water, hydraulic power, electricity, tramway, light railway or trolley vehicle undertaking, and the expression "trolley vehicle " has the same meaning as in the Road Transport Lighting Act, 1927.