

Isle of Wight County Council Act 1971

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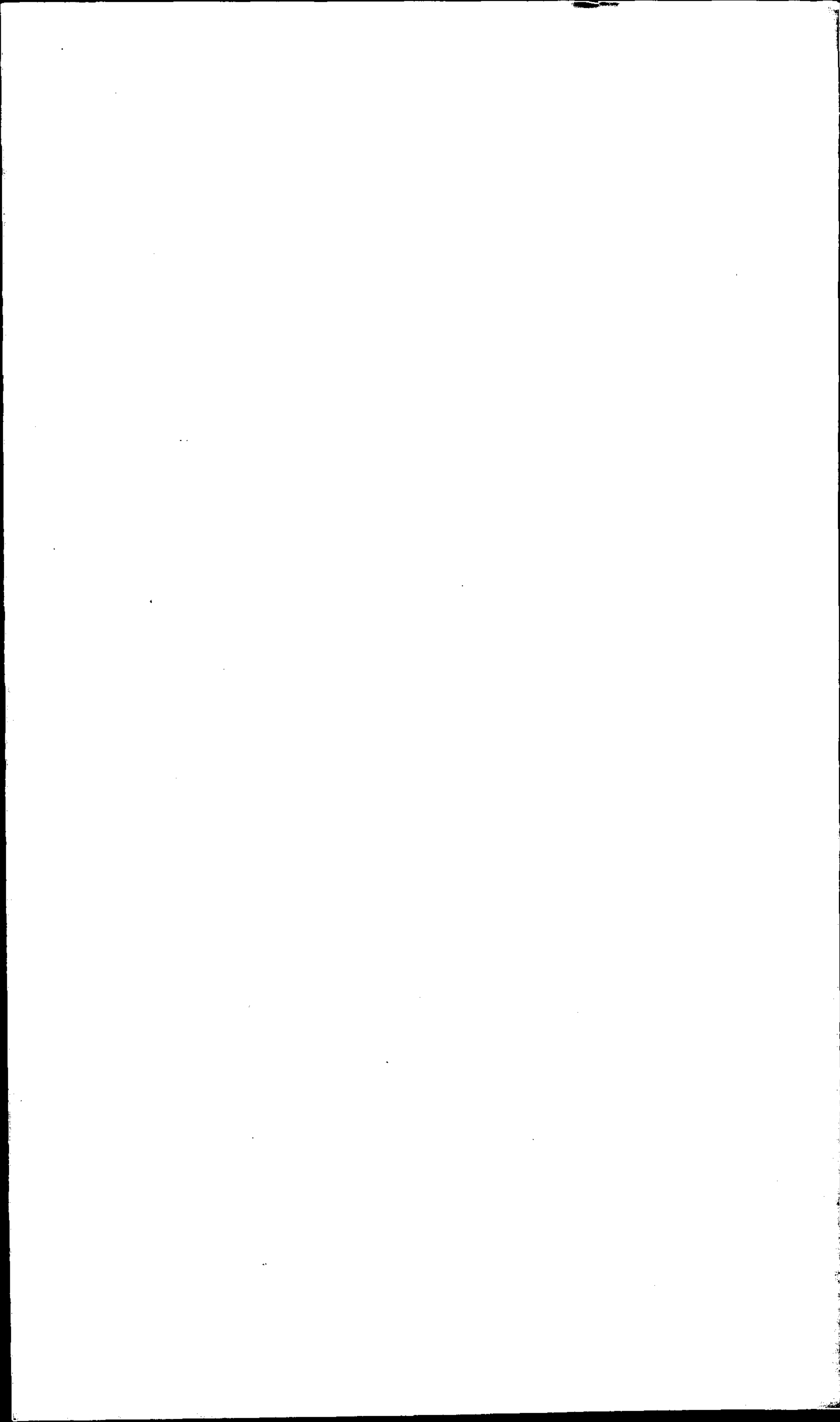
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ELIZABETH II



1971 CHAPTER lxxi

An Act to confer further powers on the Isle of Wight County Council and on the local, highway and other authorities in the administrative county of the Isle of Wight in relation to public order and public safety; lands, planning and industry; highways and streets and the local government, improvement, health and finances of that county; and for other purposes.

[5th August 1971]

WHEREAS—

(1) It is expedient that further provision should be made in relation to public order and public safety; lands; planning and industry; highways and streets and the local government, improvement, health and finances of the administrative county of the Isle of Wight, and that the powers of the county council of that administrative county (hereinafter referred to as “the

Council”) and of the local, highway and other authorities within that county, should be enlarged and extended as by this Act provided:

(2) It is expedient to make further provision in relation to the superannuation of officers and servants of the Council and of local and other authorities in the county and of persons who contribute to the superannuation fund maintained by the Council and such local authorities:

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

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

1933 c. 51.

(5) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have 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 title.

1. This Act may be cited as the Isle of Wight County Council Act 1971.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Public order and public safety.

Part III.—Lands.

Part IV.—Planning and industry.

Part V.—Highways and streets.

Part VI.—Parks, burial grounds, etc.

Part VII.—Finance and superannuation.

Part VIII.—Miscellaneous.

Part IX.—General.

3.—(1) In this Act the several words and expressions (other than those defined in subsection (2) of this section) 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.

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—cont.

Interpretation.

(2) In this Act, unless otherwise expressly enacted or unless the subject or context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

“ the Act of 1933 ” means the Local Government Act 1933; 1933 c. 51.

“ the Act of 1936 ” means the Public Health Act 1936; 1936 c. 49.

“ the Act of 1937 ” means the Local Government Superannuation Act 1937; 1937 c. 68.

“ the Act of 1959 ” means the Highways Act 1959; 1959 c. 25.

“ the appointed day ” has the meaning assigned to that expression by section 4 (The appointed day) of this Act;

“ the clerk ” means the clerk of the Council;

“ contravention ” includes a failure to comply, and “ contravene ” shall be construed accordingly;

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

“ the county ” means the administrative county of the Isle of Wight;

“ the county fund ” means the county fund of the Council;

“ daily fine ” means a fine for each day on which an offence is continued after conviction thereof;

“ district ” means a borough, urban or rural district in the county;

“ enactment ” includes an enactment in this Act and any order, byelaw or regulation for the time being in force in the county;

“ financial year ” means a year ending on the thirty-first day of March;

“ highway authority ” means—

(a) in the case of a main road in the county, except a claimed road, and in the case of any other highway for the time being maintained by the Council, the Council; and

(b) in the case of any other highway the local authority for the district in which the highway is situate;

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—cont.

- 1968 c. 59. “hovercraft” has the same meaning as in the Hovercraft Act 1968;
- “hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils;
- 1960 c. 18. “industrial building” has the same meaning as in the Local Employment Act 1960;
- “lessee” includes a person to whom the Council have agreed to grant a lease and “lease” shall be construed accordingly;
- “local authority” means the council of a district;
- 1952 c. 55. “magistrates’ court” has the same meaning as in the Magistrates’ Courts Act 1952;
- 1930 c. 44. “main river” has the same meaning as in the Land Drainage Act 1930;
- “the Newport Corporation” means the mayor, aldermen and burgesses of the borough of Newport (Isle of Wight);
- 1969 c. 48. “operational land” in relation to statutory undertakers other than the Post Office means land which is used for the purpose of the carrying on of their undertaking and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings and in relation to the Post Office has the same meaning as in paragraph 93 (4) of Schedule 4 to the Post Office Act 1969;
- “the police authority” means the Hampshire Police Authority established by the Hampshire Police (Amalgamation) Order 1967 or any other police authority of which the Council are a constituent council;
- 1960 c. 16. “public service vehicle” has the same meaning as in section 117 of the Road Traffic Act 1960;
- “the river and water authority” means the Isle of Wight River and Water Authority;
- “the Ryde Corporation” means the mayor, aldermen and burgesses of the borough of Ryde;
- “seashore” includes all parts of the beach or shore above and below high-water mark and (where a promenade or esplanade exists) between the promenade or esplanade and low-water mark;
- “statutory undertakers” means the Central Electricity Generating Board, the Gas Council, the river and water authority, the Post Office, the Southern Electricity Board and the Southern Gas Board;

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

“ verge ” includes land situate between two carriageways and any part of a street which is not a carriageway, footway or cycle track.

(3) 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.

4.—(1) In this Act “ the appointed day ” means such day as The may be fixed by resolution of the Council or a local authority appointed (as the case may be), subject to and in accordance with the day. provisions of this section.

(2) Different days may be fixed under this section for the purpose of different provisions of this Act.

(3) The Council or the local authority shall cause to be published in a local newspaper circulating in the county or the district, as the case may be, notice—

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

(b) of the general effect of the provisions of this Act 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 the publication of the said notice.

(4) Either—

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

(b) a photostatic or other reproduction certified by the clerk or by the clerk of the local authority, as the case may be, 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.

(5) Where any provision of this Act coming into operation on a day fixed by resolution under this section requires the registration of a person carrying on any business, or of premises used for any purpose, it shall be lawful for any person who—

(a) immediately before that day was carrying on that business or using any premises for that purpose; and

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—cont.

(b) had before that day duly applied for the registration required by that provision;

to continue to carry on that business, or to use those premises for that purpose, until he is informed of the decision with regard to his application and, if the decision is adverse, during such further time as is provided under subsection (2) of section 61 (Appeals) of this Act.

PART II

PUBLIC ORDER AND PUBLIC SAFETY

Control of
large
overnight
assemblies
in the open.

5.—(1) Any person intending to hold an assembly to which this section applies and the occupier of any land intending to permit that land to be used as the site of such an assembly, or, if it is land adjacent to the proposed site of such an assembly, for purposes of that assembly shall give to the Council not less than four months' notice of his intention to do so.

(2) Within one month of the receipt of any such notice or of the information under subsection (4) of this section or in default of the receipt of such information within the period specified in subsection (4) of this section the Council may, after consultation with such local authorities and such statutory or other authorities as the Council think fit, serve a counter-notice on the person giving such notice or information, or, as the case may be, the person required under subsection (4) of this section to give such information, requiring him to comply with such reasonable terms or conditions as they think fit with respect to water supply and securing sanitary conditions, public order and public safety and for the prevention of actionable nuisance:

Provided that no term or condition relating to public order shall be imposed without the consent of the Chief Constable of the police authority.

(3) Any notice given under subsection (1) of this section shall state the purpose and proposed date of commencement and duration of the assembly, the limits of the site to be occupied and the maximum number of persons which the person giving the notice expects to attend the assembly and the person giving the notice shall pay to the Council such amount in respect of any extra expense which may be incurred by any authority by reason of the assembly as the Council may reasonably require.

(4) If the Council have reason to believe that any assembly to be held in the county will be an assembly to which this section applies but no notice has been given to them thereof under subsection (1) of this section, by the person intending to hold the same or by the occupier, as the case may be, they may as soon as

reasonably practicable after the intention to hold the same has come to their knowledge serve on the person intending to hold the assembly and on the occupier of any land on which it appears the assembly is to be held a notice requiring that person to give to the Council the information required by subsection (3) of this section which information shall be supplied by the person on whom the notice is served within seven days after the service of such notice and to pay to the Council the amount required under that subsection.

(5) If the site stated in a notice given in pursuance of subsection (1) of this section or information given in pursuance of subsection (4) of this section, or, in default of such information, the site that the Council have reason to believe to be the intended site shall in the reasonable opinion of the Council be too small or by reason of its situation or condition be unsuitable for the purpose of the proposed assembly or for the number expected to attend they may, without prejudice to any counter-notice under subsection (2) of this section, within one month after the receipt of a notice under subsection (1) of this section or of the information under subsection (4) thereof, or, as the case may be, within one month after the expiry of the seven days referred to in subsection (4) of this section, serve a counter-notice to that effect setting out in the case of unsuitability the grounds on which it is in the opinion of the Council unsuitable.

(6) If the number of persons who attend the assembly exceeds the maximum number stated in the notice or information or, in the case where there has been a default as mentioned in subsection (2) of this section, the number estimated by the Council, the person giving the notice or information or required to give the information shall pay to the Council such additional amount in respect of the extra expense incurred by any authority by reason of the assembly as the Council may reasonably require.

(7) A person giving notice under subsection (1) of this section or giving or required to give information under subsection (4) thereof shall deposit with the Council by way of security the amount required by the Council under subsections (3) and (4) of this section and shall also give to the Council a bond of reasonable amount with a sufficient surety to be approved by the Council for the payment of the amount which that person may be liable to pay to the Council in accordance with the provisions of subsection (6) of this section.

(8) Any person aggrieved by the service of a counter-notice under subsection (5) of this section or by any terms or conditions required by the Council under this section including any payments or bonds for payment under this section may within fourteen days after the service of any notice or counter-notice from the Council appeal to a court of quarter sessions of the county and

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—cont.

on such appeal the court may by order confirm, vary or set aside any such term, condition or requirement or may impose any term, condition or requirement which the Council would have been entitled to impose by virtue of this section and may quash any such counter-notice under subsection (5) and the Council shall give effect to such order accordingly and such order shall be final.

(9) (a) A person who holds an assembly to which this section applies without giving notice under subsection (1) of this section or information under subsection (3) thereof or after the service of a counter-notice under subsection (5) thereof shall be guilty of an offence.

(b) The occupier of land who permits that land to be used as mentioned in subsection (1) of this section without giving notice under subsection (1) of this section or information under subsection (3) thereof or after the service of a counter-notice under subsection (5) thereof shall be guilty of an offence.

(c) Any person concerned in the management of an assembly to which this section applies or the occupier of land permitting that land to be used as mentioned in subsection (1) of this section who contravenes any term, condition or requirement imposed under this section or who knew, or had reasonable cause to suspect, that such a term, condition or requirement was being contravened by some other person shall be guilty of an offence:

Provided that in proceedings for an offence under this subsection it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the term, condition or requirement concerned.

(d) A person who commits an offence under this section shall be liable on summary conviction to a fine not exceeding £400 and on indictment to a fine not exceeding £1,000 for each day on which the offence is committed and the court convicting him may by the conviction adjudge him to pay to the Council such amount in respect of the extra expense incurred by the authorities by reason of the holding of the assembly or breach of the term or condition as the court may determine.

1970 c. 31.

(e) Section 41 of the Administration of Justice Act 1970 (Recovery of costs and compensation awarded by magistrates, assizes, quarter sessions, etc.) shall have effect as if the following paragraph were contained in Part I of Schedule 9 to that Act:—

“Where under section 5 of the Isle of Wight County Council Act 1971 a court adjudges a person to pay a sum of money in respect of extra expenses incurred by reason of the holding of an assembly or breach of a term or condition imposed under that section”.

(10) The Council may pay to any authority the whole or such part or parts of any sums received by them under subsections (3), (4), (6), (8) and (9) of this section as they may think fit.

(11) An assembly to which this section applies is an assembly in the county in the open air at which during any period exceeding three hours during the six hours following midnight there are not less than 5,000 people present.

(12) (a) In this section “ authority ” means the Council, a local authority, the police authority, the river and water authority, or any other body discharging functions in the county in pursuance of statutory powers.

(b) For the purposes of this section a person who holds an assembly includes any person who—

- (i) on his own behalf or by his agent gives notice to the Council under subsection (1) of this section or information under subsection (4) of this section; or
- (ii) permits land occupied by him to be used as the site of an assembly; or
- (iii) charges admission to the site of the assembly; or
- (iv) is entitled, as a person promoting the assembly, or as the agent, licensee or assignee of a person promoting the assembly, to the television, broadcasting, filming or recording rights of the assembly or of any performance given in the course of it; or
- (v) is entitled as aforesaid to payment for goods sold or services rendered to persons attending the assembly or for the granting of rights to other persons to sell goods or services to persons attending the assembly.

(13) This section shall come into operation on 1st December, 1971.

6.—(1) The Council shall formulate a model set of terms and conditions that may be imposed under section 5 of this Act upon a person seeking to hold an assembly in the county; but the fact that a term or condition compliance with which is actually required is not in the model set or differs from any corresponding term or condition in that set shall not invalidate the term or condition, compliance with which is actually required. Model terms and conditions under section 5.

(2) The Council shall make available for inspection and for sale at a reasonable price any model set of terms and conditions formulated under the preceding subsection.

7.—(1) Subject to the provisions of this section, the police authority may provide— Police telephone call boxes and shelters.

- (a) such police telephone call boxes and installations; and

PART II
—cont.

(b) such shelters or boxes for the use of police constables; in such positions in any street, park or public place in the county as they think fit.

1969 c. 48.

(2) Nothing in this section shall authorise the doing of anything constituting an infringement of the exclusive privilege with respect to telecommunication conferred on the Post Office by subsection (1) of section 24 of the Post Office Act 1969.

(3) The police authority shall not exercise the powers of this section—

(a) without the consent of the highway authority in a street being a highway maintainable at the public expense; or

(b) without the consent of the undertakers concerned—

(i) in or upon a bridge carrying a street over a railway, or the approaches thereto, or under a bridge carrying a railway over a street; or

(ii) in a street belonging to, and maintainable by, any transport undertakers and forming the approach to a station, dock, wharf or depot of such undertakers; or

(iii) so as to obstruct or interfere with the access to, or exit from, a station, dock, wharf or depot of such undertakers; or

(c) without the consent of the owner and occupier of the premises concerned so as to obstruct the existing access to premises abutting on a street.

(4) A consent required by this section shall not be unreasonably withheld, but may be given subject to any reasonable conditions, including a condition that the police authority shall remove a box or shelter either at any time, or at or after the expiration of a period, if reasonably required so to do by the person giving the consent.

(5) Any question whether a consent required by this section has been unreasonably withheld, or has been given subject to unreasonable conditions, or whether the removal of a box or shelter has been unreasonably required, shall be referred to, and determined by, the Secretary of State.

(6) In this section “transport undertakers” means railway, dock or passenger road transport undertakers.

Coffee bars,
clubs, etc.,
open after
midnight or
before 5 a.m.

8.—(1) In this section—

“coffee bar” means—

(a) any premises, including any mobile structure, which are kept open for public refreshment at any time between the hours of midnight and 5 o'clock in the morning; or

(b) any premises which are used by a club, organisation or body and which, if they were kept open to the public, would fall within paragraph (a) of this definition;

but does not include any premises—

(i) in respect of which there is in force for the time being—

(A) a justices' on-licence within the meaning of subsection (2) of section 1 of the Licensing Act 1964;

1964 c. 26.

(B) a licence granted by the licensing justices under Part IV of the Public Health Acts Amendment Act 1890, or the Private Places of Entertainment (Licensing) Act 1967; or

1890 c. 59.
1967 c. 19.

(ii) which are kept open wholly or mainly as an ancillary amenity to a bona fide hotel, guest house or lodging house; or

(iii) which are used by a club registered or licensed under the Licensing Act 1964, or a club provided or maintained by the Council; or

(iv) which are used by a club, organisation or body—

(A) registered as a charity under section 4 of the Charities Act 1960, or not required to be registered under that section by virtue of the provisions of subsection (4) thereof; or

1960 c. 58.

(B) which is of a bona fide social, political, religious or sporting character and of a non-proprietary nature; or

(v) in respect of which a licence is for the time being in force for the public performance of stage plays or a cinematograph exhibition; or

(vi) which are used as a canteen forming part of a factory or office which is subject to the Factories Act 1961, or the Offices, Shops and Railway Premises Act 1963;

1961 c. 34.
1963 c. 41.

“specified drug” means any substance which the Council, with the approval of the Secretary of State, by resolution determine should, from a date to be fixed by the resolution, be included among the drugs to which subsection (14) of this section applies;

“young person” means a person of not more than eighteen years of age.

(2) For the purposes of this section premises shall be deemed to be kept open for public refreshment at any time during which they are being used for the sale of refreshments to the public whether or not the public are allowed to be on the premises at the time of sale.

PART II
—cont.

(3) For the purposes of a resolution relating to a specified drug the provisions of subsections (3) and (4) of section 4 (The appointed day) of this Act shall (with any necessary modifications) apply to any such resolution and the date fixed thereby.

(4) If in the opinion of the Council it becomes unnecessary that premises of any particular class or description should remain subject to the provisions of this section the Council may by resolution determine that as from a date to be fixed by the resolution such class or description of premises shall be exempted from the provisions of this section; and the provisions of subsections (3) and (4) of the said section 4 shall (with any necessary modifications) apply to any such resolution and the date fixed thereby:

Provided that the Council may, after the date so fixed by any such resolution, apply to a magistrates' court by way of complaint for an order that, having regard to any relevant circumstances, any specified premises exempted from the provisions of this section by such a resolution should become subject to the provisions of this section, and if the court so orders those premises shall become subject to the provisions of this section from such date as may be fixed by the court, being a date not earlier than one month from the date of service upon the occupier of those premises of a copy of the order of the court.

(5) On and after the appointed day—

(a) no premises in the county shall be used as a coffee bar, unless they are registered with the Council in accordance with the provisions of this section;

(b) if any owner, occupier or other person concerned in the management of premises in the county uses them as a coffee bar or permits the premises to be used as a coffee bar he shall, unless the premises have been so registered with the Council and the registration remains in force, be liable to a fine not exceeding one hundred pounds.

(6) The Council may refuse to register or renew the registration of any premises for use as a coffee bar if they are satisfied that—

(a) the premises are not suitable for use as a coffee bar having regard to the likelihood of nuisance being caused by reason of the situation of the premises and the character of adjacent properties;

(b) the persons intended to be concerned with the conduct of the premises as a coffee bar are such that young persons resorting thereto are likely to be depraved or corrupted;

(c) the premises are not safe for use as a coffee bar;

(d) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;

- (e) adequate precautions against fire on the premises have not been taken;
- (f) satisfactory means of escape in case of fire and suitable fire-fighting appliances are not provided on the premises; or
- (g) the applicant has, within the period of five years immediately preceding the date of the application to the Council, been convicted of an offence under subsections (7) or (14) of this section.

(7) (a) The Council may on registering or renewing the registration of any premises for use as a coffee bar impose conditions as to—

- (i) the maintenance of good order and safety;
- (ii) the number of persons who may be allowed to be on the premises at any time;
- (iii) the taking of proper precautions against fire, and the maintenance in proper order of means of escape in case of fire, fire-fighting appliances and means of lighting and ventilating the premises;
- (iv) the maintenance in safe condition of means of heating the premises; and
- (v) the hours of opening and closing the premises for use as a coffee bar so as to ensure that nuisance is not likely to be caused to residents in the neighbourhood:

Provided that the Council shall not impose any condition under sub-paragraph (v) of this paragraph in the case of premises which are kept open wholly or mainly as an ancillary amenity to a bona fide tenpin bowling establishment.

(b) Any person concerned in the management of a coffee bar who contravenes any condition imposed under this subsection, or who knew or had reasonable cause to suspect that such a condition was being contravened by some other person, shall be liable to a fine not exceeding fifty pounds:

Provided that if the person against whom proceedings are brought under this paragraph proves that he has used all due diligence to secure that the condition concerned was complied with, he shall be acquitted of the offence under this paragraph.

(8) The Council may at any time cancel the registration of any premises on any ground upon which, pursuant to subsection (6) of this section, they may refuse to renew the registration of those premises, or if they are satisfied that any condition imposed under subsection (7) of this section has not been complied with.

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—cont.

(9) An application for registration or renewal of registration under this section shall be made in writing to the Council by the owner or occupier of the premises to which the application relates and every such application shall state—

- (a) the address or situation of the premises to which the application relates;
- (b) the name and address of the applicant and his trade or calling during the six months preceding the application;
- (c) such other information regarding the premises to be registered and the manner in which the premises are proposed to be used as the Council may reasonably require.

(10) Any person making application for registration or renewal of registration under this section shall when making application pay to the Council in respect thereof a fee of one pound.

(11) Before refusing to register or renew the registration of any premises or cancelling the registration of any premises the Council shall give to the person applying for registration or renewal of registration or in whose name the premises are registered an opportunity of appearing before and of being heard by a committee of the Council and, if so required by him, the Council shall within seven days from the date of their decision give to him a statement of the grounds upon which it was based.

(12) Any person aggrieved by the refusal of the Council to register or renew the registration of any premises under this section, or by the cancellation of any such registration or by any condition imposed under this section, may within twenty-one days from the date of the service of the notice of such refusal or cancellation, or the imposition of the condition, appeal to a magistrates' court; and on any such appeal the court may by order confirm or set aside such refusal or cancellation or confirm, vary or set aside any such condition, or impose any condition which the Council would have been entitled to impose by virtue of this section, and the Council shall give effect to such order accordingly.

(13) Registration under this section shall, unless cancelled, remain in force for such period not exceeding thirteen months as may be fixed by the Council.

(14) If a coffee bar is conducted in a disorderly manner, or if any drug to which the Drugs (Prevention of Misuse) Act 1964 or the Dangerous Drugs Act 1965 applies, or any specified drug is sold, supplied or otherwise distributed on the premises by a

person to any other person resorting thereto, any person concerned in the management of the coffee bar who knew or had reasonable cause to suspect that the premises were so conducted as aforesaid or that such sale, supply or distribution was taking place on the premises shall be guilty of an offence under this section and liable on conviction to a fine not exceeding fifty pounds:

PART II
—cont.

Provided that nothing in this subsection shall apply to the administration of a drug or a specified drug for the purposes of medical treatment by or in accordance with the directions of a medical practitioner registered pursuant to the Medical Act 1956 1956 c. 76. or any enactment amending or replacing the same.

(15) Any duly authorised officer of the Council on producing if so required some duly authenticated document showing his authority, and any police constable, shall have a right to enter, at all reasonable times, any premises used as a coffee bar, or intended to be so used, for the purpose of ascertaining—

- (a) whether there is, or has been in or in connection with the premises, any contravention of the provisions of this section or of any condition imposed under the powers of this section;
- (b) whether or not circumstances exist which would authorise the Council to take any action under this section.

(16) The provisions of subsections (2), (3) and (4) of section 287 of the Act of 1936 shall apply to entry into any premises for the purposes of subsection (15) of this section as they apply to entry into premises for the purposes of subsection (1) of that section.

(17) Notwithstanding the reference in subsection (1) of this section to the hours of midnight and five o'clock in the morning where premises are for the time being registered with the Council under this section the person who keeps the premises shall be deemed to have been duly licensed in respect of those premises under the provisions of the Late Night Refreshment Houses Act 1969 1969 c. 53. in respect of the period between the hours of ten o'clock in the evening and five o'clock in the morning and the provisions of that Act, and of any enactment amending or extending the same, shall apply accordingly.

9.—(1) As from the appointed day in any district or part of a Touting, district to which this section applies, no person shall at any place hawking, etc. to which this section applies—

- (a) importune any person by touting for a hotel, lodging house or refreshment house, for a shop, for a theatre, garden, pier or place of amusement or for a boat, hackney carriage or public service vehicle; or

PART II
—cont.

(b) without the consent of the local authority which may be given on such terms and conditions as they think fit—

(i) hawk, sell or offer for sale any article or commodity; or

(ii) take a photograph by way of trade or business of any person except as mentioned in subsection (4) of this section.

(2) The local authority shall not withhold their consent under paragraph (b) of the foregoing subsection to the sale or offering for sale by any person of newspapers and periodicals, except on the ground that their consent to such sale or offering for sale has already been given to a reasonably sufficient number of other persons.

(3) The prohibition imposed by sub-paragraph (i) of paragraph (b) of subsection (1) of this section shall not apply to a sale or offering for sale—

(a) to persons residing in, or occupying, or employed at, premises in or adjoining a place to which this section applies;

(b) of fish, including shell-fish, from any vessel by means of which the same has been caught or from which the same is being, or about to be landed or on any quay, jetty or slipway to which, or close to which, such vessel is for the time being moored or berthed.

(4) The prohibition imposed by sub-paragraph (ii) of paragraph (b) of subsection (1) of this section shall not apply to the taking of a photograph for the purpose of making it available for publication in a newspaper or periodical if the photographer is employed as such by or on behalf of the owner or publisher of a newspaper or periodical, or carries on a business which consists in, or includes, selling or supplying photographs for such publication.

(5) This section applies to any place in any district—

(a) in or on an esplanade, parade, promenade, marine drive or public walk;

(b) in a park, pleasure ground or open space which is provided by the local authority or under their management and control;

(c) on the seashore;

(d) in any street or part of a street to which this section applies by virtue of byelaws made by the local authority under this section.

(6) Any person aggrieved by the refusal of the local authority to give their consent under paragraph (b) of subsection (1) of this section, or by any terms or conditions attached to a consent given by the local authority thereunder, may appeal to a magistrates' court.

PART II
—cont.

(7) If any person contravenes any of the foregoing provisions of this section, or any term or condition upon which any consent is given thereunder, he shall be liable to a fine not exceeding twenty pounds.

(8) The provisions of this section shall not prevent any landowner, or any person with his consent, exercising any rights which he could have exercised if this section had not been enacted.

(9) The districts and part of a district to which this section applies are the borough of Newport, the urban districts of Cowes and Ventnor and the following parishes in the rural district of the Isle of Wight, namely Bembridge, Brading, Freshwater, Godshill, Totland and Yarmouth.

10.—(1) Notwithstanding anything in the Town Police Clauses Act 1847, a local authority may suspend or revoke the licence—

Hackney
carriages.
1847 c. 89.

(a) of a proprietor of a hackney carriage on the ground of the unfitness of the hackney carriage or on the ground that since the granting of the licence the vehicle has been transferred to a person other than the person to whom the licence was granted and is not being used as a hackney carriage; or

(b) of a driver of a hackney carriage on the ground that he has since the granting of the licence been convicted of an offence involving dishonesty, violence or indecency.

(2) Any hackney carriage proprietor or driver aggrieved by a decision of a local authority under subsection (1) of this section may appeal to a court of quarter sessions.

(3) The cost not exceeding two pounds (or such greater sum as may from time to time be approved by the Secretary of State) per inspection incurred by a local authority in carrying out inspections of vehicles for the purpose of determining whether hackney carriage licences should be granted therefor shall, if the local authority so resolve, be recoverable from the proprietors thereof.

(4) The provisions of this section shall not apply to a public service vehicle.

(5) This section shall not apply to the Ryde Corporation or to the Cowes Urban District Council.

PART II
—cont.Regulation of
bathing.

11.—(1) Section 231 of the Act of 1936 shall have effect in its application to any district as if in subsection (1), after paragraph (f), there were added the following paragraph:—

“(g) prohibit bathing or attempting to bathe during such periods as the local authority shall cause to be displayed in a conspicuous manner on the seashore, promenade or parade, by means of flags or other means, notices that bathing in the sea or attempting to bathe therein is prohibited on account of danger.”

(2) This section shall not apply to the borough of Newport.

PART III

LANDS

Provision of
substituted
sites.

12. The power of the Council to purchase land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners, lessees and occupiers of land that may be acquired by the Council under any enactment.

Compulsory
acquisition of
easements.

13.—(1) The Council by means of an order made by the Council and submitted to and confirmed by the confirming authority may be authorised to create in favour of the Council in, over or under any land which under any enactment the Council may be authorised to acquire compulsorily any easement or other right in, over or under or in relation to such land which, in the opinion of the confirming authority, is essential to the full enjoyment or use of any land or building owned or occupied, or intended to be acquired or occupied, by the Council for the purposes of any of their undertakings, powers or duties:

1971 c. 41.

Provided that the Council may not exercise the powers of this section in circumstances where they may be authorised to acquire such rights by virtue of section 47 of the Highways Act 1971.

(2) The confirming authority shall not confirm any order under this section unless the confirming authority determine that the easement or right can be created without material detriment to the land in, over or under or in relation to which it is proposed to be created or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house.

1946 c. 49.

(3) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of the said Act of 1946, and as if—

(a) the expression “compulsory purchase of land” in the said Act of 1946 included the creation of such easement or right as is mentioned in subsection (1) of this section; and

(b) paragraphs 9 and 10 of Schedule 1 to the said Act of 1946 applied to the creation of such easement or right as is mentioned in the said subsection (1), whether it is created in, over or under any land to which either of those paragraphs relates, or in, over or under any other land in which the person entitled to the benefit of the paragraph has an easement or other right which, if it were land, would be land to which the paragraph relates.

(4) No such easement or right as is mentioned in subsection (1) of this section shall be deemed part of a house, building or manufactory, or of a park or garden belonging to a house within section 8 of the Compulsory Purchase Act 1965.

1965 c. 56.

(5) In this section the expression “confirming authority” means the authority having power to authorise the purchase compulsorily of the land for the enjoyment or use of which the easement or other right is required or which would have had such power if such land were not already owned by the Council.

14.—(1) Every undertaking given by or to the Council to or by the owner of a legal estate in land, and every agreement made between the Council and any such owner, being an undertaking or agreement—

Undertakings and agreements binding successive owners.

(a) given or made under seal either on the passing of plans or otherwise in connection with the land; and

(b) expressed to be given or made in pursuance of this section;

shall, if registered in the local land charges register, be enforceable by the local authority against the person or persons who entered into, or joined as a party to, such undertaking or agreement and all persons deriving title by, through or under him or them.

(2) Any person against whom such an undertaking or agreement is enforceable shall be entitled to require from the Council a copy thereof.

(3) The foregoing provisions of this section shall apply to the Newport Corporation and those provisions shall accordingly have effect with any necessary modifications including the substitution of “Newport Corporation” for “Council”.

15. In respect of land acquired by the Council under any enactment for the benefit, improvement or development of the county section 165 of the Act of 1933 shall have effect with the omission of the words “and which is not required for the purpose for which it was acquired or is being used”.

Disposal of land.

PART IV

PLANNING AND INDUSTRY

Agreements
with
developers.

16.—(1) The Council and any person having an estate or interest in land within the county may enter into an agreement which may provide for all or any of the following:—

- (a) determining the manner in which that land is to be developed and the order in which development of that land shall be carried out as between the different parts of that land and as between the different parts of the development of any part of that land;
- (b) determining the time by which development of that land shall be completed or the times by which the parts of that development shall be completed;
- (c) ensuring that the estate or interest of that person in that land shall not be conveyed, leased or assigned except by way of mortgage or legal charge to any person unless the Council shall have first satisfied themselves that that person has or can command sufficient financial resources to carry out development of that land and to implement all the provisions of the agreement;
- (d) the dedication to the public of rights of way over that land or over a part or parts of any building or structure which is comprised in the development and the maintenance and cleansing of the public rights of way so dedicated including the maintenance and cleansing of the surface and the lighting of the building or structure over or above the public rights of way so dedicated and the maintenance of any support of the public rights of way so dedicated;
- (e) the use by the public of any paths or ways, which are not dedicated to the public, over that land or over a part or parts of any building or structure which is comprised in the development of that land, upon such terms and conditions as may be specified in the agreement (including terms and conditions as to the maintenance and cleansing of the surface of such paths or ways and the lighting of any building or structure over or above such paths or ways and the maintenance of any support of such paths or ways);
- (f) arrangements relating to the provision, maintenance or use of facilities for the parking of vehicles for or in connection with development of that land;
- (g) arrangements for the maintenance of open spaces provided in connection with development of that land;
- (h) any other related or consequential matters.

(2) (a) An agreement entered into under the foregoing subsection may contain positive and negative covenants and whether

they be positive or negative and notwithstanding that they may not enure, and may not be expressed to enure, for the benefit of any other land of the covenantee they shall, if registered in the local land charges register, be enforceable by the Council against the covenantor and all persons deriving title by, through or under the covenantor.

(b) In the event of the person who has entered into an agreement under the foregoing subsection or any person deriving title by, through or under him failing to perform any of the positive covenants contained in the agreement, the Council may after giving not less than twenty-one days' notice of their intention so to do enter on the land and do the work in default and the expenses incurred by the Council in so doing shall be recoverable by them from the person in default.

(c) Except as may be expressly provided in the agreement an agreement entered into under the foregoing subsection shall be enforceable and be deemed to be intended to be enforceable in perpetuity or for the duration of the estate or interest which the person entering into the agreement has in the land at the time when the agreement is entered into.

(3) The Council may take or acquire shares or other securities in any company incorporated in the United Kingdom with which an agreement is entered into under this section.

(4) The Council shall consult the river and water authority before completing an agreement under subsection (1) of this section.

(5) In this section—

“development” has the same meaning as in section 12 of the Town and Country Planning Act 1962;

1962 c. 38.

“land” includes land covered by water and any interest in land or any easement or right in, to or over land.

17.—(1) The Council may purchase by agreement land in the county for the purpose of facilitating the provision of premises for occupation by any undertaking carried on or to be carried on there or for otherwise meeting the requirements of such undertaking (including the requirements arising from the needs of persons employed or to be employed therein). Acquisition of land for development.

(2) In this section “undertaking” means any trade or business, or any other activity providing employment.

18.—(1) The Council may advance money to—

(a) any person for the purpose of enabling or assisting him to purchase or lease any land in the county; or

Loans for erection, etc., of buildings.

(b) the owner, purchaser or lessee of any land in the county for the purpose of enabling or assisting him to build or carry out works on such land, or to extend or improve any existing building thereon:

PART IV
—cont.

Provided that any such advance shall not exceed nine-tenths of the amount which in the opinion of the Council will be the market value of the interest of the borrower in the land after the purpose of the loan has been effected.

1963 c. 29.

(2) For the purposes of this section the provisions of subsections (2), (4) and (5) of section 3 of the Local Authorities (Land) Act 1963, regulating the form and conditions of advances made by a local authority for the erection of buildings on land sold or let by them, shall apply and have effect as if for references therein to an advance made under the said section 3 there were substituted references to an advance made under subsection (1) of this section and subject to any other necessary modifications.

(3) Any person acting on behalf of the Council and authorised in writing by the clerk shall have power at all reasonable times to enter any land, building or works in respect of which an advance is made under this section for the purpose of ascertaining whether the conditions subject to which the advance is made are being complied with.

(4) The borrower may with the permission of the Council (which shall not be unreasonably withheld) at any time transfer his interest in the land in respect of which the advance was made, but any such transfer shall be made subject to the terms of the mortgage securing the advance.

(5) In this section "owner" means the person (other than a mortgagee not in possession) entitled, either with or without the consent of any other person, to dispose of the fee simple of the land.

Power to
Council to
guarantee
rents, etc., of
industrial
buildings.

19.—(1) The Council may, if requested to do so by any person who is the owner or intended owner or lessee of any industrial building in the county or part of such an industrial building or of land in the county on which it is proposed that any industrial building should be erected, guarantee or contract to secure the payment of—

- (a) any rent or other sum payable in respect of the building or part thereof;
- (b) any sums payable to any statutory undertakers in respect of the provision or maintenance of any works, facilities, supplies or services for the purpose of any trade or business carried on or to be carried on in the building.

(2) Nothing in this section shall prejudice or affect any rights, obligations or liabilities in respect of any guarantee given or contract made under this section.

Power to
Council to
assist industry.

20. The Council may, if requested to do so by any person who is the owner or intended owner or lessee of land in the county on which any industrial building is to be built or of any industrial building in the county or any part of such building, carry out any work required in relation to the preparation or

improvement of the site for that industrial building or for the provision or improvement of services or facilities on which any trade or business carried on or intended to be carried on in such industrial building depends and may make—

PART IV
—cont.

- (1) grants or loans towards the cost of such works or of the provision or improvement of such services or facilities;
- (2) such charges as may be agreed for the carrying out of such work or for the provision or improvement of those services and facilities:

Provided that nothing in this section shall authorise the Council to carry out—

- (a) works for the provision or improvement of services which it is the function of the Post Office to provide or improve except with the consent or approval in writing of the Post Office;
- (b) works outside the curtilage of the building or proposed building for the provision or improvement of services which it is the function of statutory undertakers, other than the Post Office, to provide or improve.

PART V

HIGHWAYS AND STREETS

21.—(1) No person (other than a person selling, offering or exposing for sale or depositing for sale any food, goods, provisions, articles or things at any market or fair for which a toll, stallage or rent is payable) shall provide, erect, place or use any shed, hut, shelter, booth, stall, shop or other erection, whether on wheels or not, or any vehicle or any container used, with or without a stall, on the verge of any road to which this section applies, or on any common land, or other unenclosed land of whatsoever description adjacent to, and within 15 yards of, a road to which this section applies, for the purpose of selling, offering, depositing or exposing for sale any food, goods, provisions, articles or things whatsoever, other than newspapers.

Sale of
food and
articles on
verges, etc.

(2) If any person contravenes the provisions of this section, he shall be liable to a fine not exceeding twenty pounds and to a daily fine not exceeding two pounds.

(3) (a) This section applies to roads in the county of any of the following descriptions:—

- (i) all main roads;
- (ii) any other road, or part of a road, to which the Council may by order apply this section.

(b) Before making an order under this subsection, the Council shall publish once at least in each of two successive weeks in a local newspaper circulating in the county a notice stating the

PART V
—cont.

general effect of the intended order, and stating that within a period specified in the notice (not being less than twenty-eight days from the first publication of the notice) any person may object to the order by sending notice of his objection and of the grounds thereof to the clerk.

(c) If before the expiration of the period specified in the notice, any objection to the order is received by the clerk the Council shall consider any such objection before making the order.

(4) Nothing in this section shall apply to—

- (a) any shed, hut, shelter, booth, shop, stall or other erection or any vehicle or container provided, erected or placed on private property by or with the consent of the owner of such property;
- (b) any building erected or work constructed with the consent of the Secretary of State in pursuance of section 194 of the Law of Property Act 1925, or of any other statutory provision or any scheme made pursuant to a statute;
- (c) the sale of food, goods, provisions, articles or things from a vehicle when in use solely for the purpose of itinerant trading with the occupants of premises adjoining any verge, common land or other land adjacent to any road to which this section applies; or
- (d) the sale of food and produce grown or produced on premises adjoining the verge, common land or other land adjacent to any road from which it is sold.

(5) In this section—

- “container” includes any basket, pail, tray, package or receptacle of any kind whether open or closed;
- “private property” does not include common land;
- “vehicle” means a vehicle of any description, whether drawn or propelled by mechanical power or not.

Trees, grass
verges and
gardens.

22.—(1) Subject to the provisions of this section the highway authority shall have power, in any street vested in them, or on any land acquired by them for the construction or improvement of any such street or for preventing the erection of buildings detrimental to the view from the street—

- (a) to plant trees, shrubs or other plants or place containers in which to grow trees, shrubs or other plants;
- (b) to attach containers for plants to posts or standards provided by the highway authority or, with the consent of the owner thereof, to any other posts or standards;
- (c) to lay out grass verges or gardens;
- (d) to provide guards or fences, and otherwise do anything expedient, for the maintenance or protection of such trees, shrubs or plants, containers, grass verges or gardens;

1925 c. 20.

- (e) to cut down any such tree or shrub, to remove any such container, guard or fence and to abolish any such grass verge or garden or enlarge or diminish the area thereof;
- (f) by notice to prohibit persons from entering upon, or causing or permitting horses, cattle or vehicles to enter upon, any grass verge laid out under this section and maintained in an ornamental condition or mown, or any garden so laid out;
- (g) by notice to prohibit the playing of any game on any such grass verge as aforesaid which is likely to cause damage thereto.

(2) Any such notice as is referred to in paragraph (f) or paragraph (g) of the foregoing subsection shall be conspicuously posted on, or in proximity to, the grass verge or garden to which it relates and where the prohibition prohibits vehicles from entering upon any grass verge in any street the notice shall be indicated by such traffic signs as may be authorised for the purpose by the Secretary of State in pursuance of his powers contained in sections 54 and 55 of the Road Traffic Regulation Act 1967.

1967 c. 76.

(3) If any person (except in a case of emergency) contravenes a notice so posted in pursuance of the said paragraph (f) or if any person contravenes a notice so posted in pursuance of the said paragraph (g) he shall be liable to a fine not exceeding twenty pounds.

(4) The powers conferred by this section shall not be exercised so as to hinder the reasonable use of the street by any person entitled to the use thereof or so as to be a nuisance or injurious to the owner or occupier of any land or premises abutting on the street.

(5) Section 82 of the Act of 1959 shall cease to apply to highways vested in the highway authority or to any such land as is referred to in subsection (1) of this section; and anything done by the highway authority under that section or under section 1 of the Roads Improvement Act 1925 with respect to such highways or land before the passing of this Act shall be deemed to have been done under this section.

1925 c. 68.

(6) Nothing in this section shall affect the duty of the highway authority to provide a footway or grass or other margins under section 67 or section 70 of the Act of 1959.

(7) (a) Where the highway authority carry out works under any enactment relating to private street works, they may, with the consent of the owners of premises fronting, adjoining or abutting on the part of the street in which the works are carried out,

PART V
—cont.

exercise the powers conferred by this section in that part; and the expenses incurred in so doing shall be deemed part of the expenses of carrying out the works.

(b) The reference in this subsection to the consent of the owners of the said premises is a reference to the consent of the majority of them where the rateable value of the premises owned by the persons consenting is greater than the rateable value of the rest of the said premises.

(8) (a) Nothing in this section shall affect the rights of the Post Office with respect to apparatus (including the placing of apparatus) in any grass verge or garden:

Provided that, in exercising such rights, the Post Office shall not cause or permit, except in the case of necessity, vehicles to enter upon any such verge which is maintained in an ornamental condition or mown, or any garden.

(b) The powers conferred by this section shall be so exercised as not to render unreasonably inconvenient the access to any apparatus or any operational land.

1878 c. 76.

(c) In this subsection “apparatus” means any telegraphic line as defined in the Telegraph Act 1878 belonging to or used by the Post Office and includes any works constructed for the lodging therein of apparatus.

PART VI

PARKS, BURIAL GROUNDS, ETC.

Parking places
in parks, etc.
1967 c. 76.

23.—(1) For the purpose of providing a parking place under section 28 of the Road Traffic Regulation Act 1967, a local authority may, with the consent of the Secretary of State, utilise any part of a park, pleasure ground or open space provided by them or under their management and control:

Provided that the part of any park, pleasure ground or open space utilised under this section shall not exceed one-eighth of the total area thereof, or one acre, whichever is the less.

(2) No power conferred upon a local authority 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 local authority 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 local authority, without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

PART VI
—cont.

(3) In this section “ open space ” has the same meaning as in the Open Spaces Act 1906.

1906 c. 25.

(4) This section shall not apply to the Ryde Corporation or to the Sandown-Shanklin Urban District Council.

24.—(1) The powers of a burial authority in the county in relation to a burial ground maintainable by them shall include power—

Extension of power to maintain burial grounds.

- (a) to put and keep in order any memorial therein;
- (b) to level any grave therein;
- (c) to remove the whole or any part of a memorial therein;
- (d) to alter the position of any such memorial.

(2) Before exercising a power conferred by paragraph (b), (c) or (d) of the foregoing subsection the burial authority shall—

- (a) publish a notice of their intention to do so once in each of two successive weeks in a local newspaper circulating in their area with an interval between the dates of publication of not less than six clear days;
- (b) display a notice thereof in a conspicuous position in the burial ground; and
- (c) serve a notice thereof upon the owner of the grave, or upon a relative of a deceased person whose remains are interred therein, if after reasonable inquiry the name and address of the owner, or of a relative of such a person, can be ascertained.

(3) Each of the notices shall—

- (a) contain brief particulars of the burial authority’s proposals, and specify an address at which full particulars of the proposals can be obtained, unless the brief particulars are of proposals incapable of further statement;
- (b) specify the date on which it is intended that the burial authority will begin to carry out the proposals, which shall not be earlier than the fourteenth day after the date of the later of the two publications, or than the twenty-first day after the date on which the notice in the burial ground is first displayed, or, where notice is required to be served, than the twenty-first day after the date of service, whichever is the latest; and
- (c) state the effect of the next following subsection.

(4) If notice of objection to a proposal, and of the ground thereof, is given to the burial authority before the date specified

PART VI
—cont.

under paragraph (b) of the last foregoing subsection, that proposal shall not be carried out without the consent of the Secretary of State, unless the notice is withdrawn.

(5) The burial authority may put to such use as they think appropriate, or destroy, any memorial removed under this section, unless it is claimed and removed by the person claiming it or some person acting on his behalf within three months after the date of the earlier of the two publications of the notice required by paragraph (a) of subsection (2) of this section, or, where notice has been served under paragraph (c) thereof, after the date of such service, whichever is the later.

(6) Where a memorial is removed by the burial authority under this section, the burial authority may erect at their own expense, in substitution, a memorial of a value not exceeding twenty-five pounds.

(7) The burial authority shall cause a record to be made of each memorial taken from the burial ground under this section containing—

(a) a copy of any inscription on it; and

(b) if it is intended to preserve the memorial, a statement showing where it has been taken to;

and shall deposit a copy of the record with the Registrar General.

(8) (a) Nothing in the foregoing provisions of this section shall relieve the burial authority from any obligation to which they are subject to obtain for any work a faculty or licence of a consistory court.

(b) Subsections (2) to (4) of this section shall not have effect in relation to any work for which the burial authority obtain such a faculty or licence; and subsection (5) thereof shall not have effect in relation to any memorial for whose removal such a faculty or licence was obtained.

(9) In this section—

“burial authority” has the same meaning as in subsection (2) of section 5 of the Parish Councils and Burial Authorities (Miscellaneous Provisions) Act 1970;

“burial ground” includes a cemetery;

“grave” includes a grave space;

“memorial” means any object erected, placed or planted for the commemoration of the dead, and includes any wall, kerb or railing protecting, enclosing or marking a grave or memorial.

(10) This section shall not apply to the Ryde Corporation or to the Sandown-Shanklin Urban District Council.

25.—(1) In this section—

“ the Commission ” means the Commonwealth War Graves Commission;

“ Commonwealth war burial ” means a burial of any officer or man of the naval, military or air forces of His Majesty fallen in the war of 1914 to 1921 or in the war of 1939 to 1947.

PART VI
—cont.

For
protection of
Common-
wealth War
Graves
Commission.

(2) In relation to any burial ground to which the provisions of section 24 (Extension of power to maintain burial grounds) of this Act apply and in which there are situated any Commonwealth war graves relating to the war of 1914 to 1921 or to the war of 1939 to 1947 the burial authority shall—

(a) not later than the date upon which such notice is first published in a newspaper circulating in their area, serve upon the Commission a copy of any notice which the burial authority are required to publish pursuant to the said section 24;

(b) give written notification to the Commission of their intention to apply for a faculty or licence of a consistory court for the purposes of exercising a power conferred by paragraph (b), (c) or (d) of subsection (1) of the said section 24;

and in any such case shall have due regard to any written representations made by the Commission within a period of one month from the service of the notice or the giving of the notification, as the case may be.

(3) The burial authority shall not in pursuance of the powers of the said section 24 remove any memorial placed or erected over any Commonwealth war grave unless they have first given to the Commission satisfactory assurances in writing in regard to all or such of the following matters as the Commission consider appropriate, namely:—

(a) that no other memorial shall be placed or erected over such grave;

(b) that any Commonwealth war burial in such grave shall at all times be protected from interference or disturbance otherwise than interference or disturbance authorised by a licence granted by the Secretary of State or authorised by a faculty or licence of a consistory court after prior notification to the Commission of the application for any such licence or faculty;

(c) that in the case of any headstone placed or erected by the Commission over any such grave such memorial shall be removed only in accordance with such arrangements and in such manner including disposal of the memorial as shall be agreed in writing between the burial authority and the Commission.

PART VI
—cont.

(4) If a Commonwealth war burial would be affected by a consent given by the Secretary of State under subsection (4) of the said section 24, the burial authority shall, not later than the date on which the matter is referred to the Secretary of State, inform the Commission in writing of such reference and the Secretary of State shall consider any representations submitted to him by the Commission within a period of twenty-eight days from the date of reference to the Secretary of State.

Aerodrome
undertaking
1949 c. 67.

26.—(1) In the event of the Council's establishing, in pursuance of sections 19 and 20 of the Civil Aviation Act 1949, an aerodrome, with or without any ancillary business in connection therewith (in this section referred to as "the aerodrome undertaking"), they may either—

- (a) themselves manage the aerodrome undertaking, making such reasonable charges in respect thereof as they think fit; or
- (b) subject to the provisions of subsection (6) of the said section 19, let it, or any part thereof, for such consideration, and on such terms and conditions, as they think fit:

Provided that nothing in this subsection shall authorise any variation of a scale of charges approved or prescribed by the Secretary of State in pursuance of powers conferred on him by or under the said Act.

(2) The Council may make byelaws with respect to the aerodrome undertaking, and for maintaining order in, and for regulating the use of, any premises used in connection therewith.

(3) The aerodrome undertaking shall be in the same relation to the Secretary of State, and subject to the like control by him under the Civil Aviation Act 1949, as if this Act had not been passed.

PART VII

FINANCE AND SUPERANNUATION

Power to
borrow.

27.—(1) The Council 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 Council 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.

PART VII
—cont.

1946 c. 58.

28. The provisions of section 27 (Power to borrow) of this Act shall apply to a local authority and those provisions shall accordingly have effect with any necessary modifications including the substitution of "local authority" for "Council":

Power to
local
authorities
to borrow.

Provided that in its application to a local authority the said section 27 shall have effect as if paragraph (b) were omitted.

29.—(1) The Council may 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").

General
insurance
fund.

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

(3) In each financial 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 sum 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 that fund, but if that 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 that fund be restored to the prescribed amount, and if at any time the Council reduce the prescribed amount so that there are more moneys in the insurance fund than the sum so prescribed, such moneys shall be transferred to the county fund, and 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 the Council consider equitable.

PART VII
—cont.

(5) The Council shall provide the yearly payments aforesaid by contributions from the revenue moneys of 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 that fund shall (unless applied in any other manner authorised by any enactment) 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.

(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 financial year, so long as that fund is less than the prescribed amount, carry to the credit of that fund out of the revenue moneys of the county fund an amount equal to the interest and other annual proceeds carried to the county fund in pursuance of the last foregoing 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 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, caretaker or other person employed in any voluntary school in the county and any health visitor, nurse, midwife, person trained in social work, and any other person employed in health and welfare services in the county as defined in section 3 of the Health Visiting and Social Work (Training) Act 1962.

1962 c. 33.

(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 Secretary of State, 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.

PART VII
—cont.

(9) Any covenant or obligation binding on the Council to insure against any risk shall (except in so far as the terms of such covenant or obligation otherwise specifically provide) be deemed to be satisfied by a resolution of the Council under subsection (1) of this section, and that risk shall be one of the specified risks.

(10) In the event of the insurance fund ceasing to be required to meet losses, damages, costs and expenses in respect of the specified risks, the insurance fund may be carried to and form part of any capital fund established by the Council under section 1 of the Local Government (Miscellaneous Provisions) Act 1953, or (if the Council so determine) shall be applied in such other manner as the Secretary of State may approve towards the discharge of any debt of the Council or otherwise for any purpose for which capital money may properly be applied. 1953 c. 26.

(11) In this section—

“ insurance office ” means—

- (a) an insurance company; or
- (b) an underwriter being a member of an association of underwriters;

“ prescribed amount ” means such sum as may from time to time be prescribed by the Council; and

“ statutory securities ” means any securities in which trustees are for the time being authorised by law to invest trust moneys.

30.—(1) Subject to the provisions of subsection (3) of this section the salary, wages, fees and other payments paid or made to an employee of the Council or of any other authority in respect of any part-time employment by the Council (additional to his ordinary whole-time employment)—

Certain remuneration and service excluded for super-annuation purposes.

- (a) as an instructor or other employee performing duties at or for the purposes of an evening institute or for evening classes; or
- (b) as a warden of or other employee performing duties at a youth centre; or
- (c) as a civil defence instructor; or

PART VII
—cont.

(d) in any other capacity for the performance of duties which are not duties which he may be called upon to perform in his ordinary whole-time employment where that employment is by the Council;

shall not be remuneration within the meaning of the Local Government Superannuation Acts 1937 to 1953 or of any other enactment affecting the superannuation fund and the service of any such employee in any such part-time employment shall not be reckoned as service for any of the purposes of those Acts.

(2) Where before the passing of this Act any person has paid any contribution or contributions to the superannuation fund which would not have been so paid if this section had been in force when such contribution or contributions were paid, the Council shall repay to such person a sum equal to the amount of such contribution or contributions together with compound interest thereon calculated to the date of repayment at the rate specified in subsection (1) of section 10 of the Act of 1937 with half-yearly rests.

(3) Subsection (1) of this section shall not apply to any such person as is referred to in subsection (2) of this section, unless within six months after the passing of this Act he gives notice in writing to the Council that the said subsection (1) is to apply to him as if this Act had come into force on the date of the receipt by the Council of such notice.

Super-
annuation
benefits in
certain cases
of premature
retirement.

31.—(1) Where, after the passing of this Act, the employment of a contributor who has attained the age of fifty-five years and completed ten years' service is terminated in the interests of efficiency 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:

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 Council in writing that he does not wish this subsection to apply to him and if he does so notify the Council then for the purpose only of ascertaining whether under any enactment he has become entitled to receive superannuation benefits he shall be deemed not to have had his employment terminated as aforesaid if within twelve months of the termination of his employment he again enters employment in which he could become entitled to receive a superannuation benefit or in relation to which a transfer value or the like is payable.

(2) Where, after the passing of this Act, a contributor who has attained the age of fifty 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:

PART VII
—cont.

Provided that—

- (a) where a person has become entitled to a superannuation benefit by virtue of this subsection he may, by notice given to the Council 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;
- (b) unless the Council 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 and in any event shall not be paid before the person attains the age of fifty-five years.

(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.

(5) For the purposes of section 16 of the Local Government Superannuation Act 1953, and of any rules made thereunder, a 1953 c. 25. 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—

"contributor" means a contributor to the superannuation fund as respects whom the Council are the employing authority;

PART VII
—cont.

“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 a 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 Local Government Superannuation Acts 1937 to 1953 or the Local Government Superannuation (Benefits) Regulations 1954, as the case may be;

“superannuation benefit” includes any benefit which is or may be granted in pursuance of the Local Government Superannuation Acts 1937 to 1953 or the regulations made thereunder or in pursuance of any local Act or scheme or local Act scheme;

and in this and the next following section words and expressions to which meanings are assigned by the Act of 1937 have the same respective meanings.

Application
of last two
foregoing
sections to
other
employing
authorities.

32.—(1) An authority to whom this section applies may by resolution adopt both or either of the last two foregoing sections as from such date as may be specified in such resolution, and where any provisions are so adopted they shall apply and have effect in relation to the authority as if—

- (a) any reference therein to a contributor was a reference to a contributor to the superannuation fund as respects whom the authority are the employing authority;
- (b) any reference to the Council was a reference to the authority.

(2) This section applies to—

- (a) a local authority which does not maintain a superannuation fund under Part I of the Act of 1937;
- (b) any organisation, undertaking or body in respect of which there is for the time being in force an admission agreement with the Council pursuant to section 15 of the Local Government Superannuation Act 1953;
- (c) any other employing authority in relation to which the superannuation fund is the appropriate superannuation fund within the meaning of paragraph (d) of subsection (3) of section 1 of the Act of 1937.

1953 c. 25.

Insurance
of certain
voluntary
assistants
and visiting
pupils.

33.—(1) The Council may enter into a contract with any person whereby, in consideration of payments made by way of premium or otherwise by the Council, that person undertakes to pay to the Council such sums as may be provided in the contract in the event

of any voluntary assistant or visiting pupil meeting with a personal accident, whether fatal or not, while he is engaged as such, or suffering any disease or sickness, whether fatal or not, as a result of being so engaged.

PART VII
—cont.

(2) Any sum received by the Council under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by the Council to, or to the personal representatives of, the voluntary assistant or visiting pupil who suffered the accident, disease or sickness in respect of which the sum is received.

(3) Any of the risks referred to in subsection (1) of this section may, for the purposes of section 29 (General insurance fund) of this Act, be treated as risks against which the Council would ordinarily insure and that section shall be construed accordingly.

(4) The provisions of the Life Assurance Act 1774 shall not apply to any such contract, but any such contract shall be deemed for the purposes of the Insurance Companies Act 1958 to be a policy of insurance upon the happening of personal accidents, disease or sickness.

(5) In this section—

“visiting pupil” means a pupil who attends a school maintained by the Council or an institution as described in section 1 of the Education (No. 2) Act 1968 and who for the time being is under arrangements made by the Council for the purpose of his education engaged on visiting or working at an industrial building;

“voluntary assistant” means a person who, at the request of the Council or an authorised officer of the Council, performs any service or does anything, otherwise than for profit or reward, for the purposes of, or in connection with, the carrying out of any of the functions of the Council.

34.—(1) The Council may make reasonable payments for or in connection with—

Expenses of
public
entertainment.

(a) refreshments for members or representatives of the Council, local authorities or other bodies or for other persons attending conferences or meetings convened by the Council; and

(b) the arrangement and conduct of ceremonies relative to or arising out of the statutory functions of the Council.

PART VII

—cont.

1956 c. 36.

(2) Section 1 of the Local Authorities (Expenses) Act 1956 shall in relation to the Council have effect as if in paragraph (b) thereof after the words “ distinguished persons ” there were inserted the words “ residing in or ”.

(3) The foregoing provisions of this section shall apply to the Newport Corporation and those provisions shall accordingly have effect with any necessary modifications including the substitution of “ Newport Corporation ” for “ Council.”

PART VIII

MISCELLANEOUS

Information centres.

1948 c. 26.

35. The powers of the Council under section 134 of the Local Government Act 1948 shall extend to any information concerning the county and its neighbourhood.

Recreational and other facilities for employees.

36.—(1) The Council may provide and maintain or contribute to the cost of providing and maintaining recreational, social and welfare facilities for their employees.

(2) For the purposes aforesaid, the Council may—

(a) erect or maintain buildings;

(b) make such charges as they think fit for the use of facilities provided under this section;

(c) make regulations for the management of such buildings and facilities.

Power to provide facilities for hovercraft, hydrofoil vessels, etc.

37.—(1) (a) The Council may use for such time as they may think fit lands and buildings within the county as a terminal for hovercraft, hydrofoil vessels and similar craft or vessels, and may erect or adapt on any such lands and may maintain and manage buildings, structures, slipways and other works for use in connection with such hovercraft, hydrofoil vessels and similar craft or vessels, and may make reasonable charges in respect of the use of such works.

(b) The Council may at any such terminal provide such plant, facilities, appliances and conveniences as may be requisite or expedient for the operation, equipment, maintenance, repair and use of such hovercraft, hydrofoil vessels and similar craft or vessels.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, the Council may exercise the following powers at any terminal provided by them in accordance with the provisions of subsection (1) of this section:—

- (a) they may provide and maintain parking places, cloak-rooms, waiting rooms, refreshment rooms, shelters, offices, information bureaux and displays, lavatories, conveniences and other similar accommodation;
- (b) they may make reasonable charges for the use of, or let on hire to any person, any accommodation so provided, or any building or structure;
- (c) they may make regulations as to the use of such parking places and accommodation.

(3) The Council may make byelaws with respect to any terminal provided under this section and for maintaining order in and for regulating the use of any premises used in connection therewith.

(4) The Secretary of State in deciding whether to confirm any byelaw under this section shall take into account any representations which may be made regarding the adverse effect of such byelaw on the commercial operation of hovercraft and from bodies representative of recreational users.

38.—(1) Subject to the consent of the Council, the provisions of section 37 (Power to provide facilities for hovercraft, hydrofoil vessels, etc.) of this Act shall apply to a local authority to whom this section applies and those provisions shall accordingly have effect as if—

Application of section 37 to certain local authorities.

- (a) for references therein to the Council there were substituted references to such local authority;
- (b) the following paragraph were added to subsection (1):—
“ (c) A local authority shall not by virtue of the powers contained in this section use any lands and buildings within the county as such a terminal without the consent of the Council which may be given on such terms and conditions as the Council think fit ”;

and subject to any other necessary modifications.

(2) This section applies to the Newport Corporation, the Sandown-Shanklin Urban District Council and the Ventnor Urban District Council.

39.—(1) The Council may make byelaws for regulating the use of hovercraft:

Byelaws relating to use of hovercraft.

PART VIII
—cont.

Provided that—

- (a) such byelaws shall not apply to the testing or experimental use of hovercraft;
- (b) the Secretary of State in deciding whether to confirm any such byelaw shall take into account any representations which may be made regarding the adverse effect of such byelaw on the commercial operation of hovercraft or from bodies representative of recreational users.

(2) Without prejudice to the generality of the foregoing provisions of this section, byelaws under this section may—

- (a) ensure the safety of persons;
- (b) conserve amenity;
- (c) prevent nuisance or damage including nuisance caused by noise or vibration and damage to shell and other fisheries;
- (d) prescribe rules of navigation and impose speed limits; and
- (e) make different provision for different circumstances, and in particular impose different restrictions in different parts of the county and at different times or seasons.

(3) The Council shall consult—

- (a) the British Railways Board, British Rail Hovercraft Limited and Hovertravel Limited before making any byelaws under this section;
- (b) the river and water authority before making any byelaws under this section which will apply to any part of a main river.

Inclusion within county of piers outside low-water mark for purpose of certain enactments.
1961 c. 40.
1955 c. 16.
(4 & 5 Eliz. 2.)
1969 c. 53.
1968 c. 29.
1963 c. 31.

40. The whole of any pier, any part of which is in the county, shall be deemed to be wholly within the county for the purposes of the following enactments:—

Consumer Protection Act 1961;

Food and Drugs Act 1955;

Late Night Refreshment Houses Act 1969;

Town and Country Planning Acts 1962 to 1968;

Trade Descriptions Act 1968;

Weights and Measures Act 1963;

Section 8 (Coffee bars, clubs, etc., open after midnight or before 5 a.m.) of this Act.

41.—(1) A local authority to whom this section applies may, on any part of the seashore vested in them or on any other part of the seashore within their district, with the consent of any person having right thereto—

PART VIII
—cont.

Power to
execute works
on seashore.

(a) construct landing stages, jetties, footpaths, roads and promenades; and

(b) execute any works for the purpose of preserving, improving and restoring amenity.

(2) Nothing in this section shall authorise a local authority to whom this section applies to construct or execute any works over or in the immediate vicinity of the main river or in the vicinity of sea defences, sea walls or other similar works maintained by the river and water authority not in the immediate vicinity of the main river without the consent of the river and water authority, which consent shall not be unreasonably withheld, and any question as to whether the consent has been unreasonably withheld shall be determined by a single arbitrator to be appointed by agreement between the parties or in default of agreement to be appointed on the application of either party (after notice in writing to the other party) by the President of the Institution of Civil Engineers.

(3) This section applies to the Sandown-Shanklin Urban District Council and the Ventnor Urban District Council.

42. In the exercise of the powers of section 37 (Power to provide facilities for hovercraft, hydrofoil vessels, etc.), section 38 (Application of section 37 to certain local authorities) and section 41 (Power to execute works on seashore) the Council and a local authority shall ensure that the operation of the shipping services of the British Railways Board and the hovercraft services of British Rail Hovercraft Limited are not thereby unreasonably impeded.

For protection
of the British
Railways
Board and
British Rail
Hovercraft
Limited.

43. For the protection of Hovertravel Limited and the Southampton, Isle of Wight and South of England Royal Mail Steam Packet Company Limited or any other established operator of a hovercraft or hydrofoil service in the county the following provisions shall unless otherwise agreed in writing between the appropriate authority and the companies (as the case may be) apply and have effect:—

For protection
of Hovertravel
Limited and
others.

(1) In this section—

“the appropriate authority” means the Council or a local authority as the case may require;

“the companies” means Hovertravel Limited and the Southampton, Isle of Wight and South of England Royal Mail Steam Packet Company Limited and any other established operator of a hovercraft or hydrofoil service in the county:

PART VIII
—cont.

- (2) Before exercising the powers of section 37 (Power to provide facilities for hovercraft, hydrofoil vessels, etc.) or section 38 (Application of section 37 to certain local authorities) the appropriate authority shall consult the companies:
- (3) Before exercising any powers of section 41 (Power to execute works on seashore) of this Act which may impede the shipping, hydrofoil vessel or hovercraft services of the companies the local authority shall consult the companies:
- (4) In the exercise of the powers of the said section 37, the said section 38 and the said section 41 the appropriate authority shall ensure that the operation of shipping, hydrofoil vessel and hovercraft services of the companies are not thereby unreasonably impeded.

Microfilming
of plans and
documents.
1962 c. 38.

44.—(1) In this section—

“building” includes part of a building;

“development” has the same meaning as in the Town and Country Planning Act 1962;

“document” means the whole or part of a register, book, map, plan (not being a plan to which subsection (2) of this section applies), record 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;

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

“plan” includes any section, specification and written particulars which have been deposited with or submitted to the Council with the plan, and an application made to the Council for planning permission under the said Act of 1962.

- (2) (a) The Council may make and retain a microfilm recording of any plan to which this subsection applies where—
- (i) more than five years have elapsed since the date on which the plan was deposited with or submitted to the Council; and
- (ii) all significant features of the plan can be accurately reproduced in the form of a microfilm recording notwithstanding the use on the plan of one or more colours.

(b) This subsection applies to any plan relating to—

- (i) the construction, alteration or extension of a building; or
- (ii) the execution of any works or the installation of any fittings in connection with a building; or
- (iii) the making of a change in the purposes for which a building is used; or
- (iv) the carrying out of development of land; or
- (v) the laying out of a new street;

which has been deposited with or submitted to the Council by virtue of a requirement imposed by any enactment.

(3) The Council may make and retain microfilm recordings of documents of the Council.

(4) Notwithstanding anything contained in any enactment, the Council may destroy or otherwise dispose of any plan or any document of the Council (other than minute books) of which they have made and retained microfilm recordings:

Provided that—

- (a) the Council 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; 1958 c. 51.
1962 c. 56.
- (b) the Council shall afford a right of access for the public to a microfilm recording of a plan or document which has been destroyed in pursuance of this section equal to the right of access, if any, of the public to the plan or document so destroyed;
- (c) nothing in this section shall prejudice or affect the rights of the public to have access to any plan or document of the Council of which a microfilm recording has been made and which has not been destroyed or otherwise disposed of.

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

(6) Notwithstanding anything contained in any enactment or any rule of law an enlargement of a microfilm recording of a plan or document which has been destroyed or otherwise disposed of in pursuance of this section shall be receivable in evidence for any

PART VIII
—cont.

purpose for which the document would have been receivable in any proceedings in any court in England or Wales if the clerk certifies that—

- (a) the plan or document has been destroyed or otherwise disposed of; and
- (b) a microfilm recording of the plan or document has been made; and
- (c) the enlargement is an enlargement of that microfilm recording.

Power to
require
information as
to ownership
of premises.

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

- (a) any enactment in force at the passing of this Act which authorises the Council to acquire land compulsorily;
- (b) any enactment mentioned in Schedule 1 to this Act; and
- (c) this Act;

require—

- (i) the occupier and any person having an interest in any premises in the county 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 county 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 Council 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 rent-charge issuing out of those premises.

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

46.—(1) A committee lawfully authorised by the Council to exercise any powers of the Council under any enactment may, subject to any direction of the Council, appoint such sub-committees consisting either wholly or partly of members of the committee as the committee think fit, and subject as aforesaid may delegate with or without restrictions or conditions any of their functions to a sub-committee so appointed.

PART VIII
—cont.
Delegation
of powers
to sub-
committees.

(2) A sub-committee appointed under this section (other than a sub-committee of a committee for regulating and controlling the finance of the Council or of the county) may include persons who are not members of the Council:

Provided that—

- (a) a majority of the members of any such sub-committee shall be members of the Council; and
- (b) whenever at any meeting of any such sub-committee the members present thereat do not include a majority of members of the Council any decision of the sub-committee shall have no effect unless it is confirmed by the committee.

(3) Nothing in this section shall authorise the appointment of a sub-committee for any purpose for which any committee of the Council are authorised to appoint a sub-committee under any other enactment.

47. The Council may provide services and facilities for the processing of data by computer or any other electronic or mechanical data processing equipment which the Council may possess for any authority, body or person and the Council may make such charges as may be agreed for the provision of those services and facilities.

Electronic or
mechanical
equipment.

48.—(1) Any power conferred on an officer of the Council by or under any enactment to enter upon and inspect any building or works in course of construction shall include a power to use, free of expense, for the purpose of the entry or inspection, any ladders, scaffolding and plant in or about the building or works.

Power to use
ladders, etc.,
for entry or
inspection.

(2) If the builder of, or contractor for, any building or works or any person employed by him in or about any building or works—

- (a) refuses to give to such an officer all reasonable assistance in the exercise of the powers conferred by this section; or
- (b) otherwise obstructs such an officer in the exercise of those powers;

he shall be liable to a fine not exceeding twenty pounds.

PART VIII
—cont.Evidence of
proceedings,
appointments,
etc.

49.—(1) In proceedings under any enactment, a document purporting to be certified by the clerk of the Council as a copy of a resolution passed, order made, or report received, by the Council or a committee thereof on a specified date shall be evidence that that resolution, order or report was duly passed, made or received by the Council or committee on that date.

(2) In proceedings under any enactment, a document purporting to be certified as aforesaid as a copy of the appointment of, or of an authority given to, an officer of the Council or a committee thereof on a specified date shall be evidence that that appointment was duly made, or that that authority was duly given, by the Council or committee on that date.

(3) In this section “ officer ” includes a servant and an agent.

(4) Section 286 of the Act of 1936, and that section as applied by, or incorporated in, any other enactment, shall cease to apply to the Council and its committees.

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

50. Section 265 of the Public Health Act 1875 shall apply to the Council and a local authority 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 or a sub-committee of a local authority.

As to minutes
of Council
meetings, etc.

51.—(1) Notwithstanding anything contained in paragraph 3 of Part V of Schedule 3 to the Act of 1933, or in any other enactment or rule of law to the contrary, the minutes of the proceedings or meetings of the Council, or of any committee or sub-committee thereof, may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed and each leaf comprising those minutes being initialled at the same meeting or the next ensuing meeting of the Council, or, as the case may be, at the same or any subsequent meeting of the committee or sub-committee by the person presiding thereat:

Provided that if a meeting of the Council is held not later than ten days from the date of a previous meeting of the Council, the minutes of that previous meeting may be signed and each leaf comprising those minutes initialled at the next but one ensuing meeting of the Council.

(2) Any minutes purporting to be signed as provided by subsection (1) of this section shall be received in evidence without further proof.

52. Nothing in this Part of this Act shall prejudice or derogate from, or in anywise alter, affect or interfere with, the jurisdiction, authority, rights, powers and privileges of—

PART VIII
—cont.

Saving for
Cowes and
Yarmouth
Harbour
Commis-
sioners.

(1) the Cowes Harbour Commissioners within the harbour of Cowes and Cowes Roads as defined by the Cowes Harbour Acts and Orders 1897 to 1970 or any order from time to time extending the limits of that harbour;

(2) the Yarmouth (Isle of Wight) Harbour Commissioners within the harbour of Yarmouth in the Isle of Wight as defined by the Yarmouth (Isle of Wight) Pier and Harbour Orders 1931 to 1963 or any order from time to time extending the limits of that harbour.

53. Nothing in this Part of this Act shall affect the application to any operation of sections 34 to 36 of the Coast Protection Act 1949 (which require the consent of the Board of Trade or the Secretary of State to certain operations and contain other provisions for the safety of navigation).

Saving for
Coast
Protection
Act 1949.
1949 c. 74.

54. Nothing in this Part of this Act shall exempt the Council from the provisions of section 9 of the Harbours Act 1964 in relation to the works authorised by this Act.

Saving for
Harbours
Act 1964.
1964 c. 40.

55. Nothing in this Part of this Act shall prejudicially affect or derogate from the powers and rights of the Local Fisheries Committee of the Southern Sea Fisheries District or any byelaws from time to time made by that committee.

Saving for
Local
Fisheries
Committee.

PART IX

GENERAL

56. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Secretary of State.

Confirming
authority for
byelaws.

57. For the protection of the undertakers the following provisions shall, unless otherwise agreed in writing between the appropriate authority and the undertakers, apply and have effect:—

For
protection of
certain
statutory
undertakers.

(1) In this section, unless the subject or context otherwise requires—

“apparatus” means any mains, pipes or other apparatus and electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the undertakers and includes any works constructed for the lodging therein of apparatus;

1882 c. 56.

PART IX
—cont.

“ appropriate authority ” means the Council, a local authority, the highway authority or the police authority as the case may require;

“ in ” in a context referring to apparatus includes under, over, across, along or upon;

“ the undertakers ” means the Central Electricity Generating Board, the Gas Council, the river and water authority, the Southern Gas Board and the Southern Electricity Board, or any of them, as the case may be:

- (2) Nothing in the following sections of this Act shall relieve the appropriate authority from liability for damage caused by them to any apparatus in the exercise of the powers of the said sections, and the said powers shall be so exercised as not to render unreasonably inconvenient the access to any apparatus or operational land of the undertakers:—

Section 7 (Police telephone call boxes and shelters);

Section 22 (Trees, grass verges and gardens);

Section 41 (Power to execute works on seashore):

- (3) Nothing in any agreement entered into under paragraph (e) of subsection (1) of section 16 (Agreements with developers) of this Act shall prejudice or affect any powers exercisable by the undertakers, whether by agreement or otherwise, for the placing, inspecting, maintaining, adjusting, repairing, altering, renewing or removing of apparatus in, on, under or over any land or building to which the agreement relates, or any obligations or rights of the undertakers in relation to the exercise of such powers:

- (4) Nothing in the said section 22 shall affect the rights of the undertakers with respect to any apparatus (including the placing of apparatus) in any grass verge or garden:

Provided that, in exercising such rights, the undertakers shall not cause or permit, except in the case of necessity, vehicles to enter upon any such verge which is maintained in an ornamental condition or mown, or any garden:

- (5) (a) Any difference which may arise between the appropriate authority and the undertakers under this section shall be determined by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of either party (after notice in writing to the other party) by the President of the Institution of Civil Engineers;

(b) In settling any difference under this section the arbitrator may, if he thinks fit, require the appropriate authority to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with the use of any apparatus.

PART IX
—cont.

58.—(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.

59.—(1) Where an offence under any of the provisions of this Act mentioned in subsection (2) of this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly. Liability of directors, etc.

(2) The provisions hereinbefore referred to are the following:—

- Section 5 (Control of large overnight assemblies in the open);
- Section 8 (Coffee bars, clubs, etc., open after midnight or before 5 a.m.);
- Section 9 (Touting, hawking, etc.);
- Section 10 (Hackney carriages);
- Section 21 (Sale of food and articles on verges, etc.).

(3) In subsection (1) of this section, “ director ” in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body.

60. 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 Council. Restriction on right to prosecute.

PART IX
—cont.
Appeals.

61.—(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.

(2) Where any requirement, refusal or other decision of the Council or a local authority 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 Council or the local authority themselves execute the work or take the action; and

(ii) that person may carry on that business, and use those premises for that purpose.

Application
of general
provisions of
Act of 1936.

62. The sections of the Act of 1936 mentioned in Schedule 2 to this Act shall have effect as if references therein to that Act included references to this Act.

Saving for
Town and
Country
Planning
Acts.

1962 c. 38.

63. Section 220 of the Town and Country Planning Act 1962 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the Session 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Act as if it had been passed during that Session; and accordingly the Town and Country Planning Acts 1962 to 1968 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this 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 or otherwise in relation thereto shall be paid by the Council out of the county fund or out of moneys to be borrowed under this Act.

SCHEDULES

SCHEDULE 1

Section 45.

Land Drainage Act 1930.
Act of 1936.
Shops Act 1950.
Land Drainage Act 1961.

1930 c. 44.

1950 c. 28.

1961 c. 48.

SCHEDULE 2

Section 62.

SECTIONS OF ACT OF 1936 APPLIED

Section	Marginal note
271	Interpretation of "provide".
283	Notices to be in writing; forms of notices, &c.
288	Penalty for obstructing execution of Act.
296	Summary proceedings for offences.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.



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