

**Durham County Council**  
**(Barmston-Coxgreen Footbridge)**  
**Act, 1957**

5 & 6 ELIZ. 2 Ch. xxvii

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CHAPTER xxvii

An Act to empower the Durham County Council to construct a footbridge over the river Wear to authorise the discontinuance and abandonment of the ferry across that river commonly known as the Barmston-Coxgreen Ferry and for other purposes.

[31st July 1957.]

**W**HEREAS—

(1) The ferry across the river Wear from the urban district of Washington to the parish of Offerton in the rural district of Sunderland commonly known as the Barmston-Coxgreen Ferry is no longer operated and it is expedient to authorise the discontinuance and abandonment of that ferry:

(2) It is expedient to empower the county council of the administrative county of Durham (hereinafter referred to as “the Council”) to construct a footbridge over the river Wear:

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

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

(5) Estimates have been prepared by the Council for and in connection with the following purpose:—

The construction of the work authorised by this	
Act	£7,450

(6) The work included in such estimates is a permanent work and it is expedient that the Council be empowered to borrow money for that purpose as provided by this Act:

(7) A plan and section showing the lines and levels of the work authorised by this Act and showing the lands required or which may be taken for the purposes or under the powers of this Act and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and occupiers of those lands were duly deposited with the clerk of the Council which plan section and book of reference are in this Act respectively referred to as the deposited plan section and book of reference:

(8) 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 (that is to say):—

## PART I

### PRELIMINARY

Short title.

1. This Act may be cited as the Durham County Council (Barmston-Coxgreen Footbridge) Act 1957.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Ferry and footbridge.

Part III.—Lands.

Part IV.—Finance and miscellaneous.

Incorporation of Acts.

3.—(1) The following Acts and parts of Acts (so far as the same are applicable for the purposes of and are not varied by or inconsistent with this Act) are hereby incorporated with and form part of this Act (namely):—

(a) the Lands Clauses Acts except section 92 sections 127 to 132 and sections 150 and 151 of the Lands Clauses Consolidation Act 1845;

(b) the provisions of the Railways Clauses Consolidation Act 1845 with respect to the temporary occupation of lands near the railway during the construction thereof and with respect to mines lying under or near the railway:

Provided that the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be sufficient without the addition of the sureties mentioned in that section.



(2) In the application of the provisions of the Railways Clauses Consolidation Act 1845 for the purposes of this Act—

PART I  
—cont.

(a) “the company” means the Council;

(b) “the railway” means the work; and

(c) “the centre of the railway” means any part of the work.

4.—(1) In this Act the several words and expressions to which Interpretation. meanings are assigned by section 343 of the Public Health Act 1936 have the same respective meanings unless there be something in the subject or context repugnant to such construction.

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

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

“the commissioners” means the River Wear Commissioners;

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

“the county” means the administrative county of Durham;

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

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

“the ferry” means the ferry across the river from the urban district of Washington to the parish of Offerton in the rural district of Sunderland commonly known as “the Barmston-Coxgreen Ferry”;

“the Lands Clauses Acts” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 by Part V of the Town and Country Planning Act 1947 by the Lands Tribunal Act 1949 by the Town and Country Planning Act 1954 and by this Act;

“the Minister” means the Minister of Transport and Civil Aviation;

“the river” means the river Wear;

“the tribunal” means the tribunal or other authority to whom any question of disputed purchase money or compensation under this Act is referred in pursuance of the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949;

“the work” means the work authorised by section 6 (Power to construct footbridge) of this Act.

(3) Except where the context otherwise requires any reference in this Act to any enactment shall be construed as a reference to

PART I  
—cont.

that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

## PART II

## FERRY AND FOOTBRIDGE

Abandonment  
of ferry.

5.—(1) As from the date of the opening of the work for pedestrian traffic the ferry shall be discontinued and abandoned and all rights in or relating to the ferry shall be extinguished and the person in whom the franchise of the ferry is vested at that date shall by virtue of this Act be relieved from all or any obligations (statutory or otherwise) to maintain work or use the ferry.

(2) No compensation shall be payable to any person in respect of any rights in or relating to the ferry extinguished under the provisions of this section.

Power to  
construct  
footbridge.

6.—(1) Subject to the provisions of this Act the Council may make and maintain as a county road in the line and situation and according to the levels shown on the deposited plan and section the work referred to in this section together with all necessary and proper works and conveniences connected therewith or incidental thereto (that is to say)—

A footbridge over the river with footway approaches thereto commencing by a junction with the public road leading from Washington Station directly to the ferry landing stage at Washington Staithes in the urban district of Washington and terminating by a junction with the unclassified road number 13/4 (known as Coxgreen Village Road) at Coxgreen in the parish of Offerton in the rural district of Sunderland.

(2) Subject to the provisions of this Act the Council may improve renew or replace the work at any time and from time to time as occasion may require.

(3) Section 34 of the Coast Protection Act 1949 shall not apply to the construction of the work.

Power to  
deviate.

7. The Council in constructing the work may deviate from the lines thereof shown on the deposited plan to any extent not exceeding the limits of deviation shown on that plan and may deviate from the levels shown on the deposited section to any extent not exceeding two feet either upwards or downwards but shall not as respects any part of the work affecting the navigation of the river deviate downwards from those levels:

Provided that no deviation either lateral or vertical below high-water mark shall be made without the consent in writing of the Minister.



8.—(1) Within the limits of deviation shown on the deposited plan the Council in connection with and as part of the work may execute or do any of the following works or things:—

PART II  
—cont.  
Power to make  
subsidiary  
works.

- (a) make junctions and communications with any existing streets (whether or not they are dedicated to the public use or repairable by the inhabitants at large) intersected or interfered with by or contiguous to the work and divert widen or alter the line or alter the level of any such existing street for the purpose of connecting the same with the work;
- (b) execute any works for the protection of any adjoining land or buildings;
- (c) execute any works and do any things necessary for the strengthening and supporting of any walls of adjoining buildings;
- (d) alter or remove any lamp-post refuge railings or other structure erected upon any street or land;

and shall make compensation for any damage done by them in exercise of the powers of this section.

(2) Any dispute arising under this section as to the fact of damage or as to the amount of compensation shall be determined by arbitration:

Provided that if the compensation claimed does not exceed fifty pounds all questions as to the fact of damage liability to pay compensation and the amount of compensation may on the application of either party be determined by and any compensation awarded may be recovered before a magistrates' court.

(3) In this section the expression "magistrates' court" has the same meaning as in the Magistrates' Courts Act 1952.

9.—(1) Subject to the provisions of this Act the Council may make on or in the banks bed soil and foreshore of the river and elsewhere in connection with the work and at or near any works or erections to be made or put up by the Council for or connected with the construction user and maintenance of the work and may place and keep in the river and elsewhere temporarily all such piles fenders booms dolphins pontoons caissons stagings cofferdams embankments piers abutments wharves walls fences drains stairs buildings and other works and conveniences as they may find necessary or expedient for or in connection with the construction maintenance or use of the work:

Subsidiary  
works in  
river.

Provided that the Council shall ensure that so far as reasonably practicable any such works shall not narrow or obstruct the navigable waterway of the river or otherwise interfere with or impede navigation or obstruct the flow of water.

PART II  
—cont.

(2) On the completion of the work the Council shall remove all temporary works placed by them in the river under the powers of this section.

No mains or pipes to be laid in bridge.

10. Notwithstanding anything contained in the Public Utilities Street Works Act 1950 or in any other enactment no person shall enter upon break up or interfere with the work for the purpose of laying down any main pipe or wire or executing any work therein thereon or thereunder except as provided in section 17 (For protection of Sunderland and South Shields Water Company) of this Act or with the consent of the Council and in accordance with such reasonable terms and conditions as the Council may determine.

Works below high-water mark to be subject to approval of Minister.

11.—(1) Subject to the provisions of this Act the work so far as the same shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides shall only be constructed in accordance with plans and sections approved by the Minister and subject to such restrictions and regulations as the Minister may prescribe before the work is begun.

(2) Any alteration of the work shall be subject to the like approval.

(3) If the work be commenced or completed contrary to the provisions of this section the Minister may abate and remove the same and restore the site thereof to its former condition at the cost of the Council and the amount of such cost shall be a debt due from the Council to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

Provision against danger to navigation.

12.—(1) In case of injury to or destruction or decay of the work or any part thereof so far as the same shall be constructed on under or over any tidal waters or tidal lands below high-water mark of ordinary spring tides the Council shall lay down such buoys exhibit such lights or take such other means for preventing so far as may be danger to navigation as shall from time to time be directed by the Corporation of Trinity House of Deptford Strond and shall apply to that corporation for directions as to the means to be taken.

(2) If the Council fail to comply in any respect with the provisions of this section they shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding twenty shillings.

Abatement of work abandoned or decayed.

13.—(1) Where any part of the work situate wholly or partially on under or over the shore or bed of the river below high-water mark of ordinary spring tides is abandoned or suffered to fall into decay the Minister may by notice in writing either require the Council at their own expense to repair and restore such part of



the work as is situate below high-water mark of ordinary spring tides or any portion thereof or require them to abate or remove the same and restore the site thereof to its former condition to such an extent and within such limits as the Minister may think proper.

PART II  
—cont.

(2) Where any part of the work which has been abandoned or suffered to fall into decay is situate above high-water mark of ordinary spring tides and is in such condition as to interfere or to cause reasonable apprehension that the same may interfere with the right of navigation or other public rights over the foreshore the Minister may include any such part of the work or any portion thereof in any notice under this section.

(3) If during the period of thirty days from the date when the notice is served upon the Council they have failed to comply with such notice the Minister may execute the works required to be done by the notice at the expense of the Council and the amount of such expense shall be a debt due from the Council to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

14. If at any time the Minister deems it expedient for the purposes of this Act to order a survey and examination of any part of the work which shall be on under or over tidal waters or tidal lands below high-water mark of ordinary spring tides or of the site upon which it is proposed to construct any such work the Council shall defray the expense of the survey and examination and the amount thereof shall be a debt due from the Council to the Crown and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds by the Minister summarily as a civil debt.

Survey of  
works by  
Minister.

15.—(1) After the completion of the work the Council shall at the outer extremity of the work below high-water mark of ordinary spring tides exhibit and keep burning every night from sunset to sunrise such lights (if any) and take such other steps for the prevention of danger to navigation as the Corporation of Trinity House of Deptford Strond shall from time to time direct.

Permanent  
lights on  
works.

(2) If the Council fail to comply in any respect with the provisions of this section they shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding two pounds.

16.—(1) The Council may make byelaws for the regulation control and protection of the work and of persons resorting to or using the same.

Byelaws.

(2) The confirming authority for the purpose of section 250 of the Act of 1933 shall as respects byelaws made under this section be the Minister.

PART II  
 —cont.

For protection  
 of Sunderland  
 and South  
 Shields Water  
 Company.

17. For the protection of the Sunderland and South Shields Water Company (hereinafter referred to as "the company") the following provisions shall unless otherwise agreed in writing between the Council and the company apply and have effect:—

- (1) In constructing the work the Council shall provide thereon accommodation and support for two water mains of the company each having an internal diameter not exceeding six inches:
- (2) Such accommodation and support shall be of such nature as may be agreed between the Council and the company or in default of agreement settled by arbitration and shall be in such position as may be agreed or settled as aforesaid:
- (3) The additional cost (if any) reasonably incurred by the Council in providing such accommodation and support shall be repaid to the Council by the company in a single payment or in such other manner as may be agreed between the Council and the company:
- (4) Subject as provided in paragraph (6) of this section the company shall be entitled at all times to use free of charge the accommodation provided pursuant to the foregoing provisions of this section for the purpose of laying and placing thereon the said water mains with any necessary pipes and other apparatus ancillary thereto and notwithstanding anything in section 10 (No mains or pipes to be laid in bridge) of this Act the company shall have the same rights of entering upon or interfering with the work for the purpose of inspecting repairing maintaining removing or renewing such mains pipes and apparatus as they would be entitled to exercise if the same were laid or placed in a street or road:

Provided that—

(a) the said mains pipes and apparatus shall conform in their design and construction with the reasonable requirements of the Council;

(b) the company shall give to the Council reasonable notice of their intention to commence the laying or placing of the said mains pipes and apparatus on the work and the Council shall be entitled to superintend such laying or placing the costs reasonably incurred by the Council in such superintendence shall be repaid to them by the company;

(c) except in case of emergency the company shall give to the Council ten days' notice in writing of their intention to interfere with the work and shall conform with the reasonable requirements of the Council as to



the time or times at which the company may exercise the right of entering upon or interfering with the work for the purpose of inspecting repairing maintaining removing or renewing the said mains pipes or apparatus so as to cause as little interference as practicable with the use of the work:

PART II  
—cont.

- (5) The Council shall afford to the company all such facilities as the company may reasonably require for the purpose of connecting the said mains pipes and apparatus with any other mains pipes or apparatus of the company:
- (6) In the event of the Minister giving notice to the Council in accordance with the provisions of subsection (2) of section 19 (As to removal of footbridge) of this Act requiring the Council to remove the footbridge the Council shall forthwith serve a copy of such notice upon the company who shall within three months of receipt thereof at their own expense and without claiming any right of compensation or damage in respect thereof remove the said mains pipes and apparatus from the footbridge and in default thereof the Council may remove the said mains pipes and apparatus at the expense of the company:
- (7) Any question or difference which may arise between the Council and the company under this section (other than any question or difference as to the wording or construction of this section) shall be settled by arbitration.

18. For the protection of the commissioners and the river board the following provisions shall unless otherwise agreed in writing between the Council on the one hand and the commissioners or the river board (as the case may be) on the other hand apply and have effect:—

For protection of River Wear Commissioners and Wear and Tees River Board.

- (1) In this section unless the context otherwise requires—
- “ authorised work ” means so much of the footbridge authorised by section 6 (Power to construct footbridge) of this Act and of any work constructed under section 9 (Subsidiary works in river) of this Act as is constructed or carried out (as the case may require) in over or across the river or its banks ;
- “ banks ” has the meaning assigned to that expression by the Land Drainage Act 1930 ;
- “ protected authorities ” means the commissioners and the river board and “ protected authority ” means one of those authorities ;



PART II  
—cont.

“the river board” means the Wear and Tees River Board:

- (2) The Council shall not execute improve renew or replace any authorised work except in accordance with plans sections and particulars to be previously submitted to the protected authorities for their reasonable approval and the Council shall not commence any such work until the plans sections and particulars relating thereto have been so submitted and approved or settled :

Provided that—

(a) if a protected authority do not within two months after the receipt of such plans sections and particulars intimate in writing to the Council their disapproval thereof or make any objections or requirements with respect thereto they shall be deemed to have approved thereof ;

(b) if any requirements of either of the protected authorities under this subsection conflict with any requirement of the Minister under section 11 (Works below high-water mark to be subject to approval of Minister) of this Act the latter shall prevail ;

(c) the plans sections and particulars submitted as aforesaid shall be deemed not to have been approved unless approved by both the protected authorities and in any arbitration proceedings which may take place as a result of the disapproval by one of the protected authorities the protected authority which are not a party to the proceedings shall be entitled to be heard in such proceedings and the plans sections and particulars as settled by such arbitration shall be deemed to have been approved by such protected authority (whether or not they have been heard in the proceedings):

- (3) (a) Any such work as is referred to in paragraph (2) of this section shall be executed by the Council to the reasonable satisfaction of the respective engineers of the protected authorities and when commenced shall be completed with all reasonable dispatch ;
- (b) The Council shall at all times afford reasonable facilities to the said engineers and to any person authorised by either of them for access to any such work during the construction thereof and shall also supply to the said engineers all information which they may reasonably require with regard to such work or the method of construction thereof:

- (4) The Council shall remove any debris or other material which owing to the obstruction caused by any part of the authorised work has accumulated against any such part in such a way or to such an extent as to interfere with the free flow of water in the river:
- (5) Notwithstanding the approval by a protected authority of plans sections and particulars or of any work or the supervision by or the completion to the satisfaction of the engineer of a protected authority of any work the Council shall be responsible for and shall make good to the protected authority all expenses which the protected authority may reasonably incur and indemnify the protected authority against all claims which may be made against them by reason or in consequence of the construction user repair maintenance or failure of any authorised work or failure to repair or maintain the same unless due to the negligence of the protected authority or of any person in their employ or of their contractors:
- (6) Any dispute or difference which may arise under this section between the Council and a protected authority or their engineer shall be referred to and settled or determined by an arbitrator.

19.—(1) The commissioners may at any time and from time to time make application to the Minister requiring the removal of the footbridge authorised by section 6 (Power to construct footbridge) of this Act and any works constructed thereon or in connection therewith. As to removal of footbridge.

(2) If on any such application the Minister is satisfied that under the circumstances then existing it is necessary in the interests of navigation for the purpose of or in connection with trade or industry that the said footbridge and the works thereon or connected therewith should be removed he may subject to the provisions of this section by notice in writing require the Council to remove the same and restore the site thereof to its former condition to such extent and within such limits as the Minister may think proper.

(3) (a) Before deciding whether or not to serve a notice under the last foregoing subsection the Minister may require the commissioners in such manner as he may specify to publish notice of the application and to give notice thereof to the Council the Sunderland and South Shields Water Company and such other persons as he may specify and the Minister shall afford to the Council the said company and any other person appearing to him to be likely to be affected by the removal of the said footbridge and works an opportunity of making representations to him and may if he thinks fit cause a local inquiry to be held.



PART II  
—cont.

(b) Subsections (2) to (5) of section 290 of the Act of 1933 shall apply in relation to any such inquiry.

(4) If within the period of six months from the date when the notice is served upon the Council under subsection (2) of this section they fail to comply with such notice the commissioners may execute or cause to be executed the works required to be done by the notice and recover from the Council the reasonable cost incurred by them in so doing.

## PART III

## LANDS

Power to  
acquire lands.

20.—(1) Subject to the provisions of this Act the Council may enter upon take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as may be required for the purpose of this Act.

(2) The powers of the Council for the compulsory purchase of land under this section shall cease after the expiration of three years from the first day of December nineteen hundred and fifty-seven.

Correction of  
errors in  
deposited plan  
and book of  
reference.

21.—(1) If any omission misstatement or wrong description of any land or of the owner lessee or occupier of any land is found to have been made on the deposited plan or in the deposited book of reference the Council after giving ten days' notice to the owner lessee and occupier of the land in question may apply to two justices having jurisdiction in the county for the correction thereof.

(2) If on any such application it appears to the justices that the omission misstatement or wrong description arose from mistake the justices shall certify the fact accordingly and shall in their certificate state the particulars of the omission or in what respect any matter is misstated or wrongly described.

(3) Any such certificate shall be deposited with the clerk of the Council and a copy thereof shall be deposited with every clerk of a local authority and chairman of a parish council or parish meeting with whom a copy of the deposited plan (or so much thereof as includes the lands to which the certificate relates) has been deposited in accordance with the Standing Orders of the Houses of Parliament or who has the custody of any such copy so deposited and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Council to take the land and execute the work in accordance with the certificate.

(4) Any certificate or copy deposited under this section with any person shall be kept by him with the other documents to which it relates.



22.—(1) For the purposes of this Act the following provisions of this section shall have effect in substitution for section 92 of the Lands Clauses Consolidation Act 1845.

PART III  
—cont.  
Acquisition of  
part only of  
certain  
properties.

(2) No person shall be required to sell a part only of any house building or factory or of a park or garden belonging to a house if he is willing and able to sell the whole of the house building factory park or garden unless the tribunal by whom the compensation is to be assessed determines—

(a) in the case of a house building or factory that such part as is proposed to be taken can be taken without material detriment to the house building or factory; or

(b) in the case of a park or garden that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house to which it belongs.

(3) If the tribunal determines as aforesaid compensation shall be awarded in respect of any loss due to the severance of the part proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell to the Council that part of the house building factory park or garden.

23. At any time after serving a notice to treat in respect of any land or easement that may be acquired compulsorily under this Act but not less than one month after giving the owner and occupier of the land notice of their intention to exercise the powers of this section the Council may enter on and take possession of the land or such part thereof as is specified in the last-mentioned notice or enter on the land in respect of which the easement is to be acquired without previous consent and without compliance with sections 84 to 90 of the Lands Clauses Consolidation Act 1845:

Power to  
expedite entry.

Provided that the Council shall pay the like compensation for land of which possession is taken under this section or for the easement acquired and the like interest on the compensation awarded as would have been payable if the provisions of those sections had been complied with.

24. Any person acting on behalf of the Council and duly authorised by the clerk of the Council may at all reasonable times enter on any land that may be acquired compulsorily under this Act for the purpose of surveying or valuing the land:

Power to  
enter for  
survey or  
valuation.

Provided that no land shall be entered under this section unless the Council not less than twenty-four hours before the first entry and not less than twelve hours before any subsequent entry have given notice to the owner and occupier of the land.

25. In determining any question of disputed compensation or purchase money in respect of land acquired under this Act the tribunal shall not take into account—

Disregard  
of recent  
improvements  
and interests.

PART III  
—cont.

(a) any improvement or alteration made or building erected after the fifth day of December nineteen hundred and fifty-six; or

(b) any interest in the land created after the said date;

which in the opinion of the tribunal was not reasonably necessary and was made erected or created with a view to obtaining or increasing the compensation or purchase money.

Set off of  
betterment  
against  
compensation.

26. In determining the amount of compensation or purchase money payable to any person in respect of his interest in land acquired or in land in respect of which an easement or right is acquired under this Act in a case where—

(a) he has an interest in any other land contiguous with or adjacent to the land so acquired or the land in respect of which an easement or right is so acquired; and

(b) the value of his interest in any such contiguous or adjacent land is enhanced by reason of the execution of the work; the amount of the enhancement in value shall be set off against the compensation or purchase money.

Extinction of  
private rights  
of way.

27.—(1) Any private right of way over any land that may be acquired compulsorily under this Act shall if the Council so resolve and give notice of their resolution to the owner of the right be extinguished as from the acquisition of the land whether compulsorily or by agreement or as from the expiration of one month from the service of the notice whichever is the later.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the Council compensation to be determined in case of dispute under and in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

Power to  
acquire  
easements  
only.

28.—(1) In lieu of acquiring any land that may be acquired under this Act the Council may for the purposes of constructing using and maintaining so much of the work as will be constructed above the surface of the ground or in on or over the bed of the river and doing anything necessary in connection therewith acquire such easements and rights in that land as they may require for those purposes.

(2) Accordingly the Council may give notice to treat in respect of any such easement or right describing the nature thereof and the provisions of the Lands Clauses Acts shall apply in relation to the acquisition of such easements and rights as if they were lands within the meaning of those Acts.

(3) Where the Council have acquired an easement or right only in any land under this section—



- (a) they shall not be required or (except by agreement or during the execution of the work) entitled to fence off or sever that land from the adjoining land;
- (b) the owner or occupier of the land for the time being shall subject to the easement or right have the same right to use the land as if this Act had not been passed.

PART III  
—cont.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Council to acquire the land the Council shall not be entitled under this section to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or in the case of a park or garden belonging to a house without seriously affecting the amenity or convenience of the house:

Provided that nothing in this subsection shall apply to land forming part of a street.

(5) A notice to treat given under this section shall be endorsed with notice of the effect of subsection (4) of this section.

29.—(1) Any person empowered by the Lands Clauses Acts to sell and convey or release lands may if he thinks fit subject to the provisions of those Acts grant to the Council any easement or right required for the purposes of this Act in over or affecting any such lands (not being an easement or right of water in which some person other than the grantor has an interest).

Grant of easements by persons under disability.

(2) The provisions of the said Acts with respect to lands and rentcharges so far as they are applicable shall extend and apply to any such grant and to any such easement or right as aforesaid.

## PART IV

## FINANCE AND MISCELLANEOUS

30.—(1) The Council shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column of the said table and they shall pay off all moneys so borrowed within such periods as the Council

Power to borrow.



PART IV  
—cont.

may determine not exceeding those respectively mentioned in the third column of the said table:—

Purpose (1)	Amount (2)	Period for repayment calculated from the date or dates of borrowing (3)
(a) The purchase of lands and easements for the purposes of this Act.	The sum requisite.	Sixty years.
(b) The construction of the work	£7,450.	Thirty years.
(c) The payment of the costs charges and expenses of this Act.	The sum requisite.	Five years.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

Saving for  
powers of  
Treasury.

31. It shall not be lawful to exercise the powers of borrowing conferred by this Act (except the power of borrowing to pay the costs charges and expenses of this Act) otherwise than in compliance with the provisions of any order for the time being in force made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

Protection of mem-  
bers and officers of  
Council from  
personal liability.

32. Section 265 of the Public Health Act 1875 shall apply to the Council as if any reference in that section to the said Act of 1875 included a reference to this Act.

## Arbitration.

33. In arbitrations under a provision of this Act mentioned in the first column of the following table the reference shall be to a single arbitrator to be appointed by agreement between the parties or in default of agreement by the person respectively mentioned in the second column of that table on the application of any party after giving notice in writing to the other party or parties:—

1	2
Provision of Act	Person appointing arbitrator
Subsection (2) of section 8 (Power to make subsidiary works).	The Minister of Housing and Local Government.
Section 17 (For protection of Sunderland and South Shields Water Company).	The President of the Institution of Civil Engineers.
Section 18 (For protection of River Wear Commissioners and Wear and Tees River Board).	The President of the Institution of Civil Engineers.

34. The sections of the Public Health Act 1936 mentioned in the schedule to this Act shall have effect as if references therein to that Act included a reference to this Act.

Application of general provisions of Act of 1936.

35. Except so far as may be necessary for the purposes of the construction maintenance improvement renewal or replacement of the works by this Act authorised nothing in this Act shall lessen abridge modify or detract from the powers rights and authorities of the commissioners under the Wear Navigation and Sunderland Dock (Consolidation and Amendment) Act 1922.

Saving for River Wear Commissioners.

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

Saving for town and country planning.

37. Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing herein contained authorises the Council to take use or in any manner interfere with any portion of the shore or bed of the sea or of any river channel creek bay or estuary or any land hereditaments subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose.

Crown rights.

38. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council.

Costs of Act.

## SCHEDULE

### SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED

Section	Marginal note
283	Notices to be in writing; forms of notices &c.
284	Authentication of documents.
285	Service of notices &c.
286	Proof of resolutions &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.

### *Table of Statutes referred to in this Act*

Short title	Session and chapter
Lands Clauses Consolidation Act 1845 ..	8 & 9 Vict. c. 18.
Railways Clauses Consolidation Act 1845 ..	8 & 9 Vict. c. 20.
Public Health Act 1875 .. .. .	38 & 39 Vict. c. 55.
Acquisition of Land (Assessment of Compensation) Act 1919 .. .. .	9 & 10 Geo. 5 c. 57.
Local Government Act 1933 .. .. .	23 & 24 Geo. 5 c. 51.
Public Health Act 1936 .. .. .	26 Geo. 5 & 1 Edw. 8 c. 49.
Borrowing (Control and Guarantees) Act 1946	9 & 10 Geo. 6 c. 58.
Town and Country Planning Act 1947 ..	10 & 11 Geo. 6 c. 51.
Lands Tribunal Act 1949 .. .. .	12 13 & 14 Geo. 6 c. 42.
Coast Protection Act 1949 .. .. .	12 13 & 14 Geo. 6 c. 74.
Public Utilities Street Works Act 1950 ..	14 Geo. 6 c. 39.
Town and Country Planning Act 1954 ..	2 & 3 Eliz. 2 c. 72.

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