CHAPTER xiii.

An Act to transfer to the Council of the administrative county of the Isle of Wight the power and duty of maintaining the highways in the rural district of the Isle of Wight to make further provision in regard to the highways of the said county and for other purposes. A.D. 1925.

[27th March 1925.]

WHEREAS by the Isle of Wight Highway Acts 1813 and 1883 provision was made for the maintenance and repair of the roads in certain parishes and extra parochial places in the Isle of Wight by the Isle of Wight Highway Commissioners : 53 Geo. III. c. 92. 46 & 47 Vict. c. ccxxvi.

And whereas by the combined effect of section 12 of the Local Government Act 1888 and of the Highways and Locomotives (Amendment) Act 1878 the said roads became main roads and by the before-mentioned section provision was made for certain payments by the County Council of the county of Southampton to the said commissioners in respect of the said repairs and maintenance and of the expenses of the commissioners :

And whereas by the Isle of Wight (County) Order 1889 which was confirmed by the Local Government Board's Provisional Order Confirmation (No. 2) Act 1889 the Isle of Wight was constituted a separate administrative county with a separate county council : 52 & 53 Vict. c. clxxvii.

And whereas by section 25 of the Local Government Act 1894 the powers duties and liabilities of the said

A.D. 1925. commissioners were transferred to the district council of the rural district of the Isle of Wight :

And whereas it has been agreed between the County Council of the said administrative county and the said district council that the County Council shall take over the repair and maintenance of the roads in the rural district and it is expedient that provision should be made for carrying the said agreement into effect :

And whereas it is expedient to make further provision in regard to the highways in the said county including the highways in the boroughs and urban districts thereof and that the other provisions contained in this Act should be enacted :

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

And whereas in relation to the promotion of the Bill for this Act the requirements of the Borough Funds Act 1872 so far as the same are applicable have been observed :

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

Short title.

1. This Act may be cited as the Isle of Wight Highways Act 1925.

Interpretation.

2. In this Act unless the context otherwise requires—

"The county" means the administrative county of the Isle of Wight and "the County Council" means the council of that county ;

"The rural district" means the rural district of the Isle of Wight and the "rural council" means the council of that district ;

"The appointed day" means the first day of April nineteen hundred and twenty-five ;

"Urban district" includes a borough ;

"Main road" includes a part of a main road ;

"The Act of 1888" means the Local Government Act 1888 ;

"Property" "powers" "duties" and "liabilities" have the meanings assigned to those expressions by section 100 of the Act of 1888;

"Officer" includes servant.

Transfer of highway powers to County Council.

3.—(1) On the appointed day all the powers duties and liabilities of the rural council in respect of highways (including any powers duties and liabilities vested in them by order of the Local Government Board or the Minister of Health) and all property plant and materials belonging to the rural council and acquired or used by them for highway purposes (except their stores shed situate in South Street in the borough of Newport) shall by virtue of this Act be transferred to and vested in and shall attach to the County Council and the rural council shall cease to be a highway authority.

(2) On and after the appointed day the County Council shall also within the rural district have and be subject to the powers duties and liabilities of an urban district council under the provisions of the Public Health Acts hereinafter mentioned and those provisions and any provisions of those Acts consequential thereon shall be in force throughout the rural district and the Public Health Acts shall apply and have effect accordingly.

The provisions referred to in this subsection are sections 144 146 147 148 149 150 151 153 154 155 160 257 and 268 of the Public Health Act 1875 the Public Health (Buildings in Streets) Act 1888 sections 39 41 42 and 43 of the Public Health Acts Amendment Act 1890 and section 19 of the Public Health Acts Amendment Act 1907 :

Provided that the County Council may (if they think fit) at any time resolve to contribute the whole or a portion of any expenses incurred by them under section 150 of the Public Health Act 1875.

(3) Where under any Act passed or to be passed an order can be made by a Government department vesting any powers duties or liabilities relating to highways or streets in a rural district council or declaring any provision relating to highways or streets to be in force in a rural district such an order may be made on the application of the County Council in

A.D. 1925. reference to the rural district or any part thereof so as to confer such powers duties or liabilities upon the County Council in lieu of the rural council.

(4) Any provision relating to highways in an Act passed or to be passed which may be adopted by a rural district council may be adopted by the County Council in reference to the rural district and when adopted shall have effect with the substitution of the County Council for the rural district council and if that provision has been adopted by the rural council the adoption of such provision by that council shall cease to operate.

Further powers as to roads in rural district.

4. On and after the appointed day all roads in the rural district which prior to that day were repairable by the rural council shall be main roads and the Act of 1888 shall apply to such roads as if subsection (2) of section 12 of that Act had been omitted therefrom and all roads in the rural district which after the appointed day become repairable by the inhabitants at large shall be main roads.

Actions &c. not to abate.

5. Any action or proceeding or any cause of action or proceeding which at the appointed day is pending or existing by or against the rural council in relation exclusively to the highways in their district shall not be in anywise prejudicially affected by reason of the passing of this Act but may be continued prosecuted and enforced by or against the County Council.

Saving for contracts.

6. Anything duly done or suffered and all contracts deeds bonds agreements and other instruments (subsisting at the passing of this Act) entered into or made by the rural council or their predecessors in relation exclusively to the highways in the rural district shall be of as full force and effect against or in favour of the County Council and may be continued and enforced as fully and effectually as if instead of the rural council or their predecessors the County Council had done or suffered the same or been a party thereto.

Transfer of officers.

7.—(1) Any person who at the appointed day is an officer of the rural council and is employed by them exclusively for purposes of or connected with highways shall be transferred to and become an officer of the County Council.

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(2) Every officer so transferred shall hold his office by the same tenure and upon the same terms and conditions as if this Act had not been passed and while performing the same or analogous duties shall receive not less salary or remuneration and be entitled to not less pension (if any) than the salary remuneration or pension to which he would have been entitled if this Act had not been passed.

(3) The County Council may distribute the business to be performed by the transferred officers in such manner as they may think just and every officer shall perform such duties in relation to that business as may be directed by the County Council and that Council may abolish the office of any officer whose office they may consider unnecessary.

(4) If at any time within three years after the appointed day any transferred officer shall be required by the County Council to perform duties which are not analogous or which are an unreasonable addition to those which that officer is required to perform on the appointed day the County Council shall pay to the officer such additional remuneration as in their opinion may be reasonable but upon the offer by the County Council of such additional remuneration as aforesaid the officer may if he thinks fit relinquish his office.

Compensation to existing officers.

8.—(1) Every officer of the rural council employed by them for purposes of or connected with highways who is in office on the appointed day and who by virtue of this Act or of anything done in pursuance or in consequence thereof suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary (and for whose compensation no other provision is made by any enactment for the time being in force) shall be entitled to compensation for that loss from the County Council.

(2) In determining the compensation payable to any person who becomes entitled to compensation in pursuance of this section regard shall be had to the conditions and circumstances mentioned in subsection (1) of section 120 of the Act of 1888 and the compensation shall not exceed the limit therein mentioned and the provisions of section 120 of the Act of 1888 shall

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apply subject to the following and any necessary modifications :—

(*a*) The Minister of Health shall be substituted for the Treasury;

(*b*) References in that section to "the passing of this Act" shall be construed as reference to the day on which the relinquishment or abolition of office takes effect or the direct pecuniary loss commences as the case may be;

(*c*) The expression in subsection (1) of that section "the Acts and rules relating to Her Majesty's "civil service" shall mean the Acts and rules relating to Her Majesty's civil service which were in operation at the date of the passing of the Act of 1888;

(*d*) In subsection (7) of that section for the words "the same or any other county council" there shall be substituted the words "the "council of any county or county borough or "under any district council or other public "local authority."

(3) For the purposes of this section any transferred officer who relinquishes his office under the last preceding section of this Act or whose services are dispensed with or whose salary is reduced by the County Council within five years from the passing of this Act because his services are not required or his duties are diminished in consequence of this Act and not on the ground of misconduct shall be deemed to have suffered a direct pecuniary loss in consequence of this Act.

(4) The County Council may in their discretion and in consideration of the fact that any officer was appointed to his office as a specially qualified person or of the fact that he had prior to his appointment served as a deputy assistant or clerk to any officer not holding a temporary appointment add any number of years (not exceeding ten) to the number of years which such officer would otherwise be entitled to reckon for the purpose of computing the compensation to which he is entitled under the Acts and rules relating to Her Majesty's civil service as applied by this section.

(5) If any officer was temporarily absent from his employment during the war whilst serving with His

Majesty's forces or the forces of the allied or associated powers either compulsorily or with the sanction or permission of the rural council such period of temporary absence shall be reckoned as service under the rural council and the amount of his salary wages and emoluments during such temporary absence shall be deemed to be the amount which he would have received from the rural council during that period if he had remained in their actual service :

Provided that in the case of an officer who after the Armistice voluntarily extended his term of service in the forces no period of absence during such extension shall be reckoned.

(6) Any compensation payable under this section may be paid by the County Council in the form of a capital sum and if so paid the amount of such compensation shall be a purpose for which the County Council may borrow in accordance with the provisions of this Act.

(7) No person shall be entitled to claim or receive both compensation for any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary and a superannuation or retiring allowance in respect of the same period of service and the same pecuniary loss.

Highways in urban districts.

9. On the appointed day every highway which is situate in an urban district in the county and which before the first day of July nineteen hundred and twenty-four was repairable by the inhabitants at large shall be a main road and the provisions of this Act and (subject to those provisions) the Act of 1888 shall apply as if the urban authority had claimed to retain the powers and duties of maintaining such road :

Provided that no highway which before the appointed day was not a main road shall become a main road by virtue of this section until it has been placed in proper repair and condition to the satisfaction of the County Council.

Parts of highways may become main roads.

10. The powers of a county council to make an order declaring a highway to be a main road shall extend to enable the County Council to declare any part of a highway to be a main road.

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Agreements with urban councils for repair of highways.

11. The County Council and the council of any urban district within the county may enter into and carry into effect agreements for the maintenance repair improvement and enlargement of and other dealing with all or any of the highways or parts of highways within such urban district by the County Council and during the continuance of any such agreement the County Council shall have with reference to the highways therein referred to such of the powers of an urban district council in reference to streets and highways within their district as may be specified in the agreement.

County Council not liable for certain works.

12. Notwithstanding any provision to the contrary and except as may be otherwise agreed between the County Council and the council of any urban district the County Council shall not be under any liability to pay or contribute to the payment of any expenses in connection with the making maintenance repair or improvement in any urban district of—

(1) any works for protecting a road against the sea;

(2) any footpath adjoining the sea or the seashore;

(3) any footpath which is not at the side of a carriageway;

(4) any road adjoining or forming part of any quay or wharf;

(5) any river or sea wall.

Appeal against refusal to declare a highway a main road.

13. Where upon the application of the council of any urban district in the county for an order under section 15 of the Highways and Locomotives (Amendment) Act 1878 declaring a highway within their district to be a main road the County Council refuse or for a period of six months after the date of such application fail to make such order or having made such order fail within a period of six months from the date of such order to make a confirming order under the same section the district council may appeal to the Minister of Transport who may after hearing and considering the representations of the County Council and after holding a local inquiry if requested by the County Council to do so make an order declaring the highway in question to be a main road and any order so made shall operate from such date as shall be specified therein and shall

subject to the provisions of subsection (7) of section 11 of the Act of 1888 come into operation on a day fixed by the Minister of Transport and shall have the same effect as if it were a confirming order under the said section. A.D. 1925.

Urban councils to submit estimates.

14.—(1) Every urban authority in the county which retains the power and duty of maintaining and repairing any main road within their district shall on or before the fifteenth day of January in each year submit to the County Council for their approval a detailed estimate of the cost of the maintenance repair and reasonable improvement connected with the maintenance and repair of such road during the then forthcoming county financial year and in the event of such estimate being so approved either with or without modification the amount which the County Council shall pay in pursuance of subsection (2) of section 11 of the Act of 1888 in respect of such maintenance repair and reasonable improvement shall subject to the provisions of subsections (5) and (9) of the said section 11 be the amount of such estimate and of any supplementary estimate submitted and approved as hereinafter provided or such less sum as may have been actually expended thereon by the urban authority in accordance with the approved estimate.

(2) The urban authority may at any time or from time to time submit a supplementary estimate for the approval of the County Council.

(3) In the absence of agreement as to any such estimate or supplementary estimate as is hereinbefore referred to the matters in dispute shall be determined by arbitration in accordance with the provisions of subsection (3) of section 11 of the Act of 1888 as amended by the Local Government (Determination of Differences) Act 1896 and with the substitution of the Minister of Transport for the "Local Government Board."

Urban authorities may revoke claim to main roads.

15.—(1) An urban authority in the county which has claimed or may hereafter claim to retain the powers and duties of maintaining and repairing any main road within their district may at any time by a resolution of such authority confirmed by a further resolution of the same authority passed within three

A.D. 1925. months after the passing of the first resolution with the consent of the County Council revoke and abandon their claim as regards any such main road and as from the first day of April next thereafter such main road shall vest in the County Council in like manner as if the urban authority had not made any claim in regard thereto.

(2) In the event of the County Council withholding the consent required by subsection (1) of this section the urban authority may appeal to the Minister of Transport and the Minister may make such order thereon as he thinks fit and such order shall be final and binding upon the County Council and upon the urban authority.

Grants to be paid to County Council.

16. If under any Act of Parliament or otherwise provision is made for any grant or financial assistance to highway authorities in respect of roads in rural districts any such grant or financial assistance shall in respect of any road in the rural district be made or rendered to the County Council.

Expenses of execution of Act.

17. All expenses incurred by the County Council in carrying into execution the provisions of this Act with respect to which no other provision is made shall be paid out of the county fund of the county as a payment for general county purposes.

Acquisition of lands.

18. The purposes of this Act and of the enactments therein referred shall be deemed to be purposes of the powers and duties of the County Council within the meaning and for the purpose of section 65 (Power to acquire lands) of the Local Government Act 1888.

Power to borrow.

19.—(1) The County Council may borrow on the security of their county fund such sum as may be necessary for paying the costs charges and expenses of this Act and shall pay off all money so borrowed within a period of five years from the passing of this Act.

(2) The County Council may for any of the other purposes of this Act and of the enactments therein referred to borrow on such security as the Minister of Health may prescribe such sums as may be sanctioned by the Minister and shall pay off all sums so borrowed

within such period not exceeding sixty years as he may sanction.

(3) In calculating the amount which the County Council may borrow under the Act of 1888 or any other enactment the money borrowed under this Act shall not be reckoned.

(4) Subject to the provisions of this section any money borrowed under this Act shall be borrowed under and subject to the provisions (so far as applicable) of section 69 of the Act of 1888 but the consent of the Minister of Health shall not be required to the borrowing of money under subsection (1) of this section or to the period for the repayment thereof.

Repeal of enactments and application of Highway Acts.

20. As from the appointed day the Isle of Wight Highway Acts 1813 and 1883 and subsection (2) of section 12 of the Act of 1888 shall be repealed and the provisions of the Highway Act 1835 and the Acts extending or amending that Act (other than the Highway Act Amendment Act 1885) shall subject to the provisions of this Act apply within the county.

Costs of Act.

21. All costs charges and expenses of and incidental to the preparing 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 County Council.

Printed by EYRE and SPOTTISWOODE, LTD.,
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