ELIZABETH II



1970 CHAPTER xliii

An Act to confer further powers on the Kent County Council in relation to lands and the local government and finances of the county; and for other purposes.

[23rd July 1970]

WHEREAS—

(1) It is expedient that further and better provision should be made with reference to lands and the local government, and finances of the administrative county of Kent and that the powers of the county council of that administrative county should be enlarged and extended as by this Act provided:

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

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

(4) 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:

1933 c. 51.

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 Kent County Council Act 1970.

Division of Act into Parts.

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

Part I.—Preliminary.
Part II.—Lands.
Part III.—Finance.
Part IV.—Miscellaneous.

Interpretation.

3.—(1) 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;

" the Act of 1937 " means the Local Government Superannuation Act 1937;

1937 c. 68.

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

" the Council " means the county council of the county;

" the county " means the administrative county of Kent;

" the county fund " means the county fund of the Council;

" enactment " includes an enactment in this Act or in any general or local Act or any order, byelaw, scheme or regulation for the time being in force within the county;

" financial year " means a period of twelve months ending on 31st March;

" land " includes land covered by water and any interest in land or any easement or right in, to or over land;

" the Minister " means the Minister of Housing and Local Government;

" Minister of the Crown " has the same meaning as in the Ministers of the Crown (Transfer of Functions) Act 1946;

1946 c. 31.

PART I —*cont.*

" officer " includes servant;

" operational land " in relation to statutory undertakers, 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 sub-paragraph (4) of paragraph 93 of Schedule 4 to the Post Office Act 1969; 1969 c. 48.

" revenues " has the same meaning as in section 218 of the Act of 1933;

" statutory undertakers " means any company, body or person authorised by any enactment to supply electricity, gas or water and includes the Post Office;

" the superannuation fund " means the superannuation fund maintained by the Council under the Act of 1937.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, amended or varied by, or by virtue of, any subsequent enactment including this Act.

PART II

LANDS

Suspension of restrictive covenants.

4.—(1) If the Council—

(*a*) acquire land by agreement; or

(*b*) enter into an agreement to acquire land; or

(*c*) have acquired land by agreement before the passing of this Act; or

(*d*) appropriate (whether before or after the passing of this Act) land which has been previously acquired by agreement;

for a purpose for which they are for the time being or could under any enactment for the time being in force be authorised to acquire the land compulsorily and the land is affected by any restriction arising under covenant or otherwise (other than a restriction imposed by or in pursuance of any enactment) as to the user thereof or the building thereon the Council may, subject to the provisions of this section, by resolution suspend the operation of such restriction.

(2) The resolution shall describe by reference to a map the land to which it applies.

(3) The Council shall—

(*a*) in three successive weeks publish in one or more local newspapers circulating in the locality in which the land

PART II
—cont.

referred to in the resolution is situated a notice stating that the resolution has been passed, describing the land and naming a place within the locality where a copy of the resolution and map may be inspected and specifying the time, not being less than three months from the date of the first publication of the notice, within which and the manner in which objections to the suspension of the restriction can be made;

(*b*) on or before the date of the first publication of the said notice—

(i) serve a copy of that notice by registered post or the recorded delivery service on every person who appears to them, after diligent inquiry, to be entitled to the benefit of the restriction to which the resolution relates; and

(ii) affix a copy or copies of that notice to some conspicuous object or objects on the land.

(4) Any person claiming to be entitled to the benefit of the restriction may object to the suspension of the restriction by sending notice of his objection and of the grounds thereof to the appropriate Minister and a copy thereof to the Council within the period specified in the notice.

(5) If any objection is duly made as aforesaid and is not withdrawn the resolution shall be of no effect unless and until it is confirmed by the appropriate Minister and before confirming the resolution the appropriate Minister shall cause a public local inquiry to be held into the proposed suspension of the restriction and after considering the report of the person who held the inquiry may confirm the resolution.

(6) (*a*) If no objection is duly made under subsection (4) of this section or if all objections so made are withdrawn the restriction shall be suspended on and after the date of the expiration of the period specified in the notice or the date of the withdrawal of the objection or, if more than one, the last objection or the date on which the Council acquire or appropriate the land, whichever is the latest.

(*b*) If objection is duly made as aforesaid and the appropriate Minister confirms the resolution the restriction shall be suspended on and after such date as the appropriate Minister shall determine not being earlier than the date on which the Council acquire or appropriate the land.

(7) If in the opinion of the Council there is doubt whether any such land as is mentioned in subsection (1) of this section is affected by any restriction to which that subsection relates or whether any such restriction is enforceable the Council may—

(*a*) in three successive weeks publish in one or more local newspapers circulating in the locality in which the land is

PART II —*cont.*

situated a notice describing the land and stating generally the effect of this subsection and of subsections (8) and (9) of this section and specifying the time, not being less than three months from the date of the first publication of the notice, within which and the manner in which any person claiming to be entitled to enforce a restriction against the use of the land may intimate such claim to the Council and shall produce to them his documents of title in support of his claim;

(*b*) on or before the date of the first publication of the notice referred to in paragraph (*a*) of this subsection—

(i) serve a copy of that notice by registered post or the recorded delivery service on every person who they consider after reasonable inquiry may reasonably be expected to have a claim to be entitled to the benefit of a restriction against the land; and

(ii) affix a copy or copies of that notice to some conspicuous object or objects on the land.

(8) If any person is entitled to the benefit of a restriction against the land but fails to comply with the requirements of such notice, the restriction shall, so far as concerns such person and his successors in title, be deemed to have been suspended under the foregoing provisions of this section, but without prejudice to any claim for compensation under subsection (9) of this section.

(9) The Council shall pay compensation in accordance with the provisions of section 10 of the Compulsory Purchase Act 1965 to any person entitled to the benefit of a restriction suspended under the powers of this section who suffers loss in consequence thereof and the amount of such compensation shall be determined in case of dispute in accordance with the Land Compensation Act 1961. 1965 c. 56. 1961 c. 33.

(10) Any restriction suspended under the powers of this section shall be unenforceable so long as the Council are the owners of the land affected by the restriction or, if the Council convey the land to any body for any of the purposes of the Education Acts 1944 to 1970, and, if compensation is paid by the Council under subsection (9) of this section in respect of the suspension of a restriction relating to the building upon or use of land, that restriction shall remain unenforceable in respect of such building or use notwithstanding any subsequent conveyance or disposition of the land to any other person:

Provided that if such compensation is paid on the basis that the land may be used for a particular purpose, the restriction shall, after any subsequent conveyance or disposition of the land to a

PART II —*cont.*

person otherwise than for any of the purposes of the Education Acts 1944 to 1970, remain unenforceable only so long as the land is used for that purpose.

(11) If the Council dispose of any land affected by the restriction suspended under the powers of this section they shall in two successive weeks publish notice thereof in one or more local newspapers circulating in the locality in which the land is situated.

(12) Nothing in this section shall apply to—

(*a*) any restriction arising under a covenant granted to the National Trust for Places of Historic Interest or Natural Beauty restricting the development or use of land;

(*b*) any restriction imposed by covenant or otherwise restricting the development or use of land or imposing on the owner thereof any obligation or duty contained in any deed, wayleave agreement or other instrument and imposed by or enuring for the benefit of the National Coal Board for the purpose of safety;

(*c*) any restriction for—

(i) the protection of, or for securing access to, or preventing interference with the use of, operational land or apparatus of any statutory undertakers or local authority, or the British Railways Board; or

(ii) the prevention of pollution of water which any statutory water undertakers are for the time being authorised to take;

contained in any deed, wayleave agreement or other instrument.

(13) In this section—

" the appropriate Minister " means the Minister of the Crown having power to authorise the compulsory purchase of the land for the purpose for which the Council have acquired or agreed to acquire or appropriated that land;

" owner " has the same meaning as in section 343 of the Public Health Act 1936; 1936 c. 49.

" statutory water undertakers " has the same meaning as in the provisions of the Water Act 1945 other than those contained in Part II of that Act. 1945 c. 42.

Compulsory acquisition of easements.

5.—(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. PART II —*cont.*

(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.

(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— 1946 c. 49.

(*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 compulsory purchase 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.

Covenants or restrictions affecting certain land 1946 c. 50.

6. Where land owned by the Council (being land acquired by the Council to provide a site for a voluntary school) is conveyed by the Council to the trustees of a voluntary school in pursuance of the provisions of the Education Act 1946 any covenants or restrictions affecting the use of such land as aforesaid shall be enforceable against the trustees or governors or managers of the voluntary school only to the extent that they were enforceable against the Council prior to the conveyance referred to in this section.

PART II —*cont.*

Crown rights.

7. Nothing in this Part of 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 or hereditaments or any rights of whatsoever description—

(1) 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; or

(2) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

PART III

FINANCE

Power to raise money by issue of bills.

8.—(1) In addition to the modes of borrowing prescribed by the Act of 1933 or any other enactment the Council may raise money—

(*a*) for any purpose for which the Council are authorised to borrow;

(*b*) in anticipation of the receipt of revenues, for any purpose for which the revenues of the Council may properly be applied;

by means of bills (to be called " Kent County Council bills " and in this section referred to collectively as " bills " and separately as a " bill ") subject to and in accordance with the following provisions:—

(i) A bill shall be in the form prescribed by regulations made under this section and shall be for the payment of the sum named therein in the manner and at the date therein mentioned, being a date not more than twelve months from the date of the bill:

(ii) A bill shall entitle the holder thereof to payment at maturity of the sum expressed in the bill to be payable:

(iii) Bills may be offered for purchase (whether by tender or otherwise) in such manner and on such conditions as the Council may determine:

(iv) Bills shall be issued under the authority of a resolution passed by the Council and shall bear the signature of the treasurer of the Council or of some other person authorised by the Council:

PART III —*cont.*

(v) The Council may make regulations providing for—

(A) the preparation and form and the mode of issue, payment and cancellation of bills;

(B) the issue of a new bill in lieu of one defaced, lost or destroyed;

(C) the prevention, by the use of counterfoils or of a special description of paper or otherwise, of fraud in relation to bills; and

(D) the giving of a proper discharge on the payment of a bill:

(vi) The amount of money received in respect of a bill shall be deemed to be principal money raised by means of the bill and the difference between the amount payable in respect of a bill and the amount received in respect thereof shall be deemed to be interest on the principal money so raised:

(vii) The aggregate amount payable on bills current at any one time shall not (except by the amount payable on bills issued shortly before any other bills fall due in order to pay off the last-mentioned bills) exceed—

(A) the sum of five million pounds; or

(B) one-fifth of the amount estimated to be produced by the levying of rates in the county during the then current financial year to meet liabilities falling to be discharged by the Council;

whichever is the greater:

(viii) Subject to the provisions of the last preceding paragraph the Council may renew a bill at maturity:

(ix) The Council may borrow for the purpose of repaying the principal money raised by bills but except as aforesaid any power of the Council to borrow shall be suspended to the extent of the amount which has been raised for capital purposes by the issue of bills.

(2) In this section " signature " includes a facsimile of a signature by whatever process reproduced.

Power to raise money by bearer bonds.

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

Power to raise money abroad.

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

PART III —*cont.*

(2) The powers conferred by the foregoing subsection shall be exercised only with the consent of the Treasury, and subject to such conditions as the Treasury may impose.

(3) The enactments empowering the Council to raise money shall have effect in relation to a transaction authorised by this section for the raising of money in a foreign currency as if for any reference in those enactments to sterling there was substituted a reference to the foreign currency and for any reference therein to a sum expressed in terms of sterling there was substituted a reference to the sum expressed in terms of the foreign currency (adjusted, where necessary, to produce an amount which the Council consider appropriate having regard to all the circumstances of the transaction).

(4) Nothing in this section shall be taken as exempting the Council from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act 1946.

1946 c. 58.

Saving for Exchange Control Act 1947.

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

1947 c. 14.

Compensation for injury to or death of officers.

12.—(1) The Council may pay compensation—

(*a*) to any of their officers who sustains an injury in the course of his employment; or

(*b*) to a dependant of any of their officers who, in the course of his employment, dies or sustains an injury resulting in death.

(2) Any compensation payable under this section may be paid either—

(*a*) by way of a lump sum; or

(*b*) by way of periodical payments of such amounts and payable at such times and for such periods as the Council may from time to time determine having regard to all the circumstances of the case.

(3) The payment of compensation under this section shall not affect any right or claim to damages or compensation which an officer of the Council or his dependant may have against any person other than the Council or, except so far as may be agreed when the compensation is granted, against the Council.

Super-annuation benefits in certain cases of premature retirement.

13.—(1) Where, after the commencement 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:

PART III —*cont.*

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 commencement 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 or in pursuance of the London Government Act 1963 and article 21 of the London Authorities (Superannuation) Order 1965 : 1963 c. 33.

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

PART III —*cont.*

"service" in subsection (1) of section 40 of the Act of 1937 whether or not any payment has been made to him on account thereof.

1953 c. 25.

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

(6) In this section words and expressions to which meanings are assigned by the Act of 1937 have the same respective meanings and—

"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 allowance 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.

Application of last foregoing section to other employing authorities.

14.—(1) An authority to whom this section applies may by resolution adopt section 13 (Superannuation benefits in certain cases of premature retirement) of this Act as from such date as may be specified in such resolution, and where that section is so adopted it shall apply and have effect in relation to the authority as if—

(*a*) any reference therein to a contributor were a reference to a contributor to the superannuation fund as respects whom the authority are the employing authority;

(*b*) any reference to the Council were a reference to the authority.

(2) This section applies to—

(*a*) the council of any borough or urban or rural district in the county in respect of whom the Council are the administering authority under Part I of the Act of 1937;

PART III —*cont.*

(*b*) the Kent Police Authority;

(*c*) the Kent Magistrates' Courts Committee;

(*d*) the Kent County Probation and After-Care Committee;

(*e*) any organisation, undertaking or body in respect of whom 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; 1953 c. 25.

(*f*) any other employing authority in relation to whom the superannuation fund is the appropriate superannuation fund within the meaning of paragraph (*d*) of sub-section (3) of section 1 of the Act of 1937.

PART IV

MISCELLANEOUS

Authentication of stock certificates.

15.—(1) Notwithstanding anything in any enactment a stock certificate issued by the Council may be under the hand of the person appointed for the time being by the Council to act as registrar in relation to that stock instead of under the common seal of the Council and shall be deemed to be under the hand of the registrar if a facsimile of his signature by whatever process reproduced is affixed to such certificate.

(2) In this section " the registrar " means the treasurer of the Council or such other officer of the Council as they shall by resolution appoint from time to time as registrar in relation to stock.

Microfilming of documents.

16.—(1) The Council may make and retain microfilm recordings of documents of the Council.

(2) Notwithstanding anything contained in any enactment, the Council may destroy any documents 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 document which has been destroyed in pursuance of this section equal to the right of access, if any, of the public to the document so destroyed.

PART IV —*cont.*

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

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

(*a*) the document has been destroyed; and

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

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

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

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

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

Local inquiries.

17.—(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.

(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.

Protection of members and officers of Council from personal liability.

18. 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 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.

1875 c. 55.

Powers of Act to be cumulative.

19. All powers and duties conferred or imposed by this Act shall be deemed to be in addition to and not in derogation of any other powers and duties conferred or imposed by any enactment, law or custom, and, subject to any express provision of this Act

all such other powers and duties may be exercised and shall be performed in the same manner and as if this Act had not been passed. PART IV —*cont.*

20.—(1) 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 section. Costs of Act.

(2) The Council may borrow, 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.

(3) The Council shall repay the sums borrowed under the foregoing subsection within five years from the date of borrowing.

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Kent County Council Act 1970

CHAPTER xliii

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