ELIZABETH II



1970 CHAPTER lxxxv

An Act to confer further powers on the Wiltshire County Council and local authorities in the administrative county of Wilts in relation to lands and highways and the local government, improvement and finances of the county; to make further provision for the superannuation of employees; and for other purposes.

[17th December 1970]

WHEREAS it is expedient that further and better provision should be made with reference to lands and highways and for the local government, improvement and finances of the administrative county of Wilts and that the powers of the county council of that administrative county (hereinafter referred to as " the Council ") and of the local authorities within that administrative county should be enlarged and extended as by this Act provided:

And whereas it is expedient to make further provision for the superannuation of officers and servants of the Council and local authorities and of persons who contribute to the superannuation funds of the Council and local authorities and for the benefit of their dependants and to amend the enactments relating thereto:

And whereas it is expedient that the other provisions 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 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 Wiltshire County Council Act 1970.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Highways.

Part III.—Finance.

Part IV.—Superannuation.

Part V.—Miscellaneous.

Part VI.—General.

Interpretation.

3.—(1) In this Act the several words and expressions to which meanings are assigned by sections 294 and 295 of the Act of 1959 have the same respective meanings unless there be something in the subject or context repugnant to such construction.

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

" the Act of 1933 " means the Local Government Act, 1933;

1936 c. 49. " the Act of 1936 " means the Public Health Act, 1936;

1937 c. 68. " the Act of 1937 " means the Local Government Superannuation Act, 1937;

1959 c. 25. " the Act of 1959 " means the Highways Act, 1959;

1961 c. 62. " the Act of 1961 " means the Trustee Investments Act, 1961;

PART I —*cont.*

" authorised security " means any mortgage, stock, bond or other security which the Council are for the time being authorised to grant, create or issue, or upon or by means of which the Council are for the time being authorised to raise money;

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

" the county " means the administrative county of Wilts;

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

" district " means a borough or an urban or rural district in the county;

" highway authority " means—

(*a*) in the case of a trunk road, the Secretary of State or, with his consent, the authority who are for the time being acting as his agent under the Act of 1959 with respect to that trunk road;

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

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

" local authority " means the council of a district;

" magistrates' court " has the same meaning as in the Magistrates' Courts Act, 1952; 1952 c. 55.

" the New Sarum Corporation " means the mayor, aldermen and citizens of the city of New Sarum;

" officer " includes servant;

" open space " has the same meaning as in the Open Spaces Act, 1906; 1906 c. 25.

" operational land " means, in relation to statutory undertakers, land which is used for the purpose of the carrying on of their undertakings 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;

" parish council " means the parish council of a rural parish in the county or where there is no parish council the parish meeting of such parish;

" rural district " means a rural district in the county;

PART I —*cont.*

" rural district council " means the council of a rural district;

" statutory undertakers " means any company, body or person authorised by any enactment to supply electricity, gas or water;

" street works " and " street works authority " have the same respective meanings as in section 213 of the Act of 1959;

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

" the Swindon Corporation " means the mayor, aldermen and burgesses of the borough of Swindon;

" voluntary organisation " means any organisation not carried on for profit, not being an organisation carried on by a public authority.

(3) 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

HIGHWAYS

Sale of food and articles on verges, etc.

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

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

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

(i) all trunk roads and roads which are classified as principal roads by the Secretary of State under the Local Government Act, 1966;

1966 c. 42.

(ii) any other county road, or part of a county road, to which the highway authority may by order apply this section.

PART II —*cont.*

(4) (*a*) An order made under subsection (3) of this section shall not be made except with the consent of the Secretary of State:

Provided that if no objections are duly made in accordance with the provisions of this subsection or if any so made are withdrawn, the consent of the Secretary of State shall not be required.

(*b*) Before making application for a consent under this subsection the highway authority shall publish once at least in each of two successive weeks in a local newspaper circulating in the locality in which the road is situated a notice stating the general effect of the order, and stating that within a period specified in the notice (not being less than twenty-eight days from the first publication of the notice) any person may object to the application by sending notice of his objection and of the grounds thereof to the Secretary of State and by sending a copy thereof to the highway authority.

(*c*) If, before the expiration of the period specified in the notice, any objection to the application is received by the Secretary of State from any person appearing to him to be affected, the Secretary of State shall, before consenting to the order, cause a local inquiry to be held and consider the report of the person who held the inquiry.

(5) The Secretary of State may, in consenting to any order submitted to him for his consent under this section, consent to it in the form in which it was submitted to him or with such modifications as he thinks fit, which may include exceptions or other modifications of any description; but where he proposes to consent to the order with modifications which appear to him substantially to affect the character of the order as submitted to him, he shall, before doing so, take such steps as appear to him to be sufficient and reasonably practicable for informing the highway authority in question and other persons likely to be concerned.

(6) Nothing in this section shall apply to—

(*a*) any shed, hut, shelter, booth, shop, stall or other erection or any vehicle provided, erected or placed on private property by or with the consent of the owner of such property and with the permission of the highway authority;

(*b*) any building erected or work constructed with the consent of the Secretary of State in pursuance of section 194 of the Law of Property Act, 1925, or of any other statutory provision or any scheme made pursuant to a statute; 1925 c. 20.

PART II —*cont.*

(*c*) the sale of food, goods, provisions, articles or things from a vehicle when in use solely for the purpose of itinerant trading with the occupants of premises adjoining any verge or common land, moorland or other land to which this section applies;

(*d*) the sale of food, goods, provisions, articles or things from any premises used as a shop pursuant to a permission granted or deemed to have been granted under the provisions of the Town and Country Planning Acts, 1962 to 1968, or any order or regulation made thereunder or in respect of which an enforcement notice cannot be served under section 15 of the Town and Country Planning Act, 1968, by virtue of subsection (3) of that section; or

1968 c. 72.

(*e*) the sale by the occupier of land used for agriculture or horticulture, and from such land, of the produce thereof, unless in relation to any particular location on such land a magistrates' court, on the complaint of the highway authority under section 43 of the Magistrates' Courts Act, 1952, determines because the use thereof for the purposes of such sale would adversely affect the safety of persons using the adjoining road that the exemption conferred by this paragraph shall not apply to that location or that the said exemption shall not apply until any condition imposed by the court in relation to access to or facilities for the parking of the vehicles of persons likely to frequent the said location in connection with such sale has been complied with.

1952 c. 55.

(7) (*a*) Where an application is made to a highway authority for a permission under paragraph (*a*) of subsection (6) of this section then unless within twenty-eight days from the date of the receipt of the application the highway authority give notice to the applicant of their decision on the application the provisions of paragraph (*b*) of this subsection shall apply in relation to the application as if the highway authority had refused to grant the permission applied for.

(*b*) Any person aggrieved by the refusal of the highway authority to grant permission under paragraph (*a*) of subsection (6) of this section may appeal to a magistrates' court and on any such appeal the court may, if it appears to them that adequate facilities exist or will be provided for the parking of the vehicles of persons likely to frequent the shed, hut, shelter, booth, shop, stall or other erection, or the vehicle in question and that the provision, erection or placing of such erection or vehicle will not otherwise adversely affect the safety of persons using the adjoining road, by order direct the highway authority to withdraw such refusal and to issue the permission for which application was made.

PART II —*cont.*

(8) In this section—

(*a*) the expression " container " includes any basket, pail, tray, package or receptacle of any kind whether open or closed;

(*b*) the expression " private property " does not include common land or unenclosed moorland;

(*c*) the expression " vehicle " means a vehicle of any description drawn or propelled along roads whether by animal or mechanical power.

Prohibition of vehicles on grass verges.

5.—(1) The Council or a local authority, as the case may be, may by notice prohibit persons from driving or permitting or causing to be driven any mechanically propelled vehicle upon any grass verge laid out in connection with a footway in any street and maintained in an ornamental condition or mown, or any garden or space provided by the local authority in pursuance of the Housing Act, 1957, or any other enactment and so maintained: 1957 c. 56.

Provided that any such notice shall not apply to—

(*a*) the owner or occupier of or any person residing in any premises fronting or abutting on any such street driving or permitting or causing to be driven any vehicle to or from those premises; or

(*b*) the temporary crossing of a grass verge during building operations if means satisfactory to the local authority and, where the local authority are not the highway authority, the highway authority be taken to protect such grass verge from injury and for the convenience of pedestrians; or

(*c*) the temporary use of any vehicle on a grass verge by statutory undertakers or the Post Office in the exercise of the rights of such undertakers or the Post Office with respect to any apparatus (including the placing of apparatus).

(2) Any such notice as is referred to in the preceding subsection shall be conspicuously posted on or in proximity to the grass verge, garden or space to which it relates and if any person contravenes a notice so posted (except in a case of emergency) he shall be liable for every such offence to a fine not exceeding twenty pounds in addition to the amount of damage (if any) thereby caused to such grass verge, garden or space.

(3) The powers conferred by this section shall not be exercised in relation to any grass verge laid out under section 6 (Trees, grass verges and gardens) of this Act or section 45 (Trees, grass verges and gardens) of the Swindon Corporation Act, 1951, and maintained in an ornamental condition or mown. 1951 c. xl.

PART II —*cont.*

(4) The powers conferred by this section shall not be exercised in relation to any trunk road without the consent of the Secretary of State.

Trees, grass verges and gardens.

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

(*a*) to plant trees or shrubs or place containers in which to grow trees or shrubs;

(*b*) to attach containers for plants to posts or standards provided by the highway authority or, with the consent of the owner thereof, to any other posts or standards;

(*c*) to plant flowers and other vegetation on or between any pillars or walls provided by the highway authority;

(*d*) to lay out grass verges or gardens;

(*e*) to provide guards or fences and otherwise do anything expedient for the maintenance or protection of such trees, shrubs, containers, flowers, vegetation, grass verges or gardens;

(*f*) to cut down any such tree or shrub, to remove any such container, guard, fence, flowers or vegetation, and to abolish any such grass verge or garden, or enlarge or diminish the area thereof;

(*g*) by notice to prohibit persons from entering upon, or causing or permitting horses, cattle or vehicles to enter upon, any grass verge laid out under this section and maintained in an ornamental condition or mown, or any such garden so laid out;

(*h*) by notice to prohibit the playing of any game on any such grass verge as aforesaid which is likely to cause damage thereto.

(2) Any such notice as is referred to in paragraph (*g*) or paragraph (*h*) of the foregoing subsection shall be conspicuously posted on, or in proximity to, the grass verge or garden to which it relates.

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

(4) The powers conferred by this section shall not be exercised so as to hinder the reasonable use of the street by any person

PART II —*cont.*

entitled to the use thereof, or so as to be a nuisance or injurious to the owner or occupier of any land or premises abutting on the street.

(5) A local authority who are not the highway authority may exercise the powers conferred on the highway authority by subsection (1) of this section in relation to any street vested in them and, with the consent of the highway authority, in relation to any street in their district which is a highway maintainable at the public expense.

(6) Section 82 of the Act of 1959 shall cease to apply to highways vested in the Council or a local authority, or to any such land as is referred to in subsection (1) of this section, and anything done by the Council or a local authority or a parish council under that section, or under section 1 of the Roads Improvement Act, 1925, with respect to such highways or land before the passing of this Act shall be deemed to have been done under this section. 1925 c. 68.

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

(8) Subject to the restrictions for the time being imposed by any enactment on their expenditure, a parish council may, with the consent of the highway authority, exercise the powers conferred by subsection (1) of this section with respect to any highway in the parish maintainable at the public expense.

(9) (*a*) Where the Council or a local authority carry out works under any enactment relating to private street works, they may, with the consent of the owners of premises fronting, adjoining or abutting on the part of the street in which the works are carried out, exercise the powers conferred by this section in that part, and the expenses incurred in so doing shall be deemed part of the expenses of carrying out the works.

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

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

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

PART II —*cont.*

Damage to trees, etc., in streets and in open spaces.

7.—(1) No person (except in the execution of some act which he has lawful authority to perform) shall in any street in the county or in any open space to which the public have access adjacent to any street in the county—

(*a*) remove or cut any turf; or

(*b*) remove, cut, break or displace any tree, shrub or plant which has been planted for the purpose of improving amenities, or cut or pluck any bud, blossom, flower or leaf of any such tree, shrub or plant.

(2) If any person contravenes the provisions of this section, he shall be liable to a fine not exceeding ten pounds and to the payment of such further amount as appears to the court reasonable compensation for any damage done by such contravention which last-mentioned amount shall be paid to the person having control of the street or open space.

(3) In any proceedings under this section in respect of any matter referred to in paragraph (*b*) of subsection (1) of this section it shall be a defence for the defendant to show that he did not know, and had no reason to know, that the tree, shrub or plant in question had been planted for the purpose of improving amenities.

(4) Nothing in this section shall apply to any open space vested in, or under the control of, a local authority or the National Trust for Places of Historic Interest or Natural Beauty, or to any land as respects which byelaws have been made under section 90 of the National Parks and Access to the Countryside Act, 1949.

1949 c. 97.

Extension of parish councils' powers to provide parking places.

1967 c. 76.

8.—(1) The powers of a parish council under section 46 of the Road Traffic Regulation Act, 1967, to provide parking places for bicycles and motor cycles shall extend so as to authorise a parish council to provide parking places for other vehicles (whether or not consisting of buildings) in the circumstances and subject to the conditions prescribed by that section and by section 47 of the said Act.

(2) For the purpose of exercising the powers of the said section 46 as extended by the foregoing subsection the following provisions of the said Act of 1967 shall apply to a parish council as they apply to a local authority, namely:—

subsections (5) and (8) of section 28;
subsections (1) to (3), (5) to (7) and (9) of section 29;
section 30;
subsections (1) to (4), (5) and (6) of section 31; and
section 96.

(3) The provisions of section 48 of the said Act of 1967 shall apply to the exercise by a parish council of the powers of this section as they apply to such a council in the exercise of the powers of section 46 of that Act and section 49 of the Act shall have effect accordingly.

PART II —*cont.*

Application of code of 1875 and code of 1892 to parts of public streets.

9.—(1) Where in any district it appears to the street works authority that a new street has been formed by reason of additions made to an existing footpath, bridleway or other highway maintainable at the public expense (not being or comprising a carriageway within the meaning of the Act of 1959), otherwise than by the giving up for the purpose by the street works authority of lands owned by them, the street works authority may, notwithstanding anything in the code of 1875 or the code of 1892, carry out street works in respect of such street, or any part of such street, and apportion the expenses thereof on the premises fronting, adjoining or abutting on such street, or such part thereof as if no part of the said street was so maintainable.

(2) Save in a case falling within the provisions of subsection (1) of this section, for the purposes of any apportionment of the expenses of carrying out street works in part of a street where any other part of that street consists of a highway maintainable at the public expense, premises fronting, adjoining or abutting on the street shall, if the street works authority so resolve, be deemed to front, adjoin or abut on the part of the street which is not so maintainable.

(3) Where, in consequence of any order or orders made under sections 30 or 32 of the Public Health Act, 1925, or sections 159 or 166 of the Act of 1959, any lands have been or are added to an existing highway maintainable at the public expense in any district such lands, if so resolved by the street works authority, shall for the purposes of the code of 1875 or the code of 1892 be deemed to be a street which is not maintainable at the public expense and the street works authority may apportion the whole or any portion of the expenses of any street works carried out in respect of such street, or any part of such street, on the premises of which such lands formed part immediately before their addition to the highway as aforesaid:

1925 c. 71.

Provided that such expenses shall not include any expenses which under subsection (4) of section 163 of the Act of 1959 are to be borne by the street works authority.

PART III

FINANCE

Power to borrow.

10.—(1) The Council may borrow—

(*a*) such sums as may be necessary for any of the purposes of this Act;

(*b*) without the consent of any sanctioning authority such sums as may be necessary for the payment of the costs, charges and expenses of this Act;

PART III —*cont.*

(*c*) without the consent of any sanctioning authority such sums as may be requisite for the purpose of lending to a local authority under section 22 (Power to lend money to local authorities, etc.) of this Act.

(2) The Council shall pay off all moneys borrowed under paragraph (*b*) of the foregoing subsection within such period as the Council may determine not exceeding ten years from the passing of this Act.

(3) 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 the Act of 1933 and the period fixed under this section for the repayment of any money borrowed under subsection (1) of this section shall as respects that money be the fixed period for the purpose of the said Part IX.

(4) It shall not be lawful to exercise the powers of borrowing conferred by paragraph (*a*) of subsection (1) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act, 1946.

1946 c. 58.

Power to raise money by bills.

11.—(1) In addition to the modes of borrowing prescribed by the Act of 1933, 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 " Wiltshire 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 to 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;

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

(E) the amendment or revocation of any regulations previously made or deemed to have been made under this paragraph:

(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 two 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) (*a*) The Council may at the request of a local authority to which this subsection applies raise money by means of Wiltshire County Council bills and shall lend such money to the local authority—

(i) for any purpose for which the local authority are authorised to borrow; or

(ii) in anticipation of the receipt of revenues for any purpose for which the revenues of the local authority may properly be applied:

PART III —*cont.*

Provided that the aggregate amount payable on bills issued under this subsection for the purpose of lending to the local authority current at any one time shall not (except by the amount payable on bills issued shortly before any other such bills fall due in order to pay off the last-mentioned bills) exceed one-fifth of the amount of so much of the gross rate income of that local authority for the then current financial year as is retained by the authority to meet liabilities falling to be discharged by the authority.

(*b*) The aggregate amount payable on bills issued under this subsection current at any time shall not be taken into account in calculating the aggregate amount referred to in paragraph (vii) of subsection (1) of this section.

(*c*) Any money lent to a local authority by the Council under this subsection shall be repaid to the Council by the local authority on or before the respective dates on which the bills by which the money was raised fall due for repayment.

(*d*) This subsection applies to any local authority whose gross rate income in the financial year current at the date of any proposed exercise of the powers of this subsection is not less than three million pounds.

(3) In this section "gross rate income" means the gross rate income as used in the determination of the product of a rate of one penny in the pound under rules made pursuant to section 113 of the General Rate Act, 1967, "revenues" has the same meaning as in section 218 of the Act of 1933, and "signature" includes a facsimile of a signature by whatever process reproduced.

1967 c. 9.

Power to raise money by bearer bonds.

12. 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.

13.—(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.

(2) (*a*) The powers conferred by the foregoing subsection shall not be exercised except with the consent of the Treasury and subject to such conditions as the Treasury may impose.

(*b*) 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 were substituted

a reference to the foreign currency and for any reference therein to a sum expressed in terms of sterling there were 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).

PART III —*cont.*

Modification of provisions as to division of superannuation fund.

14.—(1) In this section " narrower-range part " and " wider-range part " in relation to the superannuation fund have the same meanings as they have for the purposes of the Act of 1961.

(2) Whether or not any division of the superannuation fund has been made before the passing of this Act in pursuance of subsection (1) of section 2 of the Act of 1961, on such day as may be appointed for that purpose by resolution of the Council the superannuation fund may be divided or again divided (as the case may be) so that on such day the value of the wider-range part bears to the then value of the narrower-range part the proportion of three to one; and such proportion is in the Act of 1961, as modified in its application to the superannuation fund by subsection (3) of this section, referred to as " the prescribed proportion ".

(3) As from the day appointed in pursuance of the provisions of the foregoing subsection in relation to the superannuation fund, the Act of 1961 shall have effect in relation to the superannuation fund subject to the following modifications:—

(*a*) subsection (1) of section 2 of that Act shall have effect with the substitution for the words " equal in value " of the words " in the prescribed proportion ";

(*b*) paragraph (*b*) of subsection (3) of the said section 2 and sub-paragraph (*b*) of paragraph 3 of Schedule 2 to that Act shall have effect with the substitution, for the words from " each " to the end, of the words " the wider-range part of the fund is increased by an amount which bears the prescribed proportion to the amount by which the value of the narrower-range part of the fund is increased.";

(*c*) subsection (3) of section 4 of that Act shall have effect as if for the words " so as either to be equal, or to bear to each other " there were substituted the words " so as to bear to each other either the prescribed proportion or "; and

(*d*) section 13 of that Act shall not apply in relation to the superannuation fund.

PART III —*cont.*

(4) The provisions of subsections (2) and (3) of this section shall have effect notwithstanding anything in subsection (3) of section 21 of the Act of 1937.

Extension of power to invest superannuation fund moneys.

15.—(1) In its application to the investment by the Council under subsection (3) of section 21 of the Act of 1937, of any moneys forming part of but not for the time being required to meet payments out of the superannuation fund, the Act of 1961 shall have effect as if—

(*a*) for paragraphs 3 and 4 of Part II of Schedule 1 to that Act there were substituted the following paragraphs:—

"3. In fixed-interest securities issued by any public, municipal or local authority, or any publicly controlled or nationalised industry or undertaking, whether established within or outside the United Kingdom.

4. In fixed-interest securities issued by the government of any territory outside the United Kingdom.";

(*b*) for paragraph 6 of Part II of the said Schedule 1 there were substituted the following paragraph:—

"6. In debentures issued by a company incorporated in the United Kingdom or established under the law of any territory outside the United Kingdom.";

(*c*) in paragraph 9 of Part II of the said Schedule 1 the words "in the United Kingdom", where first occurring, were omitted and as if the following sub-paragraph were added at the end thereof:—

"(*g*) any public, municipal or local authority established outside the United Kingdom.";

(*d*) in paragraph 3 of Part III of the said Schedule 1 the words from "in the case" to the end of the paragraph were omitted;

(*e*) the following paragraphs were added at the end of Part III of the said Schedule 1:—

"4. In any securities issued in any of the scheduled territories within the meaning of section 1 of the Exchange Control Act, 1947, or in Canada or in the United States of America, or in any of the following countries, namely, Austria, Belgium, Denmark, France, Holland, Italy, Japan, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland and Western Germany.

1947 c. 14.

5. In the acquisition, development or management of land situate in the United Kingdom or any interest in such land:

Provided that so long as the value of the investments of property for the time being made under the powers

conferred by this paragraph equals or exceeds one-fourth of the total value of the wider-range part of the fund, no further investment may be made thereunder.";

PART III —*cont.*

(*f*) the following paragraph were inserted after paragraph 2 of Part IV of the said Schedule 1:—

"2A. The securities mentioned in paragraph 4 of Part III of this Schedule do not include shares or debenture stock not fully paid up (except shares or debenture stock which, by the terms of issue, are required to be fully paid up within nine months of the date of issue).";

(*g*) paragraph 3 of Part IV of the said Schedule 1 were omitted.

(2) Paragraph 1 and sub-paragraph (*a*) of paragraph 2 of Part IV of the said Schedule 1 shall not apply in relation to any investment by the Council which is authorised by virtue of the provisions of the foregoing subsection.

(3) For the purposes of paragraph 5 of Part III of Schedule 1 to the Act of 1961, as amended by this section, the value of any investment of property belonging to the wider-range part of the superannuation fund shall be treated as being the value of the investment at the time at which it was made.

(4) The Council shall not exercise the powers of paragraph 5 of Part III of Schedule 1 to the Act of 1961, as amended by this section, in relation to any land situate in the county.

Investment of other funds of Council.

16. Notwithstanding anything in any other enactment the moneys standing to the credit of any capital, repairs, reserve, renewals, insurance, contingencies, or other similar fund established by the Council, other than funds applicable wholly or partly for the redemption of debt, may be invested in similar manner and subject to the same restrictions as money of the superannuation fund.

Expenses of investment of superannuation fund.

17. All costs, charges and expenses incurred by the Council in investing moneys forming part of the superannuation fund or otherwise in relation thereto shall be paid by the Council out of that fund.

Interest and dividends by post.

18.—(1) The Council may give notice by post to the registered holder of an authorised security that they intend to send interest or dividends on the security to him by post if he does not object; and, unless the registered holder within twenty-one days of the date of service of the notice notifies the Council that he objects, the Council may from time to time send orders for the payment of interest, and dividend warrants to him by post at the address in the register.

PART III —*cont.*

(2) If the registered holder of an authorised security notifies the Council that he wishes interest or dividends on the security to be sent to another person at an address specified in the notice, the Council may from time to time send orders for the payment of interest, or dividend warrants to that person by post at that address.

(3) For the purposes of this section the Council may treat as the registered holder of an authorised security that one of the joint holders of the security who is first named in the register, or such other of them as the joint holders may in writing direct.

(4) The posting by the Council of an order for the payment of interest, or a dividend warrant, in pursuance of this section shall discharge the Council from any obligation to deliver the order or warrant to the holder of the security.

(5) An order or warrant sent by post in pursuance of this section shall be deemed a cheque; and the Council shall in relation thereto be deemed a banker within the meaning of the Bills of Exchange Act, 1882.

1882 c. 61.

General insurance fund.

19.—(1) The Council may establish a fund to be called " the insurance fund " with a view to providing a sum of money which shall be available for making good all such losses, damages, costs and expenses as may from time to time be specified in a resolution of the Council (in this section referred to as " the specified risks ").

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

(3) In each financial year after the establishment of the insurance fund the Council shall pay into that fund either—

(*a*) such a sum as shall in their opinion be not less than the aggregate amount of the premiums which would be payable if the Council fully insured in some insurance office of good repute against the specified risks; or

(*b*) if the Council insure in some insurance office against the whole or part of all or any of the specified risks such sum as will together with the premiums paid for the last-mentioned insurance be not less than the aggregate amount aforesaid.

(4) When the insurance fund shall amount to the prescribed amount (as hereinafter defined) the Council may (if they think fit) discontinue the yearly payments to the fund but if the fund is at any time reduced below the prescribed amount the Council shall recommence and continue the yearly payments to that

PART III —*cont.*

fund in accordance with subsection (3) of this section until the fund be restored to the prescribed amount.

(5) The Council shall provide the yearly payments aforesaid by contributions from the revenue moneys of the county fund and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking, department or service of the Council which, if the specified risks were insured against in an insurance office, would be properly chargeable with the payment of the premium of such insurance.

(6) (*a*) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses, damages, costs and expenses in respect of the specified risks, all moneys for the time being standing in the credit of the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities, and the interest and other annual proceeds received by the Council in respect of such investments shall be carried to the county fund.

(*b*) In addition to the sum required to be paid into the insurance fund by subsection (3) of this section the Council shall in every year, so long as the fund is less than the prescribed amount, carry to the credit of that fund out of the revenue moneys of the county fund an amount equal to the interest and other annual proceeds carried to the county fund in pursuance of the last foregoing paragraph.

(*c*) If and so long as the insurance fund amounts to the prescribed amount the interest and other annual proceeds received by the Council in respect of or on investments forming part of the insurance fund and carried to the county fund may be apportioned in the accounts of the Council between the several undertakings, departments or services liable to contribute to the insurance fund in such shares or proportions as may be equitable.

(7) For the purposes of this section the Council may, if they deem it expedient, include in the specified risks, risks of accident to any teacher, caretaker or other person employed in any voluntary school in the county.

(8) (*a*) The insurance fund shall be applied to meet any losses, damages, costs or expenses sustained by the Council in respect of the specified risks in the order of the dates on which such losses, damages, costs or expenses become ascertained, and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses, damages, costs or expenses, the Council may, with the sanction of the Secretary of State, borrow at interest under and subject to the provisions of Part IX of the Act of 1933 such sums of money as will be necessary to make up the deficiency.

PART III —*cont.*

(*b*) The amounts of the annual charges in respect of interest on and repayment of principal of any sums so borrowed and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the county fund and charged in the accounts of the Council under the separate headings or divisions in respect of such undertakings, departments or services of the Council, and in such proportions as the Council may determine having regard to the risks through which such deficiencies arise.

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

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

1953 c. 26.

(11) In this section—

(*a*) "insurance office" means (i) an insurance company or (ii) an underwriter being a member of an association of underwriters;

(*b*) "prescribed amount" means such sum as may from time to time be prescribed by the Council; and

(*c*) "statutory securities" means any securities in which trustees are for the time being authorised by law to invest trust moneys.

Officers acting as receivers, etc.
1959 c. 72.

20.—(1) The Council may pay to any of their officers who acts in any of the following capacities:—

(*a*) as the receiver appointed by an order made under Part VIII of the Mental Health Act, 1959;

(*b*) as the administrator of the estate of a deceased person acting by virtue of a grant made to him as the nominee of the Council;

(*c*) as a surety to a bond required by law from an officer acting in accordance with paragraph (*a*) of this subsection;

the amount of any sum forfeited by him to the Crown or the Principal Probate Registrar or the amount of any payment which

PART III —*cont.*

the officer is liable to make by reason of his acting in any such capacity as aforesaid.

(2) The Council may pay the amount of any premiums upon an insurance policy indemnifying an officer acting in one of the capacities mentioned in subsection (1) of this section against any act, neglect or default, whether his own or that of any other person, occurring in the course of the receivership or administration.

(3) Any payments which the Council have power to make under the provisions of subsection (1) of this section, and any of the risks referred to in subsection (2) of this section, may for the purposes of section 19 (General insurance fund) of this Act be treated as risks against which the Council would ordinarily insure and that section shall be construed accordingly.

Power to make temporary loans.

21.—(1) The Council may lend money for a period not exceeding twelve months to any person on the security of—

(*a*) any stock, bonds, bills or other property in which trustees are by law authorised to invest trust money or a certificate to bearer relating to any such stock; or

(*b*) Treasury bills or bills issued by any local authority in the United Kingdom; or

(*c*) bills or bonds payable or guaranteed by the Treasury or secured upon the revenues of or local rates leviable by any local authority in the United Kingdom authorised to issue bills or bonds and in the securities of which trustees are by law authorised to invest; or

(*d*) any securities transferable by delivery issued or guaranteed by the government of any overseas territory within the Commonwealth in the securities of which trustees are by law authorised to invest.

(2) The aggregate amount of money lent under this section which is outstanding at any one time shall not exceed five million pounds.

(3) The Council shall determine the percentage by which the value of the securities on which a loan is to be made under this section shall exceed the amount of the loan.

Power to lend money to local authorities, etc.

22.—(1) The Council may lend to any local authority, and a local authority may borrow from the Council, upon such terms and conditions as may be agreed, such money as the Council think fit to lend and as the local authority are authorised to borrow for the purpose for which such money is proposed to be borrowed, and any money so lent shall be repaid to the Council

PART III —*cont.*

by the local authority within the period prescribed by the sanctioning authority or otherwise for the repayment by the local authority of the money they are authorised to borrow.

(2) Any sum borrowed by the Council for the purpose of this section shall be repaid within a period to expire not more than one year after that for which the same was lent by them to the local authority.

(3) Where any sum is borrowed by the Council for the purposes of this section it shall be lawful for the Council for such periods as they may think fit to suspend any annual provision required to be made by virtue of any enactment for the time being in force for the repayment of the sum borrowed.

(4) The Council shall be entitled to charge such rate of interest in respect of any particular loan under this section as may be agreed between the Council and the borrower:

Provided that the Council shall ensure so far as it is reasonably practicable to do so that having regard to all the circumstances existing at the time the loan is made the rate of interest agreed is such that no loss is incurred by the Council in respect of the loan.

(5) All costs, charges and expenses incurred by the Council in respect of any particular loan under this section shall be met by the borrower.

(6) In this section the expression " local authority " means the council of a borough or an urban or rural district in the county and any other authority having jurisdiction within the county and being a local authority as defined by section 34 of the Local Loans Act, 1875, and includes any joint board if all the constituent authorities are such local authorities as aforesaid.

1875 c. 83.

Designation of holders of authorised securities in register.

23.—(1) (*a*) Where the holder of an amount of any authorised security occupies an office or official position, his official description may be entered in the register in lieu of his name, and where in relation to an amount of an authorised security of any description any such official description is so entered, an instrument of transfer and an instrument containing directions with respect to the payment of interest on that amount shall if executed by the person for the time being occupying that office or position be as effectual as if his name were entered as the holder of that amount.

(*b*) The entry in the register of the official description of the holder of an office or official position shall not be deemed to constitute notice, express, implied or constructive, of the existence of any trust in connection with the authorised security to which it relates.

PART III —*cont.*

(2) Notwithstanding anything in subsection (1) of this section, the Council shall not be required—

(*a*) to enter in the register any designation or description which appears to them unreasonably long or elaborate; or

(*b*) to enter in the register both the name of a holder of an authorised security and any such official description as could under subsection (1) of this section be so entered in lieu of his name.

(3) The Council shall not be required to register as joint holders of any authorised security any more than four persons.

(4) In this section "register" means the register of an authorised security kept by or on behalf of the Council.

Application of provisions of Part III to local authorities.

24.—(1) The provisions of this Part of this Act mentioned in subsection (2) of this section shall apply to a local authority and the said provisions shall accordingly have effect with any necessary modifications including the substitution of "local authority" for "Council".

(2) The provisions hereinbefore referred to are—

Section 13 (Power to raise money abroad);
Section 18 (Interest and dividends by post);
Section 19 (General insurance fund);
Section 23 (Designation of holders of authorised securities in register).

(3) The provisions of section 14 (Modification of provisions as to division of superannuation fund), section 15 (Extension of power to invest superannuation fund moneys), section 16 (Investment of other funds of Council) and section 17 (Expenses of investment of superannuation fund) of this Act shall apply to the New Sarum Corporation and the Swindon Corporation as they apply to the Council and for that purpose those provisions shall have effect as if for references therein to the Council there were substituted references to the New Sarum Corporation or the Swindon Corporation, as the case may be, and subject to any other necessary modifications including the substitution of "the city of New Sarum" or "the borough of Swindon", as the case may be, for "county":

Provided that the provisions of the said sections 14, 15 and 16 shall not apply to the New Sarum Corporation or the Swindon Corporation, except with the consent of the Secretary of State.

PART IV

SUPERANNUATION

Interpretation of Part IV, etc.

25.—(1) In this Part of this Act except as otherwise expressly provided or unless the context otherwise requires words and

PART IV —*cont.*

expressions to which meanings are assigned by the Act of 1937 have the same respective meanings and—

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

" the principal Acts " means the Local Government Superannuation Acts, 1937 to 1953;

" the Regulations of 1954 " means the Local Government Superannuation (Benefits) Regulations, 1954;

" return of contributions " in relation to a person who has ceased to be a contributor includes any sum paid to or in respect of him by way of interest on the amount of the contributions returned to him;

" superannuation benefit " includes any benefit which is or may be granted in pursuance of the principal Acts or the regulations made thereunder or in pursuance of any local Act or scheme or local Act scheme;

" transfer value " has, in relation to a contributor, the meaning assigned to it by the Regulations of 1954.

(2) In sections 26 to 30 of this Act " the new superannuation provisions " means those sections, and this section.

(3) Without prejudice to the provisions of section 28 (Transfers of employment), section 29 (Application of the new superannuation provisions to other employing authorities) and section 30 (Application of the new superannuation provisions to local authorities) of this Act, the provisions of the principal Acts and the regulations made thereunder shall apply and have effect in relation to a person who is a contributor on or after the date of the coming into force of the new superannuation provisions, subject to the extensions, modifications and applications of the said Acts and regulations contained in the new superannuation provisions.

Commencement of new superannuation provisions.

26. The new superannuation provisions shall come into force on 1st January, 1971.

Benefits in certain cases of premature retirement.

27.—(1) Where, after the coming into force of the new superannuation provisions, the employment of a contributor who has attained the age of fifty-five and completed ten years' service is terminated in the interests of efficiency before he has attained the age of compulsory retirement, he shall be entitled to superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment:

Provided that this subsection shall not apply to a contributor if not later than one month after ceasing to hold his employment or after he has been notified by the Council of his rights under this subsection, whichever is the later, he notifies the Council in writing that he does not wish this subsection to apply to him.

PART IV —*cont.*

(2) Where, after the coming into force of the new superannuation provisions, a contributor who has attained the age of fifty-five 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:

Provided that—

(i) 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;

(ii) 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.

(3) Where a person, who has become entitled to a superannuation benefit by virtue of subsection (2) of this section, dies before any payment on account of such benefit has been made to him, as from the date of his death the like benefits shall be payable in respect of him as would have been paid if he had died on the last day of his employment as a contributor.

(4) For the avoidance of doubt it is hereby declared that where a person is for the time being entitled to any benefit by virtue of subsection (2) of this section, that benefit shall be deemed to be a superannuation benefit for the purpose of the definition of " service " in subsection (1) of section 40 of the Act of 1937, whether or not any payment has been made to him on account thereof.

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

(6) In this section " 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 superannuation benefits by

PART IV —*cont.*

reason of having otherwise than under this section attained such age and completed such period of service as is prescribed in the principal Acts or the Regulations of 1954, as the case may be.

Transfers of employment.

28.—(1) The Council may, in accordance with the provisions of a scheme made by them for the purposes of this section—

(*a*) as respects any contributor who ceases or has ceased to hold employment under the Council in order to enter an employment (in this paragraph referred to as " the new employment ") in relation to which interchange arrangements are not for the time being in force, if that contributor so desires, in lieu of making any such payment to him from the superannuation fund as is referred to in section 10 of the Act of 1937 (or, where such a payment has been made, if it is repaid to the superannuation fund by the contributor), either—

(i) make from the superannuation fund in respect of him a payment by way of a transfer value to the body or persons responsible for administering any superannuation scheme in connection with the new employment; or

(ii) subject to such consequential provisions as may be prescribed in the scheme, award to or in respect of him superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment under the Council:

Provided that no benefit shall be paid to a person by virtue of this sub-paragraph before such date as may be prescribed under the scheme; and

(*b*) as respects any person who enters or has entered into employment under the Council from an employment in relation to which interchange arrangements are not for the time being in force, receive any payment made by or in respect of him to the superannuation fund, whether by way of transfer value or otherwise, and shall confer on him by virtue of such payment such rights under the principal Acts and the regulations made thereunder as may be prescribed under the said scheme.

(2) A scheme made under this section shall be of no effect unless it has been approved by the Secretary of State and the Secretary of State may approve any such scheme either with or without modifications after consultation with such organisations as are, in his opinion, representative of the interests concerned.

(3) A scheme made under this section may be amended or revoked by a subsequent scheme.

PART IV —*cont.*

(4) Any body or persons responsible for administering a superannuation scheme in connection with an employment as respects which interchange arrangements are not for the time being in force, may make any amendments or modifications of that superannuation scheme that may be desirable to facilitate the operation of any scheme made by the Council under this section.

(5) Where any provision of the principal Acts or the regulations made thereunder which has effect in relation to a contributor contains a reference to a transfer value, such reference shall be deemed (as may be appropriate) to include a reference to any such payment by way of a transfer value as is referred to in subparagraph (i) of paragraph (*a*) of subsection (1) of this section or to such payment by way of a transfer value or otherwise as is referred to in paragraph (*b*) of that subsection.

(6) In this section "interchange arrangements" means any arrangements, whether by virtue of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act, 1948, or by virtue of any other enactment apart from this section, providing for the preservation of superannuation rights following a change of employment. 1948 c. 33.

Application of the new superannuation provisions to other employing authorities.

29.—(1) An authority to whom this section applies may by resolution adopt all or any of the foregoing sections of the new superannuation provisions as from such date not being earlier than 1st January, 1971, as may be specified in such resolution, and where any provisions are so adopted they shall apply and have effect in relation to the authority as if—

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

(*b*) any reference to the Council in section 27 (Benefits in certain cases of premature retirement) or paragraphs (*a*) and (*b*) of subsection (1) of section 28 (Transfers of employment) was a reference to the authority.

(2) Where in pursuance of the foregoing subsection any provisions are adopted by an authority to whom this section applies as from a date later than 1st January, 1971, then any reference in those provisions to 1st January, 1971, or to the date of the coming into force of the new superannuation provisions shall be construed in relation to the authority as a reference to such later date.

(3) This section applies to—

(i) a local authority which does not maintain a superannuation fund under Part I of the Act of 1937;

(ii) the Wiltshire Magistrates' Court Committee;

(iii) the Wiltshire Probation and After-Care Committee;

PART IV —*cont.*

(iv) the North Wilts Water Board;

(v) the West Wilts Water Board;

(vi) any organisation, undertaking or body in respect of which there is for the time being in force an admission agreement with the Council pursuant to section 15 of the Local Government Superannuation Act, 1953;

1953 c. 25.

(vii) any other employing authority in relation to which the superannuation fund is the appropriate superannuation fund within the meaning of paragraph (*d*) of subsection (3) of section 1 of the Act of 1937.

Application of the new superannuation provisions to local authorities.

30.—(1) Where a local authority maintains a superannuation fund under Part I of the Act of 1937 any such local authority may by resolution adopt all or any of the foregoing sections of the new superannuation provisions as from such date, not being earlier than 1st January, 1971, as may be specified in such resolution, and where any provisions are so adopted they shall apply and have effect in relation to that local authority as if—

(*a*) any reference therein to the Council was a reference to that local authority;

(*b*) any reference therein to a contributor was a reference to a contributor to the superannuation fund maintained by that local authority under Part I of the Act of 1937 and as respects whom that local authority are the employing authority; and

(*c*) any reference therein to the superannuation fund was a reference to the superannuation fund maintained by that local authority under Part I of the Act of 1937.

(2) If any such local authority as is referred to in subsection (1) of this section adopts all or any of the foregoing sections of the new superannuation provisions, any other employing authority in relation to which that local authority are the appropriate administering authority may by resolution adopt all or any of the foregoing sections of the new superannuation provisions as from such date as may be specified in such resolution and where any provisions are so adopted any reference therein to a contributor shall be a reference to a contributor to the superannuation fund maintained by the local authority in relation to which such employing authority are the employing authority.

(3) If the Swindon Corporation adopt all or any of the foregoing sections of the new superannuation provisions, the expression "superannuation benefit" shall, in relation to an electing employee within the meaning of section 77 (Extension and modification of Act of 1937) of the Swindon Corporation Act, 1951, mean the benefits to which an electing employee is entitled under the Act of 1937 as modified by the said section 77 and by the Swindon Corporation Superannuation Scheme, 1955.

1951 c. xl.

PART IV —*cont.*

As to proof of continued existence of pensioners.

31. Notwithstanding anything in the principal Acts, the Council shall not be required to make any payment by way of superannuation allowance or pension under those Acts or under the Pensions (Increase) Acts, 1920 to 1969, or any other superannuation, pension, compensation or other such payment under any statutory authority to or for the benefit of any person unless satisfactory proof is given to the Council in such manner and at such times as they may from time to time require of the continued existence of such person.

Transfer of certain sums from superannuation fund.

32.—(1) If a contributor is dismissed or resigns or otherwise ceases to hold employment in consequence of an offence of a fraudulent character or grave misconduct, the Council may transfer from the superannuation fund to the county fund an amount not exceeding the whole, or any part, of any contributions not returned to him or paid to his wife or family under subsection (4) of section 10 of the Act of 1937, or the amount of loss suffered by the Council in consequence of the employee's offence or misconduct, whichever is the less.

(2) If a contributory employee of an employing authority whose employees participate in the benefits of the superannuation fund is dismissed, resigns or otherwise ceases to hold employment in consequence of an offence of a fraudulent character or grave misconduct by reason of which the employing authority have suffered direct financial loss, the Council shall, on demand from the employing authority, pay to them out of such fund an amount equal to so much of the employee's contributions to the superannuation fund as the employing authority have not directed to be returned to the employee or paid to his wife or family, or the amount of such loss suffered by the employing authority in consequence of his offence or misconduct, whichever is the less:

Provided that—

(*a*) where a payment in lieu of contributions falls to be made in respect of the employee under the National Insurance Act, 1965, the Council shall not under this subsection be required to pay to the employing authority so much of the employee's contributions as amounts to one-half of such payment in lieu of contributions; 1965 c. 51.

(*b*) the Council shall not be required to pay to the employing authority so much of the employee's contributions as relates to any period of previous service, unless the employing authority have directed that all rights enjoyed by or in respect of him with respect to that period of service, being rights under Part I of the Act of 1937 or under the Local Government Superannuation Act, 1953, or any regulations made thereunder, shall be forfeited. 1953 c. 25.

PART IV —*cont.*

Exclusion of certain remuneration and service for superannuation purposes.

33.—(1) Subject to the provisions of subsection (4) of this section, subsection (2) of this section applies to employees—

(*a*) who are contributory employees; or

(*b*) who are teachers employed in contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1956; or

(*c*) who are firemen participating in the Firemen's Pension Scheme; or

(*d*) who by virtue of the provisions of rule 3 of the Superannuation (Policy and Local Government Schemes) Interchange Rules, 1948 and 1955, are not subject to the provisions of the principal Acts;

and who are employed whole-time by the Council, a local authority, a magistrates' courts' committee, a probation committee, the managers or governors of a voluntary school, a local valuation panel or any voluntary organisation, undertakers or other body approved by the Secretary of State and who participate in the benefits of the fund.

(2) The salary, wages, fees and other payments paid or made (whether before or after the passing of this Act) to an employee to whom this subsection applies in respect of any part-time employment (not being employment the duties of which may be performed during the hours which such employee is normally required to devote to his ordinary whole-time employment) by the Council or any other authority or body the employees of which participate in the benefits of the superannuation fund—

(*a*) as an instructor or other employee performing duties at, or for the purposes of, an evening institute or for the purposes of evening classes; or

(*b*) as a warden of, or other employee performing duties at, or for the purposes of, a youth centre; or

(*c*) as a civil defence instructor; or

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

shall not be remuneration within the meaning of the principal Acts or of any other enactment affecting the superannuation fund, and the service of any such contributory employee in any such part-time employment shall not be reckoned as service for any of the purposes of those Acts.

(3) Where, before the passing of this Act, any person to whom subsection (2) of this section applies has paid any contribution or contributions to the superannuation fund which would not have been so paid if this section had been in force when such contribution or contributions were made, the Council shall repay from the superannuation fund to such person a sum equal to the amount

PART IV —*cont.*

of such contribution or contributions, together with compound interest thereon calculated to the date of repayment at the rate of three pounds per centum per annum with half-yearly rests.

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

Application to certain authorities of sections 31, 32 and 33.

34. The provisions of section 31 (As to proof of continued existence of pensioners), section 32 (Transfer of certain sums from superannuation fund) and section 33 (Exclusion of certain remuneration and service for superannuation purposes) of this Act shall apply to the New Sarum Corporation and the Swindon Corporation as they apply to the Council and for that purpose those provisions shall have effect as if for references therein to the Council there were substituted references to the New Sarum Corporation or the Swindon Corporation, as the case may be, and subject to any other necessary modifications.

PART V

MISCELLANEOUS

Publication of bulletins, etc.

35.—(1) The Council or a local authority may publish and sell or dispose of bulletins, journals, periodicals and leaflets and documents of historical or literary interest having a local connection or relating to the functions of the Council or the local authority, as the case may be.

(2) Nothing in this section shall affect the rights of any person under the law for the time being in force relating to copyright.

Microfilming of documents.

36.—(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; and 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 V —*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—

(*a*) " 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;

(*b*) " 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.

Power to require information as to ownership of premises.

37.—(1) The Council or a local authority may for the purpose of enabling them to perform any of their functions under—

(*a*) this Act;

(*b*) any enactment in force at the passing of this Act which authorises the Council or a local authority, as the case may be, to acquire land compulsorily;

(*c*) any enactment mentioned in Schedule 1 to this Act; and

(*d*) any local enactment in force at the passing of this Act which authorises the Council or a local authority, as the case may be, to serve notice upon the owner or occupier of lands or premises requiring the execution by such owner or occupier of works on such lands or premises or which authorises the Council or a local authority, as the case may be, to execute works on lands or premises within the county or the district, as the case may be;

require—

(i) the occupier and any person having an interest in any premises in the county or the district, as the case may be,

PART V —*cont.*

and any person who either directly or indirectly receives rent in respect of such premises to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest in those premises whether as freeholder, mortgagee, lessee or otherwise or the name and address of any person known to him to receive either directly or indirectly the rent in respect of those premises; and

(ii) any person who has sold or otherwise disposed of, leased or let any premises in the county or the district, as the case may be, to state in writing the name and address of the person to whom he has sold or otherwise disposed of, leased or let those premises.

(2) Any person who having been required by the Council or a local authority, as the case may be, in pursuance of this section to give to them any information fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding five pounds.

(3) For the purposes of this section the expression " interest " includes any legal estate or interest in the premises or in any rent-charge issuing out of those premises.

(4) The provisions of any of the enactments referred to in paragraph (*b*) of subsection (1) of this section which contain power to require information as to the ownership of premises shall cease to apply to the Council or a local authority, as the case may be, in so far as they relate to the same subject-matter as this section.

Delegation of powers to sub-committees.

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

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

Provided that—

(*a*) a majority of the members of any such sub-committee shall be members of the Council; and

(*b*) whenever at any meeting of any such sub-committee the members present thereat do not include a majority of

PART V —*cont.*

members of the Council any decision of the sub-committee shall have no effect unless it is confirmed by the committee.

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

Electronic or mechanical equipment.

39. At any time after the Council have provided any electronic or mechanical equipment for the purposes of any of their work they may by agreement with any other person use or permit that other person to use the said equipment for the purposes of that other person and they may make such charges as may be agreed for the use of the said equipment.

Recovery of water rates and charges by local authorities.

40. The following provisions shall have effect with respect to the collection by a local authority of water rates and charges in pursuance of any agreement entered into between the local authority and any statutory water undertakers authorised to supply water in the county, or in pursuance of any requirement made by such undertakers under any enactment:—

(1) For the collection and recovery of such rates or charges the local authority shall have the same powers as they have for the collection and recovery of the general rate:

(2) The same books and forms of demand note, receipt and recovery may be used for the general rate and such rates or charges.

Compulsory acquisition of easements.

41.—(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, under or over any land which under any enactment the Council may be authorised to acquire compulsorily any easement or other right in, under or over 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.

(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, under or over 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.

PART V —*cont.*

(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 purchase compulsorily of the land for the enjoyment or use of which the easement or other right is required or which would have had such power if such land were not already owned by the Council.

Application of provisions of Part V to local authorities.

42.—(1) The provisions of this Part of this Act mentioned in subsection (2) of this section shall apply to a local authority and the said provisions shall accordingly have effect with any necessary modifications including the substitution of " local authority " for " Council ".

(2) The provisions hereinbefore referred to are—

Section 36 (Microfilming of documents);

Section 38 (Delegation of powers to sub-committees);

Section 41 (Compulsory acquisition of easements).

PART VI

GENERAL

Local inquiries.

43.—(1) Any Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purposes 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 shall

PART VI —*cont.*

have effect as if the expression " department " in that section included any Minister of the Crown having functions under this Act.

(3) In this section " Minister of the Crown " has the same meaning as in the Ministers of the Crown (Transfer of Functions) Act, 1946.

1946 c. 31.

Restriction on right to prosecute.

44. The written consent of the Attorney-General shall be requisite for the taking of proceedings in respect of an offence created by or under this Act by any person other than a party aggrieved or the Council, a highway authority or a local authority, as the case may be.

Appeals.

45.—(1) Section 300 of the Act of 1936 shall apply to appeals to a magistrates' court under this Act; and sections 301 and 302 of that Act shall apply accordingly.

(2) Where any refusal of a highway authority against which a right of appeal is conferred by this Act makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the refusal or to use premises for any purpose for which they were lawfully used up to that time, then, until the time for appealing has expired or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution that person may carry on that business, and use those premises for that purpose.

Protection of members and officers from personal liability.

1875 c. 55.

46. Section 265 of the Public Health Act, 1875, shall apply to the Council and a local authority as if any reference in that section to the said Act of 1875 included a reference to this Act and as if any reference in that section to a member of a local authority included a reference to a member of a committee or a sub-committee of the Council or of a local authority.

Arbitration.

47. In arbitrations under this Act the reference shall be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of any party (after giving notice in writing to the other party or parties) by the President of the Institution of Civil Engineers.

For protection of certain statutory undertakers.

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

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

" apparatus " means—

(*a*) electric lines and works (as respectively defined in the Electric Lighting Act, 1882)

1882 c. 56.

PART VI —*cont.*

belonging to or maintained by the Central Electricity Generating Board or the Southern Electricity Board;

(*b*) mains, pipes or other apparatus belonging to or maintained by the Gas Council, the Southern Gas Board or the South Western Gas Board;

(*c*) mains, pipes or other apparatus belonging to or maintained by the water undertakers;

and includes any works constructed for the lodging therein of apparatus;

"the authority" means the Council, the highway authority, a local authority or a parish council, as the case may be;

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

"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.

"the undertakers" means the Central Electricity Generating Board, the Gas Council, the Southern Electricity Board, the Southern Gas Board, the South Western Gas Board, the water undertakers, or any of them, as the case may be;

"the water undertakers" means the statutory water undertakers for the time being authorised to supply water in the county:

(2) Nothing in the following sections of this Act shall relieve the authority, or any person acting with the consent of or on the requirement of the authority, from liability for damage caused by them or him to any apparatus in the exercise of the powers of the said sections and the said powers shall be so exercised as not to obstruct or render unreasonably inconvenient the access to any apparatus or operational land:—

Section 6 (Trees, grass verges and gardens);

Section 8 (Extension of parish councils' powers to provide parking places):

(3) Nothing in the said section 6 shall affect the rights of the undertakers with respect to any apparatus (including the placing of apparatus) in any grass verge or garden:

Provided that in exercising such rights, the undertakers shall not cause or permit, except in the case of

PART VI —*cont.*

necessity, vehicles to enter upon any such verge which is maintained in an ornamental condition or mown, or any garden:

(4) (*a*) Any difference which may arise between the authority and the undertakers under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration;

(*b*) In determining any difference under this section, the arbitrator shall have regard to any duty or obligation which the undertakers may be under in respect of any apparatus and may, if he thinks fit, require the authority to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with any purpose for which the apparatus is used.

Application of general provisions of Act of 1936.

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

Saving for exchange control.
1947 c. 14.

50. It shall not be lawful to exercise the powers conferred by any of the provisions of this Act except in compliance with the Exchange Control Act, 1947.

Costs of Act.

51. The costs, charges and expenses preliminary to, and of and incidental to, the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto, shall be paid by the Council out of the county fund or out of moneys to be borrowed under this Act.

SCHEDULES

SCHEDULE 1

Section 37.

ENACTMENTS MENTIONED IN SECTION 37

Public Health Act, 1875.	1875 c. 55.
Public Health Acts Amendment Act, 1890.	1890 c. 59.
Public Health Acts Amendment Act, 1907.	1907 c. 53.
Public Health Act, 1925.	1925 c. 71.
Land Drainage Act, 1930.	1930 c. 44.
The Act of 1936.	
Housing Act, 1957.	1957 c. 56.
Land Drainage Act, 1961.	1961 c. 48.
Public Health Act, 1961.	1961 c. 64.

SCHEDULE 2

Section 49.

SECTIONS OF ACT OF 1936 APPLIED

Section	Marginal note
271	Interpretation of " provide ".
283	Notices to be in writing; forms 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.
299	Inclusion of several sums in one complaint, &c.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.

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CHAPTER lxxxv

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Division of Act into Parts.
3. Interpretation.

PART II

HIGHWAYS

4. Sale of food and articles on verges, etc.
5. Prohibition of vehicles on grass verges.
6. Trees, grass verges and gardens.

Section

7. Damage to trees, etc., in streets and in open spaces.
8. Extension of parish councils' powers to provide parking places.
9. Application of code of 1875 and code of 1892 to parts of public streets.

PART III

FINANCE

10. Power to borrow.
11. Power to raise money by bills.
12. Power to raise money by bearer bonds.
13. Power to raise money abroad.
14. Modification of provisions as to division of superannuation fund.
15. Extension of power to invest superannuation fund moneys.
16. Investment of other funds of Council.
17. Expenses of investment of superannuation fund.
18. Interest and dividends by post.
19. General insurance fund.
20. Officers acting as receivers, etc.
21. Power to make temporary loans.
22. Power to lend money to local authorities, etc.
23. Designation of holders of authorised securities in register.
24. Application of provisions of Part III to local authorities.

PART IV

SUPERANNUATION

25. Interpretation of Part IV, etc.
26. Commencement of new superannuation provisions.
27. Benefits in certain cases of premature retirement.
28. Transfers of employment.
29. Application of the new superannuation provisions to other employing authorities.
30. Application of the new superannuation provisions to local authorities.
31. As to proof of continued existence of pensioners.
32. Transfer of certain sums from superannuation fund.
33. Exclusion of certain remuneration and service for superannuation purposes.
34. Application to certain authorities of sections 31, 32 and 33.

PART V

MISCELLANEOUS

Section
35. Publication of bulletins, etc.
36. Microfilming of documents.
37. Power to require information as to ownership of premises.
38. Delegation of powers to sub-committees.
39. Electronic or mechanical equipment.
40. Recovery of water rates and charges by local authorities.
41. Compulsory acquisition of easements.
42. Application of provisions of Part V to local authorities.

PART VI

GENERAL

43. Local inquiries.
44. Restriction on right to prosecute.
45. Appeals.
46. Protection of members and officers from personal liability.
47. Arbitration.
48. For protection of certain statutory undertakers.
49. Application of general provisions of Act of 1936.
50. Saving for exchange control.
51. Costs of Act.

SCHEDULES:

Schedule 1—Enactments mentioned in section 37.
Schedule 2—Sections of Act of 1936 applied.