

# Essex County Council Act 1971

## CHAPTER xix

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ELIZABETH II



1971 CHAPTER xix

An Act to confer further powers on the Essex County Council and local authorities in the county of Essex in relation to highways and the local government, improvement, health and finances of the county; to make further provision for the superannuation of employees; to authorise the Basildon Urban District Council to acquire lands; and for other purposes.

[30th March 1971]

**W**HEREAS—

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

(2) It is expedient to make further provision for the superannuation of the officers and servants of the Council and of local and other authorities in the county and of persons who contribute to the superannuation funds of the Council and of such local and other authorities and to amend the enactments relating thereto:

(3) It is expedient to empower the Basildon Urban District Council to acquire lands for highway purposes:

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

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

1933 c. 51.

(6) 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:

(7) A plan showing the lands which may be acquired or used compulsorily by the Basildon Urban District Council for the purposes or under the powers of this Act, and also a book of reference to the said plan containing the names of the owners and lessees, or reputed owners and lessees and of the occupiers of the said lands and describing the same, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the clerk of the Council, which plan and book of reference are in this Act referred to as the deposited plan and the deposited book of reference:

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

## PART I

### PRELIMINARY

Short title.

1. This Act may be cited as the Essex County Council Act 1971.

Division of  
Act into  
Parts.

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

Part I.—Preliminary.

Part II.—Highways.

Part III.—Public order and public safety.

Part IV.—Finance.

Part V.—Superannuation.

Part VI.—Lands.

Part VII.—Miscellaneous.

Part VIII.—General.

3.—(1) In this Act unless the subject or context otherwise requires—

PART I  
—cont.

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

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

“ the Act of 1946 ” means the Acquisition of Land  
(Authorisation Procedure) Act 1946; 1946 c. 49.

“ the Act of 1950 ” means the Public Utilities Street Works  
Act 1950; 1950 c. 39.

“ the Act of 1952 ” means the Essex County Council Act  
1952; 1952 c. 1.

“ the Act of 1958 ” means the Essex County Council Act  
1958; 1958 c. xxiv.

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

“ the Act of 1961 ” means the Land Compensation Act 1961; 1961 c. 33.

“ the Act of 1967 ” means the Road Traffic Regulation Act  
1967; 1967 c. 76.

“ committee ” in relation to a committee of the Council  
includes a sub-committee;

“ Council ” means the county council of the county;

“ county ” means the administrative county of Essex;

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

“ county road ” has the same meaning as in the Act of 1959;

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

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

“ enactment ” means any enactment, whether public general  
or local, and includes any order, byelaw, rule, regulation,  
scheme or other instrument having effect by virtue of  
an enactment;

“ 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 a claimed road, and in the case of any other  
highway for the time being maintained by the Council,  
the Council; and

PART I  
—cont.

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

“land” or “lands” includes land covered with water and any interest in land, and any easement or right in, to or over land;

1933 c. xlv.

“the local Act of 1933” means the Essex County Council Act 1933;

1967 c. xxxviii.

“the local Act of 1967” means the Essex County Council (Canvey Island Approaches, etc.) Act 1967;

“local authority” means the council of a district;

1952 c. 55.

“magistrates’ court” has the same meaning as in the Magistrates’ Courts Act 1952;

“officer” includes servant;

“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;

“police authority” means the Essex and Southend-on-Sea joint police authority established by the Essex and Southend-on-Sea Police (Amalgamation) Order 1968 or any other police authority of which the Council are a constituent council;

“rural district” means a rural district in the county;

“Secretary of State” means the Secretary of State for the Environment;

“urban district” means a borough or an urban district in the county.

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

## PART II

## HIGHWAYS

Amendment  
of section 47  
of Act of  
1952.

4. Section 47 (Means of access to buildings) of the Act of 1952 shall have effect as if—

(1) after subsection (3) thereof there were inserted the following subsections:—

“(3A) (a) The local authority may by any such notice or by a further notice to the person by whom or on whose behalf the plans were deposited prohibit the erection or the continuance of the erection of the new building for any period during which the means of communication provided as aforesaid are not



maintained to the reasonable satisfaction of the local authority, being a period not extending beyond the completion of the building.

PART II  
—cont.

(b) Any person aggrieved by a notice given under this subsection may appeal to the county court on the ground that the maintenance of the means of communication is not unsatisfactory and the court may dismiss or allow the appeal either unconditionally or subject to such conditions as the court may think just.

(3B) (a) The local authority may by any such notice require the person by whom or on whose behalf the plans were deposited to deposit with the local authority as security for payment of the cost of maintaining the means of communication such sum as is in their opinion necessary to maintain the means of communication in proper repair. If such person fails so to maintain the means of communication the local authority may appropriate the said sum in or towards the cost of repairing the means of communication. At the expiration of the period referred to in subsection (3A) the said sum, or any balance thereof not appropriated as aforesaid, shall be repaid by the local authority to the depositor.

(b) Any sum deposited with the local authority in pursuance of paragraph (a) of this subsection shall be placed by the local authority on deposit account with the authority's bankers and any interest received by the authority in respect thereof shall be held by the authority and dealt with under this section as if it formed part of the said sum.”;

(2) in subsection (4) thereof there were inserted after the word “ under ” the words “ subsection (1) of ” and for the word “ twenty ” there were substituted the words “ one hundred ”;

(3) after subsection (4) thereof there were inserted the following subsection:—

“ (4A) If the person by whom or on whose behalf the plans were deposited contravenes a notice given under subsection (3A) of this section he shall be liable to a fine not exceeding one hundred pounds and the local authority may, at any time before the completion of the building, carry out works to maintain the road to their reasonable satisfaction and recover from him the expense of so doing.”.

PART II  
—cont.

Time for  
claiming  
certain  
county roads  
in urban  
district of  
Chigwell.  
1929 c. 17.

5. As respects any county road in the urban district of Chigwell with respect to which the urban district council of Chigwell might have made a claim to undertake the maintenance thereof under section 32 of the Local Government Act 1929 but failed to do so within the time limited by that section, notwithstanding anything in section 45 of the Act of 1959, the urban district council of Chigwell may not later than 30th June, 1971, make such claim in respect of that road with the consent of the Council and in that event the claim shall be deemed to have been duly made under the said section 45.

PART III

PUBLIC ORDER AND PUBLIC SAFETY

Notices of  
applications  
for certain  
licences to  
be given to  
local  
authorities.  
1926 c. 31.

6.—(1) Section 3 of the Home Counties (Music and Dancing) Licensing Act 1926 in its application to the county shall have effect as if in subsection (6) thereof—

- (a) after the words “ to the clerk of the council ” there were inserted the words “ to the clerk of the local authority for the borough, urban district or rural district in which the place is situated ”;
- (b) after the words “ by the council ” there were inserted the words “ the local authority, ”; and
- (c) in proviso (b) to that subsection, after the words “ required to be given to ” there were inserted the words “ the clerk of the local authority and ”.

(2) Section 93 (Boxing entertainment licences) of the local Act of 1933 shall have effect subject to the following modifications:—

- (a) in subsection (4) after the word “ Council ” there shall be inserted the words “ to the clerk of the local authority for the county district in which the premises to which the application relates are situate ”;
- (b) at the end of subsection (4) there shall be added the words “ and on the consideration of the application by the Council, the applicant, the local authority, the police and any person living in the neighbourhood of the premises whom the Council deem to be concerned shall be entitled to be heard ”;
- (c) subsection (5) is hereby repealed.

1968 c. 54.

(3) In its application to the county, the Theatres Act 1968 shall have effect as if in paragraph 2 (1) of Schedule 1 to that Act after the words “ to the licensing authority ” there were inserted the words “ to the local authority for the borough, urban district or rural district in which the premises are situated ”.

7.—(1) Any person acting on behalf of a local authority of a district to which this section applies and authorised in writing by the town clerk or clerk of the local authority shall have power at all reasonable times to inspect any hackney carriage in that district which is for the time being licensed by the local authority under the Act of 1847 for the purpose of ascertaining its fitness, and if he is not satisfied with the fitness of the hackney carriage or of the accuracy of its taximeter he may by notice in writing require the proprietor of the hackney carriage to make it or its taximeter available for further inspection at such reasonable time and place as may be specified in the notice and suspend the licence of the hackney carriage until such time as he is so satisfied or the expiration of a period of two months whichever shall first occur.

PART III  
—cont.

Fitness of  
hackney  
carriages,  
etc.

(2) In this section “ the Act of 1847 ” means the Town Police Clauses Act 1847 and “ hackney carriage ” has the same meaning as in that Act but does not include a public service vehicle as defined in section 117 of the Road Traffic Act 1960.

1847 c. 89.

1960 c. 16.

(3) This section applies to—

- (a) urban districts outside the Metropolitan Police district other than the boroughs of Chelmsford and Saffron Walden and the urban districts of Brightlingsea, Chigwell, West Mersea and Wivenhoe; and
- (b) rural districts in which the provisions of the Act of 1847 with respect to hackney carriages are for the time being in force other than the rural districts of Chelmsford, Dunmow, Halstead, Lexden and Winstree, Maldon, Saffron Walden and Tendring.

8.—(1) No person shall within a district dispose of or deposit any container (including a container attached to a vehicle or machine) which has been used for the storage of inflammable, explosive or poisonous substance and is no longer used for that purpose unless he takes all such steps as may be reasonably necessary to prevent danger from the container to any person or property.

Disposal of  
dangerous  
containers.

(2) If any person contravenes the provisions of subsection (1) of this section, he shall be liable to a fine not exceeding twenty pounds, and the local authority may take such steps as may be reasonably necessary to prevent danger from the container and may recover from that person the expenses incurred by them in so doing:

## PART III

—cont.

1967 c. 69.

Provided that no proceedings shall be instituted for an offence under this section if the disposal or deposit of the container contravenes section 19 of the Civic Amenities Act 1967.

1933 c. 25.

(3) In this section “poisonous substance” means a substance specified in the Poisons List for the time being in force under section 17 of the Pharmacy and Poisons Act 1933.

Protection  
of dangerous  
ponds and  
excavations.

9.—(1) Where there is on any land in a district a pond, well, mineshaft, quarry or other excavation which, by reason of its being unfenced or inadequately fenced or otherwise inadequately protected, constitutes a source of danger to children or other persons, the local authority may pay, or contribute to the payment of, any expenses incurred in the execution, by any person who has the right to do so, of any works of repair, protection or enclosure which may be required to obviate the danger:

1954 c. 70.

Provided that, in the case of any such excavation in respect of which any person may, under section 144 of the Act of 1959 or section 151 of the Mines and Quarries Act 1954, be required to execute works to obviate the danger, the local authority shall only pay, or contribute to the payment of, the expenses of executing such works where they are satisfied that it would be unreasonable in the circumstances of the case for such person to be required to bear the expense, or the whole of the expense (as the case may be), of executing such works.

(2) If in the case of any such pond, well, mineshaft, quarry or other excavation as aforesaid on any land in a district—

(a) the local authority are unable, after making reasonable inquiry, to ascertain the name and address of the owner or occupier of the land; or

(b) the local authority have, by notice given to the owner or occupier of the land, requested the execution of such works of repair, protection or enclosure as they may consider necessary to obviate the danger and, despite an offer made by the local authority to pay or contribute to the payment of any expenses incurred by the owner or occupier in the execution of such works, the works are not executed within such reasonable time thereafter as may be necessary for the purpose;

the local authority may, subject to the provisions of subsection (3) of this section, themselves execute such works at their own expense.

(3) (a) Where, in a case referred to in paragraph (b) of subsection (2) of this section, the local authority propose themselves

to execute works on any land they shall, before carrying the proposal into effect, serve notice on the owner or occupier of the land specifying the place where they propose to execute such works and the nature of the works proposed and the period, which shall not be less than twenty-eight days, within which notice of objection to the proposal may be sent in writing to the local authority, and including notice of the right of appeal under paragraphs (b) and (c) of this subsection.

PART III  
—cont.

(b) The local authority shall consider any notice of objection sent to them by the owner or occupier of the land within the period so specified and give notice of their decision on the objection to the person by whom it was made.

(c) If that person is aggrieved by the decision of the local authority he may, within twenty-one days after receiving notice thereof, appeal to a magistrates' court, and the court shall have power to make such order in the matter as it considers reasonable.

(4) If in pursuance of subsection (2) of this section, or of any order of a court made under paragraph (c) of subsection (3) of this section, the local authority themselves execute works of repair, protection or enclosure on any land, they shall, unless otherwise agreed in writing between the local authority and the owner or occupier of the land and unless otherwise provided in any such order of the court, maintain those works.

(5) This section shall apply to a parish council and for that purpose shall have effect as if for references therein to a local authority and to a district there were substituted references to a parish council and to their parish respectively.

#### PART IV

#### FINANCE

10.—(1) The Council may borrow—

Power to  
Council to  
borrow.

- (a) such sums as may be necessary for any of the purposes of this Act;
- (b) without the consent of any sanctioning authority, such sums as may be necessary for paying the costs, charges and expenses of this Act;
- (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 17 (Power to Council 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 five years from the passing of this Act.

PART IV  
—cont.

(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) or paragraph (c) 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—

- (1) for any purpose for which the Council are authorised to borrow;
- (2) 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 “Essex County bills”, in this section referred to collectively as “bills” and separately as “a bill”) subject to, and in accordance with, the following provisions:—

- (a) 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:
- (b) A bill shall entitle the holder thereof to payment at maturity of the sum expressed in the bill to be payable:
- (c) Bills may be offered for purchase (whether by tender or otherwise) in such manner and on such conditions as the Council may determine:
- (d) Bills shall be issued under the authority of a resolution passed by the Council or a committee of the Council, and shall bear the signature of the treasurer to the Council or of some other person authorised by the Council:

- (e) The Council may make regulations providing for—
- (i) the preparation, form, mode of issue, payment and cancellation of bills;
  - (ii) the issue of new bills in lieu of bills defaced, lost or destroyed;
  - (iii) the prevention, by the use of counterfoils or of a special description of paper or otherwise, of fraud in relation to bills;
  - (iv) the giving of a proper discharge on the payment of a bill; and
  - (v) amending or revoking any regulations previously made or deemed to have been made under this paragraph:
- (f) 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:
- (g) 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—
- (i) the sum of five million five hundred thousand pounds; or
  - (ii) 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, or such other sum as the Treasury may from time to time approve:
- (h) Subject to the provisions of the last preceding paragraph, the Council may renew a bill at maturity:
- (i) 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 by the issue of bills.
- (2) (a) At the request of a local authority to which this subsection applies who desire to borrow money—
- (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 IV  
—cont.

the Council or a committee of the Council may raise money by means of Essex County bills and shall lend such money to the local authority:

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 one time shall not be taken into account in calculating the aggregate amount referred to in paragraph (g) of subsection (1) of this section.

(c) Any money lent to a local authority by the Council under this subsection shall if so required by the Council 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) All costs, charges and expenses incurred by the Council in respect of any particular loan under this subsection shall be met by the borrower.

(e) 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;

“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.

PART IV  
—cont.

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

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

**14. Section 18** (Investment of superannuation fund) of the Act of 1958 shall have effect as if the following section were substituted therefor:—

Amendment  
of powers of  
investment  
of super-  
annuation  
fund.  
1937 c. 68.

“ Invest-  
ment of  
super-  
annuation  
fund.

(1) In its application to the Council subsection (3) of section 21 of the Local Government Superannuation Act 1937 shall have effect as if for the obligation to invest as mentioned in that subsection moneys forming part of but not for the time being required to meet payments out of the superannuation fund maintained by the Council under that Act there were substituted an obligation to invest such moneys as follows, namely:—

- (a) in or upon any investments for the time being authorised by law for the investment of trust funds; or
- (b) in or upon any of the stocks, funds or securities of any dominion, commonwealth, union, dependency or colony forming part of the British Commonwealth of Nations or any province or state having a separate local legislature and forming part thereof; or
- (c) in or upon any of the stocks, bonds, mortgages or securities of any municipality, county or district council or local or public authority or board in the United Kingdom or any such dominion, commonwealth, union, dependency, colony, province or state as aforesaid authorised under any general or special Act of the United Kingdom Parliament or the legislature concerned to issue the same; or
- (d) in or upon any stocks, shares, bonds, mortgages or securities the capital whereof or a minimum

**PART IV**  
—cont.

- rate of dividend or interest whereon is guaranteed by the United Kingdom government or by the government of any such dominion, commonwealth, union, dependency, colony, province or state as aforesaid; or
- (e) in or upon any of the stocks, funds or securities of the government of any foreign country or state; or
- (f) in or upon the bonds, debentures, debenture stock, convertible debenture stock, obligations or securities or any warrants, options or rights to subscribe thereto of any company incorporated under any general or special Act of the United Kingdom Parliament or under any royal charter or registered or incorporated in any part of the world; or
- (g) in or upon any guaranteed, preference or ordinary stock or shares or any preferred or deferred or other stock or shares, or any warrants, options or rights to subscribe thereto of any company incorporated under any general or special Act of the United Kingdom Parliament or under any royal charter or registered or incorporated in any part of the world, being stock, shares, warrants, options or rights which at the time of making the investment are quoted on any recognised stock exchange or similar institution; or
- (h) in the purchase, whether alone or jointly or in common with any other person or corporation, of immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands, or of any share or interest in such immovable property, including any interest in such immovable property comprised in a building agreement providing for the grant of a lease of such property contingent on the erection or completion of the building specified in such agreement; or
- (i) in the advance of money
- (i) immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands; or
- (ii) any legal estate or interest in immovable property comprised in a building agreement as specified in paragraph (h) of this subsection;
- and in any such case whether the security be taken by a separate and distinct mortgage or security made exclusively to the Council, or by a mortgage or security made jointly to the Council and any other person; or

(j) in undertaking or financing whether alone or jointly with any other person—

PART IV  
—cont.

(i) the erection of a new building or the improvement or extension of an existing building;  
or

(ii) building operations or other development; on land belonging to the Council or to any other person or on land which is, or will be, held jointly by the Council and any other person; or

(k) upon the security of freehold or leasehold ground rents, land charges or rentcharges;

with power of varying such investments from time to time by sale and reinvestment or otherwise:

Provided that—

(i) no investment of any part of the superannuation fund in any investment of the nature specified in paragraph (g) of this subsection shall be made at any time when the value of all the investments made under the said paragraph (g) which form part of the superannuation fund equals or exceeds three-quarters of the total value of the assets of that fund;

(ii) no investment of any part of the superannuation fund in any investment of the nature specified in paragraph (j) of this subsection shall be made at any time when the value of all the investments made under the said paragraph (j) which form part of the superannuation fund equals or exceeds one-fifth of the total value of the assets of that fund.

(2) For the purposes of the last foregoing subsection the value of any investment of moneys forming part of the superannuation fund shall be treated as being the value of the investment at the time at which it was made.

(3) For the purposes of the foregoing provisions of this section an investment in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme established in the United Kingdom or elsewhere having the effect of enabling persons to participate in the profits and income arising from the acquisition, holding, management or disposal of such securities or of such land as are specified in that subsection shall be regarded as an investment in the securities in question or in such land.

(4) All costs, charges and expenses incurred by the Council in investing moneys forming part of their superannuation fund or otherwise in relation thereto shall be paid by the Council out of the said fund.

PART IV  
—cont.

1968 c. 25.

(5) In this section—

‘participation certificate’ has the same meaning as in the Local Authorities’ Mutual Investment Trust Act 1968;

‘purchase’ in relation to paragraph (h) of subsection (1) of this section includes a power to develop, lease and manage;

1958 c. 45.

‘recognised stock exchange’ in its application to the United Kingdom, means any body of persons which is for the time being a recognised stock exchange for the purposes of the Prevention of Fraud (Investments) Act 1958;

‘unit trust scheme’ has the meaning assigned thereto by section 26 (1) of the Prevention of Fraud (Investments) Act 1958.

1961 c. 62.

(6) The restrictions contained in Part IV of Schedule 1 to the Trustee Investments Act 1961 shall not apply to the securities in which the Council is authorised to invest by virtue of paragraph 1 of Part III of the said schedule or by virtue of subsection (1) of this section.”

Amendment  
of section 150  
of Act of  
1952.

15. Section 150 (Loans for erection etc. of buildings) of the Act of 1952 shall have effect as if—

(a) for subsection (1) thereof there were substituted the following subsection—

“(1) A local authority may advance money to—

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

(b) the owner, purchaser or lessee of—

(i) any land in the district of the local authority; or

(ii) any land (whether within or outside that district) acquired from or leased by the local authority;

for the purpose of enabling or assisting him to build on such land or to extend or improve any existing building thereon:

Provided that any such advance shall not exceed in the case of land or land and a building being a house the amount which in the opinion of the local authority will be the market value of the interest of the borrower in the land or, as the case

may be, the land and building after the purpose of the loan has been effected, or in the case of land and any other building nine-tenths of such amount as aforesaid.”;

PART IV  
—cont.

- (b) at the end of paragraph (a) of subsection (2) thereof there were added the words “ or such other rate and subject to such terms and conditions as may be approved by the Minister ”.

16.—(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.

Designation  
of holders of  
authorised  
securities in  
register.

(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.

(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) In this section “ authorised security ” has the same meaning as in the Act of 1952 and “ register ” means the register of an authorised security kept by or on behalf of the Council.

17.—(1) The Council may lend to any local authority and a local authority may borrow from the Council such money as the Council think fit to lend and as the local authority are authorised to borrow and any money so lent shall be repaid to the Council by the local authority within the period prescribed by the sanctioning authority or otherwise, for the repayment thereof:

Power to  
Council to  
lend money  
to local  
authorities,  
etc.

**PART IV**  
—*cont.*

Provided that the powers of this subsection shall not be exercised unless—

(a) the local authority borrowing from the Council is either—

(i) an authority of which the Council is a constituent member; or

(ii) an authority to which the Council appoint a representative; or

(iii) a member authority of a consortium of which the Council is also a member; or

(iv) the council of a district; or

(b) the sum lent by the Council is part of a larger sum borrowed by the Council by way of a stock issue, bond issue, foreign loan or issue of bills for their own needs and for the needs of another local authority seeking to raise money by the same means.

(2) Every sum borrowed by the Council for the purpose of this section shall be repaid within the 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 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 loan under this section as may be agreed between the Council and the borrower:

Provided that the Council shall ensure, so far as 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 any county, county borough or county district and any authority being a local authority as defined by section 34 of the Local Loans Act 1875, and includes the police authority, any river authority or drainage board and any joint board if all the constituent authorities are such local authorities as aforesaid.

18.—(1) Where the Council have paid in advance to any employee the amount of his emoluments and such employee dies before the expiration of the period in respect of which such payment is made the Council shall not be required to demand the return of such portion thereof not exceeding twenty-five pounds as the Council may determine.

**PART IV**  
—*cont.*

Recovery of  
sums paid to  
officers, etc.

(2) In any case where the Council exercise the powers of the foregoing subsection they shall transfer from the county fund to the fund the amount, if any, which but for the exercise of those powers would have been returnable to the last-mentioned fund.

(3) In this section—

“employee” means any officer of the Council or any other person whose salary or wages is or are paid or payable by the Council and includes any former officer or other person who is in receipt of a superannuation allowance or benefit payable out of the superannuation fund maintained by the Council; and

“emoluments” means in relation to an officer or other person his salary, wages, fees or other payments (as the case may be) and in relation to a former officer or other person in receipt of a superannuation allowance or benefit the amount of that allowance or benefit;

“the fund” has the same meaning as in Part V of this Act.

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

Compensation  
for injury  
to or death  
of officers.

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

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

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

(a) by way of a lump sum; or

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

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

PART IV  
—cont.

Extension of  
section 19 to  
voluntary  
assistants,  
etc.

20.—(1) The provisions of section 19 (Compensation for injury to or death of officers) of this Act shall extend so as to authorise (in the case of a voluntary assistant) the Council and (in the case of any other person to whom this section applies) with the consent of the Council the body by whom that person is or was employed to pay compensation to any person to whom this section applies or to a dependant of any such person.

(2) This section applies to—

(a) any voluntary assistant;

(b) any person employed by the managers or governors of any voluntary school in the county.

(3) In this section “voluntary assistant” means a person who, at the request of the Council, or an authorised officer of the Council, performs any service or does anything, otherwise than for profit or reward, for the purposes of, or in connection with, the carrying out of any of the functions of the Council and includes any officer or member of a voluntary organisation which provides in the county services or facilities of the kind provided by the Council in pursuance of their functions or to which the Council make any financial contribution.

Officers  
acting as  
receivers, etc.

1959 c. 72.

21.—(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 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 any 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 be



specified by the Council as specified risks in accordance with section 142 (General insurance fund) of the Act of 1952 and that section shall be construed accordingly.

PART IV  
—cont.

22.—(1) The insurance fund established by the Council under section 142 (General insurance fund) of the Act of 1952 may be used by the Council, at the request of any local authority or the police authority, to make available to the local authority or the police authority, as the case may be (in this section referred to as “the contributory authority”), a sum of money for making good such losses, damages, costs and expenses as may from time to time arise in respect of such risks as may be specified by the contributory authority and as may be approved by resolution of the Council.

Extension of  
general  
insurance  
fund.

(2) In each year after the approval by the Council of any such risks as aforesaid the Council shall pay into the insurance fund such a sum as would be payable into that fund if such risks were specified risks as defined in the said section 142.

(3) The contributory authority shall pay to the Council from time to time such sum or sums as may be agreed between the Council and the contributory authority in consideration of the Council agreeing to make good such losses, damages, costs and expenses as are referred to in subsection (1) of this section.

23.—(1) The Council may enter into a contract with any person whereby, in consideration of payments by the Council by way of premium or otherwise, that person undertakes to pay to the Council such sums as may be provided in the contract in the event of any member of the Council sustaining any accidental loss of or damage to personal effects or loss of money while he is engaged on the business of the Council.

Insurance by  
Council of  
losses  
incurred by  
members.

(2) Any sum received by the Council under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by them to the member of the Council by whom such loss was incurred.

(3) In this section “personal effects” means clothing, footwear and other personal possessions normally worn or carried on the person.

(4) The sum to be paid to a member of the Council under this section in respect of any one accidental loss shall not exceed two hundred pounds or such greater sum as may from time to time be prescribed by the Secretary of State.

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”.

Application  
of Part IV  
to local  
authorities  
and to police  
authority, etc.

PART IV  
—cont.

(2) The provisions hereinbefore referred to are—

- Section 10 (Power to Council to borrow);
- Section 12 (Power to raise money by bearer bonds);
- Section 13 (Power to raise money abroad);
- Section 16 (Designation of holders of authorised securities in register);
- Section 18 (Recovery of sums paid to officers, etc.);
- Section 19 (Compensation for injury to or death of officers);
- Section 20 (Extension of section 19 to voluntary assistants, etc.);
- Section 23 (Insurance by Council of losses incurred by members).

(3) In its application to a local authority the said section 10 shall have effect as if paragraph (b) and paragraph (c) of subsection (1) were omitted.

(4) In its application to a local authority the said section 18 shall have effect as if for the words “the county fund to the fund” there were substituted the words “the general rate fund of the district or the housing revenue account, as the case may be, to the superannuation fund maintained under the Local Government Superannuation Act 1937 in the benefits of which the employee was entitled to participate”.

1937 c. 68.

(5) Subject to the consent of the Secretary of State, the provisions of section 18 (Investment of superannuation fund) of the Act of 1958, as modified by section 14 (Amendment of powers of investment of superannuation fund) of this Act, shall apply to any local authority or joint committee by whom a superannuation fund is maintained under the Local Government Superannuation Act 1937 and those provisions shall accordingly have effect with any necessary modification, including the substitution of “local authority” or “joint committee”, as the case may be, for “Council”.

(6) The provisions of this Part of this Act mentioned in subsection (7) of this section shall apply to the police authority and those provisions shall accordingly have effect with any necessary modification, including the substitution of “police authority” for “Council”.

(7) The provisions referred to in subsection (6) of this section are—

- Section 16 (Designation of holders of authorised securities in register);
- Section 18 (Recovery of sums paid to officers, etc.);

- Section 19 (Compensation for injury to or death of officers);
- Section 23 (Insurance by Council of losses incurred by members).

PART IV  
—cont.

(8) In its application to the police authority the said section 18 shall have effect as if for the words “the county fund to the fund” there were substituted the words “the combined police fund to the superannuation fund maintained under the Local Government Superannuation Act 1937 in the benefits of which the employee was entitled to participate” 1937 c. 68.

(9) The provisions of this Part of this Act mentioned in subsection (10) of this section shall apply to the Essex Magistrates’ Courts Committee and those provisions shall accordingly have effect with any necessary modification, including the substitution of “Essex Magistrates’ Courts Committee” for “Council”.

(10) The provisions referred to in subsection (9) of this section are—

- Section 18 (Recovery of sums paid to officers, etc.);
- Section 19 (Compensation for injury to or death of officers);
- Section 23 (Insurance by Council of losses incurred by members).

(11) (a) In its application to the Essex Magistrates’ Courts Committee subsection (2) of the said section 18 shall have effect as if for the words “they shall transfer” there were substituted the words “the Council shall transfer”.

(b) For the avoidance of doubt it is hereby declared that any expenses incurred by the Essex Magistrates’ Courts Committee under the said section 23 shall be deemed to be expenses referred to in subsection (1) (c) of section 26 of the Justices of the Peace Act 1949 and section 27 of that Act shall have effect accordingly. 1949 c. 101.

(12) The provisions of this Part of this Act mentioned in subsection (13) of this section shall apply to the Essex Probation and After-Care Committee and those provisions shall accordingly have effect with any necessary modification, including the substitution of “Essex Probation and After-Care Committee” for “Council”.

(13) The provisions referred to in subsection (12) of this section are—

- Section 18 (Recovery of sums paid to officers, etc.);
- Section 19 (Compensation for injury to or death of officers);
- Section 20 (Extension of section 19 to voluntary assistant, etc.);
- Section 23 (Insurance by Council of losses incurred by members).

PART IV  
—cont.

(14) In its application to the Essex Probation and After-Care Committee subsection (2) of the said section 18 shall have effect as if for the words “ they shall transfer from the county fund ” there were substituted the words “ the Council shall pay ”.

Powers to be cumulative.

25. All powers and duties conferred or imposed by this Part of this Act or by section 18 (Investment of superannuation fund) of the Act of 1958 shall be deemed to be in addition to, and not in derogation of, any other powers and duties conferred or imposed by any enactment, law or custom, and, subject to any express provision of this Act or of the said section 18, all such other powers and duties may be exercised and shall be performed in the same manner and as if this Act had not been passed and the said section 18 had not been enacted.

Saving for powers of Treasury.  
1947 c. 14.

26. Nothing in this Act shall be taken as exempting the Council or a local authority from the provisions of the Exchange Control Act 1947.

## PART V

## SUPERANNUATION

Interpretation of Part V, etc.

27.—(1) In this Part of this Act, except as otherwise expressly provided or unless the context otherwise requires, words and expressions to which meanings are assigned by the Act of 1937 or, as the case may be, by any local Act or scheme or local Act scheme have the same respective meanings and—

1937 c. 68.

“ the Act of 1937 ” means the Local Government Superannuation Act 1937;

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

“ death grant ” has in relation to a contributor the meanings assigned to it by the Regulations of 1954 or, as the case may be, the corresponding provisions of any local Act or scheme or local Act scheme;

“ joint committee ” means a joint committee of local authorities established under section 2 of the Act of 1937;

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

“ local Act or scheme or local Act scheme ” means in relation to a contributor to whom article 21 (Protection of rights and obligations) of the order of 1965 applies, the local Act or scheme or local Act scheme in pursuance of which he retains protected rights and obligations by virtue of that article;

“ the order of 1965 ” means the London Authorities (Superannuation) Order 1965;

“ 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 ” means in relation to a contributor any benefit whether or not of a recurring nature which is or may be granted in pursuance of the principal Acts or any 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 this section and in sections 28 to 32 of this Act “ the new superannuation provisions ” means those sections and this section.

(3) Without prejudice to the provisions of section 30 (Power to require designated sums to be paid to trustees), section 31 (Application of the new superannuation provisions to other employing authorities) and section 32 (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 and 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.

(4) Where—

- (a) in pursuance of the London Government Act 1963 and 1963 c. 33. article 21 (Protection of rights and obligations) of the order of 1965 there are applied to or in respect of a person who is a contributor on or after the date of the coming into force of the new superannuation provisions, rights, obligations or powers under the principal Acts and the regulations made thereunder corresponding with rights, obligations or powers which applied to or in respect of him by virtue of any local Act or scheme or local Act scheme immediately before the date on which under the London Government Act 1963 he became entitled to participate in the benefits of the fund; and
- (b) this Part of this Act extends, modifies or applies any provision contained in the principal Acts or the regulations made thereunder;

then, in relation to that person, a corresponding extension, modification or application, as the case may be, of such local

PART V  
—cont.Commence-  
ment of new  
superannua-  
tion  
provisions.Benefits in  
certain cases  
of premature  
retirement.

Act or scheme or local Act scheme shall be deemed to have been made immediately before that last-mentioned date.

28. The new superannuation provisions shall come into force on 1st June, 1971.

29.—(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 years and completed ten years' service is terminated in the interests of efficiency before he has attained the age of sixty-five years, he shall be entitled to superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment:

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

(2) Where, after the 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 or in pursuance of the London Government Act 1963 and article 21 of the order of 1965:

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 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 made thereunder or, as the case may be, in the corresponding provision of any local Act or scheme or local Act scheme.

30.—(1) A contributor may at any time by notice in writing to the Council, given in such form as the Council may approve, direct that the provisions of this section shall apply to—

(a) the amount (if any) which would otherwise be payable to his estate by way of death grant; and

(b) the amount (if any) which would otherwise be payable to his estate of any sum calculated by reference to the aggregate amount of his contributions to the fund, together with compound interest thereon;

and that any such amount (hereafter in this section and in Schedule 1 to this Act referred to as "the designated sum") instead of being paid to his estate shall be paid to such responsible persons (not being less than two nor more than four in number and hereafter in this section and in the said Schedule 1 referred to as "the trustees") as shall be appointed for that purpose by

Power to  
require  
designated  
sums to be  
paid to  
trustees.

PART V  
—cont.

the Council, to be held upon the trusts and with and subject to the powers and provisions in force under the said Schedule 1 at the date of such direction.

(2) Any direction given in accordance with this section shall be effective and the designated sum shall accordingly be paid to the trustees and shall be held by them upon the trusts and with and subject to the powers and provisions in force under the said Schedule 1 at the date of such direction.

(3) The trusts, powers and provisions set out in the said Schedule 1 may from time to time be varied by resolution of the Council, but so that the trusts, powers and provisions as so varied shall only apply in relation to directions received by the Council after the making of such variations.

(4) Any direction given by a contributor under this section shall be irrevocable and binding on such contributor and his estate and all persons interested therein.

(5) In this section and in the said Schedule 1 "contributor" includes any person who on or after the date of the coming into force of the new superannuation provisions is a contributor to the fund as respects whom the Council are the employing authority, and "former contributor" shall be construed accordingly.

Application  
of the new  
superannuation  
provisions  
to other  
employing  
authorities.

**31.—**(1) An authority to whom this section applies may by resolution adopt all or any of the foregoing sections of the new superannuation provisions and Schedule 1 to this Act as from such date not being earlier than 1st June, 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 fund as respects whom the authority are the employing authority;
- (b) any reference to the Council in section 29 (Benefits in certain cases of premature retirement) of this Act 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 June, 1971, then any reference in those provisions to 1st June, 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 in respect of which the Council is the administering authority;



- (ii) the police authority;
- (iii) the Essex Magistrates' Courts Committee;
- (iv) the Essex Probation and After-Care Committee;
- (v) 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;
- (vi) any other employing authority in relation to which the fund is the appropriate superannuation fund within the meaning of paragraph (d) of subsection (3) of section 1 of the Act of 1937.

PART V  
—cont.

1953 c. 25.

32.—(1) Where a local authority or a joint committee maintains a superannuation fund under Part I of the Act of 1937 any such local authority or joint committee may by resolution adopt all or any of the foregoing sections of the new superannuation provisions and Schedule 1 to this Act, as from such date, not being earlier than 1st June, 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 or joint committee as if—

Application of  
the new super-  
annuation  
provisions to  
local  
authorities.

- (a) any reference therein to the Council was a reference to that local authority or joint committee;
- (b) any reference therein to a contributor was a reference to a contributor to the superannuation fund maintained by that local authority or joint committee under Part I of the Act of 1937 and (except in section 30 (Power to require designated sums to be paid to trustees) of and Schedule 1 to this Act) as respects whom that local authority or joint committee are the employing authority; and
- (c) any reference therein to the fund was a reference to the superannuation fund maintained by that local authority or joint committee under Part I of the Act of 1937.

(2) If any such local authority or joint committee as is referred to in subsection (1) of this section adopts all or any of the foregoing sections of the new superannuation provisions and Schedule 1 to this Act, any other employing authority in relation to which that local authority or joint committee are the appropriate administering authority may by resolution adopt all or any of the foregoing sections of the new superannuation provisions and Schedule 1 to this Act 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 or joint committee in relation to which such employing

PART V  
—cont.

authority are the employing authority and any reference in section 29 (Benefits in certain cases of premature retirement) of this Act to the Council shall be a reference to such employing authority.

Payments due  
to deceased  
employees.  
1953 c. 25.

33. In its application to the Council section 25 of the Local Government Superannuation Act 1953 shall have effect as if in subsection (1) thereof the words "not being less than one month after his death" were omitted:

Provided that this section shall not apply in any case where the sum payable by the Council to any person under the said section 25 exceeds one hundred pounds.

Transfer of  
certain sums  
from fund.

34.—(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 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 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 the fund an amount equal to so much of the employee's contributions to the 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) the amount so payable by the Council to the employing authority under this subsection shall not exceed an amount equal to the said contributions less the aggregate of any amount payable by way of income tax and the employee's liability in respect of payments in lieu which fall or have fallen to be made in respect of the employee under the National Insurance Act 1965;

1965 c. 51.

(b) where the Council have paid to an employing authority an amount under this subsection, the employing authority shall, if the Council are thereafter required to

pay a transfer value in respect of the employee to whom such payment relates, on demand by the Council repay to the Council a sum equal to the said amount.

PART V  
—cont.

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

Exclusion of certain remuneration and service for superannuation purposes.  
1967 c. 12.

- (a) who are contributory employees; or
- (b) who are teachers employed in reckonable service within the meaning of the Teachers' Superannuation Act 1967; 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; or
- (e) who participate in any other superannuation arrangement made by the Council;

and who are employed whole-time by the Council or whose salary or wages in respect of their whole-time employment is or are payable by the Council.

(2) The salary, wages, fees and other payments paid or made and emoluments granted (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—

- (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 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.

PART V  
—cont.

(3) Where, before the passing of this Act, any person to whom subsection (2) of this section applies, other than a person to whom section 19 (Exclusion of certain remuneration and service for superannuation purposes) of the Act of 1958 applied, has paid any contribution or contributions to the 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 to such person a sum equal to the amount of such contribution or contributions, together with compound interest thereon calculated to the date of repayment at the rate specified in subsection (1) of section 10 of the Act of 1937 with half-yearly rests.

(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.

(5) Section 19 (Exclusion of certain remuneration and service for superannuation purposes) of the Act of 1958 is hereby repealed.

Application  
to certain  
authorities,  
etc., of  
sections 33,  
34 and 35.

36.—(1) The provisions of section 33 (Payments due to deceased employees) of this Act shall apply to a local authority, a joint committee, the police authority, the Essex Magistrates' Courts Committee, the Essex Probation and After-Care Committee and any such organisation, undertaking, body or other authority as is mentioned in paragraph (v) or paragraph (vi) of subsection (3) of section 31 (Application of the new superannuation provisions to other employing authorities) of this Act 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 local authority, the joint committee, the police authority, the committee or any such organisation, undertaking, body or other authority as aforesaid as the case may be, and as if in relation to the police authority, the Essex Magistrates' Courts Committee, the Essex Probation and After-Care Committee, or any such organisation, undertaking, body or other authority as aforesaid the reference in section 25 of the Local Government Superannuation Act 1953 to an employee of the Council included a reference to an employee of the said authority, of the joint committee, of either of the said committees or of any such organisation, undertaking, body or other authority as aforesaid (as the case may require).

1953 c. 25.

(2) The provisions of section 34 (Transfer of certain sums from fund) of this Act shall apply to a local authority which maintains a superannuation fund under Part I of the Act of 1937 or a joint

committee as they apply to the Council and for that purpose those provisions shall have effect as if for references to the Council there were substituted references to the local authority or the joint committee, as the case may be, and as if for the reference to the fund there were substituted a reference to the superannuation fund maintained by the local authority or the joint committee, as the case may be.

PART V  
—cont.

(3) The provisions of section 35 (Exclusion of certain remuneration and service for superannuation purposes) of this Act may be adopted by resolution by a local authority, a joint committee, the police authority, the Essex Magistrates' Courts Committee, the Essex Probation and After-Care Committee, and any such organisation, undertaking, body or other authority as is mentioned in paragraph (v) or paragraph (vi) of subsection (3) of section 31 (Application of the new superannuation provisions to other employing authorities) of this Act and upon such adoption those provisions shall have effect with any necessary modifications including the substitution of the name of the authority or other body by whom such adoption is made for "Council".

## PART VI

### LANDS

37. In this Part of this Act, except as otherwise expressly provided or unless the context otherwise requires—

Interpretation  
of Part VI.

"the Act of 1965" means the Compulsory Purchase Act 1965;

1965 c. 56.

"the Basildon Council" means the Basildon Urban District Council.

38.—(1) Part I of the Act of 1965 (except section 4, subsection (5) of section 24 and section 27 thereof and paragraph 3 (3) of Schedule 3 thereto), in so far as it is applicable for the purposes of this Part of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Part of this Act as it applies to a compulsory purchase to which Schedule 1 to the Act of 1946 applies and as if this Part of this Act were a compulsory purchase order under the Act of 1946.

Application  
of Part I of  
Act of 1965.

(2) In section 11 (1) of the Act of 1965 (which empowers the acquiring authority to enter on and take possession of land the subject of a notice to treat after giving not less than fourteen days' notice) as so applied, for the words "fourteen days" there shall be substituted the words "three months".

**PART VI**  
—*cont.*

1845 c. 18.

Power for  
Basildon  
Council to  
acquire  
lands.

(3) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Part of this Act.

**39.**—(1) Subject to the provisions of this Part of this Act, the Basildon Council may enter upon, take and use any of the lands delineated on the deposited plan and described in the deposited book of reference for highway purposes or purposes connected therewith or for any of the aforesaid purposes.

(2) The powers of the Basildon Council for the compulsory purchase of lands under this section shall not be exercised after the 31st December, 1973.

Correction of  
errors in  
deposited  
plan and  
deposited  
book of  
reference.

**40.**—(1) If the deposited plan or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Basildon Council, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the county for the correction thereof.

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

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the clerk of the Council and with every clerk of a local authority with whom a copy of the deposited plan, or of so much thereof as includes the land to which the certificate relates, has been deposited in accordance with the standing orders of the Houses of Parliament, or who has the custody of any such copy so deposited and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate, and it shall be lawful for the Basildon Council to take the land in accordance with the certificate.

(4) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

Disregard of  
recent  
improvements  
and interests.

**41.** In determining a question with respect to compensation claimed in consequence of the compulsory acquisition of land under this Part of this Act, the Lands Tribunal shall not take into account any interest in land, or any enhancement of the value of any interest in land, by reason of any building erected, works executed or improvement or alteration made, whether on the land acquired or on any other land with which the claimant

is, or was at the time of the erection, execution or making of the building, works, improvement or alteration, directly or indirectly concerned, if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

PART VI  
—cont.

42.—(1) All private rights of way over any land that may be acquired compulsorily under this Part of this Act shall be extinguished on the acquisition of the land whether compulsorily or by agreement or on entry on the land in pursuance of section 11 (1) of the Act of 1965 as applied by this Part of this Act, whichever is sooner.

Extinction  
of private  
rights of way.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid compensation to be determined in case of dispute under and in accordance with the Act of 1961.

## PART VII

### MISCELLANEOUS

43.—(1) Section 60 (Touting, hawking, etc.) of the Act of 1952 shall have effect as if in addition to the districts specified in subsection (6) thereof the following districts were specified therein:—

Extension of  
section 60 of  
Act of 1952.

boroughs of—

Chelmsford;

Maldon;

urban districts of—

Basildon;

Clacton;

Harlow;

Witham;

rural districts of—

Chelmsford;

Rochford.

(2) In its application to the districts named in subsection (1) of this section the said section 60 shall have effect as if at the end thereof there were added the following subsection:—

“(7) The prohibition imposed by subsection (1) (b) (i) of this section shall not apply to a sale or offering for sale to persons residing in, or employed at, premises in or adjoining a place to which this section applies.”

PART VII  
—cont.  
Microfilming  
of documents.

44.—(1) An enlargement of a microfilm recording of a document of the Council shall be deemed for all purposes to be a copy of that document.

(2) Notwithstanding anything contained in any enactment or any rule of law, an enlargement of a microfilm recording of a document of the Council which has been destroyed 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 an officer of the Council designated by them for the purposes of this subsection 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 a microfilm recording of the document.

(3) In this and the next succeeding section—

“document” includes the whole or part of a register, book, record, letter, map, plan, drawing, photograph or other document, and any notice, licence, certificate, scheme or order made, passed or granted by the Council, and references to documents of the Council are references to documents belonging to, or permanently in the possession of, the Council;

“enlargement” means an enlarged reproduction of a microfilm recording which is legible with the naked eye;

“microfilm recording” means a reproduction of a document on film or other material which is a product of photography or any similar process and is in general beyond legibility with the naked eye, and any reference to a microfilm recording of a document shall be deemed to include a reference to any copy subsequently made of such microfilm recording.

Equipment  
for the  
printing or  
reproduction  
of documents.

45. The Council may, by agreement with any person, for that person's purposes, use or permit the use of any equipment for the printing or reproduction of documents (including equipment for microfilm recording) which the Council have provided for the purposes of all or any of their work, and may provide any facilities and services ancillary to, or necessary or convenient for, the use of the said equipment and make such charges as may be agreed for the use of such equipment and the provision of such facilities or services.



46. The provisions of the two last foregoing sections of this Act 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".

PART VII  
—cont.

Application  
of sections 44  
and 45 to  
local  
authorities.

47.—(1) Section 144 (Preservation of trees) of the local Act of 1933 shall have effect as if—

Amendment  
of section 144  
of local Act  
of 1933.

(a) in paragraph (a) of subsection (2) thereof for the words "section 65 of the Highways Act 1835" there were substituted the words "section 120 or section 134 of the Highways Act 1959 or section 10 of the Highways (Miscellaneous Provisions) Act 1961"; and the words "section 23 of the Public Health Act 1925" were omitted;

1835 c. 50.  
1959 c. 25.  
1961 c. 63.  
1925 c. 71.

(b) in paragraph (b) of subsection (2) thereof the words "and except in case of emergency not less than fourteen days' notice thereof has been given to the Council" were inserted after the word "dangerous";

(c) at the end of subsection (2) thereof there were inserted the words "And Provided also that a person by whom a tree is cut down, lopped or topped in pursuance of paragraph (b) of this subsection shall, unless notice has been given to the Council in accordance with that paragraph, until the expiration of a period of fourteen days thereafter or until the tree has, or the said parts so lopped or topped have, been inspected by an officer of the Council, whichever is the earlier, retain on the land upon which the tree was or is growing the tree so cut down or the parts so lopped or topped from the tree in such manner as may be requisite for showing to the satisfaction of the Council that the tree had become dangerous";

(d) in subsection (5) thereof for the reference to the Public Health Act 1875 there were substituted a reference to the Public Health Act 1936;

1875 c. 55.  
1936 c. 49.

(e) after subsection (5) there were inserted the following subsection:—

"(5A) Nothing in this section shall apply so as to require the consent of the Council to the cutting down, lopping, topping or destruction of a tree which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden."

(2) The said section 144, as modified by this section, shall have effect as set out in Schedule 2 to this Act.

PART VII  
—cont.  
Application  
of certain  
enactments  
to police  
authority, etc.  
1948 c. 26.

48.—(1) The provisions of the Act of 1933, the local Act of 1933, the Local Government Act 1948 and the Act of 1952 mentioned in subsection (2) of this section shall extend and apply to the police authority and for that purpose those provisions shall have effect with any necessary modifications including the substitution of the expression “Essex and Southend-on-Sea joint police authority” for the expression “Council” or “local authority”, as the case may be, and the substitution of the expression “Essex and Southend-on-Sea joint police area” for the expression “county”.

(2) The provisions hereinbefore referred to are—

The Act of 1933—

Section 123A (Payment of salary, etc., to mentally disordered persons);

The local Act of 1933—

Section 180 (Interest orders and dividend warrants by post);

The Local Government Act 1948—

Section 130 (Insurance by local authorities against accidents to members);

The Act of 1952—

Section 13 (Undertakings and agreements binding successive owners);

Subsections (1) to (5) and (10) of section 133 (Power to grant gratuities in certain cases);

Section 135 (As to proof of continued existence of pensioners);

Section 143 (Expenses of public entertainment);

Section 172 (Evidence of appointments authority etc.);

Section 217 (Modification of mortgages by endorsement under hand);

Section 218 (Protection of Council and their officers from personal liability).

(3) For the purposes of this section—

(a) the said section 143 shall have effect as if—

(i) in paragraph (a) the words “the police service” were inserted before the words “local government services”; and

(ii) in paragraph (b) for the words “at the County Hall” there were substituted the words “in a building under the control of the authority”;

(b) the said section 218 shall have effect as if for the words “county fund” there were substituted the words “Essex and Southend-on-Sea joint police fund”.

(4) In subsection (2) of the said section 172 the words " the Standing Joint Committee and " are hereby repealed.

PART VII  
—cont.

(5) In relation to employees of the police authority to whom paragraph 5 of Schedule 4 to the Police Act 1964 applies the statutory provisions referred to in paragraph 5 (2) (a) of that schedule shall be deemed to have included a reference to the provisions of Part X of the Act of 1952. 1964 c. 48.

(6) (a) The provisions of the said section 130 of the Local Government Act 1948 shall extend and apply to the Essex Magistrates' Courts Committee and the Essex Probation and After-Care Committee and for that purpose those provisions shall have effect with any necessary modifications including the substitution of the name of either of the two committees, as the case may be, for the expression " local authority ". 1948 c. 26.

(b) For the avoidance of doubt it is hereby declared that any expenses incurred by the Essex Magistrates' Courts Committee under the said section 130 shall be deemed to be expenses referred to in subsection (1) (c) of section 26 of the Justices of the Peace Act 1949 and section 27 of that Act shall have effect accordingly. 1949 c. 101.

49.—(1) The Council may by resolution authorise any officer in their employment, either generally or in respect of any particular case, to appear on behalf of the police authority or any officer or constable of the Essex and Southend-on-Sea joint constabulary before any court of summary jurisdiction and any officer so authorised shall be entitled, notwithstanding anything contained in any other enactment, to conduct any prosecution or other proceedings accordingly. Extension of section 277 of Act of 1933.

(2) The provisions of subsection (1) of this section shall also apply to the police authority and those provisions shall, in their application to the said authority, accordingly have effect with the substitution of the expression " police authority " for the expression " Council ".

(3) A resolution under subsection (1) of this section, or under that subsection as applied by subsection (2) of this section, may be passed by a committee of the Council or a committee or sub-committee of the police authority, as the case may be, acting under powers delegated to it according to law.

50.—(1) Nothing in section 43 of the Act of 1933 shall be taken to limit the powers conferred by section 45 of the said Act in its application to the county. Grouping of parishes.

(2) Where a parish in the county is grouped with a neighbouring parish or parishes under a common parish council, section 43 (2) of the Act of 1933 shall have effect with the

PART VII  
—cont.

substitution for the words from “shall by order” onwards of the words “may by order establish a parish council for that parish if the parish meeting of the parish so resolve”.

Extension of parish councils' powers to provide parking places.

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

(2) For the purpose of exercising the powers of the said section 46 as extended by subsection (1) of this section the provisions of subsections (5) and (8) of section 28, subsections (1) to (3), (5) to (7) and (9) of section 29, subsections (1) to (6) of section 31, subsections (1) and (2) of section 32 and section 96 of the Act of 1967 shall apply to a parish council as they apply to a local authority.

(3) The provisions of section 48 of the 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.

Publication of bulletins, etc., by parish councils.

**52.**—(1) A parish council may publish and sell or dispose of bulletins, journals, periodicals and maps and leaflets and copies of documents of historical or literary interest having a local connection or relating to the functions of the parish council.

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

Power for parish councils to contribute to preservation of historic buildings.  
1962 c. 36.

**53.** In their application to the county sections 1 and 2 of the Local Authorities (Historic Buildings) Act 1962 (which empower local authorities to contribute to the preservation of historic buildings) shall have effect as if the expression “local authority” included a parish council.

Provision of sanitary conveniences by parish councils.

**54.** In its application to the county section 87 of the Act of 1936 (which relates to the provision of public conveniences) shall have effect as if the expression “local authority” in that section included a parish council.

Provision of public telephones by parish councils.

**55.**—(1) A parish council may make available to the public a telephone in any place within or outside the parish where there is reasonable need therefor and for that purpose may rent a coin collecting box and an exchange line from the Post Office and may provide any necessary housing for such coin collecting box.

(2) Section 5 of the Local Government (Miscellaneous Provisions) Act 1953 (which makes provision as to the consents required to the exercise by certain local authorities of powers to provide certain shelters or other accommodation) shall apply in relation to a coin collecting box or housing therefor provided by a parish council under this section, and to the council by which the coin collecting box or housing therefor is so provided, as it applies in relation to a shelter or other accommodation provided, and to the local authority by which it is provided, under section 4 of that Act.

**PART VII**  
—cont.  
1953 c. 26.

(3) Nothing in this section shall relieve a parish council from liability for damage caused by them to any apparatus of statutory undertakers in the exercise of the powers of this section and the said powers shall be so exercised as not to render unreasonably inconvenient the access to any such apparatus.

**56.** A parish council may cut and keep tidy any land in the parish which adjoins any highway or is in or adjoins any other public place if after reasonable inquiry they are reasonably satisfied that the owner of the land cannot be found.

Power for parish councils to maintain certain lands.

**57.—**(1) No person (except in the execution of some act which he has lawful authority to perform) shall on any highway or in any open space or recreation ground to which the public have access within the county—

Damage to trees, etc., on highways and in open spaces, etc.

(a) remove or cut any turf; or

(b) pluck any bud, blossom, flower or leaf of any tree, shrub or plant or remove, cut or displace any tree, shrub or plant if the tree, shrub or plant has been planted by the person having control of the highway, open space or recreation ground for the purpose of improving the amenities thereof and adequate notice stating the effect of this paragraph is conspicuously placed on such highway, open space or recreation ground.

(2) Any person offending against this section 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 so committed which last-mentioned amount shall be paid to the person having control of the highway, open space or recreation ground.

(3) Nothing in this section shall—

(a) apply to any open space or recreation ground vested in or under the control of the council of a district, a board of conservators or the National Trust for Places of Historic Interest or Natural Beauty; or

(b) affect any right of any persons authorised by any enactment to open or break up any street or road or any land

PART VII  
—cont.

for the purpose of laying, making, altering, repairing or renewing any main, pipe, telegraphic line, sluice, weir, sewer, electric line, duct, substation, transformer station, street-box, drain, tramway or trolley vehicle equipment or other apparatus.

1906 c. 25.  
1894 c. 73.  
(56 & 57 Vict.)  
1937 c. 46.  
1878 c. 76.

(4) In this section the expression “open space” has the same meaning as in the Open Spaces Act 1906, “recreation ground” means land provided or acquired or controlled under section 8 (1) (b) or (d) of the Local Government Act 1894 or section 4 of the Physical Training and Recreation Act 1937 and “telegraphic line” has the same meaning as in the Telegraph Act 1878.

Amendment  
of section 46  
of local Act  
of 1967.

58. Section 46 (Refuse dumps) of the local Act of 1967 shall have effect as if at the end of subsection (1) there were added the following paragraph:—

“(n) to the deposit or disposal by the highway authority of sweepings or spoil or material resulting from the cleansing, maintenance, construction or improvement of a highway.”

PART VIII

GENERAL

Crown rights.

59. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing in this Act authorises the Council, Basildon Council, the highway authority or any other local authority to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

(a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose; or

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

Saving for  
Maldon  
Rural District  
Council.

60. Notwithstanding anything in this Act the following provisions of this Act shall not apply to the council of the rural district of Maldon:—

Section 4 (Amendment of section 47 of Act of 1952);

Section 6 (Notices of applications for certain licences to be given to local authorities);

- Section 8 (Disposal of dangerous containers);  
 Section 9 (Protection of dangerous ponds and excavations);  
 Section 15 (Amendment of section 150 of Act of 1952);  
 Section 24 (Application of Part IV to local authorities and to police authority, etc.);  
 Section 31 (Application of the new superannuation provisions to other employing authorities);  
 Section 32 (Application of the new superannuation provisions to local authorities);  
 Section 36 (Application to certain authorities, etc., of sections 33, 34 and 35);  
 Section 46 (Application of sections 44 and 45 to local authorities).

PART VIII  
 —cont.

**61.**—(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. Local inquiries.

(2) Subsections (2) to (5) of section 290 of the Act of 1933 (which relate to the giving of evidence at, and the defraying of the cost of, local inquiries) shall apply to any such inquiry and for that purpose shall 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.

**62.** 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 or a constable or a local authority, as the case may be. Restriction on right to prosecute.

**63.**—(1) Section 300 of the Act of 1936 (which relates to appeals to magistrates’ courts) shall apply to appeals to a magistrates’ court under this Act and sections 301 and 302 of that Act (which make provision for appeals to courts of quarter sessions and as to the effect of a decision of any court upon appeal) shall apply accordingly. Appeals.

(2) Where any requirement, refusal or other decision of the Council or a local authority against which a right of appeal is conferred by this Act—

- (a) involves the execution of any work or the taking of any action; or

**PART VIII**  
—cont.

(b) makes it unlawful for any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision, or to use premises for any purpose for which they were lawfully used up to that time;

then, until the time for appealing has expired, or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution—

- (i) no proceedings shall be taken in respect of any failure to execute the work, or take the action, nor shall the Council, or local authority themselves, execute the work or take the action; and
- (ii) that person may carry on that business, and use those premises for that purpose.

**Application  
of general  
enactments.**

**64.**—(1) The sections of the Act of 1936 mentioned in Part I of Schedule 3 to this Act shall have effect as if references therein to that Act included reference to this Act.

(2) The sections of the Act of 1936 mentioned in Part II of Schedule 3 to this Act shall have effect as if references therein to that Act included a reference to Part III (Public order and public safety) of this Act.

**Costs of Act.**

**65.** All 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

SETTING OUT THE TRUSTS, POWERS AND PROVISIONS UPON, WITH AND SUBJECT TO WHICH THE DESIGNATED SUM IS TO BE HELD IN PURSUANCE OF A DIRECTION GIVEN BY A CONTRIBUTOR UNDER SECTION 30 (POWER TO REQUIRE DESIGNATED SUMS TO BE PAID TO TRUSTEES) OF THIS ACT

Section 30.

The trustees shall stand possessed of the designated sum to which a contributor has directed that section 30 (Power to require designated sums to be paid to trustees) of this Act should apply and the income thereof upon the trusts and with and subject to the following powers and provisions, that is to say:—

1. During the period of twenty-one years from the death of the former contributor the trustees may pay or apply the designated sum and the income thereof or any part thereof respectively to or for the benefit of all or any one or more exclusively of the other or others of the following persons:—

(a) the widow or widower of such former contributor;

(b) the grandparents of such former contributor and the grandparents of the widow or widower of such former contributor and the grandparents of any previous or deceased wife or husband of such former contributor;

(c) the issue of such former contributor;

(d) any other issue of any of the grandparents referred to in sub-paragraph (b) of this paragraph; and

(e) the person or persons (if any and whether of full age or not) to whom such former contributor has at any time put himself in loco parentis or of whose person or property such former contributor has at any time been guardian;

in such shares and in such manner as the trustees shall in their absolute discretion from time to time determine and so that the trustees may if they think fit pay any sum to the parent or guardian of any infant to be applied for the benefit of such infant without seeing to the application thereof.

2. In addition to the powers conferred on them by virtue of the foregoing paragraph 1, during the said period of twenty-one years the trustees may at any time pay or apply the designated sum and the income thereof or any part thereof respectively to or for the benefit of any person who in the opinion of the trustees was wholly or in part dependent on the earnings of such former contributor at his death in such manner as the trustees shall in their absolute discretion think fit.
3. Subject as aforesaid, the designated sum and the income thereof or so much thereof respectively as shall not have been paid or applied under the powers conferred by the foregoing provisions of this Schedule shall be paid to such person or persons (other than the Crown, the Duchy of Lancaster or the Duke of Cornwall) as would at the death of such former contributor have become entitled thereto under the Administration of Estates Act 1925, as amended 1925 c. 23. by the Intestates' Estates Act 1952, the Family Provision 1952 c. 64.

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1966 c. 35.

Act 1966, or any statutory modification or re-enactment thereof in force at the death of such former contributor if such former contributor had died possessed thereof intestate and domiciled in England and solvent and so that such persons if more than one shall take in such shares and manner in which they would have taken under the provisions of the said Act or Acts and subject to the conditions therein contained.

4. In this Schedule the expressions "grandparent" and "issue" shall be construed as if the step-child, adopted child or illegitimate child of any person was that person's child, and "issue" includes issue in any degree.

Section 47.

## SCHEDULE 2

### SECTION 144 OF THE LOCAL ACT OF 1933 AS MODIFIED BY THIS ACT

Preservation of trees.

144.—(1) If at any time the Council having regard to the amenity of any part of the county are of opinion that any growing tree of a height of more than thirty feet or having a trunk of a girth of more than three feet at a height of five feet above the ground or any group of such trees ought to be preserved the Council may register the tree or group of trees and shall thereupon notify the owner and occupier of the land upon which the tree or group of trees is growing that the tree or group of trees has been registered and the register of trees so made shall be open to inspection by persons interested at all reasonable times.

(1A) (a) If a tree or group of trees registered by the Council under this section has died or has been felled, destroyed or removed (otherwise than in circumstances excepted by paragraphs (a), (e), (f) or (g) of subsection (2) of this section) it shall be the duty of the owner of the land upon which the tree or group of trees was growing, unless authorised otherwise by the Council, to plant to the satisfaction of the Council another tree or group of trees, as the case may be, of such species as the Council may direct at the same place or in the immediate vicinity thereof as soon as reasonably practicable.

(b) Notwithstanding the provisions of subsection (1) of this section, all trees planted in accordance with this subsection or in pursuance of a condition imposed under subsection (2A) of this section shall be deemed to have been registered by the Council under this section.

(1B) (a) If the owner fails to plant any tree or group of trees in accordance with the provisions of subsection (1A) of this section, the Council may by notice require him so to do and such notice may prescribe conditions which may include conditions as to the period within which such planting shall be carried out and the size and species of the trees to be planted.

(b) If the owner fails to comply with the requirements of any such notice, the Council may itself carry out such planting and may recover the cost thereof from the owner as a civil debt.

(c) If any tree or group of trees has been unlawfully felled, destroyed or removed by a person other than the owner, any expenses incurred by the owner in complying with the provisions of subsection (1A) of this section, or paragraph (a) of this subsection or any expenses recovered by the Council from the owner in accordance with the provisions of paragraph (b) of this subsection, shall be deemed to have been incurred by the owner on behalf of that other person; and the owner may recover such expenses from that person as a civil debt.

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(2) No person shall cut down, lop, top or wilfully destroy any tree registered by the Council under this section except—

- (a) in pursuance of the provisions of section 120 or section 134 of the Highways Act 1959 or section 10 of the Highways 1959 c. 25. (Miscellaneous Provisions) Act 1961, section 5 of the 1961 c. 63. Telegraph (Construction) Act 1908 or section 34 of the 1908 c. 33. Electricity (Supply) Act 1926; or 1926 c. 51.
- (b) where the tree has become dangerous and, except in case of emergency, not less than fourteen days' notice thereof has been given to the Council; or
- (c) to such an extent as may be necessary to prevent its constituting a nuisance to the owner or occupier of neighbouring lands; or
- (d) to such an extent as may be necessary in pursuance of a right to abate a nuisance; or
- (e) with the consent of the Council; or
- (f) under an order of a court of summary jurisdiction under subsection (3) of this section; or
- (g) where the tree is growing on land required for the widening or improvement of any road or for the construction of a new road:

Provided that if the Council do not notify their refusal to consent to the cutting down, lopping, topping or destruction of any registered tree within two months from the date of an application for consent their consent shall be deemed to have been given:

And Provided also that a person by whom a tree is cut down, lopped or topped in pursuance of paragraph (b) of this subsection shall unless notice has been given to the Council in accordance with that paragraph until the expiration of a period of fourteen days thereafter or until the tree has, or the parts so lopped or topped have, been inspected by an officer of the Council, whichever is the earlier, retain on the land upon which the tree was or is growing the tree so cut down or the parts so lopped or topped from the tree in such manner as may be requisite for showing to the satisfaction of the Council that the tree had become dangerous.

(2A) Where an application for consent is made to the Council under paragraph (e) of subsection (2) of this section, the Council may grant such consent either unconditionally or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the land upon which the tree or group of trees is growing or in the immediate vicinity thereof) as the Council may think fit or may refuse such consent.

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(3) Any owner or occupier of land upon which a tree or group of trees is growing who is aggrieved by the refusal of the Council to consent to the cutting down, lopping, topping or destruction of any registered tree or by any notice given or condition prescribed by the Council under subsection (1B) of this section or by any condition subject to which a consent is granted by the Council under subsection (2A) of this section may appeal to a magistrates' court on the ground that—

- (a) such consent is unreasonably withheld;
- (b) the provisions of the notice or condition are not applicable or have been complied with;
- (c) the requirements of the notice or condition are unreasonable in respect of the period or the size or species of trees specified therein;
- (d) the planting of a tree or trees in accordance with the notice or condition is not required in the interests of amenity or would be contrary to the practice of good forestry;
- (e) the place on which the tree is or trees are required to be planted is unsuitable for that purpose;

and the court may dismiss or allow the appeal either unconditionally or subject to such conditions as the court may think just but any such order of the court shall not affect any rights as between the owner and occupier of such land.

(4) Any person who shall offend against the provisions of this section shall be liable—

- (a) where the offence consists of cutting down or wilfully destroying any tree registered or deemed to be registered by the Council, to a fine not exceeding two hundred and fifty pounds or twice the value of the tree, whichever is the greater;
- (b) in any other case to a fine not exceeding fifty pounds;

and where the offence consists of a failure to comply with a condition subject to which a consent was granted by the Council shall also be liable to a daily fine not exceeding forty shillings.

(5) The Council shall make compensation to the owner of the land upon which any registered tree is growing who shall be injuriously affected by the refusal of the Council to consent to the cutting down, lopping, topping or destruction of any registered tree such compensation in case of difference to be settled in the manner provided by the Public Health Act 1936.

1936 c. 49.

(5A) Nothing in this section shall apply so as to require the consent of the Council to the cutting down, lopping, topping or destruction of a tree which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

1868 c. 119.

(6) Nothing in this section shall apply to any tree or group of trees growing upon land used or held by a railway company for railway purposes or prejudice or affect the powers conferred upon justices by section 24 of the Regulation of Railways Act 1868.

(7) The provisions of this section shall not apply within or in relation to the urban district of Romford.

(8) (a) Nothing in this section shall apply so as to require the consent of the Council to the cutting down, lopping, topping or destruction of a tree by a river authority or by a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930, where the tree interferes or would interfere with the exercise of any of the functions of such river authority or drainage board in relation to the maintenance, improvement or construction of watercourses or of drainage works. 1930 c. 44.

SCH. 2  
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(b) On giving a direction under subsection (1A) of this section with respect to the replanting of a tree or a group of trees, the Council shall, if such direction relates to land in respect of which byelaws made by a river authority or a drainage board restrict or regulate the planting of trees, notify the owner of the land of the existence of such byelaws and that any such direction has effect subject to the requirements of the river authority or drainage board under those byelaws and the direction shall have effect accordingly.

(c) In this subsection "river authority" means a river authority established under the Water Resources Act 1963, and includes the Lee Conservancy Catchment Board. 1963 c. 38.

### SCHEDULE 3

Section 64:

#### GENERAL ENACTMENTS APPLIED

##### PART I

#### SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED TO THIS ACT 1936 c. 49.

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

##### PART II

#### SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED TO PART III OF THIS ACT

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Power of local authority to sell certain materials.
277	Power of councils to require information as to ownership of premises.
287	Power to enter premises.
289	Power to require occupier to permit works to be executed by owner.
291	Certain expenses recoverable from owners to be a charge on the premises: Power to order payment by instalments.
293	Recovery of expenses, &c.
294	Limitation of liability of certain owners.
295	Power of local authority to grant charging orders.
299	Inclusion of several sums in one complaint, &c.
329	Saving for certain provisions of the Land Charges Act 1925. 1925 c. 22.