

Chichester Harbour Conservancy Act 1971

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ELIZABETH II



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An Act to incorporate the Chichester Harbour Conservancy; to transfer to that Conservancy the harbour undertakings of the mayor, aldermen and citizens of the city of Chichester and the urban district council of Havant and Waterloo; to confer powers on that Conservancy; to enact provisions in connection with the matters aforesaid; and for other purposes. [5th August 1971]

WHEREAS by virtue of divers ancient charters, rights and titles and ultimately of the Chichester Corporation Act, 1938, the mayor, aldermen and citizens of the city of 1938 c. lxxx. Chichester are invested with powers and have for many centuries acted as the harbour authority for the port of Chichester:

And whereas by the Emsworth Harbour Order, 1896, the Emsworth Harbour was first constituted and under the powers of the Emsworth Harbour Revision Order, 1968, the urban district council of Havant and Waterloo are now invested with powers as the harbour authority for the Emsworth Harbour which adjoins the port of Chichester:

And whereas it is expedient that the said port and the said harbour, with certain areas of land adjacent thereto of high

landscape value, and together offering opportunities of improvement for the purposes of recreation and the enjoyment of leisure both on land and on water, should be administered by and under the control of one authority charged with the conservancy, maintenance and improvement thereof as a single entity:

And whereas it is expedient in the public interest that for this purpose there should be incorporated a new body, to be known as the Chichester Harbour Conservancy, and that the harbour undertakings of the mayor, aldermen and citizens of the city of Chichester and of the urban district council of Havant and Waterloo should be transferred to the Conservancy:

And whereas it is expedient that powers should be conferred on the Conservancy as in this Act contained and that the other provisions of this Act should be enacted:

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

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

PART I

PRELIMINARY

- Short title.** 1. This Act may be cited as the Chichester Harbour Conservancy Act 1971.
- Division of Act into Parts.** 2. This Act is divided into Parts as follows:—
- Part I.—Preliminary.
 - Part II.—Establishment of Chichester Harbour Conservancy.
 - Part III.—Transfer of undertakings.
 - Part IV.—Duties and powers of Conservancy.
 - Part V.—Officers and superannuation scheme.
 - Part VI.—Financial.
 - Part VII.—Harbour charges.
 - Part VIII.—Miscellaneous and general.
- Interpretation.** 3.—(1) In this Act, unless otherwise expressly provided or the subject or context otherwise requires—
- 1847 c. 27. “the Act of 1847” means the Harbours, Docks and Piers Clauses Act, 1847;

- “ the Act of 1933 ” means the Local Government Act, 1933;
- “ the Act of 1965 ” means the Compulsory Purchase Act, 1965;
- “ the Advisory Committee ” means the Chichester Harbour Conservancy Advisory Committee constituted by section 11 (Chichester Harbour Conservancy Advisory Committee) of this Act;
- “ the amenity area ” means the area lying within the outer edge of the line coloured green on the signed plan;
- “ the appointed day ” means 1st October, 1971;
- “ charges ” means, in Part VII (Harbour charges) of this Act, charges payable to the Conservancy as harbour authority for the harbour;
- “ the Chichester Corporation ” means the mayor, aldermen and citizens of the city of Chichester;
- “ the Conservancy ” means the Chichester Harbour Conservancy constituted by section 5 (Constitution of Conservancy) of this Act;
- “ the constituent councils ” means the councils specified in subsection (2) of section 5 (Constitution of Conservancy) of this Act and “ constituent council ” shall be construed accordingly;
- “ the county councils ” means the Hampshire County Council and the West Sussex County Council; and “ county council ” means either of those county councils;
- “ the common fund ” means the common fund established under section 59 (Common fund) of this Act;
- “ the day of transfer ” means 1st January, 1972;
- “ the district council ” means the Havant and Waterloo Urban District Council;
- “ duties of customs or excise ” includes any tax, levy, surcharge or other sum to the collection of which the general provisions of the Customs and Excise Act, 1952, relating to customs or excise have been applied by statute;
- “ the electricity board ” means the Central Electricity Generating Board and the Southern Electricity Board or either of those boards;
- “ electricity work ” means any electric line, apparatus, building, structure or other work of any nature belonging to or maintained by the electricity board;
- “ 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;

PART I
—cont.

1933 c. 51.

1965 c. 56.

1952 c. 44.

PART I
—cont.

“existing harbour works” means the works authorised by and constructed under—

(a) the Emsworth Harbour Order, 1896, and the Emsworth Harbour Revision Order, 1968, by the district council or their predecessors;

1938 c. lxxx.

(b) the Chichester Corporation Act, 1938, or prior thereto under charters granted to them, by the Chichester Corporation;

as existing immediately before the day of transfer;

“financial year” means a period of twelve months commencing on 1st April;

1868 c. 45

“the fishery” means the area in respect of which a right of several oyster and mussel fishery is exercisable by virtue of the Emsworth Channel Fishery Orders, 1871 and 1914, made under the Sea Fisheries Act, 1868, and “the grantee” means the person for the time being entitled to the right of several oyster and mussel fishery conferred by the said orders;

“functions”, other than in section 21 (General function of Conservancy) of this Act, include powers and duties;

“the gas board” means the Southern Gas Board;

“gas work” or “water work” mean any main, pipe, apparatus, building, structure or other work of any nature belonging to or maintained by the Gas Council or the gas board or the water company (as the case may be);

“the harbour” means the area described in section 82 (Limits of harbour) of this Act and includes the land, buildings, works, plant, property and conveniences connected with the Conservancy’s harbour undertaking as for the time being existing;

1894 c. 60.

“houseboat” means any vessel or structure lying in the water or on the foreshore of or the banks abutting on the harbour all or part of which is used or capable of being used as a place of habitation (whether temporarily, intermittently or permanently), as a store or as a place for accommodating or receiving persons for purposes of shelter, recreation, entertainment or refreshment, as club premises or as offices and includes the remains or wreckage of a vessel or structure formerly so used or capable of being so used, but shall not include any ship registered under the Merchant Shipping Act, 1894, or any vessel bona fide used for navigation;

1968 c. 59.

“hovercraft” has the meaning assigned thereto by the Hovercraft Act, 1968;

“hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils;

- “ land ” includes land covered with water and any interest or right in, to, over or attaching to land;
- “ level of high water ” means the level of mean high-water springs;
- “ mooring ” includes any buoy, pile, post, chain, pillar or like apparatus or convenience used for the mooring of vessels;
- “ officer ” includes any employee or servant;
- “ pleasure craft ” means any vessel used wholly or mainly for recreation, not being either a vessel for the carriage of passengers or goods for hire or reward, or a vessel used solely as a houseboat, mooring stage or pontoon;
- “ the Railways Board ” means the British Railways Board;
- “ seaplane ” includes a flying boat and any other aircraft designed to manoeuvre on water;
- “ the signed plan ” means the plan of which five copies have been signed by Mr. J. T. Price, the chairman of the committee of the House of Commons to whom the Bill for this Act was referred and deposited respectively at—
- (a) the office of the Clerk of the Parliaments, House of Lords;
 - (b) the Private Bill Office of the House of Commons;
 - (c) the Department for the Environment;
 - (d) the Department of Trade and Industry; and
 - (e) the office of the clerk of the West Sussex County Council (which copy shall on and after the appointed day be kept on deposit at the office of the Conservancy);
- “ statutory undertakers ” means any persons authorised by any enactment to construct, work or carry on a railway, canal, inland navigation, gas, electricity or water or other public undertaking;
- “ tidal work ” means so much of the existing harbour works as is on, under or over tidal waters or tidal lands below the level of high water;
- “ transferred undertaking ” means in relation to each of the transferring undertakers the harbour undertaking of that undertaker in the Port of Chichester or the Emsworth Harbour, as the case may be, as existing on the day of transfer including, subject to the provisions of this Act—
- (i) all lands, buildings, works, plant, apparatus, vehicles, stores and chattels vested in or enjoyed by the transferring undertaker immediately before the day of transfer wholly or mainly for the purposes of the harbour undertaking;

PART I
—cont.

(ii) the benefits of, and liabilities under, contracts (other than contracts of service) in force immediately before the day of transfer relating wholly or mainly to the harbour undertaking;

(iii) all registers, books of account and vouchers relating thereto, maps, plans, specifications, engineering or other reports and other documents relating solely to the harbour undertaking;

(iv) all rights, powers, easements, interests and privileges and all other real and personal property, assets and effects then vested in or belonging to the transferring undertakers relating wholly or mainly to the harbour undertaking;

and “the transferred undertakings” means both of those undertakings;

“the transferring undertakers” means the Chichester Corporation and the district council and “transferring undertaker” means either of the transferring undertakers;

“the Trinity House” means the corporation of Trinity House of Deptford Strond;

“the undertaking” means the undertaking of the Conservancy as for the time being authorised by any enactment;

“vessel” includes any vessel, ship, lighter, keel, barge, boat, raft, pontoon, hovercraft, hydrofoil vessel and craft of any kind howsoever navigated, propelled or moved and any seaplane on the surface of the water and, in sections 43 (Wreck raising) and 44 (Protection of Crown interests in wrecks) of this Act, any aircraft;

“the water company” means the Portsmouth Water Company;

“the West Sussex County Council” means the county council for the administrative county of West Sussex;

“works” means works of every description other than moorings laid down for pleasure craft.

(2) Any reference in this Act to any 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.

Incorporation
of Acts.

4.—(1) The provisions of the Act of 1847 (except sections 6 to 13, 16 to 19, 24 to 26, the proviso to section 32, sections 42, 43, 49, 50, 77, so much of the proviso to section 83 as follows the words “the special Act”, sections 84 to 90, 95, 96, 99 and 101),

so far as the same are applicable for the purposes of, and are not inconsistent with the provisions of, this Act, are hereby incorporated with and form part of this Act subject to the following modifications, that is to say:—

PART I
—cont.

- (a) the expression “ special Act ” shall be read as a reference to this Act;
- (b) the expressions “ the promoters of the undertaking ” and “ the undertakers ” shall mean the Conservancy;
- (c) the expression “ the harbour, dock or pier ” shall mean the harbour;
- (d) the expression “ the prescribed limits ” shall mean the harbour limits;
- (e) the word “ vessel ” shall have the meaning assigned to it by section 3 (Interpretation) of this Act;
- (f) the word “ rates ” shall, in section 29 of that Act, be deemed not to include mooring rates;
- (g) nothing in section 33 of that Act shall require the harbour to be open for the purposes described in that section to any hovercraft or hydrofoil vessel.

(2) (a) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply to the compulsory acquisition of land under this Act and accordingly shall have effect as if this Act were a public general Act in force immediately before the commencement of the said Act of 1946. 1946 c. 49.

(b) The provisions of section 27 of the Act of 1965 shall not apply in relation to any compulsory purchase under this Act.

(c) For the purposes of the acquisition by the Conservancy of land by agreement the provisions of Part I of the Act of 1965 (so far as applicable) other than sections 4 to 8, section 10, section 27 and section 31 shall apply and in the said Part I as so applied—

- (i) “ the acquiring authority ” means the Conservancy;
- (ii) “ the special Act ” means this Act; and
- (iii) “ land ” has the meaning assigned to it in this Act.

PART II

ESTABLISHMENT OF CHICHESTER HARBOUR CONSERVANCY

5.—(1) On the appointed day there shall be constituted a Constitution Conservancy to be called “ the Chichester Harbour Conservancy ” of for the purpose of exercising the functions assigned to them by this Act. Conservancy.

PART II
—cont.

(2) The Conservancy shall consist of fifteen members who shall be appointed as follows:—

four by the West Sussex County Council;

four by the Hampshire County Council;

one by the council of the city of Chichester;

two by the urban district council of Havant and Waterloo;

one by the rural district council of Chichester;

three by the Chichester Harbour Conservancy Advisory Committee.

(3) Not more than one member of the Conservancy for the time being appointed by each constituent council shall be appointed otherwise than from the members of that council.

(4) The incidental provisions set out in the schedule to this Act shall apply in relation to the Conservancy and the members thereof.

Appointment
of members of
Conservancy.

6.—(1) Each of the constituent councils shall, before the appointed day, and before 1st July in each third year after 31st December, 1972, make the respective appointments to the Conservancy specified in section 5 (Constitution of Conservancy) of this Act and each member so appointed shall, unless he shall previously die or resign or become disqualified, hold office—

(a) in the case of the first appointment, from the appointed day until 30th June, 1975; and

(b) in the case of other appointments (other than appointments to fill a casual vacancy), from 1st July next following his appointment for a term of three years.

(2) (a) Upon the appointment of any of the initial members of the Conservancy by a constituent council, the clerk of that council shall immediately after the appointment notify the particulars of the member appointed, being his name, address and description, to the clerk of the West Sussex County Council.

(b) Upon the subsequent appointment of any member of the Conservancy, the clerk of the constituent council by whom the member is appointed shall immediately after the appointment notify such particulars of the member appointed to the Conservancy.

(3) Any casual vacancy occurring in the office of a member of the Conservancy shall be filled as soon as practicable by the appointment by the constituent council by whom that member was appointed of a person to fill the vacancy and the person appointed shall come into office upon his appointment and, unless he previously dies, resigns or becomes disqualified, shall hold office during the remainder of the term of office of the person in whose place he is appointed:

Provided that it shall not be obligatory upon any constituent council to fill any vacancy occurring less than six months before the ordinary date of retirement from the office in which the vacancy occurs.

PART II
—cont.

(4) The provisions of sections 58, 59, 60, 63, 76 and 95 of the Act of 1933 (which relate to the holding of office and voting) shall apply to the Conservancy as if the Conservancy were a local authority other than a parish council and such officer as shall be appointed for the purpose by the Conservancy were the clerk of the local authority and as if references in those provisions to that Act were references to this Act:

Provided that—

- (i) in its application to the Conservancy paragraph (a) of subsection (1) of the said section 59 shall have effect as if the expression “chairman” included “vice-chairman”;
- (ii) in their application to the Conservancy the said sections 76 and 95 shall have effect as if references to members of a local authority included references to deputies of members of the Conservancy nominated under section 9 (Nomination of deputies) of this Act;
- (iii) in their application to the Conservancy the said sections 58, 59 and 60 shall have effect as if references to election or re-election of members of a local authority were references to the appointment or re-appointment of members of the Conservancy.

(5) The foregoing provisions of this section other than subsection (2) thereof shall have effect with reference to the appointment and terms of office of members of the Conservancy appointed by the Advisory Committee as these provisions have effect with reference to the appointment and terms of office of such members appointed by the constituent councils except that in subsection (1) thereof for the words “before the appointed day” there shall be substituted the words “at the first meeting of the Advisory Committee” and in paragraph (a) of that subsection for the words “the appointed day” there shall be substituted the words “the date of his appointment”.

7.—(1) A member of the Conservancy, who at the time of his appointment is a member of the constituent council or (as the case may be) the Advisory Committee by whom he is appointed and the terms of whose appointment do not otherwise provide, shall, if he ceases to be a member of that constituent council or the Advisory Committee, thereupon cease to be a member of the Conservancy: Qualification for and cessation of membership of Conservancy.

PART II
—cont.

Provided that a member of the Conservancy who becomes disqualified from being such a member by reason only of the termination of his term of office as a member of the body by whom he was appointed shall, unless he previously dies or resigns or otherwise becomes disqualified, continue in office as a member of the Conservancy until 30th June next occurring after the date on which his term of office as a member of that body terminated.

(2) A member of the Conservancy may resign his membership by sending to the clerk of the Conservancy notice of his desire to do so, and his resignation shall take effect upon the receipt of such notice by the clerk.

(3) Where any member of the Conservancy ceases to be a member of the Conservancy in pursuance of the preceding provisions of this section or becomes disqualified from being a member of the Conservancy or vacates his office by absence, the Conservancy shall forthwith notify the casual vacancy so arising to the clerk of the constituent council by whom the member was appointed or, as the case may be, to a meeting of the Advisory Committee.

Members not to represent more than one constituent body.

8. A person who is a member of two or more constituent bodies shall not be qualified to represent more than one constituent body and if the same person shall be appointed a member of the Conservancy by more than one constituent body he shall within one month after the second appointment choose under which appointment he will serve and give notice of his choice to the clerk of the Conservancy and thereupon the other appointment shall be deemed void and, if he fails to give the said notice, the second and subsequent appointments shall be deemed void and a further appointment shall be made as if a casual vacancy had arisen.

In this section "constituent bodies" means the constituent councils and the Advisory Committee and "constituent body" shall be construed accordingly.

Nomination of deputies.

9.—(1) A constituent council or the Advisory Committee (as the case may be) may nominate a person or persons to act as deputy or deputies for all or any of the members of the Conservancy appointed by that council or committee.

(2) A person so nominated may attend and vote and take part in any proceedings or business of the Conservancy or any committee or any sub-committee of the Conservancy (being a committee or sub-committee on which a member for whom he is nominated as deputy is entitled to sit) which the member for whom he is nominated a deputy is unable to attend:

Provided that—

- (a) at any meeting, proceedings or business of the Conservancy or a committee or sub-committee of the Conservancy a person so nominated shall not be entitled to represent more than one member and a member shall not be represented by more than one such person; and
- (b) a person so nominated shall be subject to the same provisions as to appointment to, qualification for, and disqualification from, office as apply to the member of the Conservancy for whom he is to act as deputy and shall not be entitled to act as deputy for any member of the Conservancy until notice of his nomination so to act has been given to the Conservancy by the clerk of the constituent council making the nomination, specifying the member or members for whom he has been nominated to act as deputy.

PART II
—cont.

10.—(1) The Conservancy shall at their annual meeting in each year appoint one of their number to be chairman and the chairman shall unless he resigns his office or ceases to be a member of the Conservancy continue in office until his successor is appointed.

Appointment
of chairman
and vice-
chairman.

(2) The Conservancy may at each annual meeting appoint one of their number to be vice-chairman and the vice-chairman shall unless he resigns his office or ceases to be a member of the Conservancy continue in office until immediately after the election of the chairman at the next annual meeting.

(3) On a casual vacancy occurring in the office of chairman or vice-chairman of the Conservancy the vacancy shall be filled by the appointment by the Conservancy of one of their number at a meeting held as soon as practicable after the vacancy occurs, and where the office vacant is that of chairman the meeting may be convened by such officer as shall be appointed for the purpose by the Conservancy.

(4) The person appointed under this section to fill a vacancy shall hold office until the date upon which the person in whose place he is appointed would ordinarily have retired and he shall then retire.

11.—(1) There shall be established in accordance with this section a Chichester Harbour Conservancy Advisory Committee for the purposes hereinafter appearing.

Chichester
Harbour
Conservancy
Advisory
Committee.

(2) The first meeting of the Advisory Committee shall be held as soon as reasonably practicable after the first meeting of the Conservancy and on such day and at such time and place as may be appointed by the Conservancy who shall make arrangements for notice of the meeting to be sent by post to each member of the Advisory Committee not less than fourteen days before the day so appointed.

PART II
—cont.

(3) Subject to the provisions of this section the Advisory Committee shall consist of not less than fifteen nor more than seventeen members appointed by the Conservancy of whom—

- (a) one shall be appointed on the nomination of the Royal Yachting Association;
- (b) four shall be appointed on the nomination of the Chichester Harbour Federation;
- (c) one shall be appointed on the nomination of the local fisheries committee of the Sussex Sea Fisheries District;
- (d) one shall be appointed on the nomination of the Emsworth Harbour Fishermen's Federation;
- (e) one shall be appointed on the nomination of the Nature Conservancy (on behalf of the Natural Environment Research Council);
- (f) one shall be appointed on the nomination of the Countryside Commission;
- (g) one shall be appointed by the Greater London and South East Sports Council after consultation with the Southern Sports Council;
- (h) one shall be appointed on the nomination of the Chichester District Association of Parish Councils;
- (i) one, to represent commercial sailing interests in the harbour, shall be appointed on the nomination of the Ship and Boatbuilders National Federation;
- (j) one, to represent the interests of residents in so much of the amenity area as is—
 - (i) within the urban district of Havant and Waterloo;
 - or
 - (ii) outside the parishes, the councils of which are for the time being members of the Chichester District Association of Parish Councils;
 shall be appointed after consultation with the district council and the councils or meetings of the parishes who are not members of the said association;
- (k) one, to represent amateur fishing interests in the harbour, shall be appointed after consultation with such persons (if any) appearing to the Conservancy to be representative of the said interests as the Conservancy consider appropriate;
- (l) one, to represent the interests of naturalists in the harbour and the amenity area, shall be appointed after consultation with such persons (if any) appearing to the Conservancy to be representative of the interests of such naturalists as the Conservancy consider appropriate;

- (m) one, to represent the interests of wildfowlers in the harbour and the amenity area, shall be appointed after consultation with such persons (if any) appearing to the Conservancy to be representative of the interests of such wildfowlers as the Conservancy consider appropriate;
- (n) two may be appointed to represent such persons interested in the harbour or the amenity area, other than those mentioned in the preceding provisions of this subsection, as the Conservancy may from time to time think fit.

(4) If it appears to the Conservancy in the case of any of the appointments referred to in paragraphs (a) to (i) of the last preceding subsection that the body on whose nomination the appointment is to be made has refused or failed to nominate a member after being requested by the Conservancy so to do, or if the body on whose nomination any of the said appointments is to be made has ceased to have an identifiable existence, the appointment in question shall be made by the Conservancy after consultation with such persons (if any) appearing to the Conservancy to be representative of the interests represented, or formerly represented, by the nominating body specified in the relevant paragraph of the last preceding subsection as the Conservancy consider appropriate.

(5) The term of office of a member of the Advisory Committee shall be three years from the date of his appointment and, on ceasing to hold office, he shall be eligible for re-appointment:

Provided that a member of the Advisory Committee may at any time by notice in writing to the Conservancy resign his office.

(6) The Advisory Committee may determine its own quorum and procedure.

(7) On a casual vacancy occurring on the Advisory Committee by reason of death, resignation or otherwise the vacancy shall be filled by the appointment of a new member in the same manner as the member in whose place he is appointed and he shall hold office during the remainder of the term of office of the member in whose place he is appointed.

(8) The Conservancy shall, except in a case of special urgency where it is not reasonably practicable so to do, consult the Advisory Committee on all matters substantially affecting the amenity area and the maintenance, management and improvement of the harbour, and particularly, but without prejudice to the foregoing generality, on every proposal—

- (a) to grant a works licence or dredging licence under this Act; or
- (b) to impose or vary any rates or charges; or

PART II
—cont.

(c) to change any navigational mark or light, or any channel of the harbour; or

(d) to make byelaws;

and shall take into consideration any such matter which may from time to time be referred to them by the Advisory Committee, whether or not that committee has been consulted on the matter so referred.

PART III

TRANSFER OF UNDERTAKINGS

Information to be supplied before transfer.

12. Not later than three months after the passing of this Act each transferring undertaker shall send to the clerk of the West Sussex County Council a statement giving particulars with respect to the matters specified in the definition of the transferred undertaking in subsection (1) of section 3 (Interpretation) of this Act and any question arising between the Conservancy and a transferring undertaker as to the correctness of any such statement shall be determined by arbitration.

Transfer of harbour undertakings.

13. On the day of transfer the transferred undertakings shall by virtue of this Act be transferred to and vest in the Conservancy.

Payments to transferring undertakers.

14.—(1) Subject to the provisions of this section, the Conservancy shall pay to each of the transferring undertakers in the financial year current on the day of transfer and in each financial year thereafter any amounts which in pursuance of arrangements in force immediately before the day of transfer for the redemption of loan and capital fund repayments and the payment of interest thereon and debt management expenses in respect thereof would but for this Act have fallen on or after that day to be debited in the accounts of the transferred undertaking for that financial year in respect of money borrowed for the purposes of that undertaking:

Provided that—

(a) the Conservancy shall not be liable to pay so much of any amount as aforesaid as is attributable to any period before the day of transfer and any such amount shall be calculated as if the amount due in respect of redemption of loan or capital fund repayment and payment of interest thereon accrued from day to day;

(b) in calculating the amount which would have fallen to be debited in respect of any loan regard shall be had to—

(i) the income earned by any sinking fund established for the redemption of the loan; and

(ii) any sum received by the transferring undertaker under any enactment towards the financing of the liabilities in respect of which the loan was raised.

(2) The Conservancy shall pay to each of the transferring undertakers as soon as practicable after the day of transfer—

(a) an amount equal to the value immediately before the day of transfer of all stores and equipment which have been purchased on revenue account by that transferring undertaker and which are transferred to the Conservancy by virtue of this Act; and

(b) the amount of any capital expenditure incurred by that transferring undertaker for the purpose of their transferred undertaking which was not defrayed from moneys raised by the exercise of a statutory borrowing power and in respect of which the transferring undertaker intended to exercise a statutory borrowing power which was available to them immediately before the day of transfer or in respect of which they intended, and but for this Act could reasonably have been expected, to obtain such power.

(3) Any amount payable under subsection (1) of this section shall unless otherwise agreed be paid by half-yearly instalments.

(4) Any question which may arise as to the method of calculating any amount for the purposes of subsection (1) of this section shall be determined by arbitration.

(5) Any payment made by the Conservancy under the foregoing provisions of this section in respect of the liability for the redemption of a loan shall be deemed to be a capital payment and any other such payment (other than a payment in respect of debt management expenses) shall be deemed to be an annual payment.

(6) The Conservancy may agree with the lender and with the transferring undertaker for the transfer to the Conservancy of the liability with respect to any outstanding loan in respect of the transferred undertaking and where any liability so transferred is secured by a mortgage, the mortgage shall (unless otherwise agreed) take effect in all respects as a mortgage created by the Conservancy of their revenues to secure the loan and the interest thereon.

(7) Notwithstanding anything in the foregoing provisions of this section, the West Sussex County Council may on the day of transfer or as soon thereafter as the amount to be paid has been ascertained pay to the Chichester Corporation, by way of addition to the sums payable under the foregoing provisions of this section, such sum as may be agreed between the West Sussex County Council and the Chichester Corporation.

(8) In this section references to redemption of loan shall include a reference to repayment of advances.

PART III
—cont.Saving of
agreements,
etc.

15.—(1) All sales, conveyances, grants, assurances, deeds, contracts (other than contracts the benefit of which, and the liabilities under which, are not transferred by this Act), bonds and agreements affecting any transferred undertaking and in force immediately before the day of transfer shall as from the day of transfer be read and construed and be as binding and of as full force in every respect against or in favour of the Conservancy and may be enforced as fully and effectually as if instead of a transferring undertaker the Conservancy had been a party thereto or been bound thereby or entitled to the benefit thereof.

1925 c. 20.

(2) Where in the case of any land or other property transferred by or under this Act a transferring undertaker is entitled to retain possession of any document relating in part to the title to or to the management of, any land or other property transferred to the Conservancy, the transferring undertaker shall be deemed to have given to the Conservancy an acknowledgment in writing of the right of the Conservancy to production of that document and to delivery of copies thereof; and section 64 of the Law of Property Act, 1925, shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.

Continuance
of
proceedings.

16.—(1) Nothing in this Act shall release, discharge or suspend any action, arbitration or other proceeding, or any cause of action, arbitration or other proceeding, pending or existing immediately before the day of transfer by or in favour of or against a transferring undertaker in relation to a transferred undertaking.

(2) Subject to the provisions of this Part of this Act, any such action, arbitration or proceeding, or cause of action, arbitration or proceeding, pending or existing by or in favour of or against a transferring undertaker, may be maintained, prosecuted or continued by or in favour of or against the Conservancy as fully and effectually as it could have been maintained, prosecuted or continued by or in favour of or against the transferring undertaker if this Act had not passed into law.

Recovery
and apportionment of
debts.

17.—(1) Notwithstanding the provisions of section 16 (Continuance of proceedings) of this Act, each transferring undertaker whose undertaking is transferred by this Act shall be entitled to and may recover all rates, rents, charges, profits and sums of money and shall discharge and pay all debts and liabilities in respect of the undertaking so transferred which have accrued due or become payable before the day of transfer and the Conservancy shall be entitled to and may recover all such revenues and shall discharge and pay all such outgoings which may accrue due or become payable on or after that day:

Provided that (except so far as may be otherwise agreed between the Conservancy and a transferring undertaker) so much of any amount recovered or paid by a transferring undertaker by virtue of this section as is attributable to any period beginning on or after the day of transfer shall (as the case may require) be paid by them to, or be repaid to them by, the Conservancy and so much of any amount recovered or paid by the Conservancy in respect of the undertaking of a transferring undertaker as is attributable to any period before that date shall (as the case may require) be paid by them to, or be repaid to them by, that transferring undertaker.

(2) Where necessary for the purpose of this section any revenues and outgoings shall be apportioned between the Conservancy and the transferring undertaker.

(3) Any question which may arise under this section shall be determined by arbitration.

18.—(1) In any case in which a transferred undertaking includes—

Assets partly used for transferred undertaking.

- (a) an asset which is held or used in part for the purposes of the transferred undertaking and in part for other purposes of the transferring undertaker; or
- (b) an asset which forms part only of a building or other property of the transferring undertaker;

an agreement may before the day of transfer be entered into between the transferring undertaker and the Conservancy in relation to that asset and without prejudice to the generality of this provision any such agreement may—

- (i) provide for the exclusion of the asset from the transfer;
- (ii) provide for the inclusion in the transfer of other property of the transferring undertaker in connection with which the asset is used;
- (iii) provide for the joint user of the asset by the Conservancy and the transferring undertaker;
- (iv) provide where necessary for the granting of easements or rights over or in respect of land to be transferred or land to be retained by the transferring undertaker; and
- (v) state the terms and conditions of such agreement (including payments to be made in respect thereof) and (if thought fit) the period for which it shall operate.

(2) Where any such agreement provides for the exclusion of the asset from the transfer or for the joint user of the asset such asset shall not be transferred to the Conservancy by virtue of this Act.

(3) Where any such agreement provides for the inclusion in the transfer of other property of the transferring undertaker in connection with which the said asset is used such property shall,

PART III
—cont.

on the day of transfer or on a date stated in the agreement, be transferred to the Conservancy by virtue of this Act.

(4) Where under subsection (1) of this section a question has arisen between the transferring undertaker and the Conservancy whether—

- (a) an asset should be excluded from the transfer; or
- (b) there should be included in the transfer other property of the transferring undertaker in connection with which the said asset is used; or
- (c) the said asset should be used jointly;

and the matter has not been agreed between the transferring undertaker and the Conservancy before the day of transfer, the said asset shall not on that day be transferred to the Conservancy but may be used by the Conservancy on such terms as may be agreed between the transferring undertaker and the Conservancy or, failing agreement, as may subsequently be determined by arbitration, and in such a case—

- (i) if it is afterwards agreed or determined by arbitration that the said asset shall be excluded from the transfer or shall be used jointly by the transferring undertaker and the Conservancy, subsection (2) of this section shall apply as if it had been so agreed before the day of transfer;
- (ii) if it is afterwards agreed or determined by arbitration that the said asset shall be included in the transfer or that there shall be included in the transfer other property of the transferring undertaker in connection with which the said asset is used, the said asset or such other property, as the case may be, shall accordingly be transferred to the Conservancy by virtue of this Act on a date stated in such agreement or in the award of the arbitrator, as the case may be.

Books, etc.,
to remain
evidence.

19.—(1) All books and documents which, if this Act had not been passed, would have been evidence in respect of any matter for or against a transferring undertaker in respect of a transferred undertaking of that undertaker shall on and after the day of transfer be admitted in evidence in respect of the same or like matter for or against the Conservancy.

(2) All persons who at day of the transfer have in their possession or under their control any books, documents, papers, money or effects forming part of a transferred undertaking or relating exclusively thereto or to which a transferring undertaker would, but for the transfer of the transferred undertaking to the Conservancy, have been entitled shall be liable to account for and deliver them up to the Conservancy or to such person as the Conservancy may appoint to receive them, and shall be subject

to the same consequences on refusal or neglect as if they had been appointed by and become possessed thereof for the Conservancy.

PART III
—cont.

(3) The Conservancy shall be entitled at all reasonable times free of charge to have access to and take copies of all books, documents and papers relating partly to a transferred undertaking which after the day of transfer are retained by the transferring undertaker.

20. As from the day of transfer the liability of a transferring undertaker under the provisions of the National Ports Council Provision of Funds Scheme, 1965, to pay any sum for which a demand has been issued to them under article 3 of that scheme shall, in so far as such liability relates to a transferred undertaking, be transferred to, and become the liability of, the Conservancy.

National
Ports
Council
levy.

PART IV

DUTIES AND POWERS OF CONSERVANCY

21.—(1) It shall be the function of the Conservancy, subject to the provisions of this Act, to take such steps from time to time as to them seem meet for the conservancy, maintenance and improvement of—

General
function of
Conservancy

- (a) the harbour, for the use of pleasure craft and such other vessels as may seek to use the same;
- (b) the amenity area, for the occupation of leisure and recreation and the conservation of nature;

and the facilities (including, in relation to the harbour, navigational facilities) afforded respectively therein or in connection therewith.

(2) In the fulfilment of the function with which they are charged by subsection (1) of this section, the Conservancy shall have regard to the desirability of conserving the natural beauty and amenity of the countryside and of avoiding interference with fisheries.

22.—(1) In furtherance of the provisions of section 21 (General function of Conservancy) of this Act it shall be lawful for the Conservancy in the exercise of their functions under this Act either themselves to do or to make arrangements (including arrangements providing for financial contributions to be made by the Conservancy) for the doing by any company, body or person of all or any of the following things:—

Ancillary
powers of
Conservancy.

- (a) the provision, erection and maintenance of all such accommodation, houses, buildings, structures, erections, vehicles, plant, machinery, apparatus or equipment as the Conservancy may think necessary or expedient for the

PART IV
—cont.

- purposes of this Act or the enjoyment of the harbour or the amenity area or any facilities provided for those purposes;
- (b) the holding of exhibitions, shows, regattas, competitions, contests and other entertainments in or in connection with the harbour or the amenity area;
 - (c) the provision of hostels and caravan sites and other accommodation and facilities including baths, changing accommodation, lavatories and washhouses;
 - (d) the provision of accommodation for, and the provision of, meals and refreshments (including intoxicating liquor);
 - (e) the provision, improvement or maintenance of roads and parking places;
 - (f) the dissemination of all forms of publicity and the provision of information centres;
 - (g) the levying of charges for admission to, or the use of, any of the facilities provided under this Act:

Provided that the Conservancy shall not under paragraph (d) of this subsection provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor within the amenity area are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments as the case may be.

(2) For the removal of doubt, it is hereby declared that charges levied by the Conservancy, whether pursuant to paragraph (g) of subsection (1) of this section or under any other enactment, may be demanded subject to exemptions or compounding arrangements given or made subject to such conditions as the Conservancy may from time to time think fit.

(3) The Conservancy may enter into and carry into effect agreements or arrangements with any company, body or person for the provision and maintenance by such company, body or person of any works, facilities, supplies or services which may be desirable for or in connection with the carrying into effect of any of the purposes of this section and by any such agreement or arrangement may agree to defray or to make contributions towards expenses incurred by the company, body or person thereunder.

(4) The foregoing provisions of this section shall not authorise the Conservancy or any company, body or person—

- (a) on land in which any other person has an interest, without the consent of such last-mentioned person, to do anything which apart from this section would be actionable at his suit by virtue of that interest;
- (b) to do anything affecting any highway without the consent of the highway authority.

(5) Nothing in this or the last preceding section shall be construed as excluding or limiting the application of any other enactment prohibiting, regulating or restricting the doing of any particular thing or as authorising the doing of that thing by or under agreements or arrangements made with the Conservancy except in accordance with the provisions of such other enactment.

23.—(1) The Conservancy may promote or oppose Bills in Parliament, or may apply for or oppose applications for orders, byelaws, schemes or awards to be made under any Acts.

Power to promote and oppose legislation.

(2) A resolution to promote or oppose a Bill under this section shall not be effective unless passed by a majority of the whole number of the members of the Conservancy at a meeting thereof held after ten clear days' notice of the meeting and of the purpose thereof (which notice shall be in addition to any ordinary notice required to be given for the convening of a meeting of the Conservancy) has been given by advertisement in one or more local newspapers circulating in the areas of the county councils.

(3) In the case of the promotion of a Bill, a further meeting of the Conservancy shall be held as soon as may be after the expiration of fourteen days after the Bill has been deposited in Parliament, and, unless the propriety of the promotion is confirmed by a majority of the whole number of the members of the Conservancy at that meeting, the Conservancy shall take all necessary steps to withdraw the Bill.

(4) Not less than ten clear days before the date of a meeting to be held under this subsection, the like notice shall be given in relation thereto as is required to be given in relation to a meeting held under subsection (2) of this section.

24.—(1) Where a county council, at the request of the Conservancy, include in any Bill which they promote in Parliament provisions which are for the benefit of the Conservancy or which in any way relate to the exercise of the Conservancy's functions and it is or will be a condition of the inclusion of such provision in a Bill promoted or to be promoted by the county council that the Conservancy shall make a contribution towards the expenses incurred or to be incurred by the county council in connection with the promotion of the Bill, subsections (2) and (3) of section 23 (Power to promote and oppose legislation) of this Act shall apply in relation to the making of the request of the Conservancy under this subsection—

Provision in Bills promoted by county councils with respect to Conservancy.

(a) as if any reference in the said subsections to the promotion of a Bill were a reference to the making of the request aforesaid for the inclusion of, or, as the case may be, of any part of, that provision in the Bill in question;

PART IV
—cont.

(b) as if the deposit of the Bill in question in Parliament by the county council were such a deposit of that Bill by the Conservancy;

and where the Conservancy are required by the said subsection (3), as modified by this subsection, to take all necessary steps to withdraw some provision of the Bill the Conservancy shall forthwith notify the county council to that effect and the county council shall thereupon use their best endeavours to withdraw the provision or part of the provision in question.

(2) The Conservancy may in compliance with any such condition as is referred to in the foregoing subsection make such contribution towards the expenses incurred by the county council in connection with the promotion of the Bill in question as may be agreed between the Conservancy and the county council.

Power to
acquire and
dispose of
land.

25.—(1) The Conservancy may for the purpose of or in connection with any of their functions acquire any land within the harbour or the amenity area by agreement, whether by way of purchase, exchange, lease or otherwise.

(2) The Conservancy, by means of an order made by them and submitted to and confirmed by the Secretary of State may be authorised to purchase compulsorily any such land as aforesaid:

Provided that the power to purchase compulsorily any such land as aforesaid shall not be exercised as regards any land which was on 1st August, 1970, and is for the time being owned or leased for a term not less than seven years by the district council or the Chichester Rural District Council.

(3) The Conservancy may dispose of land belonging to them in such manner, whether by way of sale, exchange, lease, the creation of any easement, right or privilege or otherwise, for such period, upon such conditions and for such consideration as they think fit.

(4) The Conservancy—

(a) may, for the purposes of the undertaking, manage, use or develop land belonging to them as they think fit; and

(b) in addition may, with a view to selling or otherwise disposing of any right or interest in the land after the development is carried out—

(i) retain any land belonging to them which is not required for the purposes of the undertaking and develop it or procure its development for use by other persons; and

(ii) where the use of land belonging to them for the purposes of the undertaking can be combined with its use for other purposes, develop the land or procure its development for use wholly or partly by other persons.

PART IV
—cont.

(5) Where the Conservancy intend to develop or procure the development of land belonging to them for purposes other than the purposes of the undertaking, and are of opinion that the land cannot by itself be developed satisfactorily, they may acquire other land by agreement, whether by way of purchase, exchange, lease or otherwise, for the purpose of developing it or of procuring its development together with the land already belonging to them.

26.—(1) Without prejudice to the provisions of the Town and Country Planning Acts, 1962 to 1968, it is hereby declared that for the purposes of the Town and Country Planning Acts, 1962 to 1968, anything done by the Conservancy in the exercise of the powers conferred by section 22 (Ancillary powers of Conservancy) and section 25 (Power to acquire and dispose of land) of this Act, so far as those sections relate to development of land for use otherwise than for the purposes of so much of the undertaking as relates to the harbour, does not constitute the carrying on by the Conservancy of their statutory undertaking and, in particular, that land which is used or in which an interest is held by the Conservancy exclusively for the purpose of exercising those powers does not constitute operational land.

Development
of non-
operational
land to require
planning
permission.

(2) Without prejudice to subsection (1) of this section and subject to subsection (3) of this section, any development of operational land by the Conservancy in the exercise of the said powers shall not for the purposes of the said Acts constitute development of operational land.

(3) Subsection (2) of this section shall not apply to development if—

- (a) the development comprises development by the Conservancy for the purpose of carrying on the undertaking or is development for a purpose which includes that purpose; and
- (b) the development is such that so much of it as is exclusively referable to the exercise by the Conservancy of the said powers cannot fairly be treated for the purposes of the said Acts as separate development.

(4) Any question under subsection (3) of this section whether part of any development can fairly be treated as separate development, shall be determined by the local planning authority to whom application is made for permission for the development in question, or, where an application for permission for the

PART IV
—cont.

development in question is referred to the Secretary of State by the Secretary of State; and where part of any development is so treated this section and the said Acts shall apply to the parts of the development in all respects as if they were separate development.

(5) If an applicant is aggrieved by a determination of a local planning authority under subsection (4) of this section, he may appeal to the Secretary of State, and any such appeal shall be determined by the Secretary of State.

The provisions of the said Acts and of any development order as to the time and manner for appealing to the Secretary of State against planning decisions of local planning authorities shall apply, subject to any necessary modifications, to an appeal under this subsection.

(6) The provisions of the said Acts as to the validity, and proceedings for challenging the validity, of decisions of the Secretary of State on applications for planning permission referred to him under those Acts or on appeals to him under those Acts against planning decisions of local planning authorities shall apply to any determination of the Secretary of State under this section as if a reference to this section were included in those provisions.

1968 c. 72.

(7) Paragraph (b) of sub-clause (2) of section 69 of the Town and Country Planning Act, 1968, shall apply to land acquired by the Conservancy as the result of transfer from the transferring undertakers under the provisions of this Act as it applies to land acquired pursuant to the provisions of that paragraph.

(8) Subject to this section, any expression in this section which is used in the Town and Country Planning Acts, 1962 to 1968, shall have the same meaning as in those Acts.

(9) References in this section to the Town and Country Planning Acts, 1962 to 1968, shall be construed to include any enactment amending or replacing those Acts.

Acquisition
of new
interests or
rights over
land.

27.—(1) The Conservancy may exercise the powers conferred by section 25 (Power to acquire and dispose of land) of this Act so as to acquire interests in land by way of the creation of new interests, as well as interests already in existence before the acquisition thereof by the Conservancy, and an interest may be so acquired either in perpetuity or for a term of years certain or so as to be terminable by notice.

(2) Where those powers are exercised so as to acquire compulsorily an interest in any land (in this section referred to as “servient land”) by way of the creation of a new interest (in this

section referred to as "the new right"), the provisions of subsections (3) to (5) of this section shall have effect with respect to compensation in respect of the acquisition of the new right.

PART IV
—cont.

(3) (a) If the value of any interest in land to which this subsection applies is depreciated by the acquisition of the new right, the person entitled to that interest shall be entitled to compensation from the Conservancy of an amount equal to the amount of the depreciation.

(b) This subsection applies to any interest in any servient land, and to any interest in any land which, on the relevant date, is held with any servient land.

(4) Where the person entitled to an interest in land to which the last preceding subsection applies sustains loss or damage which—

(a) is attributable to the acquisition of the new right; and

(b) does not consist of depreciation of the value of that interest; and

(c) is loss or damage for which, if his interest in the servient land had been compulsorily acquired under an order made under subsection (2) of section 25 (Power to acquire and dispose of land) of this Act and in pursuance of a notice to treat served on the relevant date, he would have been entitled to compensation by way of compensation for disturbance;

he shall be entitled to compensation from the Conservancy in respect of that loss or damage, in addition to compensation under the last preceding subsection.

(5) Subsections (3) and (4) of this section shall have effect without prejudice to any right of compensation under section 10 of the Act of 1965 (which relates to compensation for injurious affection) but, subject to the preceding provisions of this subsection and to the regulations referred to in subsection (6) of this section, no person shall be entitled to compensation, in respect of the compulsory acquisition of the new right, otherwise than in accordance with subsections (3) and (4) of this section.

(6) Any regulations made by the Secretary of State and the Minister of Agriculture, Fisheries and Food under subsection (6) of section 66 of the Water Resources Act, 1963 (which authorises river authorities to acquire new interests or rights over land), shall extend and apply to the acquisition by the Conservancy under this Act of interests by way of the creation of new interests as if such interests had been acquired by them under the said Act of 1963. 1963 c. 38.

(7) In this section "the relevant date" means the date of service of the notice to treat in pursuance of which the new right is acquired.

PART IV
—cont.

Extinguishment of rights of way, easements, etc.

1959 c. 25.

28.—(1) (a) Subject to the provisions of this subsection the Conservancy may by order extinguish any public right of way (other than a way which consists either in whole or in part of a carriageway within the meaning of the Highways Act, 1959) over any land purchased by them under this Act.

(b) Where the Conservancy propose to make an order under this subsection they shall prepare a draft of the order and, before submitting the order to the Secretary of State for confirmation or confirming it as an unopposed order shall publish in at least one local newspaper circulating in the area in which the public right of way to which the order relates is situated, and in the London Gazette, a notice—

- (i) stating the general effect of the proposed order;
- (ii) naming a place in the said area where a copy of the order and of any map or plan referred to therein may be inspected by any person free of charge at all reasonable hours during a period of six weeks from the date of the publication of the notice; and
- (iii) stating that, within the said period, any person may by notice to the Conservancy object to the confirmation of the order.

(c) Not later than the day on which the said notice is published or if it is published on two or more days, the day on which it is first published, the Conservancy shall cause a copy of the said notice to be displayed in a prominent position at each end of the public right of way to which the order relates and shall serve on the highway authority and on the local authority of any district where the land over which the public right of way exists is situated—

- (i) a copy of the said notice;
- (ii) a copy of the proposed order; and
- (iii) a copy of any map or plan referred to in the proposed order relating to a matter which in the opinion of the Conservancy is likely to affect the council so served.

(d) (i) If any objection to the proposed order is made before the expiration of six weeks from the publication thereof and the objection is not withdrawn, the Secretary of State shall not approve the order until he has caused a public local inquiry to be held into the matter.

(ii) If no objection is so made, or if made is withdrawn, the Conservancy may, instead of submitting the order to the Secretary of State, themselves confirm the order but without any modification.

(2) Where the Conservancy have resolved to purchase under this Act land over which a public right of way exists, it shall be lawful under the foregoing subsection for the Conservancy to

make and (as the case may require) the Secretary of State to approve, in advance of the purchase, an order extinguishing that right as from the date on which the buildings to which the right of way gives access are vacated, or at the expiration of such period after that date as may be specified in the order, or as the Secretary of State in approving the order may direct.

(3) Upon the completion by the Conservancy of the purchase by them of any land under this Act, all private rights of way and all rights of laying down, erecting, continuing or maintaining any apparatus on, under or over that land and all other rights or easements in or relating to that land shall, unless otherwise agreed between the Conservancy and any person entitled thereto, be extinguished and any such apparatus shall vest in the Conservancy, and any person who suffers loss by the extinguishment or vesting of any such right or apparatus as aforesaid shall be entitled to be paid by the Conservancy compensation to be determined under and in accordance with the Land Compensation Act, 1961:

1961 c. 33.

Provided that this subsection shall not apply to—

- (a) any right vested in statutory undertakers or a local authority of laying down, erecting, continuing or maintaining any apparatus;
- (b) any right of access vested in such undertakers or local authority to apparatus if the Conservancy do not provide an adequate alternative right of access; or
- (c) any apparatus belonging to such undertakers or local authority;

and shall have effect as respects other matters subject to any agreement which may be made between the Conservancy and the person in or to whom the right or apparatus in question is vested or belongs.

29.—(1) Every undertaking given by or to the Conservancy to or by the owner of a legal estate in land, and every agreement made between the Conservancy and any such owner, being an undertaking or agreement—

Undertakings
and
agreements
binding
successive
owners.

- (a) given or made under seal in connection with the land; and
- (b) expressed to be given or made in pursuance of this section;

shall, if registered in the local land charges register, be enforceable by the Conservancy against the person who entered into, or joined as a party to, such undertaking or agreement and all persons deriving title by, through or under him.

PART IV
—cont.

(2) Any person against whom such an undertaking or agreement is enforceable shall be entitled to require from the Conservancy a copy thereof.

Application of National Parks and Access to the Countryside Act, 1949, and the Countryside Act, 1968.
1949 c. 97.

30.—(1) Within the amenity area the Conservancy shall have all the powers of a county council under the following enactments:—

National Parks and Access to the Countryside Act, 1949—

- Section 21 (Establishment of nature reserves by local authorities);
- Section 64 (Access agreements);
- Section 89 (Planting of trees and treatment of derelict land);
- Section 90 (Local authority byelaws);
- Section 92 (Wardens); and
- Section 104 (General provisions as to appropriation and disposal of land).

1968 c. 41.

Countryside Act, 1968—

- Section 6 (Country parks and commons; preliminary);
- Section 7 (Power to provide country parks);
- Section 8 (Country parks: sailing, boating, bathing and fishing);
- Section 9 (Powers exercisable over or near common land);
- Section 10 (Camping and picnic sites);
- Section 32 (Traffic regulation orders for special areas in the countryside);
- Section 41 (Power to make byelaws and related provisions about wardens);
- Section 43 (General provisions as to local authority powers conferred by Act).

(2) The Conservancy before in any case taking action under the foregoing provisions of this section shall consult with and obtain the consent of the constituent council in whose county or district respectively the Conservancy propose to act.

(3) Sections 33 and 34 of the Countryside Act, 1968, shall apply to any expenditure by the Conservancy incurred under the powers conferred by this section in relation to the amenity area so as to enable the Secretary of State to make exchequer grants to the Conservancy as if it were a local authority within the meaning of the said sections 33 and 34.

31.—(1) Subject to the provisions of this Act and of section 52 (which prohibits any new piped supply of gas except with the consent of the Area Board and in accordance with such conditions as may be attached to that consent) of the Gas Act, 1948, and of the Electricity (Supply) Acts, 1882 to 1936, and of the Electricity Acts, 1947 and 1957, the Conservancy may maintain, alter and improve the harbour and in connection with the harbour construct, maintain, alter, improve, enlarge and extend embankments, walls, footways, approaches, steps, landing places, piers, quays, jetties, slips, wharves, groynes, sea defences, buoys, navigation marks, cranes, lights, beacons, sewers, drains, watercourses, gas and water pipes, apparatus for electric light and power, warehouses, offices, sheds and other works and conveniences which may be found necessary for the accommodation of vessels or traffic or for the protection of the harbour:

PART IV
—cont.

Power to construct, maintain and improve works.

1948 c. 67.

Provided that—

(a) the Conservancy shall not exercise the powers of this section on any land not for the time being belonging to or held by them except with the licence or consent of the owner and occupier of the land;

(b) any electric light and power or other apparatus constructed and maintained under this section shall be so constructed, used and maintained as to prevent any interference with any telegraphic line (as defined by the Telegraph Act, 1878) belonging to or used by the Post Office or with telegraphic communication by means of any such line.

1878 c. 76.

(2) Nothing in this section shall exempt the Conservancy from the provisions of section 9 of the Harbours Act, 1964.

1964 c. 40.

32.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the Conservancy shall forthwith notify Trinity House and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as Trinity House shall from time to time direct.

Provision against danger to navigation.

(2) If the Conservancy fail to notify Trinity House as required by this section or to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

33.—(1) Where a tidal work is abandoned, or suffered to fall into decay, the Secretary of State may by notice in writing require the Conservancy at their own expense either to repair and restore the work or any part thereof, or to remove the work and restore the site thereof to its former condition, to such an extent and within such limits as the Secretary of State thinks proper.

Abatement of works abandoned or decayed

PART IV
—cont.

(2) Where a work vested in the Conservancy and consisting partly of a tidal work and partly of works on or over land above the level of mean high-water springs is abandoned or suffered to fall into decay and that part of the work on or over land above the level of mean high-water springs is in such condition as to interfere or to cause reasonable apprehension that it may interfere with the right of navigation or other public rights over the foreshore, the Secretary of State may include that part of the work, or any portion thereof, in any notice under this section.

(3) If, on the expiration of thirty days from the date when a notice under this section is served upon the Conservancy, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Conservancy as a simple contract debt.

Survey of
tidal works.

34. The Secretary of State may at any time if he deems it expedient order a survey and examination of a tidal work and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the Conservancy as a simple contract debt.

Permanent
lights on
tidal works.

35.—(1) After the completion of a tidal work the Conservancy shall at the outer extremity thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as Trinity House shall from time to time direct.

(2) If the Conservancy fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

Power to
dredge and
sell
materials.

36.—(1) The Conservancy may—

- (a) deepen, dredge, scour and excavate and blast any rock in any portion of the harbour and the approaches thereto to the extent necessary to secure a sufficient waterway for vessels using or approaching the same or otherwise for the purposes of the undertaking; and
- (b) sell or otherwise dispose of or remove or deposit all sand, mud and other materials dredged up or removed as they think fit.

(2) All money arising from any sale or other disposition of sand, mud and other materials under this section shall be carried to the common fund.

(3) Before exercising the said powers within or within a distance of 300 yards of the fishery the Conservancy shall give in writing to the grantee as long notice as possible and in any case (except in an emergency) not less than forty-two days' notice in respect of their intention to exercise such powers.

(4) (a) In the exercise of the powers conferred by this section the Conservancy shall not interfere with, damage or injuriously affect any electricity work, gas work or water work or any submarine cable placed and maintained by the Post Office in or across the harbour or the approaches thereto.

(b) Before exercising the said powers within a distance of 50 yards of any such submarine cable, electricity work, gas work or water work the Conservancy shall give in writing to the Post Office, the electricity board, the gas board, the Gas Council or the water company as the case may require as long notice as possible and in any case not less than twenty-eight days' notice in respect of their intention to exercise such powers.

(c) Any sand, mud and other materials dredged up and removed shall not be laid down or deposited in such a place or manner as to cover any such submarine cable, electricity work, gas work or water work or impede any work of or connected with the inspection or repair of such cable, electricity work, gas work or water work.

(5) (a) In the exercise of the powers conferred by this section the Conservancy shall not interfere with, damage or injuriously affect any railway, land, bridge or other works of the Railways Board.

(b) Before exercising the said powers within a distance of 50 feet of the said railway, land, bridge or other works of the Railways Board the Conservancy shall give the Railways Board not less than twenty-eight days' written notice of their intention to do so and shall furnish to the Railways Board full particulars relating thereto, and the Conservancy shall not exercise such powers until the Railways Board have approved such particulars:

Provided that—

- (i) the Railways Board's approval shall not be unreasonably withheld;
- (ii) such approval shall be deemed to have been given if the Railways Board have not either approved or disapproved such particulars within twenty-eight days of them having been furnished;

PART IV
—cont.

and any question whether the Railways Board's approval has been unreasonably withheld shall be referred to and determined by the Secretary of State.

(6) (i) In the exercise of the powers conferred by this section the Conservancy shall not interfere with, damage or injuriously affect any coast protection work, sewer outfall or sewer vested respectively in or under the control of the Chichester Corporation, the district council or the Chichester Rural District Council without their consent, or any work or apparatus of or under the control of a river authority without their consent.

(ii) The Conservancy shall indemnify and hold harmless each of the bodies referred to in paragraph (i) of this subsection from all claims, demands or expenses which may be made on or against them or which they may have to pay by reason or in consequence of any damage to any coast protection work, sewer outfall or sewer or (as the case may be) any work or apparatus as aforesaid, which may be caused or result thereto by or in consequence of any operations carried out under the powers of this section or in consequence of any act or omission of the Conservancy, their contractors, agents, workmen or servants in the exercise of such powers:

Provided that any such body shall give to the Conservancy reasonable notice of any such claim or demand and no settlement or compromise thereof shall be made without the agreement of the Conservancy.

(7) For the protection of the Hampshire County Council (in this subsection referred to as "the county council") the following provisions shall, unless otherwise agreed in writing between the Conservancy and the county council, apply and have effect:—

(a) In this subsection—

"authorised work" means any work carried out under the provisions of this section in that part of the harbour between the Hayling Island Railway Bridge and the Langstone Road Bridge and within a distance of 150 feet of the eastern side of the said Langstone Road Bridge or the approaches thereto;

"the bridge" means the Langstone Road Bridge of the county council;

"plans" includes sections and specifications:

- (b) In the exercise of the powers conferred by this section the Conservancy shall not interfere with, damage or injuriously affect the bridge:
- (c) (i) Before commencing an authorised work the Conservancy shall submit to the county council for their reasonable approval plans thereof. Any question whether approval has been unreasonably withheld under this subsection shall be referred to and determined by the Secretary of State, who if so requested by either the county council or the Conservancy shall afford to both the opportunity of making representations to him;
- (ii) If within twenty-eight days after the submission to them of such plans the county council do not signify to the Conservancy in writing either their approval or their disapproval thereof, and in the case of disapproval the grounds thereof, they shall be deemed to have approved thereof:
- (d) (i) Subject to the provisions of this subsection an authorised work shall not be carried out otherwise than in accordance with such plans as may be approved or deemed to be approved by the county council as aforesaid or settled by the Secretary of State;
- (ii) The Conservancy shall at all reasonable times afford to the surveyor to the county council, or his duly authorised representative, access to the site of an authorised work during the execution thereof for the purposes of inspection:
- (e) Except in case of emergency, the Conservancy shall give not less than twenty-eight days' notice in writing to the county council before commencing to carry out an authorised work:
- (f) If, by reason or in consequence of the execution of an authorised work or failure of such work, the bridge or the approaches thereto shall at any time be damaged, such damage shall be made good by the Conservancy to the reasonable satisfaction of the county council, and if within such reasonable time as may be required after receiving notice thereof the Conservancy fail to make good such damage, the county council may make good the same and recover from the Conservancy the costs and expenses reasonably incurred by them in so doing (including a proper proportion of the overhead expenses of the county council):

PART IV
—cont.

- (g) The Conservancy shall indemnify and hold harmless the county council from all claims, demands or expenses which may be made on or against them or which they may have to pay by reason or in consequence of any injury or damage to the bridge or the approaches thereto which may be caused or result thereto by or in consequence of any operations carried out by the Conservancy under this section or of the execution of an authorised work or of the failure thereof or in consequence of any act or omission of the Conservancy, their contractors, agents, workmen or servants whilst engaged upon an authorised work:

Provided that the county council shall give to the Conservancy reasonable notice of any such claim or demand as aforesaid and no settlement or compromise thereof shall be made without the agreement of the Conservancy:

- (h) The fact that any work or thing has been executed or done in accordance with a plan approved or deemed to be approved by the county council or to their satisfaction, or in accordance with any directions or decision of the Secretary of State or of any other tribunal or person, shall not relieve the Conservancy from any liability under the provisions of paragraph (g) of this subsection.

(8) No materials raised under the provisions of this section shall be deposited in any place below the level of high water otherwise than in such a position and under such restrictions and regulations as may be fixed by the Secretary of State.

Power to purchase vessels, equipment, etc.

37. The Conservancy may provide, purchase, take on lease, hire and use such vessels, machinery, apparatus and equipment as they may think necessary for the carrying on of their undertaking in the harbour or otherwise effecting the purposes of this Act and may let the same on hire (with or without the services of their employees) for such reasonable sums and upon and subject to such terms and conditions as they may think fit or may sell and dispose of the same.

Power to license tugs, etc.

38.—(1) (a) The Conservancy may from time to time license such number of tugs belonging to any person for such period and on such terms and conditions as they think fit.

(b) The Conservancy may charge such reasonable fee as they may from time to time specify for the granting of a licence under paragraph (a) of this subsection.

PART IV
—cont.

(2) It shall not be lawful otherwise than in emergency for any person to use or employ any tug for moving vessels within the harbour for fee or reward unless there is in force in relation thereto a licence granted under paragraph (a) of subsection (1) of this section.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds.

(4) In this section “ tug ” means any vessel other than a vessel of five tons gross or less.

39.—(1) The Conservancy may operate or arrange with other persons for the provision of—

Power to
operate
transport.

- (a) subject to obtaining any licence or permit necessary under the Road Traffic Act, 1960, or any other enactment, 1960 c. 16. road transport vehicles for the purpose of conveying pleasure craft or users of pleasure craft at separate fares as authorised under any such licence or permit from or to any point in the amenity area to or from any point in, or adjacent to, the waters of the harbour;
- (b) vessels for the carriage of passengers in the harbour and its environs including carriage to or from vessels in the harbour;

and may levy or authorise the levying of such charges therefor as they think fit.

(2) For the purposes of subsection (1) of this section, the Conservancy may from time to time purchase, contract for or hire and may maintain road transport vehicles, vessels and equipment and may on such terms and conditions as they think fit let on hire, sell or dispose of the same.

(3) The Conservancy shall not without the consent of the Public Road Transport Association (such consent not to be unreasonably withheld) exercise the powers of this section with respect to the provision of any vehicles for the conveyance of users of pleasure craft—

- (a) on any road upon which a service of stage carriages or express carriages is authorised by and for the time being operated under a road service licence;

PART IV
—cont.

- (b) on any road so situated as to cause the service afforded by the Conservancy to compete with such a service as aforesaid;

and the Conservancy shall, before on any occasion exercising the said powers, consult with the said association.

As to
houseboats.

40.—(1) It shall not be lawful without the written consent of the Conservancy (which may be given on such terms or conditions or subject to compliance with such requirements as the Conservancy think fit) to moor, place, keep or maintain in the harbour any houseboat whether or not the same shall have been so moored or placed before the passing of this Act:

Provided that—

- (a) as respects any houseboat so moored or placed immediately before 1st August, 1970 (in this and the next following section called “an existing houseboat”) such consent shall not be withheld unless the Conservancy are satisfied that continuance of the mooring, placing, keeping or maintaining of the houseboat would constitute a danger to or interfere with the navigation of vessels in the harbour or would prejudicially affect the amenities of the harbour or its environs and the Conservancy shall on the refusal of any consent under this section specify in writing the ground or grounds for such refusal;
- (b) nothing in this subsection shall prejudice or affect any obligation existing under any enactment to obtain the consent of the port health authority for the harbour or of any local authority within whose area the houseboat is or is proposed to be moored, placed, kept or maintained to such mooring, placing, keeping or maintaining.

(2) Where application is made to the Conservancy for consent to moor, place, keep or maintain any houseboat in the harbour then unless within two months from the date on which the Conservancy receive such application, or within such extended period as may at any time be agreed upon in writing between the applicant and the Conservancy, the Conservancy give written notice to the applicant of their decision on the application, the consent sought in the application shall be deemed to have been refused.

(3) (a) If any houseboat shall be moored, placed, kept or maintained contrary to the provisions of subsection (1) of this section the Conservancy may by notice in writing require the person having the control of the houseboat to remove it out of the harbour within such period as they may specify but which shall not be less than twenty-one days.

(b) Any such notice may, if it is not practicable after reasonable inquiry to ascertain the name and address of the person having the control of the houseboat, be served by posting the same in a conspicuous position on such houseboat or on the land or foreshore near to such houseboat and shall specify the period within which such removal shall be completed.

(4) (a) If any person fails without reasonable cause to comply with any notice given by the Conservancy under the provisions of subsection (3) of this section he shall be liable to a fine not exceeding fifty pounds and the Conservancy may at any time after the expiration of the period specified in such notice remove the houseboat referred to in the notice or if he so elects demolish and remove to the satisfaction of the Conservancy any rubbish or other material resulting from the demolition.

(b) Subject as is provided in subsection (5) of this section the costs and expenses reasonably incurred by the Conservancy in or in connection with any such removal or demolition may be recovered by the Conservancy as a simple contract debt in any court of competent jurisdiction from the person having the control of such houseboat.

(5) For the purposes of subsections (3) and (4) of this section the owner of any houseboat shall until the contrary be proved be deemed to be the person having the control thereof.

(6) (a) Where any houseboat shall have been removed by the Conservancy as aforesaid the Conservancy may retain the same or the materials thereof and may and shall if so required by the owner sell or dispose of the same or of such materials and subject as hereinafter provided retain the proceeds of such sale or disposal.

(b) For the purpose of ascertaining the amount recoverable by the Conservancy under paragraph (b) of subsection (4) of this section in respect of the costs and expenses incurred by them in or in connection with the removal of any such houseboat credit shall be given for the net amount (if any) received by the Conservancy of the proceeds of the sale (after deduction of any costs and expenses incurred by the Conservancy in effecting the same) of such houseboat or the materials thereof. If such net amount shall exceed the amount of the costs and expenses incurred by the Conservancy in or in connection with such removal as aforesaid they shall pay the amount of such excess to the owner of such houseboat which shall have been removed.

(7) Nothing in this section shall be deemed to confer on the Conservancy any right, title or interest in or to any land (not for the time being belonging to the Conservancy) forming part of the bed or foreshore of the harbour.

PART IV
—cont.

Appeals
under last
preceding
section.

41.—(1) Any person aggrieved by any refusal of consent or any requirement of the Conservancy as respects an existing houseboat under and within the meaning of section 40 (As to houseboats) of this Act may appeal to the Secretary of State.

(2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the refusal or requirement was given to the person desiring to appeal, or, in the absence of any such notice, the date on which by virtue of subsection (2) of the said section 40 consent was deemed to have been refused.

(3) On the hearing of an appeal as respects an existing houseboat the Secretary of State may dismiss or allow the appeal or may vary the terms, conditions or requirements of any consent appealed against by substituting therefor any terms, conditions or requirements which the Conservancy could have prescribed or made under the said section 40 or may extend the time specified in a requirement appealed against.

(4) In any case in which such an appeal lies, the document notifying the refusal or requirement in the matter shall state the right of appeal to the Secretary of State and the time within which such an appeal may be brought.

(5) Where any refusal or requirement against which a right of appeal is conferred by this section becomes the subject of an appeal no proceedings shall be brought or taken by the Conservancy under subsection (4) of the said section 40 until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(6) Upon an appeal under this section effect shall be given to the decision of the Secretary of State and in particular any necessary consent shall be granted.

Commence-
ment of
sections 40
and 41 of this
Act.

42.—(1) Sections 40 (As to houseboats) and 41 (Appeals under last preceding section) of this Act shall come into operation on 1st April, 1972.

(2) (a) The Conservancy shall forthwith after the appointed day cause public notice to be given of the effect of the said sections 40 and 41 by advertisement in one or more local newspapers published or circulating in the areas of the county councils and otherwise in such manner as the Conservancy think fit.

(b) In any proceedings it shall be presumed until the contrary is proved that the provisions of this section have been complied with.

43.—(1) In their application to the Conservancy, sections 530 and 532 of the Merchant Shipping Act, 1894 (which confer powers on the Conservancy with respect to, and with respect to anything in or on, any vessel sunk, stranded or abandoned in such manner as to be an obstruction or danger to navigation in the harbour or in or near any approach thereto), shall have effect—

PART IV
—cont.

Wreck
raising.

(a) subject to the provisions of the next following section; and

(b) in relation to a vessel sunk, stranded or abandoned before, as well as after, the passing of this Act.

(2) Subject to subsection (3) of this section, and to any enactment for the time being in force limiting his liability the Conservancy may recover as a simple contract debt from the owner of any vessel in relation to which they have exercised their powers under the said section 530 any expenses reasonably incurred by them under that section in relation to that vessel which are not reimbursed out of any proceeds of sale within the meaning of that section.

(3) Except in a case which is in the opinion of the Conservancy a case of emergency, subsection (2) of this section shall not apply in relation to any vessel unless, before exercising in relation to that vessel any of the powers conferred on them by the said section 530 other than the power of lighting and buoying the Conservancy have given to the owner of the vessel not less than forty-eight hours' notice of their intention to do so; and if before the notice expires the Conservancy receive from the owner counter-notice in writing that he desires to dispose of the vessel himself, and no direction is served in respect of the vessel under paragraph (b) of subsection (2) of the next following section he shall be at liberty to do so, and the Conservancy shall not exercise the powers aforesaid in relation to that vessel until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the disposal thereof with all reasonable diligence and in compliance with any directions for the prevention or interference with navigation which may be given to him by the Conservancy.

(4) Notice under the last foregoing subsection to the owner of any vessel may be served by the Conservancy either by delivering it to him or by sending it to him by registered post or the recorded delivery service addressed to him at his last known place of business or abode in the United Kingdom, or, if the owner or any such place of business or abode is not known to the Conservancy, by displaying the notice at the offices of the Conservancy for the period of its duration.

PART IV
—cont.

Protection
of Crown
interest in
wrecks.
1894 c. 60.
1906 c. 48.

(5) In this section, the expression “owner” in relation to any vessel means the person who was the owner of the vessel at the time of the sinking, stranding or abandoning thereof.

44.—(1) Without prejudice to section 741 of the Merchant Shipping Act, 1894 (which relates to the exemption from the provisions of that Act of vessels belonging to Her Majesty), as modified by any Order in Council made under section 80 of the Merchant Shipping Act, 1906, the powers conferred on the Conservancy by sections 530 and 532 of the said Act of 1894 shall not be exercisable—

- (a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;
- (b) except with the consent of the Secretary of State which may be given with or without such a direction as is referred to in paragraph (b) of the next following subsection in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty but which at the time when the vessel was sunk, stranded or abandoned—
 - (i) had been required to be placed at the disposal of Her Majesty or of a government department; and
 - (ii) was appropriated to the service under the direction and control of the Secretary of State of Her Majesty’s ships of war.

(2) The Conservancy shall give notice in writing to the Secretary of State of any decision of the Conservancy to exercise in relation to any vessel any of the powers aforesaid other than the power of lighting and buoying and, except in a case which is in the opinion of the Conservancy a case of emergency, shall not proceed with the exercise thereof—

- (a) except with the consent of the Secretary of State before the expiration of a period of fourteen days from the giving of the notice; or
- (b) if before the expiration of the said period there is served on the Conservancy a direction by the Secretary of State that those powers shall not be exercised in relation to that vessel except in such a case as aforesaid;

and, where in any such case as aforesaid the Conservancy proceed to exercise those powers, without the consent and before the expiration of the period mentioned in paragraph (a) of this subsection or after a direction has been served on them as aforesaid, they shall not in the exercise of those powers use any explosives and, if before the expiration of the period aforesaid such a direction as aforesaid is served on them, shall not be

entitled to exercise the power of sale conferred by the said section 530 or the power conferred by subsection (2) of the last foregoing section:

PART IV
—cont.

Provided that—

- (i) the Conservancy shall not be required to give notice under this subsection in respect of any vessel in respect of which they have received a consent under paragraph (b) of the foregoing subsection but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed, for the purposes of this subsection and of subsection (3) of the last foregoing section, to have been duly served under paragraph (b) of this subsection;
- (ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charge as may for the time being be approved by the Secretary of State for the purposes of this proviso.

(3) Without prejudice to the power of sale conferred on the Conservancy by the said section 530 the Conservancy shall hold and dispose of any wreck within the meaning of Part IX of the said Act of 1894 raised, removed or recovered under that section and any surplus proceeds of sale within the meaning of that section in accordance with such directions (if any) as may be given to them by the receiver of wreck and on exercising the said power of sale in the case of any property the Conservancy shall discharge any sums payable in respect of that property by way of purchase tax or duties of customs or excise and any sums so discharged shall be deemed to be expenses incurred by the Conservancy under that section.

(4) Any limitation on the powers of the Conservancy in relation to any vessel arising by virtue of subsection (1) or subsection (2) of this section shall not operate to authorise the exercise in relation to that vessel of the powers conferred on Trinity House by section 531 of the said Act of 1894.

45.—(1) The Conservancy may, upon such terms and conditions as they think fit and upon payment of such reasonable fee as may from time to time be prescribed by the Conservancy, grant to any person a licence (in this Act referred to as a “works licence”) to construct, alter, renew, extend or maintain any works on, under or over tidal waters or tidal lands below the level of high water in the harbour notwithstanding interference with public rights of navigation and other public rights by such works as constructed, altered, renewed, extended or maintained.

Licensing
of works.

(2) Application for a works licence shall be made in writing to the Conservancy and shall be accompanied by plans, sections and particulars of the works to which the application relates,

PART IV
—cont.

and in granting any such licence the Conservancy may require modifications in the plans, sections and particulars so submitted.

(3) If within three months from the date of the making of an application under subsection (2) of this section the Conservancy do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.

(4) Nothing in this section shall alter, prejudice or affect any of the rights and powers of the Post Office under the provisions of the Telegraph Acts, 1863 to 1916.

1878 c. 76.

(5) For the purposes of section 7 of the Telegraph Act, 1878, any work proposed to be done under a licence granted in accordance with subsection (1) of this section shall be deemed to be work proposed to be done in the execution of an undertaking authorised by an Act of Parliament.

(6) In the exercise of the powers conferred by a works licence, the holder of the licence shall not damage or injuriously affect any electricity work, gas work or water work or without the written consent of the electricity board, the gas board or the Gas Council or the water company, as the case may require, interfere with any such work.

(7) So much of any works constructed, altered, renewed or extended under a works licence as is not in any parish shall be deemed for all purposes to be within the parish to which it is nearest.

Licence to
dredge.

46.—(1) The Conservancy may, upon such terms and conditions as they think fit and upon payment of such reasonable fee as may from time to time be prescribed by the Conservancy, grant to any person a licence (in this Act referred to as a “dredging licence”) to dredge in any part of the bed and foreshore of the waters of the harbour:

Provided that except with the consent of the Hampshire County Council the Conservancy shall not grant to any person such a licence to dredge in that part of the harbour between the Hayling Island Railway Bridge and the Langstone Road Bridge and within 150 feet of the eastern side of the said Langstone Road Bridge or the approaches thereto.

(2) Application for a dredging licence shall be made in writing to the Conservancy and shall be accompanied by plans, sections and particulars defining the nature and extent and manner of the operations to be carried out in the exercise of the powers granted by the licence and in granting any such licence the Conservancy may require modifications in the plans, sections and particulars so submitted.

(3) If within three months from the date of the making of an application under subsection (2) of this section the Conservancy do not grant a dredging licence in accordance with the application, they shall be deemed to have refused the application.

PART IV
—cont.

(4) The issue of a licence under this section shall not confer statutory authority for the carrying out of the works covered by the licence.

(5) Without prejudice to the rights of any owner of any part of the bed of the harbour, the holder of a dredging licence may use, sell or otherwise dispose of or remove or deposit any materials taken up or collected by means of dredging in pursuance of a dredging licence as he thinks fit:

Provided that—

(a) no such materials shall be laid down or deposited in any place below the level of high water except in such position as (subject to the provisions of paragraph (c) of subsection (4) of section 36 (Power to dredge and sell materials) of this Act) may be approved by the Conservancy and subject to such conditions or restrictions as may be imposed by the Conservancy;

(b) if it appears to the holder of the licence that the Conservancy have unreasonably withheld their approval under paragraph (a) of this proviso or that any condition or restriction imposed by the Conservancy under that paragraph is unreasonable, he may appeal to the Secretary of State for Trade and Industry whose decision shall be binding upon the parties.

(6) (a) In the exercise of the powers conferred by a dredging licence the holder of the licence—

(i) shall not interfere with, damage or injuriously affect any submarine cable placed or maintained by the Post Office without the consent of the Post Office;

(ii) shall not interfere with, damage or injuriously affect any electricity work, gas work or water work without the written consent of the electricity board, the gas board or the Gas Council or the water company, as the case may require;

(iii) shall not interfere with, damage or injuriously affect any coast protection works, sewer outfall or submarine pipe or sewer vested respectively in the Chichester Corporation, the district council or the Chichester Rural District Council without their consent;

(iv) before exercising the said powers within or within a distance of 300 yards of the fishery shall give in writing to the grantee as long notice as possible and in any case not less than forty-two days' notice in respect of the holder's intention to exercise such powers;

PART IV
—cont.

(v) shall not interfere with, damage or injuriously affect any railway, land, bridge or other works of the Railways Board.

(b) Before exercising the said powers within a distance of 50 feet of the said railway, land, bridge or other works of the Railways Board, the holder of a dredging licence shall give to the board not less than twenty-eight days' written notice of his intention to do so and shall furnish to the board full particulars relating thereto, and the holder of the licence shall not exercise such powers until the board have approved such particulars:

Provided that—

- (i) the Railways Board's approval shall not be unreasonably withheld;
- (ii) such approval shall be deemed to have been given if the Board have not either approved or disapproved such particulars within twenty-eight days of them having been furnished;

and any question whether the Railways Board's approval has been unreasonably withheld shall be referred to and determined by the Secretary of State.

Appeals to
Secretary of
State in
respect of
works licence
or dredging
licence.

47.—(1) Any applicant for a works licence or a dredging licence who is aggrieved by—

- (a) the refusal of the Conservancy to grant the licence;
- (b) any terms or conditions upon which the licence is granted;
- (c) any modifications required by the Conservancy in the plans, sections and particulars submitted by the applicant;

may, within twenty-eight days from the date upon which the Conservancy notify the applicant of their decision or the date on which the Conservancy are under subsection (3) of section 45 (Licensing of works) of this Act or subsection (3) of section 46 (Licence to dredge) of this Act deemed to have refused the application, appeal to the Secretary of State whose decision shall be binding upon the parties.

(2) A person who appeals to the Secretary of State under this section shall give to the Conservancy notice of his appeal accompanied by a copy of his statement of appeal and the Conservancy shall within twenty-eight days from the receipt of such notice be entitled to furnish the Secretary of State with their observations on the appeal.

(3) (a) On an appeal under this section the Secretary of State may—

- (i) dismiss the appeal; or
- (ii) require the Conservancy to grant the licence upon such terms and conditions as the Secretary of State may determine; or
- (iii) require the Conservancy to approve the plans, sections and particulars without modifications or subject to such modifications as the Secretary of State may determine.

(b) The Conservancy shall give effect to any requirement made by the Secretary of State under paragraph (a) of this subsection.

(4) In this section “ the Secretary of State ” means—

- (a) in the case of an appeal by the applicant for a works licence, the Secretary of State for Trade and Industry;
- (b) in the case of an appeal by the applicant for a dredging licence, the Secretary of State for the Environment.

48.—(1) No person shall—

- (a) construct, alter, renew or extend any works on, under or over tidal waters or tidal lands below the level of high water in the harbour unless he is licensed so to do by a works licence and except upon the terms and conditions (if any) upon which the licence is granted and in accordance with the plans, sections and particulars approved in pursuance of section 45 (Licensing of works) of this Act;
- (b) dredge in the bed and foreshore of the harbour unless he is licensed so to do by a dredging licence and except upon the terms and conditions (if any) upon which the licence is granted and in accordance with the plans, sections and particulars approved in pursuance of section 46 (Licence to dredge) of this Act:

Restriction
on con-
struction of
works and
dredging.

Provided that this subsection shall not apply to—

- (a) the construction, alteration, renewal or extension of any works, or any dredging, specifically authorised by any enactment;
- (b) the renewal of any work in existence on 1st August, 1970.

(2) Any person offending against the provisions of this section or who contravenes or who fails to comply with any term or condition upon which a works licence or a dredging licence, as the case may be, is granted by the Conservancy shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred pounds and on conviction on indictment to a fine.

PART IV
—cont.

(3) The Conservancy may by notice require a person who contravenes the provisions of this section to remove or abate within a reasonable time specified in the notice any works to which the contravention relates and to restore the site thereof to its former condition and, if the person to whom the notice is given fails to comply with the notice, the Conservancy may carry out the work required by the notice and recover the cost of so doing from that person as a debt in any court of competent jurisdiction.

Powers as
to moorings,
etc.

49.—(1) The Conservancy may provide, place, lay down, maintain, use and have moorings on land owned or leased by the Conservancy, or in which they hold an appropriate interest, and on any other land with the consent in writing of the owner and lessee thereof (and in the case of land within the fishery, with the consent of the grantee) in the harbour or on banks belonging to the Conservancy adjoining the harbour.

(2) The Conservancy may demand, receive and recover in respect of any vessel or houseboat using any of the moorings provided by the Conservancy under this section or moored to land owned or leased by the Conservancy in or adjoining the harbour such reasonable charges as may from time to time be prescribed by the Conservancy.

(3) The Conservancy may compound with any person with respect to the payment of the charges prescribed by the Conservancy under this section.

(4) (a) The Conservancy may from time to time grant licences to any person to place, lay down, maintain, use and have existing and future moorings in the harbour:

Provided that—

- (i) nothing in any such licence shall entitle a person to place, lay down, maintain, use and have any mooring on land not owned or leased by him or by the Conservancy or in which he has no appropriate interest;
- (ii) the Conservancy shall not unreasonably refuse to grant a licence to an owner or lessee of any land not leased by the Conservancy to place, lay down, maintain, use and have existing moorings on that land and any question whether the grant of a licence has or has not been unreasonably refused shall be determined by the Secretary of State.

(b) Any licence granted under paragraph (a) of this subsection shall be valid only for such period not exceeding three years commencing with its date as may be specified in the licence.

(c) The Conservancy may charge a reasonable fee for granting a licence under paragraph (a) of this subsection.

(5) Nothing in this section shall relieve the Conservancy or any person licensed by or acting with the consent of the Conservancy from liability for damage caused by them to any electricity work, gas work or water work in the exercise of the powers of this section and the said powers shall be so exercised as not to obstruct or render unreasonably inconvenient the access to any such work.

PART IV
—cont.

50.—(1) Any person who—

Penalty for
obstructing
works, etc.

- (a) wilfully obstructs any person acting under the authority of the Conservancy in setting out moorings; or
- (b) pulls up or removes any moorings or any poles or stakes driven into the ground for the purpose of such moorings; or
- (c) causes a vessel to be moored except at a mooring provided or licensed by the Conservancy under section 49 (Powers as to moorings, etc.) of this Act or at a quay, jetty, slipway or other work; or
- (d) places, lays down, maintains or uses any mooring not provided or licensed by the Conservancy under the said section of this Act;

shall for every such offence be liable to a fine not exceeding fifty pounds.

(2) If any person contravenes paragraph (d) of subsection (1) of this section, the Conservancy may remove the mooring in question and recover from that person the expenses incurred in doing so.

51.—(1) For the purpose of saving life on the sea or on any river, lake or water to which the public have access, and of rendering assistance to vessels in distress, the Conservancy may provide and maintain in or in the vicinity of the harbour—

Life-saving
craft and
appliances.

- (a) helicopters or other aircraft and lifeboats and similar vessels together with all necessary apparatus and equipment and houses, buildings, structures, landing grounds and landing-places for the operation or maintenance or accommodation of the same and their crews;
- (b) lifebuoys, lifelines and other life-saving appliances together with structures for the storage and safe-keeping of such appliances.

(2) The Conservancy may enter into arrangements with any company, body or person for the provision and maintenance of any of the facilities authorised by subsection (1) of this section.

(3) The Conservancy shall not, without the consent of the district council, exercise the powers of this section at Emsworth Mill Pond in the urban district of Havant and Waterloo.

PART V

OFFICERS AND SUPERANNUATION SCHEME

Staff.

52.—(1) The Conservancy shall appoint such officers (including a treasurer) as the Conservancy think necessary for the efficient discharge of their functions:

Provided that, in the case of any appointment of an officer having the functions of clerk or treasurer to the Conservancy, the Conservancy shall give prior notice of their intention to make such appointment to the county councils and if either of them shall within twenty-one days of being so notified give notice to the Conservancy that the clerk or treasurer (as the case may be) of a county council is willing to accept the appointment, the Conservancy shall appoint such clerk or treasurer; and if both the county councils so give notice, the Conservancy shall appoint such one or other of such clerks or treasurers (as the case may be) as to the Conservancy seems fit.

(2) The Conservancy may pay to their officers such reasonable remuneration as they may determine.

(3) A person shall, so long as he is, and for twelve months after he ceases to be, a member of the Conservancy, be disqualified from being appointed to any paid office of the Conservancy.

(4) Section 119 of the Act of 1933 (which provides for the taking of security by a local authority in respect of any officer employed by them and any other person likely to be entrusted with money or property belonging to them) shall have effect as if references therein to a local authority, and to officers employed by a local authority, included respectively references to the Conservancy and to officers employed by the Conservancy.

(5) Section 120 of the Act of 1933 (which relates to the accountability of officers of local authorities) shall have effect in relation to any officer employed by the Conservancy as it has effect in relation to officers employed by local authorities, subject to the necessary modifications.

(6) Section 123 of the Act of 1933 (which requires an officer of a local authority to disclose his interest in any contract of the authority) shall have effect in relation to any officer employed by the Conservancy as it has effect in relation to officers employed by local authorities, subject to the necessary modifications and, in particular, as if the reference in subsection (1) of that section to subsections (2) and (3) of section 76 of that Act were a reference to those subsections as applied by subsection (4) of section 6 (Appointment of members of Conservancy) of this Act.

53.—(1) As from the day of transfer the Conservancy shall take over and employ any officer who immediately before that day was employed on a full-time basis by a transferring undertaker wholly or mainly in connection with a transferred undertaking (and who shall be willing to enter the service of the Conservancy) on terms and conditions not less favourable than those on which he was employed by the transferring undertaker immediately before the appointed day:

PART V
—cont.

Transfer of
staff.

Provided that the Conservancy shall not be required to take into their service any officer whose contract of service was entered into after 1st August, 1970, unless such contract was entered into to replace an officer who had left the service of the transferring undertaker and contained terms and conditions substantially similar to those of the contract of that officer or unless such contract was entered into with the approval of the county councils.

(2) Any question which may arise under the last preceding subsection between the Conservancy and a person who enters their service pursuant to the said subsection may be reported by the Conservancy or by such person to the Secretary of State for Employment and Productivity and, if a dispute so reported is not otherwise disposed of, the Secretary of State shall refer it for determination by the industrial court.

54.—(1) Any officer of a transferring undertaker employed in connection with a transferred undertaking before the day of transfer who suffers loss of employment or loss or diminution of emoluments attributable to the transfer of such undertaking shall be entitled to have his case for the payment of compensation considered by the transferring undertaker by whom he was so employed, and the provisions of the Local Government (Compensation) Regulations, 1963, as to the determination and payment of compensation, and of the Redundancy Payments Statutory Compensation Regulations, 1965, as to set-off of redundancy payments against statutory compensation, shall, with the necessary adaptations, apply accordingly.

(2) (a) The material date for the purposes of the said regulations of 1963 as so applied (other than regulations 3 and 5 (1)) shall be the day of transfer or the date on which the loss or diminution occurs, whichever is the earlier, and for the purposes of the said regulations 3 and 5 (1) shall be the date of the passing of this Act.

(b) The compensating authority shall be the authority by whom the person is last employed or the emoluments are last paid, as the case may be, before the loss of employment or loss or diminution of emoluments is suffered.

PART V
—cont.
1937 c. 68.

(3) Section 6 (5) of the Local Government Superannuation Act, 1937 (which relates to the payment of superannuation contributions on the reduction of remuneration), shall apply to any officer of a transferring undertaker who suffers a diminution of emoluments attributable to the transfer of such undertaking.

(4) Where under section 6 (5) of the said Act of 1937 as applied by the preceding paragraph a protected person pays contributions to a superannuation fund as if his remuneration had not been reduced, he shall be deemed for the purposes of regulation 3 (1) of the Local Government Superannuation (Benefits) Regulations, 1954, or proviso (b) to section 8 (5) of the said Act of 1937 to have received the remuneration which he would have received but for the reduction.

Power to
provide
dwelling-
houses and
make loans.

55. The Conservancy may subject to such terms and conditions as they think fit—

- (a) from time to time erect or provide on any lands belonging to them and may purchase, take on lease or hire elsewhere dwellinghouses for persons employed by them and may (without prejudice to their power to impose other terms and conditions) permit the same to be occupied by such persons with or without payment of any rent;
- (b) permit a person formerly in their employment to continue to occupy a dwellinghouse provided by them after his employment with the Conservancy has ceased;
- (c) make loans to persons employed by them to assist such persons to acquire housing accommodation and may guarantee loans made by building societies and other lenders for house purchase purposes to such persons;
- (d) continue a loan made by them to a person formerly in their employment after his employment with the Conservancy has ceased or the guarantee of a loan given by them in respect of such a person.

1967 c. 29.

For the purposes of this section the provisions of Part II of the Housing Subsidies Act, 1967, shall subject to any necessary modifications apply to the Conservancy as if they were a county council.

Superannua-
tion.

56.—(1) As from the appointed day the Conservancy shall be included among the local authorities specified in Part I of Schedule 1 to the Local Government Superannuation Act, 1937.

(2) Notwithstanding anything in section 4 of the Local Government Superannuation Act, 1937 (which specifies the appropriate superannuation fund to which contributions are to be made), the appropriate superannuation fund in relation to all contributory employees of the Conservancy shall be such fund maintained by one or other of the county councils as may be designated at the first meeting of the Conservancy.

PART V
—cont.

(3) In this section the expressions “contributory employee” and “the appropriate superannuation fund” have the respective meanings assigned to them in the Local Government Superannuation Acts, 1937 to 1953.

57.—(1) The Conservancy 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 Conservancy 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 Conservancy or his dependant may have against any person other than the Conservancy or, except so far as may be agreed when the compensation is granted, against the Conservancy.

58. The provisions of section 57 (Compensation for injury to or death of officers) of this Act shall extend so as to authorise the Conservancy to pay compensation to any voluntary assistant or to a dependant of a voluntary assistant.

Extension of
section 57
to voluntary
assistants,
etc.

In this section “voluntary assistant” means a person who, at the request of the Conservancy, or an authorised officer of the Conservancy, 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 Conservancy.

PART VI

FINANCIAL

Common fund. 59.—(1) Except as otherwise expressly provided by this Act, all the receipts of the Conservancy shall be carried to a common fund and all expenses incurred by the Conservancy shall be defrayed out of that fund.

(2) The Conservancy shall make safe and efficient arrangements for the receipt of moneys paid to them and the issue of moneys payable by them and those arrangements shall be carried out under the supervision of the treasurer of the Conservancy.

Accounts.

60.—(1) The Conservancy shall keep accounts so as to distinguish capital from revenue and as regards revenue to show under a separate heading or division on the one side all income (including the interest on any reserve fund which the Conservancy may from time to time be authorised to set up when the said fund amounts to the prescribed maximum) and on the other side all expenditure such expenditure being divided so as also to show the amounts representing—

- (a) working and establishment expenses and cost of maintenance;
- (b) the interest on moneys borrowed by the Conservancy;
- (c) the requisite appropriations, instalments or sinking fund payments in respect of moneys borrowed;
- (d) all other expenses (if any) properly chargeable to revenue; and
- (e) any money expended on any of the purposes mentioned in section 61 (Application of revenue) of this Act.

(2) The Conservancy shall show in their accounts all items (including receipts and payments in respect of loans applicable thereto) which ought to be entered therein in order to show the financial position of the undertaking.

(3) In all cases in which the Conservancy keep separate accounts for separate purposes they shall so far as is reasonably practicable apportion between those accounts or carry to any of them any income and expenditure which from time to time ought to be so apportioned or carried.

1964 c. 40.

(4) Section 42 of the Harbours Act, 1964 (which relates to the accounts of harbour undertakings), shall not apply to the harbour undertaking of the Conservancy.

61.—(1) If in respect of any financial year the moneys received by the Conservancy on account of revenue excluding any deficiency contributions made by the county councils (but including the interest and other annual proceeds received by the Conservancy in that year on the investments representing or forming part of any fund accumulated for the redemption of debt or as a reserve, renewals, repairs, contingency or other similar fund) shall exceed the moneys expended or applied by the Conservancy for the several purposes mentioned in paragraphs (a), (b), (c) and (d) of subsection (1) of the last preceding section the Conservancy may in respect of that year (if they think fit but subject to the provisions hereinafter contained) apply out of the common fund of the Conservancy a sum not exceeding the amount of such excess to any of the following purposes:—

PART VI
—cont.
Application
of revenue.

- (a) in reduction of capital moneys borrowed;
- (b) in the renewal, construction, extension or improvement of any works and conveniences or in payment of any expenses which might otherwise have been defrayed out of capital moneys;
- (c) in providing a reserve fund by setting aside such an amount as they may from time to time think reasonable to the maximum from time to time prescribed by the Conservancy.

(2) Any reserve fund provided under this section may be applied—

- (a) in making good to the county councils contributions at any time previously made by them towards meeting any deficiency in the income of the Conservancy; or
- (b) in meeting any extraordinary claim or demand at any time arising against the Conservancy; or
- (c) for defraying any expenditure for which capital is properly applicable, or in providing money for repayment of loans (but not in making any annual payment required to be made in respect of loans); or
- (d) for defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or article;

and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

(3) Resort may be had to a reserve fund provided under this section although such fund may not at the time have reached or may have been reduced below the prescribed maximum.

62. The provisions of section 55 of the Local Government Consolidated Act, 1958 (which enables certain local authorities to establish consolidated loans funds), shall apply to the Conservancy as if 1958 c. 55. they were the council of a county.

PART VI
—cont.
Contributions
by county
councils.

63.—(1) As soon as may be after the appointed day the Conservancy shall cause to be submitted to them for their approval an estimate of their income and expenditure during the period commencing on the appointed day and terminating on 31st March, 1973, and, before the 1st December preceding the financial year commencing on 1st April, 1973, and every succeeding financial year thereafter, shall cause to be submitted to them an estimate of their income and expenditure during the then succeeding financial year.

(2) Any estimate submitted under subsection (1) of this section may include as part of the estimated expenditure an amount to make provision for a reasonable working balance.

(3) The Conservancy shall send copies of the estimates submitted and approved by them under the foregoing provisions of this section to the county councils as soon as may be in the case of the estimate in relation to the period commencing on the appointed day and terminating on 31st March, 1973, and (subject to the provisions of subsection (6) of this section) in the case of any other estimate not later than the 31st December in the financial year in which it is prepared.

(4) Subject to the provisions of subsection (7) of this section the Conservancy may raise by way of contributions from the county councils in equal shares the sum estimated as aforesaid to be required by the Conservancy to meet expenditure for defraying which provision is not otherwise made.

(5) The respective amounts demanded from the county councils by contributions under this section shall be paid by them respectively by such instalments payable in such amounts and at such times as may be agreed between the Conservancy and the county councils:

Provided that where the Conservancy cause to be submitted to them an estimate of any deficiency in accordance with the next following subsection, such instalments shall as respects the remaining part of that year be increased so as to secure the payment in that year of the further contributions required.

(6) Subject to the provisions of subsection (7) of this section, if at any time during a financial year it appears to the Conservancy that the aggregate amount which they have raised by way of contributions for that year will fall short of the aggregate amount required from the county councils by the Conservancy for that year, the Conservancy shall cause to be submitted to them an estimate of the amount of the deficiency; and the provisions of subsections (3) and (4) of this section shall have effect in relation to an amount estimated under this subsection as they have effect in relation to an amount estimated under subsection (1) of this section.

(7) Unless otherwise agreed by the county councils, the aggregate amount to be raised by way of contributions from the county councils shall not in any financial year exceed the product of four-hundredths of the product of a new penny rate for the combined areas of those councils as ascertained for their financial year immediately preceding that in which any estimate under subsection (1) of this section is submitted to them, or one-quarter of the total expenditure of the Conservancy properly attributable to revenue in such first-mentioned financial year, whichever is the less.

(8) The amounts paid by the county councils by way of contributions under this section shall be defrayed by them as expenses for general county purposes.

(9) Contributions from the county councils under this section shall be deemed to fall within the meaning of “rate” as defined in the Local Loans Act, 1875, and accordingly the Conservancy shall be deemed to be a local authority within the meaning of that Act. 1875 c. 83.

(10) For the purposes of this section, “product of a new penny rate” means the product of a rate of one new penny in the pound as determined for the purpose of subsection (2) of section 12 of the General Rate Act, 1967. 1967 c. 9.

64.—(1) Subject to the provisions of this section, the Conservancy may establish a fund to be known as “the capital fund” and to be used for defraying any expenditure of the Conservancy to which capital is properly applicable, or in providing money for repayment of loans (but not in making any annual payment required to be made in respect of loans). Capital fund.

(2) Subject to the provisions of this section, the Conservancy may pay into the capital fund—

- (a) any sums derived from the sale of any property of the Conservancy; and
- (b) such other sums as the Conservancy may by resolution direct;

and shall pay into the capital fund a sum equal to the amount of any income from the capital fund which is carried to the common fund of the Conservancy under subsection (1) of section 66 (Investment of moneys in capital and renewal and repairs fund) of this Act.

(3) The aggregate amount paid by the Conservancy into the capital fund under paragraph (b) of subsection (2) of this section shall not, except with the consent of the county councils, exceed in any financial year such sum as may from time to time be specified

PART VI
—cont.

by the county councils by notice in writing to the Conservancy, and no payment shall be made by the Conservancy into the capital fund so as to make that fund exceed such sum as the Secretary of State on the application of the Conservancy may from time to time determine.

(4) In the case of an application of moneys in the capital fund, the amount to be applied shall not in any one transaction exceed such sum as the Secretary of State on the application of the Conservancy may from time to time determine.

(5) All moneys derived from the sale of land which are applied from the capital fund shall, and all other moneys applied from the fund may, if the Conservancy think fit, be repaid by such annual instalments (with or without interest) and within such period as the Conservancy may determine.

Renewal and
repairs fund.

65.—(1) Subject to the provisions of this section, the Conservancy may establish a fund to be known as “the renewal and repairs fund” and to be used for defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or articles belonging to the Conservancy.

(2) Subject to the provisions of this section the Conservancy may from time to time pay into the renewal and repairs fund such sums from the common fund as they think fit, and shall so pay a sum equal to the amount of any income arising from the renewal and repairs fund which is carried to the common fund under subsection (1) of section 66 (Investment of moneys in capital and renewal and repairs fund) of this Act.

(3) No payment shall be made by the Conservancy into the renewal and repairs fund so as to make the renewal and repairs fund exceed such sum as the Secretary of State on the application of the Conservancy may from time to time determine.

Investment of
moneys in
capital and
renewal and
repairs fund.

66.—(1) Pending the application of the capital fund or the renewal and repairs fund or any reserve fund provided under section 61 (Application of revenue) of this Act, for the purpose for which those funds were respectively established, the moneys in those funds respectively shall (unless applied in any other manner authorised by any enactment) be invested in accordance with the following provisions of this section.

(2) Sections 1, 2, 5, 6 and 12 of the Act of 1961 (which relate to the investment powers of trustees) shall have effect in relation to any such moneys, and in relation to any investments or other property for the time being representing any such moneys, as if

they constituted a trust fund and the Conservancy were the trustees of that trust fund; and section 7 (2) of that Act shall have effect in relation to sections 1, 2, 5 and 6 of that Act as applied by this subsection as it has effect in relation to those sections as applied by section 7 (1) of that Act:

PART VI
—cont.

Provided that the provisions of the Act of 1961 as so applied shall have effect in relation to the fund subject to the following modifications:—

- (a) subsection (1) of section 2 of that Act shall have effect with the substitution for the words “equal in value” of the words “respectively in the proportions of one to three in value (in this Act referred to as ‘the prescribed proportion’)”;
- (b) paragraph (b) of subsection (3) of the said section 2 and sub-paragraph (b) of paragraph 3 of the Second Schedule to that Act shall have effect with the substitution, for the words from “each” to the end, of the words “the wider-range part of the fund is increased by an amount which bears the prescribed proportion to the amount by which the value of the narrower-range part of the fund is increased.”;

and section 13 of that Act shall not apply in relation to the fund.

(3) The Conservancy shall be included among the authorities to which section 11 of the Act of 1961 applies.

(4) Any income arising from any such moneys, investments or property as are mentioned in subsection (2) of this section shall be carried to the common fund of the Conservancy.

(5) In this section “the Act of 1961” means the Trustee Investments Act, 1961.

1961 c. 62.

67.—(1) A local authority may defray or contribute towards, or undertake to defray or contribute towards, expenditure incurred or to be incurred by the Conservancy for the purposes of this Act. Contributions and loans by local authorities.

(2) (a) A local authority may lend to the Conservancy and the Conservancy may borrow from the local authority such money as the local authority think fit to lend and as the Conservancy are authorised to borrow for the purpose for which such money is proposed to be borrowed and any money so lent shall be repaid to the local authority by the Conservancy within the period prescribed by the sanctioning authority or otherwise for the repayment thereof.

PART VI
—cont.

(b) Any agreement under this subsection may be made by resolutions passed respectively by the local authority and by the Conservancy.

(c) A local authority may borrow such sums as may be required for the purpose of lending money to the Conservancy under this subsection and the provisions of Part IX of the Act of 1933 shall extend to money borrowed by a local authority under this subsection as if it were borrowed under the said Part IX:

Provided that the consent of the sanctioning authority shall not be required.

(d) Every sum borrowed by a local authority under this subsection 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 Conservancy.

(e) A local authority shall be entitled to charge such rate of interest in respect of any particular loan under this subsection as may be agreed between the local authority and the Conservancy.

(3) The expression “local authority”—

(a) in subsection (1) of this section has the meaning assigned thereto in the Local Loans Act, 1875;

(b) in subsection (2) thereof means the Greater London Council, either of the county councils or the council of any borough or urban or rural district in the county of Hampshire or the administrative county of West Sussex.

1875 c. 83.

Inspection
and audit
of accounts.

68.—(1) The accounts of the Conservancy shall at all reasonable times be open to inspection and transcription without payment by any member of a constituent council or by any officer of a constituent council authorised by that council for that purpose.

(2) (a) The accounts of the Conservancy shall be audited annually.

(b) The Conservancy shall by resolution (in this section referred to as “the initial resolution”) adopt either the system of district audit or the system of professional audit. The initial resolution shall be passed not later than four months after the appointed day at a meeting of the Conservancy specially convened for the purpose with notice of the object of the meeting of which not less than one month’s previous notice shall be given to every member of the Conservancy.

(c) The provisions of Part X of the Act of 1933 (which relate to accounts and audit) (other than those of sections 237, 238 and section 239 (1) and (2)) shall with any necessary modification apply to the Conservancy as if the Conservancy were the council of a borough:

Provided that—

PART VI
—cont.

- (i) section 224 of the Act of 1933 shall have effect where the system of professional audit is adopted as that section has effect in the case of procedure by district audit;
- (ii) the following paragraph shall be substituted for section 239 (3) (b) of the Act of 1933:—

“ (b) No person shall be qualified to be so appointed unless he is a member or in the case of a firm all the partners therein are members of one or more of the following bodies:—

The Institute of Chartered Accountants in England and Wales;

The Institute of Chartered Accountants of Scotland;

The Association of Certified and Corporate Accountants;

The Institute of Chartered Accountants in Ireland;

The Institute of Municipal Treasurers and Accountants;

Any body of accountants established in the United Kingdom which is for the time being recognised for the purposes of section 161 (1) (a) of the Companies Act 1948 by the Secretary of State ”; and 1948 c. 38.

- (iii) section 239 (4) of the Act of 1933 shall not apply to the initial resolution.

(3) It shall be lawful for the Conservancy subject to the consent of the Secretary of State at any time after the expiration of a period of five years from the date of the initial resolution and thereafter from time to time by means of a subsequent resolution passed and confirmed in accordance with the said section 239 (4) to adopt the other of the two systems which are referred to in subsection (2) (b) of this section.

(4) A copy of the abstract of accounts of the Conservancy and of any report to the Conservancy made by any auditor shall be sent by the Conservancy to each constituent council as soon as may be after the completion of the audit.

69.—(1) The Conservancy may borrow—

Power to
borrow.

- (a) such sums as may be necessary for any of the purposes of this Act;
- (b) without the consent of the Secretary of State, such sums as may be requisite for the purpose of the payments to be made to the transferring undertakers pursuant to subsection (2) of section 14 (Payments to transferring undertakers) of this Act.

PART VI
—cont.

(2) Every sum borrowed under paragraph (a) of the foregoing subsection shall be repaid within such period from the date of borrowing as the Conservancy may, with the consent of the Secretary of State, determine.

(3) Every sum borrowed under paragraph (b) of subsection (1) of this section shall be repaid within such period from the date of borrowing as the Conservancy, without the consent of any sanctioning authority, may determine, not exceeding in the case of borrowings for the purpose of the purchase of lands or easements sixty years, and in the case of borrowings for other purposes, forty years.

(4) Moneys borrowed by the Conservancy under subsection (1) of this section shall be charged indifferently on all the revenues of the Conservancy and any securities created by the Conservancy shall rank equally without any priority.

1963 c. 46.

(5) Sections 196, 198 and 199, 203 to 206, section 207 (except subsection (5)) and sections 208 to 216 of the Act of 1933 and sections 7, 8 and 10 of, and Schedule 1 to, the Local Government (Financial Provisions) Act, 1963, so far as they are applicable to the borrowing of money under subsection (1) of this section, shall apply to any borrowing thereunder subject to any necessary modifications and in particular to the following modifications:—

- (a) for references to a local authority there shall be substituted references to the Conservancy;
- (b) for references to the clerk of a local authority there shall be substituted references to such officer as shall be appointed for the purpose by the Conservancy;
- (c) for references to the county fund or the general rate fund there shall be substituted references to the common fund of the Conservancy;
- (d) the expression “undertaking” shall be construed as including any facility provided by the Conservancy, the loan charges and running costs of which are expected taking one year with another to be met by an admission or other charge made in respect of that facility or, if the facility is operated by some other person, by the rent or other payments made by that person to the Conservancy.

1965 c. 63.

(6) The modes by which the Conservancy may raise money which they are authorised to borrow shall include borrowing by means of an agreement with the Public Works Loan Commissioners under section 2 of the Public Works Loans Act, 1965.

Saving for
powers of
Treasury.

70. It shall not be lawful to exercise the powers of borrowing conferred upon the Conservancy by this Act otherwise than in compliance with the provisions of any order for the time being

in force made under section 1 of the Borrowing (Control and Guarantees) Act, 1946 (which authorises the Treasury to make regulations for the control of borrowing).

PART VI
—cont.
1946 c. 58.

PART VII

HARBOUR CHARGES

71.—(1) In addition to their powers to demand, take and recover ship, passenger and goods dues under section 26 of the Harbours Act, 1964, the Conservancy may demand, take and recover in respect of any dracone or floating dock, crane rig, drilling rig or other floating plant which is not a ship, as defined by section 57 of that Act, entering, using or leaving the harbour such charges as they think fit; and the provisions of sections 30, 31, 32 and 34 of that Act shall, with any necessary modifications, apply to the charges authorised by this subsection as they apply to ship, passenger and goods dues.

Power to
make certain
charges.
1964 c. 40.

(2) (a) The Conservancy may demand, take and recover such reasonable charges in respect of anything done or provided by them or on their behalf as they may determine.

(b) In this subsection “charge” does not include ship, passenger or goods dues as defined by the said section 57 of the Harbours Act, 1964, or a charge authorised by subsection (1) of this section.

72. The powers of the Conservancy under section 26 (2) of the Harbours Act, 1964, for the levying of ship, passenger and goods dues at the harbour and all other the powers of the said Act of 1964, this Act and the enactments incorporated therewith for the levying and payment of or otherwise in connection with such charges shall extend to any vessel in any lake, pit, pond or other substantially enclosed water adjacent to the harbour and from which for the time being such vessel may be navigated (whether or not through a lock or other similar work) into the harbour.

Harbour
charges
leviable in
certain
adjoining
waters.

73. Charges shall be payable subject to such conditions as the Conservancy may from time to time specify in their published list of charges, including any condition that charges or particular charges shall be deemed not to have been paid unless there is affixed to such part of the vessel in respect of which the charge has been remitted as may be so specified, such mark or notice as may be supplied by the Conservancy as evidence of payment.

Conditions
relating to
payment of
charges.

74.—(1) The several charges which the Conservancy are for the time being authorised to demand, take and recover in respect of vessels and goods under any enactment shall be payable

As to
payment of
charges.

PART VII
—cont.

before the removal from the harbour of any vessel or goods in respect of which they are payable, and may be demanded, taken or recovered by such persons, at such places, at such times and under such regulations as the Conservancy may from time to time appoint.

(2) Charges payable to the Conservancy shall be payable by the owner of any vessel or goods in relation to which the charges are payable.

(3) Where charges payable to the Conservancy may be recovered by them from more than one person, the said persons shall be jointly and severally liable.

Penalty for
evading
payment of
charges.

75. If the owner of any vessel or goods shall at any time elude or evade, or attempt to elude or evade payment of or wrongfully refuse to pay any charges payable by such owner to the Conservancy at the time when the same shall become due and payable, he shall be liable to pay to the Conservancy a sum of fifteen pounds or a sum equal to three times the amount of such charges (whichever shall be the greater), which sum shall be a debt due to the Conservancy and shall be recoverable by the Conservancy in any court of competent jurisdiction.

Claims for
repayment
of charges.

76. Any person claiming the return of the whole or any part of any charges paid to the Conservancy shall make his claim, and produce all documents and give all information required by the Conservancy in proof thereof, within three years from the time of payment; and in default thereof the claim shall cease to be enforceable.

Deposit for
charges.

77. The Conservancy may, if they think fit, require any person liable, or to become liable, to pay charges to the Conservancy to deposit with their collector, or to guarantee such sum as, in the opinion of the Conservancy, is reasonable having regard to the probable amount of the charges.

Recovery of
charges.

78. In addition to any other remedy given by this Act and by the Act of 1847, as incorporated with this Act, and whether the demand required by section 44 of that Act has been made or not, the Conservancy may recover any charges payable to them as a debt in any court of competent jurisdiction.

Exemption of
river authority
vessels and
vehicles from
charges.

79. Vessels and vehicles belonging to or employed in the service of a river authority shall, as respects their use in the exercise of the functions of the river authority, be exempt, in the case of vessels, from the payment of ship, passenger and goods dues within the meaning of the Harbours Act, 1964, and, in the case of vehicles, from car parking charges imposed at any car park owned or managed by the Conservancy.

80. All persons going to or returning from any lifeboat or using any apparatus for saving life and being persons either belonging to the crew of the lifeboat or to the coastguard or being persons for the time being actually employed in saving life or in exercising or using the lifeboat or the apparatus for saving life and all persons brought ashore from any vessel in distress shall at all times have free ingress, passage and egress to, along and from the harbour.

PART VII
—cont.

Exemption of
lifeboat crew.

81. Officers of the Department of Trade and Industry being in the execution of their duty shall at all times have free ingress, passage and egress on, into, from, over, along, through, and out of the harbour and any works of the council by land, and with their vessels, and otherwise, without payment.

Officers of
Department
of Trade and
Industry
exempt from
dues.

PART VIII

MISCELLANEOUS AND GENERAL

82. The limits within which the Conservancy shall exercise jurisdiction as harbour authority shall comprise the area lying within the outer edge of the line coloured red on the signed plan.

Limits of
harbour.

83.—(1) The Conservancy may from time to time make, alter or repeal byelaws, as they think fit, for all or any of the following purposes:—

Byelaws.

(a) for the regulation of the mooring, careening, beaching or anchoring and keeping of vessels and houseboats in the harbour;

(b) for the regulation of the placing, laying down, maintaining, using and having existing and future moorings in the harbour and for the prescription of patterns of moorings in the harbour or on banks belonging to the Conservancy adjoining the harbour;

(c) for securing the good and orderly conduct and the safety of persons—

(i) in charge of or using vessels or houseboats in the harbour;

(ii) resorting to the amenity area;

(d) for preserving order and preventing and suppressing nuisances and offences against decency in the harbour or the amenity area;

(e) for the prevention or regulation of the disposal of—

(i) rubbish (including ballast, stones, earth, clay or other refuse and any other abandoned article or material whether liquid or solid but not including any substance the discharge or escape of which into the

PART VIII
—cont.

harbour is subject to the provisions of the Oil in Navigable Waters Acts, 1955 to 1971) in the harbour, whether or not from any vessel or houseboat;

(ii) sewage from any vessel or houseboat in the harbour;

- (f) for the regulation and control in the harbour of the navigation and speed of vessels and the prevention of obstruction to vessels using the harbour;
- (g) for regulating the launching of vessels within the harbour and the use of pontoons, slipways and landing places;
- (h) for securing the safety of vessels and persons using, and of property within the harbour;
- (i) for preventing damage to any land or property of the Conservancy situated in the harbour or the amenity area;
- (j) for regulating the speed of vehicles on any road in the amenity area, not being a road within the meaning of the Road Traffic Act, 1960;
- (k) for preventing or minimising the outbreak and spreading of fire on land of the Conservancy or under their control, including regulating or prohibiting the lighting of fires thereon;
- (l) for the preservation of flora and fauna in the harbour and the amenity area:

1960 c. 16.

Provided that—

- (i) before making or altering byelaws for any of the purposes mentioned in this subsection the Conservancy shall consult with the constituent councils;
- (ii) before making byelaws for any of the said purposes and relating otherwise than solely to the amenity area the Conservancy shall consult with any river authority concerned;
- (iii) no byelaw made under this section shall render unlawful the doing on private land outside the harbour of any act with the lawful authority of the owner or occupier.

In this paragraph “private land” means any land other than land to which the public has access (whether as of right or by express or implied permission);

- (iv) no byelaw made under this section shall have effect in so much of the amenity area as respects which byelaws under section 90 of the National Parks and Access to the Countryside Act, 1949, or section 41 of the Countryside Act, 1968, have been made by the Conservancy pursuant

1949 c. 97.

1968 c. 41.

to the powers of section 30 (Application of National Parks and Access to the Countryside Act, 1949, and the Countryside Act, 1968) of this Act and are for the time being in force.

PART VIII

—cont.

1949 c. 97.

1968 c. 41.

(2) Byelaws made under this section may relate to the whole of the harbour or the amenity area (as the case may be), or to any part thereof, and may make different provisions for different parts thereof; and in paragraph (e) of subsection (1) of this section the expression "harbour" shall include any lake, pit, pond or other substantially enclosed water adjacent to the harbour and from which for the time being vessels may be navigated (whether or not through a lock or other similar work) into the harbour:

Provided that no byelaws made under this section or under section 83 of the Act of 1847 shall extend to Emsworth Mill Pond in the urban district of Havant and Waterloo except that byelaws so extending may be made under paragraph (e) (as modified by this subsection) of subsection (1) of this section in the event of the said Emsworth Mill Pond being at any time water from which vessels may be navigated (whether or not through a lock or other similar work) into the harbour.

(3) The byelaws which may from time to time be made by the Conservancy in exercise of the powers in that behalf conferred on them by section 83 of the Act of 1847 and by subsection (1) of this section may provide for the imposition of a fine on summary conviction not exceeding fifty pounds and in the case of a continuing offence a further fine not exceeding five pounds for each day during which the offence continues after conviction therefor.

(4) Subsections (2) to (7) of section 250 and section 252 of the Act of 1933 shall apply to all byelaws made by the Conservancy in respect of the undertaking as if they were a local authority and the general manager or other officer designated for the time being by the Conservancy for that purpose of the Conservancy were the clerk of the local authority, and all fines imposed for the breach of any such byelaws shall be recoverable in manner provided by that Act for the recovery of fines.

(5) The confirming authority in relation to byelaws made under this section or under section 83 of the Act of 1847 shall be the Secretary of State.

(6) Where so provided by the byelaws, any duly authorised officer of the Conservancy, any constable or any person called to the assistance of such officer or constable may without other warrant than this Act arrest any person committing or having committed any offence against any such byelaw whose name or residence is unknown to and cannot be ascertained by such officer or constable.

PART VIII
—cont.

Offenders
against
byelaws to
make good
damage.

1970 c. 31.

84. Any person offending against or committing any breach or contravention of any of the provisions of this Act or of any byelaw made by the Conservancy under this Act or under any other enactment may be required in addition to any fine thereby incurred to pay to the Conservancy a sum in satisfaction of the cost of repairing or making good any damage directly or indirectly occasioned thereby to the property of the Conservancy and the provisions of section 41 of the Administration of Justice Act, 1970, shall apply to any sum required to be paid pursuant to this section as they apply in the cases specified in Part I of Schedule 9 to that Act.

Byelaws
relating to
certain
dangerous
goods.

1875 c. 17.
1928 c. 32.

85.—(1) The Conservancy may make byelaws as to the loading and discharging by vessels within the harbour of dangerous goods (which expression in this section does not include dangerous goods to which byelaws made by the Conservancy under the Explosives Act, 1875, or the Petroleum (Consolidation) Act, 1928, for the time being apply), and as to the bringing, handling, transport or storage of such goods within the harbour, and generally as to the precautions to be observed with respect to such goods while within the harbour, and such byelaws may in particular provide—

- (a) for regulating the places at which vessels are to load or discharge dangerous goods and the time and mode of, and the precautions to be taken on, such loading and discharging;
- (b) for regulating the places at which vessels carrying dangerous goods are to be moored; and
- (c) for the due enforcement of the byelaws.

(2) Where a person is charged with an offence against a byelaw in force under this section it shall be a defence for that person to prove that the offence was not caused or facilitated by any act or neglect on his part, or on the part of any person engaged or employed by him, and, if that person is charged as the owner or master of a vessel, that in addition all reasonable means were taken by the master to prevent the commission of the offence.

(3) The confirming authority in relation to byelaws made under this section shall be the Secretary of State for the Environment.

(4) Byelaws made under subsection (1) of this section may contain provisions for the imposing on persons offending against any of the byelaws of fines not exceeding, on summary conviction, one hundred pounds, and, on conviction on indictment, one thousand pounds.

(5) Before in any case making any byelaws under this section the Conservancy shall consult the Confederation of British Industry.

PART VIII
—cont.

(6) Nothing in any byelaw made under subsection (1) of this section shall prejudice or affect the operation of the Merchant Shipping (Dangerous Goods) Rules, 1965, as amended by the Merchant Shipping (Dangerous Goods) (Amendment) Rules, 1968.

86.—(1) The Conservancy may grant upon such terms and conditions as they may think fit licences for pleasure craft to be let for hire or to be used for carrying passengers for hire within the harbour, and to the boatmen or persons assisting in the charge or navigation of such craft, and may charge such reasonable annual fees for such licences, for any craft and for any boatman or other such person, as the Conservancy think fit.

Power to
license
pleasure craft.

(2) Any such licence may be granted for such period as the Conservancy may think fit, and may be suspended or revoked by the Conservancy whenever they shall deem such suspension or revocation to be necessary or desirable in the interests of the public:

Provided that the existence of the power to suspend or revoke the licence shall be plainly set forth in the licence itself.

(3) No person shall—

- (a) let for hire a pleasure craft not so licensed, or at any time during the suspension of the licence for the craft; or
- (b) carry, or permit to be carried, passengers for hire in a pleasure craft unless the craft, and the boatman in charge thereof and the navigator, are so licensed, or at any time during the suspension of the licence for the craft or the boatman or navigator:

Provided that this subsection shall not be taken to require a person to be licensed as a boatman who takes on hire a pleasure craft for purposes other than for profit.

(4) A licence under this section shall not be required for any craft which has a passenger certificate issued by the Secretary of State and valid for the voyage intended or, in the case of hovercraft, is currently registered in the United Kingdom.

(5) No person shall carry or permit to be carried in any pleasure craft licensed pursuant to this section a greater number of passengers for hire than shall be specified in the licence applying

PART VIII
—cont.

to such craft, and every owner of any such craft shall, before permitting the same to be used for carrying passengers for hire, paint or cause to be painted, in letters and figures not less than 1 inch in height and $\frac{3}{4}$ inch in breadth, on a conspicuous part of the said craft, his own name and also the number of persons which it is licensed to carry, in the form "Licensed to carry . . . persons".

(6) Any person who shall act in contravention of the provisions of this section shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding fifty pounds or for a second or subsequent offence to a fine not exceeding one hundred pounds.

(7) Any person deeming himself aggrieved by the withholding suspension or revocation of any licence under the provisions of this section may appeal to a magistrates' court held after the expiration of two clear days after such withholding, suspension or revocation:

Provided that the person so aggrieved shall give twenty-four hours' written notice of such appeal, and the ground thereof, to the clerk of the Conservancy, and the court shall have power to make such order as they see fit and to award costs, such costs to be recoverable summarily as a civil debt.

1875 c. 55.
1907 c. 53.

(8) The powers of the Chichester Corporation, the district council and the Chichester Rural District Council under section 172 of the Public Health Act, 1875, and section 94 of the Public Health Acts Amendment Act, 1907, shall cease to have effect in the harbour.

(9) In this section "pleasure craft" means any vessel of not more than 100 tons gross.

Powers of
interrogation,
removal and
search.

87.—(1) Any duly authorised officer of the Conservancy may require any person on or seeking access to the harbour or any vessel using the harbour to state truly his name and address and the nature and place of his business thereon or his purpose thereon, or in seeking access thereto, and may require any such person to produce for inspection by such officer any pass or other authority which may have been issued to him by or on behalf of the Conservancy, and any person who fails to comply with any such requirement shall be guilty of an offence and liable to a fine not exceeding ten pounds.

1952 c. 44.

(2) Section 298 of the Customs and Excise Act, 1952, shall have effect for the purposes of this Act as if the harbour were the dock area of a port within the meaning of subsection (2) (c) of that section.

88.—(1) The owner or master of a vessel adrift in the harbour shall be guilty of an offence and shall be liable on summary conviction in respect thereof to a fine not exceeding fifty pounds.

PART VIII
—cont..

Vessels
adrift.

(2) It shall be a defence for the owner or master of a vessel charged with an offence under subsection (1) of this section to prove that the vessel did not become adrift as the result of any neglect or default on his part.

89. Section 52 of the Act of 1847, in its application to the Conservancy and to the harbour master—

Extension of
powers of
harbour
master to
give
directions.

(a) shall extend to empower the harbour master to give directions prohibiting the mooring or anchoring of vessels in any particular part or parts of the harbour; and

(b) shall not be construed to require the harbour master in emergency to give particular directions in the case of every vessel in respect of which it is desired to exercise any of the powers of that section, but in pursuance of that section for all or any of the purposes thereof the harbour master shall be entitled in emergency to give general directions applicable to all vessels or to particular classes of vessels.

90. Section 53 of the Act of 1847, in its application to the Conservancy and the harbour master, shall not be construed to require the harbour master to serve a notice in writing of his directions upon the master of a vessel and such directions may be given orally or otherwise communicated to the master on any occasion when it is not reasonably practicable for a written notice to be served on the master.

Directions
of harbour
master need
not be in
writing.

91.—(1) The Conservancy may provide, place and erect inside or outside the harbour and the approaches thereto in such places as they deem proper, lightships, lighthouses, buoys, beacons, guiding posts or signs for the guidance of vessels proceeding to or from the harbour.

Marking
harbour and
approaches.

(2) The Conservancy may maintain and repair any lightships, lighthouses, buoys, beacons, guiding posts or signs provided and erected by them under subsection (1) of this section.

(3) The Conservancy shall have the powers and be subject to the duties of a local lighthouse authority as set out in Part XI of the Merchant Shipping Act, 1894.

1894 c. 60.

92. The Conservancy shall be a local lighthouse authority for the purpose of the Merchant Shipping Act, 1894.

Conservancy
to be local
lighthouse
authority.

PART VIII
—cont.Powers of
local and
other
authorities,
etc.

93.—(1) It shall be lawful for any local authority, river authority, navigation authority, railway undertakers, statutory road passenger transport undertakers or public utility undertakers to enter into and carry into effect agreements or arrangements with the Conservancy for the accomplishment of the purposes of this Act and for those purposes to appropriate and use any land or property for the time being belonging to or held by them and such agreements or arrangements may include provision for the defraying of or making of contributions by the Conservancy towards expenditure incurred in connection therewith.

(2) In this section—

“local authority” means the Greater London Council or the council of any London borough, the Hampshire County Council or the West Sussex County Council, or the council of any county bordering the county of Hampshire or the administrative county of West Sussex, the county boroughs of Bournemouth, Portsmouth or Southampton or the council of any borough, county district, parish or parish meeting within any of the counties aforesaid;

“navigation authority” means persons authorised by any enactment to work, maintain, conserve, improve or control any canal or other inland navigation or any navigable river;

“public utility undertakers” means persons authorised by any enactment to carry on any of the following undertakings, that is to say, an undertaking for the supply of electricity, gas, water or hydraulic power;

“railway undertakers” means persons authorised by any enactment to carry on a railway undertaking or a light railway undertaking;

“statutory road passenger transport undertakers” means persons authorised by any enactment to carry on an undertaking for the transport of passengers by road.

Payment of
members’
allowances.
1948 c. 26.

94.—(1) The Conservancy shall be a body to which Part VI of the Local Government Act, 1948 (which makes provision for the payment of allowances to members of local authorities and other bodies), applies.

(2) For the purposes of this section a person acting as a deputy for a member of the Conservancy shall when so acting be deemed to be a member of the Conservancy.

95. The Conservancy may accept gifts from any company, body or person for or in connection with the exercise of any of their functions under this Act, including gifts of land.

PART VIII
—cont.

Acceptance of gifts.

96. Nothing in this Act shall authorise the Conservancy—

Saving for river authorities.

(a) to carry out, or to grant any works licence authorising to be carried out, any works in any part of the harbour which is shown as being designated as main river on the map prepared by the Minister of Agriculture, Fisheries and Food under section II of the Water Resources Act, 1963; or

1963 c. 38.

(b) to carry out, or to grant any dredging licence authorising to be carried out, any dredging works in any part of the harbour or the approaches thereto;

except after consultation with the river authority concerned.

97. Nothing contained in or done under this Act shall—

Saving manorial rights of Manor of Bosham, Manor of Bosham Buckfold and Manor of Chidham.

(1) prejudice, alter or in any way affect; or

(2) confer on the Conservancy or any other person any powers which are inconsistent with ;

any estate, right, interest, franchise, privilege, custom, exemption or authority of the lord of the manor for the time being of the Hundred and Manor of Bosham, the Manor of Bosham Buckfold, and the Manor of Chidham, or any of them, into, over, with respect to or in connection with—

(a) the foreshore, bed or soil of the harbour, or any part thereof;

(b) the quay known as Bosham Quay; or

(c) the harbour or any part thereof.

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

For protection of certain statutory undertakers.

(1) In this section—

“the undertakers” means the Gas Council, the gas board, the electricity board, the water company or any of them as the case may be:

(2) (a) The provisions of subsection (1) of section 31 (Power to construct, maintain and improve works) of this Act shall not apply to any electricity work, gas work or water work except with the written consent of the undertakers;

PART VIII
—cont.

- (b) In the exercise of the powers of the said section 31 the Conservancy shall not, except with the written consent of the undertakers, interfere with, damage or injuriously affect any electricity work, gas work or water work and the said powers shall be so exercised as not to obstruct or render less convenient, so far as is reasonably practicable, the access to any electricity work, gas work or water work:
- (3) (a) Before granting to any person a works licence or a dredging licence to carry out works or dredging at, over, under or within 50 yards of any electricity work, gas work or water work the Conservancy shall submit to the undertakers particulars of the proposed works or dredging, as the case may be, and furnish them with such further particulars with respect thereto as the undertakers may reasonably require;
- (b) Upon the grant of a licence in respect of which notice is required to be given under paragraph (a) of this subsection, the Conservancy shall supply to the undertakers to whom the notice is given a copy of the licence and any conditions subject to which it is granted:
- (4) (a) Nothing in section 48 (Restriction on construction of works and dredging) of this Act shall apply to the construction, alteration, renewal, extension or maintenance by the undertakers of any electricity work, gas work or water work from time to time authorised under or by virtue of any enactment or any consent, wayleave or other instrument given or made under any enactment or make it unlawful for the undertakers to carry out in an emergency any work not so authorised or any dredging, necessary for the protection of or to ensure the efficient operation of any electricity work, gas work or water work subject to any directions necessary for the protection of navigation from time to time given by the Conservancy to the undertakers concerned;
- (b) If in an emergency the undertakers carry out any work or any dredging they shall inform the Conservancy as soon as practicable of the works or dredging being carried out:
- (5) Except in a case which is, in the opinion of the Conservancy, a case of emergency, the Conservancy shall before raising, removing or destroying any vessel sunk, stranded or abandoned in the harbour and within a distance of 150 yards of any electricity work, gas work or water work and before constructing, maintaining or

improving any of the works in the harbour specified in subsection (1) of the said section 31 give the undertakers as long notice as is practicable of their intention to do so:

- (6) Nothing in this section or in subsection (4) of section 36 (Power to dredge and sell materials) of this Act shall impose any liability on the Conservancy with respect to damage to any electricity work, gas work or water work unless it be shown that the Conservancy knew or ought reasonably to have known of the presence and positioning of that work:
- (7) Any difference which may arise between the Conservancy and the undertakers under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.

99. Notwithstanding anything in this Act or any Act incorporated with this Act the following provisions shall apply and have effect, that is to say:—

For
protection
of Men of
Bosham.

(1) In this section “ Man of Bosham ” means—

(a) any person who supplies the Conservancy with a certificate signed by two justices of the peace acting for the western division of the county of West Sussex nominated from time to time by the chairman of quarter sessions for the said county that he has established to their satisfaction that he was born at Bosham in the said county and prior to 1st December, 1937, earned a livelihood in fishing, yachting or boating in the harbour; and

(b) any lineal descendant of any such person who proves to the satisfaction of the Conservancy that he is such a lineal descendant;

so long as any such person or lineal descendant as aforesaid earns a livelihood in manner aforesaid and resides in Bosham:

- (2) Subject to the provisions of section 83 (Byelaws) of this Act, nothing in this Act shall prevent a Man of Bosham from retaining or replacing and using any mooring placed or used by him in the Bosham Channel before 1st December, 1937, or from placing, retaining and using any new mooring in such position in the said channel as shall be reasonably approved by the Conservancy:
- (3) Nothing in this Act shall entitle the Conservancy or any lessee of the Conservancy to demand, take or recover any rate or charge in respect of any vessel used for pleasure or passenger-carrying craft plying for hire belonging to a Man of Bosham:

PART VIII
—cont.

- (4) No byelaw made in pursuance of this Act or of any Act incorporated with this Act shall be deemed to prevent the use of firearms by a Man of Bosham for the purposes of shooting duck or other wild fowl:
- (5) Nothing in this Act affects prejudicially any right, privilege or exemption of any Man of Bosham conferred under or by virtue of certain letters patent granted in the fourth year of the reign of His Majesty King James the First.

For protection of National Trust.

100. For the protection of the National Trust for places of Historic Interest or Natural Beauty (hereinafter referred to as “the National Trust”) the following provisions shall, unless otherwise agreed in writing between the Conservancy and the National Trust, apply and have effect:—

- (1) Before in any case exercising the powers conferred by section 36 (Power to dredge and sell materials) of this Act within a distance of half a mile from any part of the land of the National Trust at East Head, the Conservancy shall give the National Trust not less than forty-two days’ notice in writing of their intention to do so and shall furnish to the National Trust full particulars relating thereto and the Conservancy shall consider any written representations made in the matter by the National Trust within the period of such notice:
- (2) (a) Nothing in section 45 (Licensing of works) or section 46 (Licence to dredge) of this Act shall relieve the holder of a licence granted under either of those sections from liability for damage caused in the exercise of the powers conferred by the licence to any land or property of the National Trust;
- (b) Before in any case granting any such licence for the carrying out of works or dredging within a distance of half a mile from any part of the land of the National Trust at East Head, the Conservancy shall give at least forty-two days’ notice of the application therefor to the National Trust and shall consider any written representations made in the matter by the National Trust within the period of such notice.

Repeals.

1938 c. lxxx.

101.—(1) Subject to the provisions of this Act, the provisions of the Emsworth Harbour Revision Order, 1968, and of Part II of the Chichester Corporation Act, 1938, shall, on the day of transfer, be repealed and all local enactments, charters, franchises, or other instruments on or before that day made or in force (whether made before or after the passing of this Act) under or by

virtue of which the district council or the Chichester Corporation levy dues or exercise any of the powers of a harbour authority in relation to the harbour or any part thereof shall on the day of transfer cease to have effect.

PART VIII
—cont.

(2) Notwithstanding the repeal effected by this section—

(a) byelaws, rules, regulations, orders and licences relating to the harbour or any part thereof, which immediately before the commencement of this Act were existing and valid, shall until repealed, altered or revoked or until their expiration continue in force and effect within the areas to which they apply respectively immediately before the day of transfer and may be enforced and all fines thereunder recovered by the Conservancy in like manner and with the same penalties as if this Act had not been passed;

(b) all works constructed or commenced under the powers of the said enactments, charters, franchises or other instruments may be continued and maintained by the Conservancy as heretofore by the transferring undertakers.

(3) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 38 of the Interpretation Act, 1889.

1889 c. 63.

102. Any dispute for the settlement of which no other provision is made by this Act arising in connection with the provisions thereof between the county councils shall be referred to arbitration.

Settlement
of disputes
between
county
councils.

103. Where under this Act any matter is to be referred to or determined by arbitration the reference shall be to a single arbitrator to be agreed upon between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other)—

Arbitration.

(a) in any case where the matter arises under section 12 (Information to be supplied before transfer), section 14 (Payments to transferring undertakers) or section 17 (Recovery and apportionment of debts) of this Act, by the President of the Institute of Municipal Treasurers and Accountants;

(b) in any case where the matter arises under section 98 (For protection of certain statutory undertakers) of this Act, by the President of the Institution of Civil Engineers;

(c) in any case where the matter arises under section 102 (Settlement of disputes between county councils) of this Act, by the President of the Law Society.

PART VIII
—cont.Application
of section 283
of Public
Health Act,
1936.

1936 c. 49.

Service of
notices by
Conservancy.

104. Section 283 of the Public Health Act, 1936 (which requires all notices, etc., to be in writing and authorises the Secretary of State to prescribe the form of any such notice, etc.), shall apply to the Conservancy as if the Conservancy were a council and as if references in that section to the said Act of 1936 were references to this Act.

105.—(1) Any document to which this section applies, being a document required or authorised to be served on any person, shall be deemed to be duly served—

(a) where the person to be served is a company, if the document is addressed to the secretary of the company at their registered office or at their principal office or place of business, and is either—

(i) sent by post; or

(ii) delivered at that registered office, or at the principal office or place of business, of the company;

(b) where the person to be served is a partnership, if the document is addressed to the partnership at its principal place of business, identifying it by the name or style under which its business is carried on, and is either—

(i) sent by post; or

(ii) delivered at the said place of business;

(c) where the person to be served is a public body, or a corporation, society or other body, if the document is addressed to the clerk, secretary, treasurer or other head officer of that body, corporation or society at its principal office, and is either—

(i) sent by post; or

(ii) delivered at that office;

(d) in any other case, if the document is addressed to the person to be served, and is either sent to him by post or delivered at his residence or place of business.

(2) Any document to which this section applies, being a document required or authorised to be served on the owner or occupier of any premises, may be addressed “the owner” or “the occupier”, as the case may be, of those premises (naming them) without further name or description, and shall be deemed to be duly served—

(a) if the document so addressed is sent or delivered in accordance with paragraph (d) of subsection (1) of this section; or

(b) if the document so addressed, or a copy thereof so addressed, is delivered to some person on the premises or, where there is no person on the premises to whom it can be delivered, is affixed to some conspicuous part of the premises.

(3) Where a document to which this section applies is served on a partnership in accordance with this section, the document shall be deemed to be served on each partner.

PART VIII
—cont.

(4) (a) For the purpose of enabling the Conservancy to serve any document or make any order which by any of the provisions of this Act they are authorised or required to serve or make, the Conservancy may by notice require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises, to state in writing the nature of his interest therein, and the name and address of any other person known to him as having an interest therein, whether as a freeholder, mortgagee, lessee or otherwise.

(b) Any person who, having been required in pursuance of this subsection to give any information, wilfully refuses or neglects to give that information, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding fifty pounds.

(5) This section applies to any notice, order or other document which is required or authorised by any enactment to be served by or on behalf of the Conservancy, or by an officer of the Conservancy, not being a document to the service of which the provisions of some enactment other than this section are applicable.

(6) For the purposes of this section, a notice, order or other document shall be deemed to be a notice, order or other document which is required or authorised to be served on a person if it is required or authorised to be notified, given or transmitted, or (in the case of a demand) if it is required or authorised to be made to that person, and in this section the expressions "served" and "service" shall be construed accordingly.

106.—(1) Any notice, order or other document which the Conservancy are authorised or required by or under any enactment (including any enactment in this Act) to give, make or issue may be signed on behalf of the Conservancy by any officer of the Conservancy authorised by the Conservancy in writing to sign documents of the particular kind or the particular document, as the case may be.

Authentica-
tion of
documents.

(2) Any document purporting to bear the signature of an officer of the Conservancy stated therein to be duly authorised by the Conservancy to sign such a document or the particular document, as the case may be, shall be deemed, until the contrary is proved, to have been duly given, made or issued by the authority of the Conservancy.

PART VIII
— cont.

In this subsection the word “signature” includes a facsimile of a signature by whatever process reproduced.

(3) Where any enactment makes, in relation to any document or class of documents, provision with respect to the matters dealt with by one of the two foregoing subsections, that subsection shall not apply in relation to that document or class of documents.

Inquiries.

107. The Secretary of State may cause to be held such inquiries as he may consider necessary in regard to the exercise of any powers or duties conferred or imposed upon him and the giving of any consent or approval or the making of any order or the confirmation of any byelaw under this Act, and section 290 of the Act of 1933 shall apply to any such inquiry as if it were an inquiry held in pursuance of subsection (1) of that section and the Conservancy were a local authority.

Crown rights.

108. Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular, nothing herein contained shall authorise the Conservancy to take, use or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary or any land, hereditaments, subjects or rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners or belonging to a government department or held in trust for Her Majesty for the purpose of a government department without the consent in writing of such commissioners on behalf of Her Majesty or, as the case may be, the consent in writing of that government department first had and obtained for that purpose.

Saving for
Coast
Protection
Act, 1949.
1949 c. 74.

109. Nothing in this Act shall affect the application to any operation of sections 18 and 34–36 of the Coast Protection Act, 1949 (which require the consent of the Board of Trade or the Secretary of State to certain operations and contain other provisions for the safety of navigation).

Saving for
town and
country
planning.
1962 c. 38.

110. Section 220 of the Town and Country Planning Act, 1962 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the Session of the 10 & 11 Geo. 6 for authorisation or regulation of development of the land), shall apply to this Act as if it had been passed during that Session; and accordingly the Town and Country Planning Acts, 1962 to 1968, and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

111.—(1) The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto shall, unless otherwise agreed, be borne by the county councils in equal shares and out of their respective county funds or out of moneys to be borrowed for that purpose as hereinafter provided.

PART VIII
—cont.
Costs of Act.

(2) (a) Each of the county councils may without the consent of any sanctioning authority borrow the respective sums requisite for the payment of the amounts of the said costs, charges and expenses payable by them and they shall repay all moneys so borrowed within such periods as the council by whom the money is borrowed may determine, not exceeding five years from the day of borrowing.

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

Section 5.

SCHEDULE

INCIDENTAL PROVISIONS WITH RESPECT TO THE CONSERVANCY
CORPORATE STATUS OF CONSERVANCY

1. The Conservancy shall be a body corporate with perpetual succession and a common seal.

MEETINGS OF CONSERVANCY

2. The first meeting of the Conservancy shall be held on such day and at such time and place as may be appointed by the clerk to the West Sussex County Council and the said clerk shall make arrangements for notice of the meeting to be sent by post to each member of the Conservancy not less than fourteen days before the day so appointed.

3.—(1) The first meeting of the Conservancy shall be the annual meeting for the year then current and thereafter the first meeting held after the 1st July in any year shall be the annual meeting.

(2) The Conservancy shall in every year after the first year hold an annual meeting and at least three other meetings for the transaction of general business which as near as may be shall be held at regular intervals.

(3) The chairman of the Conservancy may call a meeting of the Conservancy at any time.

(4) If the chairman refuses to call a meeting of the Conservancy after a requisition for that purpose, signed by three members of the Conservancy, has been presented to him, or if, without so refusing, the chairman does not call a meeting within seven days after such requisition has been presented to him, any five members of the Conservancy, on that refusal or on the expiration of seven days, as the case may be, may forthwith call a meeting of the Conservancy.

CHAIRMAN OF MEETING

4.—(1) At a meeting of the Conservancy the chairman of the Conservancy, if present, shall preside.

(2) If the chairman of the Conservancy is absent from a meeting of the Conservancy, the vice-chairman of the Conservancy, if present, shall preside.

(3) If both the chairman and vice-chairman of the Conservancy are absent from a meeting of the Conservancy, such member as the members of the Conservancy present shall choose shall preside.

APPOINTMENT OF COMMITTEES

5.—(1) The Conservancy may appoint a committee for the exercise of any of the functions of the Conservancy which in the opinion of the Conservancy can be better regulated and managed by means of the committee and may delegate to a committee so appointed the exercise of any such functions except the power of borrowing money or issuing a precept.

(2) Any such committee (other than a committee for regulating and controlling the finance of the Conservancy) may comprise persons who are not members of the Conservancy:

SCH.
—cont.

Provided that at least two-thirds of the members of every committee shall be members of the Conservancy.

PROCEEDINGS OF CONSERVANCY AND COMMITTEES

6. The proceedings of the Conservancy, or of any committee appointed by them, shall not be invalidated by any vacancy in their number or by any defect in the appointment, or qualification of, any person as a member, or as chairman or vice-chairman, of the Conservancy or committee; and, in particular, any such proceedings shall not be invalidated by the absence from the first or any other meeting of the Conservancy or any such committee of any member of the Conservancy who pursuant to subsection (2) of section 5 (Constitution of Conservancy) of this Act is to be appointed by the Advisory Committee.

7. Minutes of the proceedings of a meeting of the Conservancy, or of any committee appointed by them, purporting to be signed at the same or next ensuing meeting of the Conservancy, or, as the case may be, at the same or any subsequent meeting of the committee, by the person presiding thereat, shall be evidence of the proceedings, and shall be received in evidence without further proof; and until the contrary is proved, every meeting in respect of the proceedings of which a minute has been so signed shall be deemed to have been duly convened and held, and all the proceedings had at the meeting to have been duly had, and, if the proceedings are the proceedings of the committee, the committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

8. Subject to the provisions of this schedule the procedure and business of the Conservancy shall be regulated in such manner as the Conservancy may from time to time determine.

AUTHENTICATION OF CONSERVANCY'S SEAL

9. The application of the seal of the Conservancy shall be authenticated by the signatures of the chairman of the Conservancy or some other member thereof authorised by the Conservancy to authenticate the application of the seal thereof and of such officer as shall be authorised by the Conservancy to act in that behalf.

APPEARANCE IN LEGAL PROCEEDINGS

10. Section 277 of the Act of 1933 (which relates to the appearance of local authorities in legal proceedings) shall have effect in relation to the Conservancy as it has effect in relation to a local authority within the meaning of that Act.

