



CHAPTER xli

An Act to confer further powers upon the London County Council and other authorities and for other purposes.
[1st August 1951.]

WHEREAS under the Public Health (London) Act 1936 26 Geo. 5. & 1 Edw. 8.
(hereinafter referred to as "the Act of 1936") an appeal lies in certain cases to the London County Council c. 50. (hereinafter referred to as "the Council") against acts and decisions of sanitary authorities for the purposes of that Act and the Council is by the said Act required to appoint a committee for the hearing of such appeals:

And whereas it is expedient that more convenient provision should be made for the determination of questions arising under the Act of 1936 between sanitary authorities and persons aggrieved by the acts and decisions of such authorities and in particular for the bringing of appeals in such cases as aforesaid to a court of summary jurisdiction instead of to the Council:

And whereas it is expedient that expenses recoverable by sanitary authorities under the Act of 1936 from the owners of the premises in respect of which the expenses were incurred should be secured by a charge upon such premises:

And whereas it is expedient that the powers of the Council under the Act of 1936 with respect to the sale and disposal of sewage and refuse from sewers should be extended as by this Act provided:

And whereas it is expedient that the powers of the Council in relation to open spaces controlled or managed by them should be extended and amended as by this Act provided:

And whereas the time limited by certain enactments for the compulsory purchase of lands and the completion of certain

works by the Council will shortly expire and it is expedient that the time so limited should be extended as by this Act provided:

And whereas by the Kensington Borough Council (Superannuation) Acts 1907 to 1950 provision is made for the establishment by the council of the royal borough of Kensington (hereinafter referred to as "the Kensington Council") of a superannuation fund for the benefit of the employees of that council and it is expedient that the said Acts should be amended as provided by this Act:

And whereas by the Shoreditch and other Metropolitan Borough Councils (Superannuation) Acts 1922 to 1937 provision is made for the establishment by the councils of the metropolitan boroughs of Shoreditch Bermondsey Finsbury Greenwich Hammersmith Southwark and Stoke Newington of superannuation funds for the benefit of employees of those councils and it is expedient that the said Acts should be amended as provided by this Act:

And whereas it is expedient that the powers of the Council with respect to the execution of street improvements should be extended as by this Act provided:

And whereas it is expedient that the amounts chargeable upon rating areas within the county in respect of payments made by the Council under section 10 of the Local Government Act 1948 should be paid by the rating authorities of such areas in the manner provided by this Act:

11 & 12 Geo. 6.
c. 26.

And whereas it is expedient that metropolitan borough councils should be empowered to incur expenditure in connection with public ceremonies and acts by way of official courtesy and that the powers of the Council to incur such expenditure should be amended as by this Act provided:

And whereas it is expedient that metropolitan borough councils should be empowered to provide and maintain storage and stabling accommodation for use by street traders and other like persons displaced by reason of the exercise by those councils of their powers under the Housing Acts 1936 to 1949 or by the acquisition of lands under any other enactment:

And whereas it is expedient that metropolitan borough councils should be enabled to plant or otherwise improve disused burial grounds and other lands adjacent to highways for the purpose of preserving or enhancing roadside amenities in their boroughs and should also be enabled to make arrangements for the transfer to them of obligations to maintain and repair closed churchyards and burial grounds:

And whereas it is expedient that the council of the metropolitan borough of Hammersmith should be empowered to acquire by agreement and maintain landing stages on the river

Thames and that the other provisions contained in this Act with reference to such landing stages should be enacted:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the objects aforesaid cannot be attained without the authority of Parliament:

And whereas in relation to the promotion of the Bill for this Act the Council (as respects the appropriate provisions of the Bill) have complied with the requirements of section 151 of the London Government Act 1939 and the Kensington Council and the councils of the metropolitan boroughs of Bermondsey Finsbury Greenwich Hammersmith Shoreditch Southwark and Stoke Newington (as respects the provisions of the Bill relating exclusively to those councils) have complied with the requirements of sections 151 and 152 of the said Act of 1939 as amended by the London County Council (General Powers) Act 1948:

2 & 3 Geo. 6.
c. 40.

11 & 12 Geo. 6.
c. liii.

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

PART I

PRELIMINARY

1. This Act may be cited as the London County Council Short title. (General Powers) Act 1951.

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

Act divided
into Parts.

Part I.—Preliminary.

Part II.—Public health.

Part III.—Open spaces.

Part IV.—Extensions of time.

Part V.—Kensington Borough Council (superannuation).

Part VI.—Shoreditch and other metropolitan borough councils (superannuation).

Part VII.—Miscellaneous.

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

“the Act of 1935” means the London County Council (General Powers) Act 1935;

25 & 26 Geo. 5.
c. xxxiii.

“the Act of 1936” means the Public Health (London) Act 1936;

PART I
—cont.1 Edw. 8. &
1 Geo. 6.
c. xci.

“ the Act of 1937 ” means the London County Council (General Powers) Act 1937 ;

“ the Act of 1939 ” means the London Government Act 1939 ;

14 Geo. 6.
c. xlii.

“ the Act of 1950 ” means the London County Council (General Powers) Act 1950 ;

“ borough ” means a metropolitan borough and “ the borough ” means the metropolitan borough in relation to the council of which the expression is used ;

“ borough council ” means the council of a borough and “ the borough council ” means the council of the borough in relation to which the expression is used ;

“ the Council ” means the London County Council ;

“ the county ” means the administrative county of London ;

“ enactment ” includes any order or scheme made under any Act of Parliament ;

“ the Hammersmith Council ” means the council of the borough of Hammersmith ;

“ the Kensington Council ” means the council of the royal borough of Kensington ;

“ the Minister ” means the Minister of Local Government and Planning.

(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.

PART II

PUBLIC HEALTH

Interpretation
of expressions
in Part II
of this Act.

4. In this Part of this Act the expressions “ the common council ” “ owner ” and “ sanitary authority ” have respectively the same meanings as in the Act of 1936.

Cesser of
appeals to
Council under
Act of 1936.

5. Subject to the provisions of this Part of this Act as from the passing of this Act the following provisions of the Act of 1936 (namely) section 71 subsection (3) of section 83 subsection (5) of section 105 and subsection (3) of section 109 (which provisions confer upon persons aggrieved by certain acts and decisions of sanitary authorities rights of appeal to the Council) shall cease to have effect and in lieu of the said rights of appeal there shall be such rights of appeal and other rights as are conferred by this Part of this Act.

6. Subject as aforesaid as from the passing of this Act the sections of the Act of 1936 of which the numbers and marginal notes are set out in the first column of the schedule to this Act shall have effect subject to the amendments specified in relation to those sections respectively in the second column of the said schedule (being amendments providing for appeals to be brought to a court of summary jurisdiction by persons aggrieved as aforesaid and ancillary and consequential amendments):

PART II
—cont.

Amendment of provisions of Act of 1936 as to appeals against sanitary authorities.

Provided that nothing in the said schedule shall apply in relation to the common council.

7.—(1) Where application is made to a borough council for their consent—

As to refusal by borough council of consent to making etc. of sewer.

(a) under section 48 or section 49 of the Act of 1936 to the making or branching of a sewer ; or

(b) under section 50 of the Act of 1936 to the alteration or abandonment of any such work as is therein mentioned ;

and the borough council either refuse their consent or fail within five weeks after the receipt by them of the application to notify the applicant in writing of their decision thereon the applicant may subject to the provisions of the next following subsection give notice in writing to the borough council that he requires the question whether or not the consent was reasonably refused or is reasonably withheld (as the case may be) to be referred to and determined by the Council.

(2) Any such notice shall be given—

(a) where the notice relates to a refusal of consent within twenty-one days after the receipt by the applicant of notification of the refusal ; or

(b) where the notice relates to a failure of the borough council to notify the applicant of their decision within the said period of five weeks within twenty-one days after the expiration of that period ;

and the applicant shall at the same time as he gives such notice send a copy thereof to the Council.

(3) The Council shall (if so requested in writing by either the applicant or the borough council not later than fourteen days after the receipt by them of the copy of the notice) afford the applicant and the borough council an opportunity of being heard with respect to the subject matter of the notice by some competent person appointed by the Council for that purpose.

(4) As soon as conveniently may be after the expiration of the said period of fourteen days the Council shall take into consideration any representations which may have been made to them in writing not later than the expiration of that period

PART II
—cont.

by either the applicant or the borough council and the report of the person (if any) by whom the parties were heard and shall inform the parties of their determination and the Council may if they think fit give their consent in writing under this section to the making or branching of the sewer or the alteration or abandonment of the work (as the case may be) and where such consent is given the consent of the borough council which was refused or withheld shall be deemed to have been given.

(5) This section shall be construed as one with Part II of the Act of 1936.

As to certain
expenses
recoverable
by sanitary
authorities
under Act of
1936.

8.—(1) Where in pursuance of any provision of the Act of 1936 a sanitary authority have incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable either under that Act or by agreement with the authority those expenses together with interest from the date of service of a demand for the expenses may be recovered by the authority from the person who is the owner of the premises at the date when the works are completed or (if he has ceased to be the owner of the premises before the date when a demand for the expenses is served) either from him or from the person who is the owner at the date when the demand is served and as from the date of the completion of the works the expenses and interest accrued due thereon shall until recovered be a charge on the premises and on all estates and interests therein.

(2) A sanitary authority may by order declare any expenses recoverable by them under this section to be payable with interest by instalments within a period not exceeding thirty years until the whole amount is paid and any such instalments and interest or any part thereof may be recovered from the owner for the time being of the premises in respect of which the expenses were incurred.

(3) Where a sanitary authority claim to recover any expenses under the foregoing provisions of this section from any person and that person proves that he—

(a) is receiving the rent of the premises in respect of which the expenses were incurred merely as agent or trustee for some other person ; and

(b) has not and since the date of the service on him of a demand for payment has not had in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority ;

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid but a sanitary authority who are or would be debarred by this subsection from

recovering the whole of any such expenses together with any interest payable thereon from an agent or trustee may recover the whole or any unpaid balance thereof from the person on whose behalf the agent or trustee receives the rent.

(4) The rate of interest chargeable under subsection (1) or subsection (2) of this section shall be such rate as the authority may determine:

Provided that—

(a) the Minister may from time to time by order fix a maximum rate of interest for the purposes of this section generally or different maximum rates for different purposes and in different cases; and

(b) unless and until the Minister makes an order under the foregoing paragraph the maximum rate of interest chargeable as aforesaid shall be two and one-half per centum per annum.

(5) A sanitary authority shall for the purpose of enforcing a charge under this section have all the same powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagees by deed having powers of sale and lease of accepting surrenders of leases and of appointing a receiver. 15 & 16 Geo. 5. c. 20.

(6) Nothing in this section shall prejudice the operation of section 289 of the Act of 1936 (which empowers a sanitary authority to recover from the occupier for the time being of premises expenses due from the owner of those premises) or affect the provisions of the Land Charges Act 1925 with respect to local land charges. 15 & 16 Geo. 5. c. 22.

(7) The powers of the Minister of making orders under the proviso to subsection (4) of this section shall be exercisable by statutory instrument.

(8) This section shall be construed as one with the Act of 1936 and that Act shall be read and have effect as if this section were contained in Part XIV thereof.

9.—(1) Where before the commencement of this Act a sanitary authority made any order or passed any resolution or gave any direction or served any notice or did any other thing in respect of which a right of appeal to a court of summary jurisdiction would have been conferred by the foregoing provisions of this Part of this Act if they had then been in force the said provisions shall (so far as may be necessary for the purpose of enabling such appeal to be brought) be deemed to have come into force immediately before such order resolution direction or notice was made passed given or served or such other thing was done (as the case may be). Transitional provisions.

PART II
—cont.

(2) Where by virtue of the foregoing subsection an appeal is brought to a court of summary jurisdiction under section 286 of the Act of 1936 subsection (7) of that section shall apply but save as aforesaid nothing in this Part of this Act shall prevent any person raising in any proceedings brought against him by a sanitary authority for the recovery of any expenses incurred before the commencement of this Act any question which he might have raised if this Part of this Act had not been enacted.

(3) Notwithstanding anything in the foregoing provisions of this Part of this Act where at the commencement of this Act any person has given to the Council notice of appeal to the Council in respect of any matter the appeal may be heard and determined as if this Part of this Act had not been enacted and the appellant shall not be entitled to appeal to a court of summary jurisdiction in respect of the same matter unless he withdraws his appeal to the Council.

Extension of
powers
of Council as
to disposal of
sewage.

10.—(1) The powers of deodorising sewage and of selling or disposing of sewage from their sewers conferred upon the Council by Part II of the Act of 1936 shall be deemed to include the following powers (that is to say) the Council may—

- (a) convert any sewage matter into or otherwise produce from any sewage matter any merchantable or useful product ;
- (b) obtain and use for the purpose aforesaid all such materials matters and things as they may consider necessary or expedient ; and
- (c) sell or otherwise dispose of as they may think fit any such product as aforesaid.

(2) In this section the expression “sewage matter” means any sewage of which the Council are authorised or required by any enactment to dispose and any matter produced in deodorising such sewage and includes any such sewage or matter together with any other matter which is suitable for use therewith for the production of any such product as aforesaid.

(3) Anything done by the Council in pursuance of this section shall be deemed to be done in disposing of sewage or refuse from sewers and subsection (4) of section 31 of the Act of 1936 (which requires the Council in disposing of such sewage or refuse to act in such a manner as not to create a nuisance) and subsection (5) of the said section (which authorises a Secretary of State to take or direct the taking of proceedings in respect of nuisance committed by the Council in disposing of sewage or refuse from sewers) shall apply accordingly.

(4) This section shall be read and construed as one with Part II of the Act of 1936.

PART III

OPEN SPACES

11. Where in the exercise of the powers conferred by section 42 (Facilities for public recreation) of the Act of 1935 a part of any open space under the control and management of the Council is set apart or enclosed in connection with the provision of an entertainment and the part so set apart or enclosed (including any portion thereof set apart or enclosed for the use of persons listening to or viewing the entertainment) does not exceed one-tenth of the area of the open space paragraph (ii) of the proviso to subsection (1) of the said section 42 (which limits the part which may be set apart or enclosed for the use of persons listening to or viewing the entertainment) shall have effect as if for the words "one acre" therein there were substituted the words "five acres".

Enclosures in connection with entertainments in open spaces.

12.—(1) The provisions of Part V (Open spaces) of the Act of 1935 so far as they relate to the matters mentioned in subparagraph (ii) of paragraph (a) or in paragraph (c) of subsection (1) of section 42 (Facilities for public recreation) of that Act (which provisions as amended by section 7 (Amendments of Part V of Act of 1935) of the London County Council (General Powers) Act 1947 empower the Council to provide places for dancing and amusement fairs and entertainments in public open spaces under the control and management of the Council) and so far as such provisions may be applicable shall extend and apply to and in relation to the lands mentioned in subsection (2) of this section as if such lands were open spaces to and in relation to which the said Part V applies.

Provision of entertainments etc. by Council in certain recreation grounds.

10 & 11 Geo. 6.
c. xlvi.

(2) The lands referred to in the foregoing subsection are the following which are maintained by the Council under section 80 of the Housing Act 1936 (namely):—

- (a) the recreation ground known as Parsloes Park in the boroughs of Barking and Dagenham in the county of Essex; and
- (b) the recreation ground known as Shaftesbury Playing Field in the borough of Bromley in the county of Kent.

26 Geo. 5. &
1 Edw. 8.
c. 51.

PART IV

EXTENSIONS OF TIME

13.—(1) The time limited by—

- (a) the Act of 1937 as extended by subsequent enactments for the compulsory purchase of lands (i) in the boroughs of Saint Marylebone Paddington and Kensington for the purposes of paragraph (a) of subsection (1) of section 5 (Power to Council to take lands) of that Act and

Extension of time for compulsory purchase of lands.

PART IV
—cont.2 & 3 Geo. 6.
c. c.

(ii) in the borough of Lambeth for the purposes of paragraph (c) of the said subsection ;

(b) the London County Council (General Powers) Act 1939 as extended by subsequent enactments for the compulsory purchase of lands in the borough of Wandsworth for the purposes of paragraph (b) of subsection (1) of section 5 (Power to Council to take lands) of that Act ; and

2 & 3 Geo. 6.
c. ci.

(c) the London County Council (Improvements) Act 1939 as extended by subsequent enactments for the compulsory purchase of lands in the city of Westminster for the purposes of that Act ;

is hereby further extended until the first day of October nineteen hundred and fifty-four.

(2) (a) If any person being the owner or lessee of any land to which the foregoing subsection relates shall desire that any such land or his interest therein shall be acquired as soon as may be and shall give notice in writing to the Council of such desire the Council shall within a period of three months after the receipt of such notice enter into an effective contract with such person for the acquisition by agreement of such land or of the interest of such person therein or serve a notice to treat for the compulsory acquisition of such land or interest or notify their intention not to proceed with the purchase thereof.

(b) In any case in which the Council pursuant to paragraph (a) of this subsection notify their intention not to proceed with the purchase of any land or any interest in any land the powers conferred by the Act of 1937 or the London County Council (General Powers) Act 1939 or the London County Council (Improvements) Act 1939 (as the case may be) for the compulsory purchase of such land or interest shall cease.

Extension of
time for
completion of
works.1 & 2 Geo. 6.
c. lxxxii.

14. The time limited by the London County Council (Tunnel and Improvements) Act 1938 for the completion of the works in the boroughs of Wandsworth Poplar and Greenwich described in Part III of that Act and extended by subsequent enactments is hereby further extended until the first day of October nineteen hundred and fifty-six.

PART V

KENSINGTON BOROUGH COUNCIL (SUPERANNUATION)

Interpretation
of expressions
in Part V of
this Act.

7 Edw. 7.

c. xciv.

18 & 19 Geo. 5.

c. lxxvii.

15.—(1) In this Part of this Act—

“ the Act of 1907 ” means the Kensington Borough Council (Superannuation) Act 1907 ;

“ the Act of 1928 ” means the London County Council (General Powers) Act 1928 ;

- “ the Act of 1948 ” means the Superannuation (Miscellaneous Provisions) Act 1948 ; 11 & 12 Geo. 6
c. 33.
- “ the appointed day ” means the twenty-sixth day of September nineteen hundred and fifty-one ;
- “ contributor ” means a contributor to the fund whether an officer or a servant ;
- “ excepted contributor ” has the meaning assigned to that expression by section 17 (Election by existing contributors) of this Act ;
- “ the fund ” means the superannuation fund maintained by the Kensington Council under the Kensington Superannuation Acts ;
- “ the Kensington Superannuation Acts ” means the Kensington Borough Council (Superannuation) Acts 1907 to 1950 ;
- “ national service ” means compulsory national service within the meaning of the Act of 1948 and includes any period immediately following the termination thereof during which the officer or servant with the consent of the Kensington Council continues in similar service ;
- “ the regulations ” means the National Health Service (Superannuation) Regulations 1950 and save as otherwise expressly provided by subsequent regulations made by the Minister of Health under subsection (1) of section 67 of the National Health Service Act 1946 any reference to any provision of the regulations shall be construed as a reference to that provision as amended by any such subsequent regulations. 9 & 10 Geo. 6.
c. 81.

(2) For the purposes of this Part of this Act—

- (a) an officer or servant shall not be deemed to have ceased to be a contributor solely by reason that no contributions to the fund are for the time being payable by him in consequence of the suspension of his salary or wages and emoluments while he is absent from duty on account of illness or injury ;
- (b) an officer or servant who is or has been at any time engaged in national service and who immediately before entering upon national service was a contributor shall notwithstanding that he has ceased or ceases to pay contributions to the fund while so engaged be deemed to have been and to have continued without a break to be a contributor throughout any period of

PART V
—cont.

national service which he subsequently becomes entitled by virtue of any rules made under the Act of 1948 to reckon as service ;

and any reference in this Part of this Act to a contributor or an officer who is a contributor at a particular date or who continues to be a contributor shall be construed accordingly.

Modification
of benefits
under
Kensington
Superannua-
tion Acts.

16.—(1) As from the appointed day the provisions of section 3 (Title of officers and servants to superannuation allowances) section 4 (Scale of superannuation allowances) and section 17 (Case of subsequent appointment) of the Act of 1907 shall cease to apply to contributors to whom this section applies and in substitution for any superannuation allowances (including lump sum payments) which such contributors might have become entitled to receive in accordance with the said provisions there shall be payable out of the fund to and in respect of such contributors benefits in accordance with the following provisions of this section.

(2) The benefits conferred by this section are the like benefits as are conferred by regulations 7 to 10 (inclusive) and regulations 12 and 13 of the regulations subject—

- (a) in the case of an annual pension or injury allowance payable to a contributor to the like conditions with respect to the grant and payment thereof as are contained in regulations 23 and 24 of the regulations ; and
- (b) in the case of a retiring allowance to any increase which may become payable under subsection (3) of this section ;

and in relation to a contributor to whom this section applies the Kensington Superannuation Acts shall have effect as if the regulations hereinbefore specifically referred to by number were incorporated therein subject to the provisions of section 21 (Application etc. of regulations) of this Act and to any other necessary modifications :

Provided that where a person who on ceasing to be employed by the Kensington Council becomes entitled by virtue of this section to an annual pension or injury allowance is subsequently re-employed by any local authority and is in his new employment a contributory employee or local Act contributor within the meaning of the Local Government Superannuation Act 1937 regulation 5 of the Local Government Superannuation (Reduction and Adjustment of Superannuation Allowance) Regulations 1939 shall apply with any necessary modifications.

(3) The amount of any retiring allowance payable by virtue of this section to a contributor who is a contributor immediately before the appointed day shall be increased as nearly as may be in accordance with the provisions of paragraph (3) of regulation

29 of the regulations except that for the purpose of calculating any such increase any service on or after the appointed day shall be excluded.

PART V
—cont.

(4) This section applies to any contributor who is a contributor on or after the appointed day and is not an excepted contributor.

17.—(1) Any contributor who immediately before the appointed day is and thereafter until the time when he gives such notice as is hereinafter mentioned continues to be a contributor may at any time on or after the appointed day but not later than the twenty-fifth day of December nineteen hundred and fifty-one give notice in writing to the Kensington Council that he does not wish to avail himself of the benefits conferred by the last foregoing section.

(2) In relation to a contributor who immediately before the appointed day is engaged in national service and who re-enters the employment of the Kensington Council after the appointed day the foregoing subsection shall have effect as if for the twenty-fifth day of December therein mentioned there were substituted a date being three months after the date upon which he re-enters the said employment.

(3) A contributor who is entitled to give and who gives a notice in accordance with the foregoing provisions of this section shall so long as the notice is effective remain subject in all respects to the provisions of the Kensington Superannuation Acts with respect to the payment of a superannuation allowance (including any lump sum payment) to which he was subject immediately before the appointed day but without prejudice to the provisions of the next following section.

(4) A notice given by a contributor under this section shall be effective as from the appointed day and thereafter so long and only so long as the contributor continues without a break of more than twelve months at any one time to be a contributor.

(5) A contributor in relation to whom a notice given under this section is for the time being effective is in this Part of this Act referred to as “an excepted contributor”.

18. As from the appointed day a contributor (whether or not an excepted contributor) shall have the like right of allocating to his spouse or any dependant a part of the annual pension or allowance to which he becomes entitled or (in the case of a contributor who is still in the employment of the Kensington Council) to which he would be entitled if he ceased to be in that employment as is conferred by regulation 11 of the regulations and the Kensington Superannuation Acts shall have effect as if the said regulation and the First Schedule to the regulations

Allocation of part of pension or injury allowance to spouse or dependant.

PART V
—cont.

were incorporated therein subject to the provisions of section 21 (Application etc. of regulations) of this Act and any other necessary modifications.

Increase of
contributions
by officers.

19.—(1) As from the appointed day the percentage amount required by the Kensington Superannuation Acts to be contributed to the fund by an officer shall be six per centum of the salary or wages and emoluments upon which the contribution is calculated:

Provided that this subsection shall not apply to an officer who is a contributor immediately before the appointed day so long as he continues without a break of more than twelve months at any one time to be a contributor.

(2) Nothing in this section shall affect the operation of the proviso to section 6 (As to officers having special qualifications) or the proviso to section 14 (Contributions in respect of previous service) of the Act of 1907.

Return of
contributions.

20.—(1) Section 8 (Return of contributions and power to grant gratuities and superannuation allowances in certain cases) of the Act of 1907 and paragraphs (4) to (7) of section 40 (Amendment of Kensington Borough Council (Superannuation) Act 1907) of the Act of 1928 shall cease to have effect as from the appointed day in relation to a contributor other than an excepted contributor.

(2) Without prejudice to the provisions of section 7 (Forfeiture for fraud &c.) of the Act of 1907 a contributor other than an excepted contributor who on or after the appointed day ceases to be employed by the Kensington Council without becoming entitled to any of the benefits conferred by section 16 (Modification of benefits under Kensington Superannuation Acts) of this Act shall be entitled to receive from the fund an amount equivalent to the amount of his contributions and if any such contributor dies on or after the appointed day while still in the employment of the Kensington Council without any such benefit as aforesaid becoming payable to any other person in respect of him his personal representative shall be entitled to receive from the fund the amount of his contributions together with compound interest thereon calculated as hereinafter provided.

(3) Any such interest shall be calculated as nearly as may be in accordance with the provisions of regulation 22 of the regulations:

Provided that for the purpose of such calculation the said regulation 22 shall apply as if for the reference therein to calculation at the rate of two and one-half per centum per annum with yearly rests there were substituted a reference to calculation at the rate of three per centum per annum with half-yearly rests.

21. In the application and construction for the purposes of this Part of this Act of any provisions of the regulations the following provisions shall have effect:—

PART V
—cont.

Application
etc. of
regulations.

- (a) references to an officer shall be construed as references to a contributor;
- (b) references to the Minister of Health and employing authority respectively shall be construed as references to the Kensington Council;
- (c) references to average remuneration shall be construed in relation to a contributor as references to the amount which would be or would be deemed to be the average amount of his salary or wages and emoluments for the purposes of section 4 (Scale of superannuation allowances) of the Act of 1907 if that section applied to him with the substitution for the reference therein to five years of a reference to three years and section 18 (Calculation of average salary etc.) of the Act of 1950 were modified accordingly;
- (d) references to service and contributing service respectively shall be construed as references to service which is reckonable under the Kensington Superannuation Acts references to service of a specified number of years shall be construed as references to service which is so reckonable as service of that number of years and references to non-contributing service shall be disregarded;
- (e) references to pensionable age shall be construed as references to the age of sixty-five years;
- (f) references to forty-five years and forty-five-eightieths respectively shall be construed as references to forty years and forty-eightieths respectively; and
- (g) where any calculation of interest upon contributions is required to be made for the purposes of any provision of the regulations subsection (3) of the last foregoing section shall apply.

22. Where after the passing of this Act and before the appointed day there arise in relation to a contributor who was in the employment of the Kensington Council at the passing of this Act circumstances by reason of which if they had arisen on or after the appointed day the Kensington Council would have been authorised or required to pay benefits in accordance with the provisions of section 16 (Modification of benefits under Kensington Superannuation Acts) of this Act and the benefits which would have been so payable are in the aggregate more favourable to the persons who would have been entitled thereto

Power to
supplement
benefits in
certain cases.

PART V
—cont.

than the benefits to which those persons or any of them become entitled the Kensington Council may (if they think fit) make to such persons or any of them out of the fund such payments or such additional payments as they consider reasonable:

Provided that the aggregate of the payments made to any such person under this section and under the Kensington Superannuation Acts shall not exceed the amount which would have been payable to him if the provisions of the said section 16 had been applicable and the aggregate of all such payments made to or in respect of the contributor shall not exceed the aggregate of the benefits which would have been payable to or in respect of him if those provisions had been applicable.

Amendment of
Act of 1907.

23.—(1) As from the appointed day section 7 (Forfeiture for fraud &c.) and section 11 (Allowance not assignable) of the Act of 1907 shall respectively have effect as if—

(a) the reference in the said section 7 to a superannuation allowance included a reference to any benefit payable to the contributor by virtue of section 16 (Modification of benefits under Kensington Superannuation Acts) of this Act and any amount payable to the contributor under subsection (2) of section 20 (Return of contributions) of this Act; and

(b) the reference in the said section 11 to a superannuation allowance included a reference to any annual pension or annual allowance payable to or in respect of any contributor by virtue of the said section 16 or of section 18 (Allocation of part of pension or injury allowance to spouse or dependant) of this Act.

(2) Section 6 (As to officers having special qualifications) of the Act of 1907 shall in relation to an officer who is not an excepted contributor have effect as if for the words from “ And provided that nothing in this section ” to the end of the proviso in which those words occur there were substituted the words “ And provided also that any period added under this section in respect of an officer shall be reckoned only for the purpose of computing the amount of any benefit which becomes payable to or in respect of the officer and in determining in accordance with the provisions applicable to the case whether any right to the payment of such benefit has arisen such period shall be excluded ”.

(3) Section 10 (Notice of proposal to return contributions or grant gratuity) of the Act of 1907 is hereby repealed.

Determination
of questions
by Minister.

24.—(1) Any question which may arise under the Kensington Superannuation Acts or this Part of this Act with respect to the rights or liabilities of any contributor or of a person claiming to

be treated as a contributor or with respect to the title to or the amount of any superannuation allowance or other benefit (including a refund of any contributions whether with or without interest) payable to or claimed by any contributor or other person shall be decided in the first instance by the Kensington Council and if the contributor or other person is dissatisfied with any such decision or with the failure of the Kensington Council to come to a decision shall be determined by the Minister and the Minister's determination shall be final:

Provided that the Minister may at any stage of the proceedings on the reference to him and shall if so directed by the High Court state in the form of a special case for the opinion of the High Court any question of law arising in those proceedings.

(2) Section 21 (Arbitration) of the Act of 1907 is hereby repealed.

25.—(1) This Part of this Act shall be read and construed as one with the Kensington Superannuation Acts. Construction and citation of Part V of this Act.

(2) The Kensington Superannuation Acts and this Part of this Act may be cited together as the Kensington Borough Council (Superannuation) Acts 1907 to 1951.

PART VI

SHOREDITCH AND OTHER METROPOLITAN BOROUGH COUNCILS (SUPERANNUATION)

26. In this Part of this Act—

“borough council” means a borough council to whom the Shoreditch and other Metropolitan Borough Councils (Superannuation) Acts 1922 to 1937 apply; and Interpretation of expressions in Part VI of this Act.

“retired employee” has the meaning assigned to that expression by section 101 (Interpretation of expressions in Part X of Act) of the Act of 1937.

27.—(1) Where the superannuation allowance to which an employee— Increase in payments on death in certain cases.

(a) to whom subsection (1) of section 103 (Payments on death) of the Act of 1937 applies; and

(b) who had completed immediately before the date of his death five years' continuous service with the borough council in whose service he was at the date of his death;

would have been entitled if he had ceased to hold his employment immediately before his death would have included a lump sum greater than the average annual amount referred to in the proviso to the said subsection the said proviso shall have effect as if for the references therein to the said average annual amount there were substituted references to an amount equivalent to the said lump sum.

PART VI
—cont.

(2) For the purposes of the foregoing subsection it shall be assumed that an employee who had completed ten years' service or aggregate service would have been entitled to receive a superannuation allowance if he had ceased to hold his employment immediately before his death.

Notices under
section 106 of
Act of 1937.

28.—(1) A male employee of a borough council who if he ceased to hold his employment would become a retired employee may give to that borough council such a notice as is referred to in subsection (1) of section 106 (Annuities for widows &c. of employees of borough council) of the Act of 1937 at any time before he ceases to hold his employment and where a notice is given under this subsection the provisions of the said section 106 shall subject to the modifications expressed in subsection (2) of this section apply in relation to the notice and in relation to the employee by whom it is given as if it were a notice under the said subsection (1).

(2) The modifications hereinbefore referred to are as follows:—

(a) Paragraph (a) of subsection (2) of the said section 106 and Part I of the Fifth Schedule to the Act of 1937 or paragraph (a) of subsection (3) of the said section and Part II of the said schedule (as the case may be) shall have effect as if for the references therein (however worded) to the date of retirement of the employee there were substituted references to the date on which he gave the notice;

(b) If the employee dies without becoming entitled to a superannuation allowance and his wife survives him then (without prejudice to the provisions of subsection (1) of section 11 (Return of contributions in case of death) of the Shoreditch and other Metropolitan Borough Councils (Superannuation) Act 1922) his wife shall be entitled to receive under paragraph (b) of the said subsection (2) or paragraph (b) of the said subsection (3) (as the case may be) an annuity of the like amount as would have been payable to her thereunder if the employee had become a retired employee on the date of his death; and

(c) Any reference (including a reference in paragraph (b) of this subsection) to the wife of the employee or to the wife of the retired employee shall be construed as a reference to the person who was the wife of the employee on the date on which he gave the notice.

(3) An employee who has given a notice under subsection (1) of this section may withdraw such notice at any time before he ceases to hold his employment without prejudice to his right to give a fresh notice under that subsection or a notice under subsection (1) of the said section 106.

(4) References in subsection (10) of the said section 106 to that section shall be construed as references to that section as modified by this section and any resolution of a borough council under the said subsection whether passed before or after the commencement of this Act shall have effect accordingly.

PART VI
—cont.

29. This Part of this Act shall be construed as one with the Shoreditch and other Metropolitan Borough Councils (Superannuation) Acts 1922 to 1937 and those Acts and this Part of this Act may be cited together as the Shoreditch and other Metropolitan Borough Councils (Superannuation) Acts 1922 to 1951.

Construction
and citation
of Part VI of
this Act.

PART VII

MISCELLANEOUS

30.—(1) The Council when making widening or improving any street in the county under section 144 of the Metropolis Management Act 1855 may in connection with and as part of such making widening or improvement (as the case may be)—

(a) provide and instal traffic signs pedestrian crossings guard rails and places of refuge ; and

(b) plant trees and shrubs and lay out grass margins and erect guards or fences for the protection of such trees shrubs and margins.

Extension of
powers of
Council with
respect to
street
improvements.
18 & 19 Vict.
c. 120.

(2) No tree shrub grass margin guard or fence placed or laid out under the powers of this section shall be so placed or laid out as to hinder the reasonable use of the street by any person entitled to the use thereof or as to be a nuisance or injurious to the owner or occupier of any land or premises adjacent to the street.

(3) For the removal of doubts it is hereby declared that anything done in the exercise by the Council of any of the powers of this section in connection with the improvement of a street forms part of a reconstruction or widening of the street within the meaning of paragraph (a) of subsection (1) of section 21 of the Public Utilities Street Works Act 1950.

14 Geo. 6.
c. 39.

(4) In this section “ traffic sign ” has the meaning assigned to it by subsection (9) of section 48 of the Road Traffic Act 1930.

20 & 21 Geo. 5.
c. 43.

(5) This section shall be deemed to have been in force for the purposes of works carried out by the Council under the said section 144 in connection with the Festival of Britain 1951 and the improvement of Parliament Square.

PART VII

—cont.

Contributions
by rating
authorities for
purposes of
scheme under
section 10 of
Local
Government
Act 1948.
15 & 16 Geo. 5.
c. 90.
11 & 12 Geo. 6.
c. 26.

31.—(1) In this section—

“ the Act of 1925 ” means the Rating and Valuation Act 1925 ;

“ product of a penny rate ” means the amount produced by a rate of one penny in the pound as ascertained for the purposes of subsection (2) of section 9 of the Act of 1925 ;

“ the scheme ” means the scheme made under section 10 of the Local Government Act 1948 for the time being in force ; and

“ year ” means the period of twelve months beginning with the first day of April.

(2) For the purpose of securing that each rating area within the county is charged with its appropriate share (as defined in the next following subsection) of the sums payable by the Council to borough councils under the scheme the Council may require the rating authorities of such areas to pay to them contributions in accordance with the provisions of this section.

(3) For the purposes of this section the appropriate share aforesaid of a rating area shall be in respect of any year an amount which bears to the product of a penny rate for that area in that year the same proportion as the aggregate of the sums payable by the Council as aforesaid in respect of that year bears to the aggregate of the products of a penny rate for all rating areas within the county in that year.

(4) Notwithstanding anything in any other enactment a precept issued by the Council to a rating authority may require a contribution under this section payable by that authority to be paid by means of appropriate additions to the amounts of the instalments required by the precept to be paid to the Council on account of the amount due thereunder and the amount of the contribution which may be so required by any such precept shall be determined in accordance with the following provisions :—

(a) The Council shall on receiving from the Minister his estimates of the sums which will be payable by them to borough councils under the scheme in any year make an estimate of the appropriate share of each rating area in respect of that year and the contribution which may be required from a rating authority by a precept issued in respect of that year or part thereof shall be (subject to the provisions of the next two following paragraphs)—

(i) where the precept is issued in respect of the whole year the amount estimated by the Council as

aforesaid to be the appropriate share of the area of the authority ; and

(ii) where the precept is issued in respect of a part of the year a proportionate part of the amount so estimated ;

(b) The Council shall on receiving from the Minister any further estimates of the sums payable by them as aforesaid revise the estimates made by them as aforesaid in such manner as may be required having regard to the further estimates of the Minister and any other relevant information then available and on receiving from the Minister his statement of the sums finally determined by him to be payable by the Council to borough councils for the year in question they shall calculate the amount of the appropriate share of each rating area in respect of that year ;

(c) Where in relation to any rating area any estimate of the appropriate share of the area as revised by the Council as aforesaid or the amount of that share as calculated as aforesaid differs from the last preceding estimate of that share the amount of the difference shall be charged or allowed (as the case may require) to the authority of the area by way of addition to or deduction from a subsequent contribution or subsequent contributions.

(5) Rules made by the Minister under subsection (4) of section 9 of the Act of 1925 or under section 58 of that Act may include such provisions as appear to the Minister to be necessary in consequence of the foregoing provisions of this section.

(6) For the purposes of—

(a) any provision of the scheme which requires a payment thereunder to be effected in whole or in part by making the appropriate deduction from the amount due under a precept ;

(b) paragraph (g) of subsection (2) of section 9 of the Act of 1925 and section 13 of that Act ;

the amount of any contribution under this section which is required to be paid by means of additions to the amounts of the instalments payable under a precept shall be deemed to form part of the amount due under the precept but save as aforesaid or as otherwise expressly provided in accordance with the provisions of the last foregoing subsection by any such rules as are therein mentioned any such rules and any enactment applying to the precept shall apply thereto as if the additions to the instalments had not been required.

PART VII
—cont.

Expenses of Council and borough councils in connection with ceremonies etc.

32.—(1) In this section “authority” means the Council and a borough council.

(2) An authority may make reasonable payments for or in connection with—

- (a) the provision of public entertainments on the occasion of or otherwise in connection with public ceremony or rejoicing ;
- (b) the arrangement and conduct of ceremonies relative to or arising out of any statutory functions of the authority ;
- (c) the reception and entertainment by way of official courtesy of distinguished persons residing in or visiting the area of the authority and persons representative of or connected with local government or other public services and the supply of information to any such persons ;
- (d) visits by way of official courtesy by or on behalf of the authority ;

including payments for travelling expenses and for expenses reasonably incurred by or on behalf of any member or officer of the authority in connection with such visits as are referred to in the foregoing paragraph (d).

(3) Section 191 of the Act of 1939 is hereby repealed.

Improvement of roadside amenities etc. by borough councils.

33.—(1) For the purpose of preserving or enhancing the amenity of any part of their borough a borough council may subject to the provisions of this section plant trees in and carry out such other works and do such other things as they consider expedient for restoring or improving the appearance of any such lands as are referred to in subsection (2) of this section and may undertake the entire or partial maintenance of any such lands.

(2) The lands in respect of which a borough council may exercise the powers conferred upon them by the foregoing subsection are—

- (a) any unenclosed land abutting upon a highway vested in them or under their management ;
- (b) any disused burial ground within the meaning of the Open Spaces Act 1906 adjacent to any such highway ; and
- (c) any other land adjacent to any such highway and held by any persons for a charitable or other public purpose :

Provided that a borough council shall not exercise any of the said powers in respect of any land outside the borough except with the consent of the council of the borough county borough or county district in which the land is situated.

(3) (a) A borough council who propose to exercise any of the powers conferred upon them by subsection (1) of this section in respect of any land not belonging to them or under their control may enter into and carry into effect an agreement for that purpose with any persons entitled by virtue of an estate or interest in the land or by virtue of their being charged by or under any enactment or trust with the care and management of the land to do or authorise the doing of the things proposed to be done under the agreement and a borough council shall not exercise any of the said powers in relation to any such land except in accordance with an agreement so made.

(b) Any such agreement may provide for the carrying out of any planting or other works by a person other than the borough council upon such terms as may be provided under the agreement.

(4) Where a borough council consider that any trees which they propose to plant in a highway in the exercise of the powers conferred on them by section 49 (Borough councils may plant trees) of the London County Council (General Powers) Act 1904 could be more conveniently situated adjacent to instead of in the highway they may with the consent of all persons interested in any land abutting on the highway plant and maintain the trees in that land and for the purposes of the said section any land in respect of which such consent is obtained shall be deemed to form part of the highway. ^{4 Edw. 7. c. ccxliv.}

(5) The powers conferred by subsection (1) of this section do not include power to erect or maintain or to do any works or other things in or upon any building :

Provided that this subsection shall not prevent the erection or maintenance by a borough council of a boundary or retaining wall or any other structure reasonably required for the laying out or maintenance of land as distinct from a building.

(6) No power conferred by this section shall be exercised by a borough council—

(a) in the case of any exercise of the power conferred by subsection (4) of this section with respect to any land ;

(b) in any other case with respect to any land belonging to or under the control of the borough council ;

in such a manner as to be at variance with any trust for the time being affecting such land without an order of the High Court or the Charity Commissioners or the Minister of Education or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of such donor or other person.

PART VII
—cont.

Maintenance
of closed
churchyards
etc.
18 & 19 Vict.
c. 128.

34. Without prejudice to any power conferred upon them by the last foregoing section a borough council may agree with the persons responsible under section 18 of the Burial Act 1855 for the maintenance of a closed churchyard or burial ground situated within the borough for the transfer to the borough council either permanently or temporarily of all or any of the obligations of maintenance and repair imposed on those persons by that section in respect of that churchyard or burial ground and in so far as any such agreement so provides the said obligations shall be transferred accordingly.

Power to
provide
storage etc.
accommoda-
tion for
costermongers
etc.

35.—(1) For the purpose of securing the provision of storage and stabling accommodation for costermongers street traders and other like persons who in consequence of the exercise by a borough council of any powers under the Housing Acts 1936 to 1949 or the acquisition of lands by a borough council under any enactment are or have been displaced from premises in which similar accommodation was available to them the borough council may within their borough provide buildings suitable for use by such persons for the storage of vehicles or goods or as stabling in connection with the business carried on by them.

(2) A borough council may maintain any buildings provided by them under this section and may let any such buildings upon such terms as they consider reasonable to any persons having need of storage or stabling accommodation but they shall in any such lettings give preference to any costermongers street traders or other like persons who are or have been displaced as aforesaid:

Provided that notwithstanding anything in the Act of 1939 the provisions of section 107 of that Act shall apply in relation to any such letting.

(3) Section 35 (Power to Kensington Council to provide storage etc. accommodation for costermongers etc.) of the Act of 1950 is hereby repealed and any buildings provided by the Kensington Council under that section shall be deemed to have been provided under this section.

Acquisition
of landing
stages by
Hammersmith
Council.

36.—(1) The powers of the Hammersmith Council shall include power to acquire by agreement and maintain landing stages within their borough on the river Thames together with any necessary approaches and conveniences and the Hammersmith Council on the one hand and the Port of London Authority or any other body or person on the other hand may enter into and carry into effect agreements for and in connection with the transfer to the Hammersmith Council of any landing stage in that borough or of any rights in connection with such landing stage.

(2) The purposes of this section shall be purposes for which the Hammersmith Council may borrow :

PART VII
—cont.

Provided that it shall not be lawful to exercise the powers of borrowing conferred by this subsection otherwise than in compliance with the provisions for the time being in force of the Local Authorities Loans Act 1945 and of any order made under section 1 of the Borrowing (Control and Guarantees) Act 1946.

8 & 9 Geo. 6.
c. 18.
9 & 10 Geo. 6.
c. 58.

(3) The Hammersmith Council may make and enforce byelaws for regulating the use of landing stages acquired by or transferred to them under this section—

- (i) by persons or vessels generally ; or
- (ii) by persons or vessels of any description specified by or under the byelaws ;

and in particular byelaws under this subsection may make or authorise the making of provision as respects all or any such persons or vessels—

- (a) for limiting the periods for which vessels may remain at any landing stage ; and
- (b) for fixing the charges to be paid for the use of any landing stage.

(4) The confirming authority for byelaws made under this section shall be the Minister of Transport.

(5) Any agreement made before the passing of this Act which if made thereafter could have been made under the powers of this section shall be deemed to have been made under those powers.

(6) Nothing in this section shall be deemed to relieve the Hammersmith Council of any obligation to obtain any licence or permission from the Port of London Authority which but for this section they would be required to obtain but in the determination of the amount of consideration (if any) for the grant of such licence or permission in respect of any landing stage regard shall be had to the public purposes for which the landing stage is made.

(7) Nothing in this section shall extend to render liable to any charge or to regulate or subject to any control any vessel employed in the service of the Commissioner of Police of the Metropolis or any member of the Metropolitan Police Force when engaged in the execution of his duty.

37.—(1) In this section “the undertakers” means each of the following bodies respectively :—

- The London Hydraulic Power Company ;
- The Metropolitan Water Board ;
- The North Thames Gas Board ;
- The South Eastern Gas Board.

For
protection of
certain
undertakers.

PART VII
—cont.

(2) Without prejudice to any of the provisions of the Public Utilities Street Works Act 1950 where—

- (a) the Council exercise any of the powers of section 30 (Extension of powers of Council with respect to street improvements) of this Act; or
- (b) a borough council exercise any of the powers of section 33 (Improvement of roadside amenities etc. by borough councils) of this Act;

at any place near to which there is any apparatus belonging to the undertakers or lawfully laid down by the undertakers or their predecessors the Council or the borough council (as the case may be) shall so exercise the said powers as to avoid so far as is reasonably practicable rendering less convenient the access to such apparatus.

For
protection of
Port of London
Authority.

38. Notwithstanding anything in section 36 (Acquisition of landing stages by Hammersmith Council) of this Act the following provisions shall unless otherwise agreed in writing between the Hammersmith Council and the port authority have effect for the protection of the port authority:—

(1) In this section—

(a) “the port authority” means the Port of London Authority;

(b) “the river” means the part of the river Thames which is within the jurisdiction of the port authority and includes the bed banks and shores thereof;

(c) “the works” means any work in on over or under the river acquired by the Hammersmith Council under the powers of the said section 36 or transferred to that council pursuant to an agreement entered into under those powers:

(2) The following provisions shall have effect with respect to the maintenance and removal by the Hammersmith Council of the works:—

(a) The traffic of the river shall not be interfered with more than may be reasonably necessary;

(b) The Hammersmith Council shall not without the previous consent of the port authority—

(i) take any gravel soil or other material from the river except so far as may be necessary in the maintenance of the works; or

(ii) dredge any part of the river:

(3) Owners and masters of vessels shall not be liable to make good damage caused to the works or to any piles or other works placed in on over or under the

river for the purpose of the maintenance or removal of the works except damage arising from the wilful act or default of such owners or masters or their servants or agents:

(4) The Hammersmith Council shall so long as the works remain and during the repair or removal of the works exhibit on or near to the works every night from sunset to sunrise such lights (to be kept burning by and at the expense of the Hammersmith Council) and during every day such marks as the port authority may think necessary to secure the safety of navigation and the lights and marks shall be so placed and used as the port authority may from time to time approve and for any contravention of this paragraph the Hammersmith Council shall be liable on summary conviction to a fine not exceeding twenty pounds:

(5) The Hammersmith Council shall on demand pay to the port authority any expenses reasonably incurred by the port authority in altering removing repositioning and subsequently replacing any moorings and mooring chains in such manner as the port authority think necessary or desirable by reason of the existence of the works and in any work of dredging which the port authority think necessary or desirable or otherwise in removing any silt which may have accumulated in the vicinity of the works as a result of and during the existence thereof:

(6) (a) In the event of the Hammersmith Council—

(i) failing to take a transfer of; or

(ii) giving to the port authority notice in writing to dismantle and remove;

any landing stage referred to in section 8 of the Festival of Britain (Supplementary Provisions) Act 1949 and constructed by the port authority in the borough of Hammersmith the Hammersmith Council shall repay to the port authority the whole or such part as may be agreed of any expenses incurred by the port authority in or in connection with the dismantling and removal of the landing stage;

12 13 & 14
Geo. 6.
c. 102.

(b) Nothing in this paragraph shall prejudice or affect the operation of the said section 8:

(7) (a) If the works are abandoned or suffered to fall into decay the Minister of Transport or the port authority may by notice in writing either require the Hammersmith Council at their own expense to repair and restore such part of the works as is situate below high-water mark of ordinary spring tides or any portion

PART VII
—cont.

thereof or require them to abate or remove the same and restore the site thereof to its former condition to such an extent and within such limits as the Minister of Transport or the port authority may require :

Provided that if there be any conflict between a requirement of the Minister of Transport and a requirement of the port authority under this paragraph the requirement of the Minister of Transport shall prevail :

(b) If during the period of thirty days from the date when the notice is served upon the Hammersmith Council they have failed to comply with such notice the Minister of Transport or the port authority may execute the works required to be done by the notice at the expense of the Hammersmith Council and the amount of such expense shall be a debt due from the Hammersmith Council to the Crown or the port authority as the case may be and shall be recoverable either as a debt due to the Crown or where the amount does not exceed twenty pounds summarily as a civil debt :

- (8) Nothing in this Act shall authorise or empower the Hammersmith Council without the previous consent of the port authority to embank encroach upon or interfere with any part of the shores or banks of the river :
- (9) The port authority shall not unreasonably withhold any approval or consent required under this section and where any proposal requiring such approval or consent is delivered to the port authority the approval or consent shall be deemed to have been given if the port authority do not within one month of the delivery express their disapproval :
- (10) Subject to the last foregoing paragraph any approval disapproval consent or requirement of the port authority under this section shall be in writing under the hand of their secretary or other authorised officer :
- (11) If any question arises between the Hammersmith Council and the port authority under the provisions of this section such question shall be referred to and determined by a single arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers upon the application of either party after notice in writing to the other and the provisions of the Arbitration Act 1950 shall apply to such arbitration.

14 Geo. 6.
c. 27.

Judges not
disqualified.

39. A judge of any court or a justice shall not be disqualified from acting in the execution of this Act by reason of his being liable to any rate.

40. The Minister may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him by this Act and section 189 of the Act of 1939 shall apply in relation to any such inquiry as if that section were re-enacted herein with any necessary modifications.

PART VII

—cont.

Inquiries by
Minister.

41.—(1) All costs and expenses of the Council in the execution of this Act shall be defrayed as payments for general or special county purposes within the meaning of the Act of 1939 as the Council may decide.

Costs of Act.

(2) So much of the costs charges and expenses preliminary to and of and incidental to the preparing applying for and obtaining of this Act as may be incurred in respect of or in connection with the provisions contained in—

- (i) Part V (Kensington Borough Council (superannuation));
- (ii) Part VI (Shoreditch and other metropolitan borough councils (superannuation)); and
- (iii) section 36 (Acquisition of landing stages by Hammersmith Council);

shall unless otherwise agreed be paid as regards (i) by the Kensington Council as regards (ii) by the councils of the boroughs of Bermondsey Finsbury Greenwich Hammersmith Shoreditch Southwark and Stoke Newington in equal shares and as regards (iii) by the Hammersmith Council.

SCHEDULE

AMENDMENTS OF THE ACT OF 1936

Section 1	Amendments 2
Section 18 (Power of borough councils to alter or discontinue use of sewers).	<p>At the end there shall be added the following subsection:—</p> <p>“(4) Before a borough council—</p> <p>(a) exercise any of their powers under subsection (1) of this section in such a manner as to deprive any person of the lawful use of a covered sewer; or</p> <p>(b) in the exercise of their powers under subsection (3) of this section alter close up or destroy a private drain which any person is entitled to use;</p> <p>they shall give to that person a written notice stating the manner in which they propose to comply with their obligations under this section with respect to the provision of a sewer or drain for his use or the alteration of the private drain which he is entitled to use (as the case may be) and if he is aggrieved by the proposals as being insufficient for the purpose of complying with the obligations aforesaid he may appeal to a court of summary jurisdiction.”</p>
Section 23 (Expenses of constructing sewers in connection with streets and houses).	<p>At the end there shall be added the following subsection:—</p> <p>“(9) Any owner aggrieved by any order or resolution made or passed by a borough council for the purposes of this section with respect to the payment of expenses incurred by them in connection with the construction of a sewer may appeal to a court of summary jurisdiction.”</p>
Section 37 (Drainage in new or rebuilt premises).	<p>After subsection (6) there shall be inserted the following subsection:—</p> <p>“(6A) Any person aggrieved by any order direction requirement or other decision of a borough council under the foregoing provisions of this section may appeal to a court of summary jurisdiction.”</p>

Section 1	Amendments 2
Section 38 (Power of borough council to compel house owner to construct drains into sewer).	<p>In subsection (1) the words "forthwith or within such reasonable period as the council may determine" shall be omitted;</p> <p>In subsection (3) for the word "order" there shall be substituted the words "may by a further written notice served upon the owner of the house or building require";</p> <p>After subsection (3) there shall be inserted the following subsection:—</p> <p>"(3A) The provisions of section two hundred and eighty-six of this Act shall apply in relation to any notice served by a borough council under the foregoing provisions of this section.";</p> <p>For subsection (5) there shall be substituted the following subsection:—</p> <p>"(5) Any person aggrieved by an order made by a borough council under subsection (4) of this section may appeal to a court of summary jurisdiction."</p>
Section 39 (Supervision of new drainage works by borough councils).	<p>For paragraph (a) of subsection (2) there shall be substituted the following paragraph:—</p> <p>"(a) serve upon the owner of the house or building or the drain (as the case may be) a written notice requiring him to cause the house or building to be demolished or altered or to cause the drain or the branches or other works and apparatus in connection therewith or the water supply to be relaid remade altered or added to (as the case may require); or";</p> <p>At the end there shall be added the following subsection:—</p> <p>"(3) The provisions of section two hundred and eighty-six of this Act shall apply in relation to any notice served by a borough council under paragraph (a) of the last foregoing subsection."</p>
Section 40 (Inspection of drains by borough councils).	<p>In subsection (4) for the words from "a written notice" to the end of the subsection there shall be substituted the words "a written notice requiring him to execute such works as they consider necessary for putting the drain into proper order and condition or for cleansing altering repairing or filling up the drain (as the case may require)";</p> <p>In subsection (5) for the words from "and if within fourteen days" to the end of the subsection there shall be substituted the words "and the borough council may serve upon him a written notice requiring him to cause the drain works or apparatus (as the case may be)</p>

Section 1	Amendments 2
Section 40 (<i>cont.</i>)	to be altered or reinstated in accordance with the directions contained in the notice"; At the end there shall be added the following subsection:— “(7) The provisions of section two hundred and eighty-six of this Act shall apply in relation to any notice served by a borough council under subsection (4) or subsection (5) of this section.”
Section 41 (Power of borough councils to require drainage of courts, &c.).	For subsection (2) there shall be substituted the following subsection:— “(2) Any requirement of a borough council under the foregoing subsection shall be made by a written notice served on the owner and the provisions of section two hundred and eighty-six of this Act shall apply in relation to such notice.”
Section 43 (Power of persons to construct drains communicating with sewers).	At the end there shall be added the following paragraph:— “If any person proposing to make or branch any drain into a sewer vested in a borough council is aggrieved by any directions given by the borough council under paragraph (i) of the foregoing proviso he may appeal to a court of summary jurisdiction.”
Section 48 (Control of connections with county council's sewers).	At the end there shall be added the following subsection:— “(5) If the consent of a borough council under this section to the making or branching of a drain into a sewer is refused in a case where the county council consent under this section to the making or branching of the drain and to the making of the opening into the sewer required for that purpose any person aggrieved by the refusal of the borough council may appeal to a court of summary jurisdiction.”
Section 49 (Control of connections with borough council's sewers).	At the end there shall be added the following subsection:— “(3) Any person proposing to make or branch a drain into a sewer vested in a borough council who is aggrieved by a refusal of any consent of the borough council required by this section for that purpose may appeal to a court of summary jurisdiction.”
Section 53 (Unlawful alteration, &c. of sewers or drains).	In subsection (1) for the words “within fourteen days after written notice in that behalf has been served on him by the borough council” there shall be substituted the words “within twenty-eight days after written notice

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Section 53 (<i>cont.</i>)	in that behalf has been served on him by the borough council or such longer period as a court of summary jurisdiction may on his application (to be made not later than twenty-one days after the receipt by him of the notice) allow."
Section 64 (Prevention of obstruction of sewers by soil or refuse).	In subsection (3) for the words from "may appeal" to the end of the subsection there shall be substituted the words "may appeal to a court of summary jurisdiction."
Section 83 (Cleansing and covering of offensive ditches, drains, &c.).	<p>In subsection (2) for the words from the beginning of the subsection to "the owner of the premises" there shall be substituted the words "The provisions of section two hundred and eighty-six of this Act shall apply in relation to any notice served by a sanitary authority under this section";</p> <p>In paragraph (a) of the proviso to the said subsection for the words "the said expenses" there shall be substituted the words "any expenses incurred by them in executing works in default of compliance with the notice under the power in that behalf conferred by the said section two hundred and eighty-six";</p> <p>In paragraph (b) of the said proviso for the words "any work which a sanitary authority do or require to be done in pursuance of this section" there shall be substituted the words "any work required by the notice (whether executed by the sanitary authority as aforesaid or by any other person)";</p> <p>Subsection (3) shall be omitted.</p>
Section 105 (Obligation to provide water-closets, &c.).	<p>In subsection (3) the words "forthwith, or within such reasonable time as is specified in the notice," and the words from "and if the notice is not complied with" to the end of the subsection shall be omitted;</p> <p>For subsection (5) there shall be substituted the following subsection:—</p> <p>"(5) The provisions of section two hundred and eighty-six of this Act shall apply in relation to any notice served by a sanitary authority under this section."</p>
Section 107 (Byelaws as to sanitary conveniences, &c.).	<p>In subsection (3) at the end there shall be added the following proviso:—</p> <p>"Provided that where any such directions are contained in a notice—</p> <p>(a) in relation to which the provisions of section two hundred and eighty-six of this Act apply; and</p>

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Section 107 (<i>cont.</i>)	<p>(b) which is authorised to be served upon one of two or more persons ;</p> <p>the directions shall not be void solely by reason of the notice being served upon such one of those persons as the authority may decide and not upon the other or another of them."</p>
Section 109 (Penalty for improperly making or altering sanitary conveniences, &c.).	<p>In subsection (1) for the words from "and if he does not" to "the execution of the works" there shall be substituted the words "and the sanitary authority may serve upon him a written notice requiring him to" and the words from "he shall be guilty of an offence" to the end of the subsection shall be omitted ;</p> <p>In subsection (2) the words "forthwith, or within a reasonable time specified in the notice," and the words from "and if the notice is not complied with" to the end of the subsection shall be omitted ;</p> <p>For subsection (3) there shall be substituted the following subsection :—</p> <p>"(3) The provisions of section two hundred and eighty-six of this Act shall apply in relation to any notice served by a sanitary authority under this section."</p>
Section 286 (Appeals from sanitary authorities to county council).	<p>For the whole section there shall be substituted the two following sections :—</p> <p>"Provisions 286.—(1) Where it is expressly as to provided by this Act that the pro- appeals visions of this section shall apply against and in relation to a notice served by an enforce- authority the following provisions ment of of this section shall have effect in certain notices. relation to the notice.</p> <p>(2) Any such notice shall (with- out prejudice to any provision of the section under which it is served) indicate the nature of the works or things thereby required to be executed or provided or other thing thereby required to be done and shall state the time within which the requirements of the notice are to be complied with.</p> <p>(3) A person served with such a notice as aforesaid may appeal to a court of summary jurisdiction on any of the follow- ing grounds which are appropriate in the circumstances of the particular case :—</p> <p>(a) that the notice or any requirement thereof is not justified by the</p>

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1Amendments
2Section 286 (*cont.*)

terms of the section under which the notice purports to have been served ;

- (b) that there has been some informality defect or error in or in connection with the notice ;
- (c) that the authority have refused unreasonably to approve the carrying out of alternative proposals or that the requirements of the notice are otherwise unreasonable in character or extent or are unnecessary ;
- (d) that the time allowed by the notice for compliance with its requirements is not reasonably sufficient for that purpose ;
- (e) that the notice might lawfully have been served upon some person other than the appellant and that it would have been equitable for it to have been so served ;
- (f) that the notice requires the execution of works which would be for the common benefit of two or more premises and that some other person (being the owner or occupier of premises to be benefited) ought to contribute towards the expenses of executing any works required.

(4) If and in so far as an appeal under this section is based on the ground of some informality defect or error in or in connection with the notice the court shall dismiss the appeal if it is satisfied that the informality defect or error was not a material one.

(5) (a) Where the ground or one of the grounds upon which an appeal under this section is brought is the ground specified in paragraph (e) or paragraph (f) of subsection (3) of this section the appellant shall serve a copy of his notice of appeal on each other person referred to.

(b) In the case of any appeal under this section the appellant may serve a copy of his notice of appeal on any other person having an estate or interest in the premises or having a right to use the drain (as the case may be) to which the notice served by the authority relates.

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Section 286 (<i>cont.</i>)	<p>(c) On the hearing of the appeal the court make such order as it thinks fit with respect to the person (being either the appellant or a person upon whom a copy of the notice of appeal was served as aforesaid) by whom any requirement of the notice served by the authority is to be complied with and the contribution to be made by any other such person towards the cost of complying with the requirement or as to the proportions in which any expenses which may become recoverable by the authority are to be borne by any such persons.</p> <p>(d) In exercising its powers under this subsection the court shall have regard to the degree of benefit to be derived by the different persons concerned and all the other circumstances of the case including (as between an owner and an occupier) the terms and conditions whether contractual or statutory of the tenancy.</p> <p>(6) Subject to such right of appeal as aforesaid and (where any such appeal as aforesaid is brought) to any order made by the court if any requirement of the notice is not duly complied with—</p> <p>(a) the authority may themselves execute or provide such works or things and do all such other acts as may be necessary to secure conformity with the requirement and recover from the person on whom the notice was served or who was ordered by the court to comply with the requirement or to bear the expenses (as the case may be) the expenses reasonably incurred by them in so doing; and</p> <p>(b) (without prejudice to the right of the authority to exercise the powers conferred by the foregoing paragraph) the person in default shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the default continues after conviction therefor:</p>

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Provided that where the notice was served under subsection (5) of section forty or subsection (1) of section one hundred and nine of this Act the person upon whom the notice was served shall not be subjected to a fine under this section as well as under the said subsection (5) or the said subsection (1) (as the case may be).

(7) In proceedings by the authority against the person served with the notice for the recovery of any expenses which the authority are entitled to recover from him it shall not be open to him to raise any question which he could have raised on an appeal under this section."

"Appeals to courts of summary jurisdiction etc. 286A.—(1) Where any enactment in this Act provides for an appeal to a court of summary jurisdiction against any proposal or any order resolution direction requirement refusal or other decision of a borough council or a sanitary authority the procedure shall be by way of complaint for an order and the Summary Jurisdiction Acts shall apply to the proceedings.

(2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the proposal or of the order resolution direction requirement refusal or other decision was served upon the person desiring to appeal and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(3) In any case where such an appeal lies the document notifying to the person concerned the proposal or decision of the council or authority in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought.

(4) For the removal of doubts it is hereby declared that section two hundred and eighty-five of this Act (which provides for an appeal to a court of quarter sessions against orders of a court of summary jurisdiction) applies in relation to an order made by a court of

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Section 286 (<i>cont.</i>)	summary jurisdiction in any such appeal to that court as is referred to in this section. (5) Where upon any appeal under this Act a court varies or reverses any decision of a borough council or other sanitary authority it shall be the duty of the authority to give effect to the order of the court and in particular to grant or issue any consent or directions necessary for that purpose."

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