

Worcestershire County Council Act 1969

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ELIZABETH II



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to confer further powers on the Worcestershire County Council and on local authorities in the administrative county of Worcester in relation to lands, amenities and highways and the local government, improvement, health and educational services and finances of the county and of the boroughs and districts therein; to enable the Arley Ferry across the river Avon to be discontinued; and for other purposes.
[22nd October 1969]

WHEREAS it is expedient—

that further and better provisions should be made with respect to lands, the preservation and improvement of amenities, and the local government, improvement, health and educational services and finances of the administrative county of Worcester and that the powers of the county council and of local authorities therein should be enlarged and extended as provided in this Act:

(2) That provision should be made with respect to charges for vessels on the river Avon:

(3) That provision should be made for enabling the Arley Ferry of the county council plying across the river Severn in the parish of Upper Arley in the said county to be discontinued:

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

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

And whereas in relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

1933 c. 51.

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

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the *Worcestershire County Council Act 1969*.

Division of Act into Parts.

2. This Act is divided into Parts as follows:

Part I.—Preliminary.

Part II.—Lands.

Part III.—Planning and amenities.

Part IV.—Highways and streets.

Part V.—Fire protection and public safety.

Part VI.—Health, welfare and education.

Part VII.—Finance.

Part VIII.—Miscellaneous.

Part IX.—General.

Interpretation.

3.—(1) In this Act the several words and expressions (other than those defined in subsection (2) of this section) to which meanings are assigned by sections 90, 110 and 343 of the Act of 1936 have the same respective meanings unless there be something in the subject or context repugnant to such construction.

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

PART I
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- "the Act of 1933" means the Local Government Act 1933; 1933 c. 51.
- "the Act of 1936" means the Public Health Act 1936; 1936 c. 49.
- "the Act of 1950" means the Public Utilities Street Works Act 1950; 1950 c. 39.
- "the Act of 1957" means the Housing Act 1957; 1957 c. 56.
- "the Act of 1959" means the Highways Act 1959; 1959 c. 25.
- "the Act of 1960" means the Road Traffic Act 1960; 1960 c. 16.
- "the Act of 1962" means the Town and Country Planning Act 1962; 1962 c. 38.
- "the Act of 1967" means the Road Traffic Regulation Act 1967; 1967 c. 76.
- "authorised security" means any mortgage, stock, bond or other security which the Council are for the time being authorised to grant, create or issue, or upon or by means of which the Council are for the time being authorised to raise money;
- "caravan" has the same meaning as in Part I of the Caravan Sites and Control of Development Act 1960; 1960 c. 62.
- "the clerk" means the clerk of the Council;
- "the Council" means the county council of the county;
- "the county" means the administrative county of the county of Worcester;
- "the county fund" means the county fund of the Council;
- "daily fine" means a fine for each day on which an offence is continued after conviction thereof;
- "district" means a borough or an urban or rural district in the county;
- "highway authority" means—
- (a) in the case of a trunk road, the Minister of Transport or, with his consent, the authority who are for the time being acting as his agent under the Act of 1959 with respect to that road;
- (b) in the case of a county road in the county, except a claimed county road, and in the case of any other highway for the time being maintained by the Council, the Council; and
- (c) in the case of any other highway, the local authority for the district in which the highway is situate;

PART I
—cont.

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

“ local authority ” means the council of a district;

“ the Minister ” means—

(a) for the purposes of Part IV (highways and streets) of this Act, the Minister of Transport;

(b) in all other cases, the Minister of Housing and Local Government;

“ operational land ”, in relation to statutory undertakers, means land which is used for the purpose of the carrying on of their undertaking and land in which an interest is held for that purpose; not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings;

“ owner ” in relation to any premises, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other person, is entitled to receive the rack-rent of the premises or, where the premises are not let at a rack-rent, would be so entitled if the premises were so let;

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

“ the police authority ” means the West Mercia Police Authority or any other police authority of which the Council are a constituent member;

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

“ voluntary organisation ” means any organisation, not carried on for profit, not being an organisation carried on by a public authority, and “ voluntary ” shall be construed accordingly.

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

PART II
LANDS

Suspension of restrictive covenants.

4.—(1) If the Council—

(a) acquire land by agreement; or

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

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

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

purpose for which they are for the time being authorised to acquire land compulsorily, or could under any enactment be used to acquire the land compulsorily, and the land is, in such acquisition or agreement to acquire, affected by any restriction arising under covenant as to the user thereof or the land thereon, the Council may, subject to the provisions of this Act, by resolution suspend the operation of such restriction.

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

The Council shall—

in four successive weeks publish in one or more local newspapers circulating in the locality in which the land referred to in the resolution is situated a notice stating that the resolution has been passed, describing the land and naming a place within the locality where a copy of the resolution and map may be inspected and specifying the period (not being less than three months from the first publication of the notice) within which, and the manner in which, objections to the suspension of the restriction can be made;

on or before the date of the first publication of the said notice serve by registered post or the recorded delivery service a copy of the said notice on every person who appears to them, after diligent inquiry, to be entitled to the benefit of the restriction to which the resolution relates; and

on or before the date of the first publication of the said notice post a copy or copies of the said notice in a prominent position on the land to which the resolution relates.

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

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

PART II
—cont.

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

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

1965 c. 56.

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

1961 c. 33.

(8) Any restriction suspended under the powers of this section shall be unenforceable so long as the Council are the owners of the land to which the restriction relates, or, if the Council convey the land to any body for any of the purposes of the Education Acts 1944 to 1968 so long as the land is used by that body for the purposes of those Acts, and, if compensation is paid by the Council under subsection (7) of this section in respect of the suspension of a restriction relating to the building upon, or use of, land, that restriction shall remain unenforceable in respect of such building or use notwithstanding any subsequent conveyance or disposition of the land to any other person:

Provided that if such compensation is paid on the basis that land may be used for a particular purpose, the restriction shall, after any subsequent conveyance or disposition of the land to any person otherwise than for any of the purposes of the Education Acts 1944 to 1968, remain unenforceable only so long as the land is used for that purpose.

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

(10) Nothing in this section shall apply to

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

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

(c) any restriction for—

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

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

contained in any deed, wayleave, agreement or other instrument.

In this section "the appropriate Minister" means the Minister of the Crown having power to authorise the compulsory use of the land for the purpose for which the Council have agreed or agreed to acquire that land.

(1) The Council, when they are required by any enactment to make compensation to any person interested in any lands, or by agreement with such person make such compensation wholly or partly in works, land or money, but in the case of land the alienation of which the consent of any government department is required, only with such consent.

Compensation may be in land.

Nothing in this section shall release the Council or any person purchasing or acquiring any land or interest in land from or under this section from any rent, covenants, restrictions, obligations, terms or conditions made payable by or contained in any conveyance, lease or other deed or instrument by which land or interest has been conveyed or leased to or otherwise acquired by the Council or any persons from or through whom the Council have derived title to it.

(1) The Council may enter into and carry into effect agreements with any local authority for the provision by that authority of houses for the purpose of providing for the housing of persons displaced from any land acquired by the Council under any enactment, and any such agreement may include for the making of contributions by the Council towards the whole or any part of the expense thereby incurred by the local authority.

Power as to re-housing.

In this section "local authority" means the council of any administrative county, county borough or county district.

The power of the Council to purchase land by agreement shall include power to purchase land by agreement for the purpose

Provision of substituted sites.

PART II
—cont.

of providing substituted sites or facilities for the owners, lessee and occupiers of land that may be acquired under any enactment.

Reservation of easements, etc., on sale.

8. On selling any land the Council—

(1) may reserve to themselves all or any part of the rights or other rights or easements belonging thereto and may make the sale subject to such reservation accordingly;

(2) may make the sale subject to such other reservation conditions and restrictions as they think fit; without prejudice to the generality of the foregoing words of this paragraph, such conditions and restrictions may prohibit or restrict the exercise of noxious trades or the deposit or discharge of manure, sewage or other impure matter.

Disposal of land.

9. In respect of land acquired by the Council for the benefit or improvement of the county under either of the following sections:—

section 157 (Power of local authorities to acquire land by agreement);

section 158 (Acquisition of land in advance of requirements of the Act of 1933 (as extended by section 1 of the Local Authorities (Land) Act 1963), section 165 of the Act of 1933 shall have effect with the omission of the words "and which is required for the purpose for which it was acquired or is used").

1963 c. 29.

Compulsory acquisition of easements.

10.—(1) The Council by means of an order made by the Council and submitted to and confirmed by the confirming authority may be authorised to create in favour of the Council in, over or under any land which under any enactment the Council may be authorised to acquire compulsorily any easement or other right in, over or under or in relation to such land which in the opinion of the confirming authority, is essential to the enjoyment or use of any land or building owned or occupied intended to be acquired or occupied, by the Council for purposes of any of their undertakings, powers or duties.

(2) The confirming authority shall not confirm any order under this section unless the confirming authority determines that the easement or right can be created without material detriment to the land in, over or under or in relation to which it is proposed to be created or, in the case of a path or way belonging to a house, without seriously affecting the amenity or convenience of the house.

1946 c. 49.

(3) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply as if this section were an enactment contained in that Act.

in a public general Act and in force immediately before the commencement of the said Act of 1946 and as if—

(a) the expression "compulsory purchase of land" in the said Act of 1946 included the creation of such easement or right as is mentioned in subsection (1) of this section; and

(b) paragraphs 9 and 10 of Schedule 1 to the said Act of 1946 applied to the creation of such easement or right as is mentioned in the said subsection (1) whether it is created in, over or under any land to which either of those paragraphs relates or in, over or under any other land in which the person entitled to the benefit of the paragraph has an easement or other right which if it were land would be land to which the paragraph relates.

(4) No such easement or right as is mentioned in subsection (1) of this section shall be deemed part of a house, building or manufactory or of a park or garden belonging to a house within section 8 of the Compulsory Purchase Act 1965. 1965 c. 56.

(5) In this section the expression "confirming authority" means the authority having power to authorise the purchase compulsorily of the land for the enjoyment or use of which the easement or other right is required or which would have had such power if such land were not already owned by the Council.

11.—(1) The Council and any person having an estate or interest in any land within the county may enter into an agreement which may provide for all or any of the following:— Agreements with developers.

(a) determining the order in which development of that land shall be carried out as between the different parts of that land and as between the different parts of the development of any part of that land;

(b) determining the time by which development of that land shall be completed or the times by which the parts of that development shall be completed;

(c) providing that the estate or interest of that person in that land shall not be conveyed, leased or assigned except by way of mortgage or legal charge to any person unless the Council shall have first satisfied themselves that that person has or can command sufficient financial resources to carry out development of that land and to implement all the provisions of the agreement;

(d) the dedication to the public of rights of way over that land or over a part or parts of any building or structure which is comprised in the development and the maintenance and cleansing of the public rights of way so dedicated including the maintenance and cleansing of the surface and the lighting of the building or structure over or above the public rights of way so dedicated and the maintenance of any support of the public rights of way so dedicated;

PART II
—cont.

- (e) arrangements relating to the provision, maintenance or use of facilities for the parking of vehicles for or in connection with development of that land;
- (f) arrangements for the maintenance of open space provided in connection with development of that land;
- (g) any other related or consequential matters.

(2) (a) An agreement entered into under the preceding section may contain positive and negative covenants and whether they be positive or negative and notwithstanding that they may not enure, and may not be expressed to enure, for the benefit of any other land of the covenantee they shall, if registered in the local land charges register, be enforceable by the Council against the covenantor and all persons deriving title by, through or under the covenantor.

(b) In the event of the person who has entered into an agreement under the preceding subsection or any person deriving title through or under him failing to perform any of the covenants contained in the agreement, the Council may, after giving not less than twenty-one days' notice of their intention to do enter on the land and do the work in default and the expenses incurred by the Council in so doing shall be recoverable by them from the person in default.

(c) Except as may be expressly provided in the agreement an agreement entered into under the preceding subsection shall be enforceable and be deemed to be intended to be enforceable in perpetuity or for the duration of the estate or interest which the person entering into the agreement has in the land at the time when the agreement is entered into.

(3) The Council may take or acquire shares or securities in any company incorporated in the United Kingdom with which an agreement is entered into under this section.

(4) In this section "development" has the same meaning as in section 12 of the Act of 1962.

(5) Section 291 of the Act of 1936 shall have effect as if referred therein to that Act included a reference to this section.

Recreational
and other
facilities for
employees.

12.—(1) The Council may provide and maintain or contribute to the cost of providing and maintaining recreational and social welfare facilities for their employees.

- (2) For the purposes aforesaid, the Council may
 - (a) erect or maintain buildings;
 - (b) make such charges as they think fit for the use of the premises provided under this section;
 - (c) make regulations for the management of the premises.

No power conferred upon the Council by this section shall be exercised in such a manner—

PART II
—cont.

(a) as to be at variance with any trust subject to which any land or building is held, managed or controlled by the Council without an order of the High Court or of the Charity Commissioners or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of the donor or that other person; or

(b) as to contravene any covenant or condition (other than a covenant or condition which was subsisting immediately before the date of the gift or lease to the Council) subject to which a gift or lease of any land or building has been accepted by or granted to the Council without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

(1) Subject to section 87 (Certain sections of Act not apply to Kidderminster Corporation) of this Act, the provisions of Part of this Act except section 6 (Power as to re-housing) apply to a local authority and for that purpose those provisions shall have effect as if for references therein to the Council and to the county there were substituted references to the local authority and to the respective district, and subject to other necessary modifications.

Application to local authorities of provisions of Part II.

In its application to a local authority section 4 (Suspension of restrictive covenants) of this Act shall have effect as if in paragraph (c) of subsection (10) the reference to a local authority included reference to the Council.

PART III

PLANNING AND AMENITIES

(1) A local authority, for the purpose of ascertaining whether or not an offence has been committed under section 1 of the Caravan Sites and Control of Development Act 1960 may require in writing, signed by their clerk or his lawful deputy, the owner or reputed owner of any land in their district in which a caravan is stationed or any person who, either directly or indirectly, receives rent in respect of such land, to state in writing the name and address of the occupier of such land, and any person who, having been required by a local authority in

Information as to occupiers of land on which caravans are stationed.
1960 c. 62

PART III
—cont.

pursuance of this section to give to them any information, fails without good cause to give that information within twenty-eight days of being so required, or knowingly makes an untrue statement in respect thereof, shall be liable on summary conviction to a fine not exceeding twenty pounds.

(2) In this section "occupier" has the meaning assigned by subsection (3) of section 1 of the said Act.

Verges, etc.,
of housing
estates.

15.—(1) Where any grass verge, garden or space which has been provided by a local authority in pursuance of the Housing Act 1957, or by a housing association in pursuance of an arrangement made with a local authority under that Act, or any enactment repealed by that Act, is maintained in an ornamental condition or mown, the local authority may by notice prohibit persons from—

- (a) causing or permitting motor vehicles or caravans to enter upon any such grass verge, garden or space;
- (b) entering upon any such garden.

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

(3) If any person (except in a case of emergency) contravenes notice so posted he shall be liable to a fine not exceeding twenty pounds.

(4) Before exercising their powers under subsection (1) of this section in relation to any grass verge, garden or space provided by a housing association, the local authority shall consult the housing association.

(5) The powers of this section shall not be exercised in relation to any grass verge, garden or space which is situated on a highway maintainable at the public expense.

(6) In this section "verge" includes any lands situated between two carriageways or any part of a street which is not a carriageway, footway or cycle track.

Prohibition
of parking
of heavy
commercial
vehicles at
night in
grounds
of private
houses.

16.—(1) (a) If representation is made in writing to a local authority mentioned to a local authority that the amenities of their district are prejudicially affected by the use of any land within the curtilage of a dwelling-house in a street in the district as a parking place for two or more heavy commercial vehicles, the local authority, if complying with the provisions of this section may

cluding the use as a parking place for heavy commercial vehicles during the prescribed hours of the land to which the representation relates.

(b) A representation under the foregoing paragraph shall be made in writing and signed by not less than five local government residents residing in private dwelling-houses in the street concerned or in any other street within 100 yards thereof.

(2) (a) If the local authority consider that such an order should be made they shall publish a notice thereof in a local newspaper circulating in the district stating where the draft order can be inspected and copies purchased and that objections to the said order may be made in writing within one month after the date of the first publication of the notice.

(b) The local authority shall consider all such objections and shall afford to the owner or occupier of every dwelling-house adjoining or fronting on such street or such part thereof who has made an objection an opportunity of being heard by a committee of the local authority before the order is made.

(3) (a) After considering any objections made under the last foregoing subsection the local authority may make an order prohibiting the use during the prescribed hours of the land within the curtilage of any dwelling-house in the street or part of a street specified in the order as a parking place for one or more heavy commercial vehicles.

(b) Any such order shall come into operation at the expiration of the period of one month after the first publication in pursuance of subsection (4) of this section of the notice of the order or if an appeal is lodged when the appeal is disposed of or withdrawn or fails for want of prosecution and shall have effect for such period not exceeding five years as the local authority may determine but without prejudice to their power to make a further order in the same manner as the original order.

(c) When an order has been made by the local authority under this section they shall give notice thereof and of the right of appeal in publication in a local newspaper circulating in the district and to every person affected by the order and the owner or occupier of every dwelling-house in the district who is aggrieved by the order and shall refer the appeal to a magistrates' court:

(d) Provided that in its application to an appeal under this section, section 300 of the Act of 1936 shall have effect as if the time within which such an appeal may be brought were one month after the publication in pursuance of this subsection of the notice of the order to which the appeal relates.

PART III
—cont.

(5) In this section—

“ dual-purpose vehicle ” means a vehicle constructed or adapted for the carriage both of passengers and of goods or burden of any description being a vehicle of which the unladen weight does not exceed two tons and which either—

(a) satisfies the conditions as to construction specified in Schedule I to this Act, or

(b) is so constructed or adapted that the power of the engine is or by the appropriate use of the controls of the vehicle can be transmitted to all the wheels of the vehicle;

“ heavy commercial vehicle ” means any vehicle (not being a dual-purpose vehicle) whether mechanically propelled or not constructed or adapted for the carriage of goods and having an unladen weight exceeding thirty hundredweight;

“ prescribed hours ” means the hours between nine o'clock in the evening and eight o'clock in the following morning;

“ private dwelling-house ” means a dwelling-house of which no part is used for the purposes of any trade or business and includes a block of flats no part of which is used for the purposes of any trade or business.

(6) For the purposes of this section a vehicle having an unladen weight exceeding thirty hundredweight in which is installed freezing equipment designed or used for the manufacture of cream or any similar commodity and which but for the presence of that equipment would have an unladen weight of thirty hundredweight or less shall be deemed not to be a heavy commercial vehicle but the exemption afforded to such a vehicle by this subsection shall only have effect—

(a) if and so long as the equipment is not used;

(b) if the equipment is in operation, if and so long as it is operated as not to cause a nuisance by the noise of the equipment in operation or the vibration caused by it.

(7) Nothing in any order made under this section shall have effect so as to prevent a heavy commercial vehicle waiting during the prescribed hours on any land within the curtilage of a private dwelling-house in a street to which the order relates for a period not exceeding one hour.

(8) The occupier of the land within the curtilage of a private dwelling-house or any part thereof who permits the vehicle to be used in contravention of an order under this section shall be liable to a fine not exceeding £50.

PART III
—cont.

who parks a heavy commercial vehicle in contravention of this section shall be liable to a fine not exceeding twenty pounds and a daily fine not exceeding forty shillings.

17.—(1) The Council or the council of a borough may make byelaws for the purpose of restricting the speed of vessels, or of prohibiting or controlling water skiing or any similar activity, on that part of the river Severn which lies to the north of the confluence of the Gladder Brook with the river Severn at Stourport-on-Severn, or on the river Avon, either generally or during specified periods.

Byelaws for controlling rivers Severn and Avon.

(2) The confirming authority in respect of byelaws made under this section shall be the Secretary of State.

(1) In the Act of 1751 the words "That all Owners of and every Person or Persons occupying any Lands or Tenements situate or near unto the said River shall have free Liberty to buy and use any Boats or Vessels upon the said River for their own use" shall cease to have effect so far as they relate to such part of the Navigation as is vested in the proprietors of the Lower Avon Navigation.

Charges for vessels on river Avon.

Notwithstanding the provisions of the foregoing subsection, a person who is the owner and occupier of any premises with a wharf or landing on to the said part of the river Avon who is also the owner or tenant in fee simple of the bed of the river adjacent thereto shall be entitled to keep and use one vessel of a length not exceeding 15 feet in all for his personal use free of charge subject to the byelaws and regulations from time to time of the proprietors of the Lower Avon Navigation.

Nothing in the foregoing provisions of this section shall impose any liability to pay charges or tolls to the proprietors of the Lower Avon Navigation in respect of the passage of a vessel through any lock.

In this section—

the Act of 1751 " means the Act 24 George II Cap. XXXIX;

the proprietors of the Lower Avon Navigation " means The Lower Avon Navigation Trust Limited as successors in title to the owners and proprietors of the Navigation empowered to regulate the navigation of the river Avon by the Act of 1751, and other their successors and assigns in whom the navigation of the river Avon or part thereof

PART III
—cont.

shall from time to time be vested upon trust for charitable purposes or as a statutory undertaker or public or local authority;

" the Navigation " means the navigation of the river Avon established by Order in Council of King Charles I dated 9th March, 1635, and regulated by the Act of 1751.

PART IV

HIGHWAYS AND STREETS

Arley Ferry.

19.—(1) In this section—

" the ferry " means the Arley Ferry of the Council plying across the river Severn in the parish of Upper Arley in the county;

" the ferry property " means all lands, vessels, landing places, steps, roads, ramps, walls, buildings and other works and property held, provided and constructed by the Council in connection with or for the purposes of the ferry.

(2) The Council may at any time after providing a sufficient and convenient bridge for foot passengers across the river Severn at Upper Arley aforesaid by resolution discontinue the ferry service provided by them in connection with the ferry and thereafter the ferry shall be discontinued and abandoned and all rights and obligations (if any) in or relating to the franchise of the ferry shall be extinguished.

(3) Notwithstanding anything in the preceding subsection or in any deed or other document of title relating to the ferry or the ferry property the Council may as from the date on which the ferry is discontinued and abandoned—

(a) retain, hold, maintain, adapt and use the ferry property or any part thereof for such time and for such purposes as they think fit;

(b) sell, lease, exchange or otherwise dispose of the ferry property or any part thereof or any interest therein in such manner and for such consideration and on such terms and conditions as they think fit (whether in consideration of the execution of works or of the payment of a capital sum or of an annual rent or of payment in any other form) and may on any such exchange pay or receive money for equality of exchange;

(c) appropriate the ferry property or any part thereof for any other purpose.

PART IV
—cont.

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

(1) Where in any district it appears to the street works authority that a new street has been formed by reason of additions to an existing footpath, bridleway or other highway maintainable at the public expense (not being or comprising a carriage-way within the meaning of the Act of 1959), otherwise than by being up for the purpose by the street works authority of premises owned by them, the street works authority may, notwithstanding anything in the code of 1875 or the code of 1892, carry out street works in respect of such street, or any part of such street, and apportion the expenses thereof on the premises adjoining or abutting on such street, or such part thereof, in proportion to the part of the said street was so maintainable.

Save in a case falling within the provisions of subsection (1) of section 162, for the purposes of any apportionment of the expenses of carrying out street works in part of a street where another part of that street consists of a highway maintainable at the public expense, premises fronting, adjoining or abutting on such street shall, if the street works authority so resolves, be deemed to front, adjoin or abut on the part of the street which is so maintainable.

Where, in consequence of any order or orders made under sections 30 or 32 of the Public Health Act 1925, or sections 159 or 160 of the Act of 1959, any lands have been or are added to a highway maintainable at the public expense in any district, such lands, if so resolved by the street works authority, may, for the purposes of the code of 1875 or the code of 1892, be deemed to be a street which is not maintainable at the public expense, and the street works authority may apportion the whole or any part of the expenses of any street works carried out in respect of such street, or any part of such street, on the premises of such lands formed part immediately before their addition to the highway as aforesaid:

1925 c. 71.

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

(1) Where any street works in the county have been carried out by a street works authority but they are unable to recover the amount due from the owner of any premises or premises under the code of 1892 by reason of the fact that such owner's name is unknown and cannot, after diligent inquiry, be ascertained, and the said amount becomes due and at reasonable intervals cannot be found, the street works authority may, at any time within the period of expiration of twelve years from the date when the said

Recovery of
street works
charges where
owner
unknown.

PART IV
—cont.

amount becomes due, apply to the county court and the court on the receipt of such application and on being satisfied that the provisions of this subsection have been complied with, shall make an order vesting the said premises in the street works authority absolutely, and thereupon the street works authority shall appropriate the said premises subject to, and in accordance with, the provisions of section 163 of the Act of 1959, if the said premises were land which was not required to be sold for which it was acquired.

1949 c. 42.

(2) Where the county court makes an order under subsection (1) of this section the Lands Tribunal shall, for the purpose of determining the value of the said premises, nominate one of their members selected in accordance with subsection 1 of section 1 and section 3 of the Lands Tribunal Act 1949, the member nominated shall determine the value accordingly, and shall annex to his valuation a declaration in writing signed by him of the correctness thereof, and the street works authority shall thereupon pay into court a sum equal to the amount of the valuation, after deduction of the amount of the municipal rate payable in respect of the said premises, with interest thereon for a period of six years at the rate of 5 per cent. per annum, or such other rate as may have been fixed by order of the Minister of Housing and Local Government under section 212 of the Act of 1959 together with all costs and expenses reasonably incurred by the street works authority.

1965 c. 56.

(3) Any payment into court under subsection (2) of this section shall be made in accordance with section 25 of the County Purchase Act 1965, and subsection (5) of section 25 of that Act shall apply to any such payment into court.

(4) The powers conferred by subsection (1) of this section shall be exercisable by the street works authority in addition to any existing rights, powers and remedies for the recovery of land, and shall be exercisable by the street works authority in respect of all street works whether completed before or after the commencement of this Act.

(5) In relation to a street works authority which is the authority of an urban district this section shall have effect as if for the words "the code of 1892" there were substituted reference to the code of 1875 or the code of 1892, whichever shall be appropriate.

(6) In this and the last foregoing section "street works authority" have the same respective meanings as in section 213 of the Act of 1959 and "the code of 1875" and "the code of 1892" have the same respective meanings as in section 173 of that Act.

PART IV
—cont.

Exercise by Council of powers with respect to county roads.

(1) The provisions of the Act of 1959 mentioned in subsection (2) of this section shall apply in relation to—

- (a) any county road (not being a claimed county road) in the county; and
- (b) any road constructed by the Council or by some other person by agreement with them which, when completed, is intended to become a county road;

shall have effect as if the Council were the local authority in the area the road is situated.

(2) The provisions of the Act of 1959 hereinbefore referred to are the following:—

Section 74 (which empowers a local authority to fix a frontage line where a building in a street is taken down in order to be rebuilt or altered);

Subsection (7) of section 131 (which provides that certain dangerous projections from buildings are to be deemed obstructions to safe and convenient passage along streets);

Section 132 (which relates to doors and other things opening outwards into streets); and

Section 144 (which makes provision for the fencing of dangerous land adjoining a street).

The Council shall not in the exercise of the powers of this section perform or discharge any of the functions under the provisions mentioned in subsection (2) of this section in any rural or urban district except at the request of, and by agreement with, the local authority of the district and, during the continuance of any such agreement, the functions to which the agreement relates shall cease to be exercisable by the local authority in relation to the road to which the agreement applies:

Provided that nothing in this subsection shall prevent the Council from exercising any powers conferred on them by any other enactment.

Any agreement made under the provisions of this section shall relate to any one or more roads in a district.

(1) No person (other than a person selling, offering or exposing for sale or depositing for sale any food, goods, provisions, or things at any market or fair for which a toll, stallage or rent is payable) shall use any shed, hut, shelter, booth, shop or other erection, whether on wheels or not, or any vehicle or any container used, with or without a stall, on the verge of any road to which this section applies, or on any common land,

Sale of food and articles on verges, etc.

PART IV
—cont.

unenclosed moorland or other unenclosed land of whatsoever description adjacent to, and within 15 yards of, a road to which this section applies, for the purpose of selling, offering, depositing or exposing for sale any food, goods, provisions, articles or things whatsoever, other than newspapers.

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

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

(a) all trunk roads and roads which are classified as principal roads by the Minister under the Local Government Act 1966;

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

(4) (a) An order under subsection (3) of this section shall be made except with the consent of the Minister.

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

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

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

PART IV
—cont.

(6) Nothing in this section shall apply to—

- (a) any shed, hut, shelter, booth, stall, shop or other erection or any vehicle or any container placed on private property by or with the consent of the owner of such property; or
- (b) the sale of food, goods, provisions, articles or things from a vehicle when in use solely for the purpose of itinerant trading with the occupants of premises adjoining any verge or land to which this section applies.

24.—(1) Any person with the consent of the highway authority may, in proper and convenient situations in any highway or roadside waste, provide stands for milk churns and containers: Milk stands
in highways.

Provided that the consent of the highway authority shall not be given to the provision of any stand in any highway or roadside waste in such a situation as to obstruct an existing access to any premises abutting on such road.

(2) In giving their consent under this section the highway authority may attach thereto such terms and conditions as they think fit.

(3) Any person aggrieved by the refusal of the highway authority to grant consent under this section or by the terms and conditions attached thereto may appeal to a magistrates' court.

(4) (a) Any person who, without the consent of the highway authority, provides stands for milk churns and containers in any highway or roadside waste, shall be guilty of an offence and shall be liable to a fine not exceeding twenty pounds and if the person guilty of the offence does not within two months after conviction remove the stands in respect of which the offence has been committed, the highway authority may themselves remove the said stands and recover the expense of so doing from the person guilty of the offence.

(b) Any breach of any terms and conditions imposed by the highway authority under subsection (2) of this section shall be deemed as regards liability to a fine and the other consequences arising under the foregoing paragraph of this subsection equivalent to the provision of stands without the required approval or consent.

25.—(1) In this section "retaining wall" means a wall which— Retaining
walls.

- (a) serves, or is intended to serve, as a support for earth or other material on one side only; and
- (b) does not form part of a permanent building;

PART IV
—cont.

(2) This section applies to any length of a retaining wall, being a length—

- (i) any cross-section whereof is wholly or partly within 12 feet of a street in a district; and
- (ii) which is at any point of a greater height than 12 feet above the level of the ground at the boundary of the street nearest that point;

but does not apply to any such length erected—

- (a) on land belonging to any railway, dock, canal or inland navigation undertakers so long as that land is used by those undertakers primarily for the purposes of the railway, dock, canal or inland navigation undertaking; or
- (b) by the Minister on a trunk road; or
- (c) by or under the jurisdiction or control of any river authority so long as such wall is used primarily in connection with the functions of that river authority.

(3) After the passing of this Act no length of a retaining wall to which this section applies shall be erected otherwise than in accordance with plans, sections and specifications approved by local authority, and if any person erects any such length of a wall in contravention of this subsection he shall be liable to a fine not exceeding twenty pounds.

(4) Any person aggrieved by the refusal of the local authority to approve any plans, sections and specifications submitted to it in pursuance of the last foregoing subsection may appeal to the magistrates' court.

(5) If any length of a retaining wall to which this section applies—

- (a) is in such disrepair as to be liable to endanger any person using the street; or
- (b) having been erected before the passing of this Act, is erected in contravention of subsection (3) of this section, is so constructed as to be liable as aforesaid;

the local authority may by notice to the owner or occupier of the land on which the wall stands require the owner or occupier to execute such work as may be necessary to prevent the wall from being liable as aforesaid; and the provisions of section 290 of the Public Health Act of 1936 shall apply in relation to such a notice as they apply in relation to the notices mentioned in subsection (1) of that section.

Temporary
stoppage of
streets.

26.—(1) For the purpose of—

- (a) making any new street; or
- (b) providing a parking place for vehicles under section 26 of the Act of 1967;

local authority may break up and for any reasonable time stop up, divert and interfere with any street in their district and prevent the traffic therefrom and prevent persons using it:

Provided that a local authority shall not exercise the powers of this section—

- (i) as respects any trunk road, without the consent of the Minister; or
- (ii) as respects any county road, without the consent of the Council; or
- (iii) so as to deprive foot-passengers bona fide going to or from any building or land in the street of reasonable access to the building or land; or
- (iv) so as to obstruct, or interfere with, the access to, or exit from, any station, dock, wharf or depot of any railway, dock, canal, inland navigation or passenger road transport undertakers.

(2) A local authority, when considering the question of exercising their powers under this section, shall have regard to the existence of alternative routes suitable for the traffic which will be affected.

(3) The provisions of Schedule 3 to the Act of 1967, so far as they apply in respect of the exercise by a local authority of the powers of this section as they apply in respect of the making by a highway authority of an order under section 12 of that Act.

(1) No person shall mix or deposit mortar or any like substance in any street in the county which is a highway maintainable at the public expense except upon a board or in a receptacle which will protect the street from such mortar or substance:

Mixing of mortar in streets.

Provided that this section shall not apply to the mixing or deposit in any street of mortar or any like substance for the purposes of making up, repairing, reinstating, altering or improving a street or any bridge over or under a street.

If any person contravenes the provisions of this section, he shall be liable to a fine not exceeding twenty pounds.

(1) After the passing of this Act, no part of any building (including the foundations) shall, except with the consent of the highway authority, be constructed so as to extend under the roadway of any street in the county at a less depth than 6 feet below the surface of such footway.

Restriction on buildings under footways.

(2) The giving of consent by the highway authority shall not relieve the owner or occupier of the building from any liability to statutory undertakers to which he would have been subject if this section had not been enacted.

PART IV
—cont.

(3) Any person aggrieved by the withholding of a certificate under subsection (1) of this section may appeal to a magistrates' court.

(4) If any person contravenes the provisions of subsection (1) he shall be liable to a fine not exceeding twenty pounds and to the payment of a fine not exceeding forty shillings.

(5) Nothing in this section shall extend or apply to the construction of any building (not being a house or building used as offices) by any statutory undertakers, canal or inland navigation undertakers in the exercise of their statutory powers.

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

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

(a) remove or cut any turf; or

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

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

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

(4) Nothing in this section shall—

(a) apply to any open space vested in, or under the control of, a local authority, a board of conservation or the National Trust for Places of Historic Interest or Natural Beauty, or to any land as respects which byelaws have been made under section 90 of the National Parks and Access to the Countryside Act 1949;

(b) affect any right of statutory undertakers to excavate or break up any street or land in the exercise of their statutory power.

1949 c. 97.

Defacing of road surface, etc.

30.—(1) The highway authority may expunge or cause to be expunged any picture, letter, sign or other mark painted or otherwise applied or affixed upon the surface of a highway or upon a fence, wall or works on or in a highway contrary to paragraph (a) of subsection (1) of section 117 of the Act of 1959.

(2) The court by which a person is convicted of an offence under the said section 117 may, whether or not it imposes a fine, by order require him to pay to the highway authority any expenses incurred by them in re-erecting, restoring or reinstating a traffic sign, milestone or direction post pulled down, damaged or obliterated contrary to paragraph (c) of subsection (2) of the said section or incurred by them under subsection (1) of this section.

31.—(1) Any person may in connection with any building operations or work of demolition, or in connection with the alteration, repair, maintenance or cleansing of the exterior of any building, erect or place or cause to be erected or placed any scaffolding obstruction or projection constituting an obstruction (each of which is hereafter in this section referred to as "scaffolding"), in, upon or over any street in the county if he has previously obtained a licence from the highway authority and complies with such terms and conditions as may be laid down in the licence granted to him:

Provided that the highway authority shall be entitled to refuse a licence only on the grounds that the scaffolding would cause an avoidable or unreasonable obstruction of such street.

(2) Any scaffolding erected under a licence granted under this section shall be sufficiently lighted during the hours of darkness:

Provided that this subsection shall not apply to a scaffolding projecting over the footway of a street but not over the carriageway if no part thereof is less than 8 feet above the level of the footway measured vertically and if the nearest part thereof to the carriageway is at least 1 foot 6 inches from the carriageway measured horizontally.

(3) Any person offending against the provisions of this section in contravening the terms or conditions of any licence granted to him shall be liable for every such offence to a fine not exceeding twenty pounds and to a daily fine not exceeding forty shillings.

(4) Any person aggrieved by the refusal of the highway authority to grant a licence under this section or by the terms and conditions laid down in any such licence may appeal to a magistrates' court.

(5) No licence shall be required under this section in respect of scaffolding erected or placed temporarily by a person acting in an emergency, or by the British Railways Board for the purpose of constructing, reconstructing or maintaining any works in the exercise of their statutory powers.

(6) Before the highway authority grant any licence under this section they shall give to any statutory undertakers who appear to them to be concerned notice of their intention to do so, and on giving any such licence shall attach thereto such conditions as any of the statutory undertakers may, within the period of seven

PART IV
—cont.

Extension of parish councils' powers to provide parking places.

days after the giving of such notice to them, reasonably required for the protection of any apparatus belonging to, or used or maintained by, the statutory undertakers or for securing access to such apparatus.

32.—(1) The powers of a parish council under section 46 of the Act of 1967 to provide parking places for bicycles and motorcycles shall extend so as to authorise a parish council to provide parking places for other vehicles (whether or not in covered buildings) in the circumstances and subject to the conditions prescribed by that section and by section 47 of that Act.

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

- subsections (5) and (8) of section 28; subsections (5) to (7) and (9) of section 29; section 30; subsections (1) to (4), (5) and (6) of section 31; and section 32.

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

PART V

FIRE PROTECTION AND PUBLIC SAFETY

Parts of buildings used for storage of flammable substances.

33.—(1) This section applies to—

- (a) any building of which part (hereafter referred to as "the storage part of the building") is used, or intended to be used, for the purposes of sale or trade of any substance to which this section applies and part is used, or intended to be used, as a habitable room or a place in which works are carried out, if the part used, or intended to be used, as a habitable room or a place in which works are carried out, communicates directly or indirectly with the storage part, or is constructed at a higher level than the storage part, of the building;

- (b) any substance which is highly flammable.

Provided that this section shall not apply to any substance to which no substance to which this section applies is more than—

- (i) one or more of the substances to which section 2 of the Petroleum (Consolidation) Act 1928 and section 2 of the Celluloid and Cinematograph Film Act 1922 apply;

1928 c. 32.
1922 c. 35.

PART V
—cont.

(ii) any substance which does not, when tested by a method approved by the Secretary of State, give off a flammable vapour at a temperature of less than 80 degrees Fahrenheit (27 degrees Centigrade) and which is stored in securely closed metal containers in good condition and containing not more than five gallons each; or

(iii) any substance which does not, when tested by a method approved by the Secretary of State, give off a flammable vapour at a temperature of less than 80 degrees Fahrenheit (27 degrees Centigrade) and which is stored in separate glass or glazed earthenware vessels securely stoppered and the aggregate amount of all such substances stored in such manner would not, if the whole contents were in bulk, exceed twenty-five gallons.

(2) If the Council are of the opinion that the storage for the purposes of sale or trade of any substances to which this section applies in any part of a building to which this section applies in the county is—

(a) in such quantity as to be likely to prove a source of danger to any person inhabiting or using any part of the building as a habitable room or as a place where any person works; or

(b) in such manner as to be liable to cause fire or explosion; may by notice require the occupier of any part of the building to provide or fit (as the case may be) within such reasonable period as may be specified in the notice—

(i) appropriate means of giving warning, in the case of fire, to persons occupying the building and for extinguishing fire and safeguards to prevent the spread of fire to or from the storage part of the building;

(ii) means of ready escape in case of fire from the storage part of the building and any other part of the building, being a part comprising a habitable room or a place in which any person works if that other part communicates directly or indirectly with, or is adjacent to, or constructed at a higher level than, the storage part of the building;

(iii) notices in or on the storage part of the building indicating the existence of danger from fire.

The occupier of any building who—

(a) by reason of a restriction affecting his interest in the building, is unable to execute works for the purpose of complying with a notice given by the Council under subsection (2) of this section; or

PART V
—cont.

(b) considers that the owner of the building or any person having an interest therein, should contribute towards the cost of the execution of works aforesaid and is unable to agree with the owner or any other person as to whether such a contribution should be made or as to the amount thereof;

may apply to the county court for an order to enable the execution of such works as may be necessary for the purposes of the notice with the notice or, as the case may be, to direct the owner of the building, or any other person who appears to the court to have an interest therein, to contribute towards the cost of such works as aforesaid such an amount as appears to the court in the circumstances of the case, to be fair and reasonable. The court may on such application make an order in respect of one or both of the matters aforesaid accordingly.

(4) Upon compliance with a notice under subsection (2) of this section the Council shall forthwith issue to the person to whom the notice was given a certificate of such compliance.

(5) (a) If, after a certificate of compliance with a notice under subsection (2) of this section has been granted by the Council

- (i) any material extension or material structural alteration is made to the building to which the certificate relates or is to be made; or
- (ii) it is intended materially to increase the storage in the said building of any substance to which this section applies;

the occupier of any part of the building shall give notice twenty-one days before any such extension or alteration or any such storage is increased give notice of such intention to the Council who may serve a further notice requiring any requirement made under subsection (2) of this section in respect of that building.

(b) Upon compliance being made with such a further notice the Council shall amend the certificate or grant a new certificate in respect of the building, but if anything required to be done in accordance with a further notice served under subsection (2) of this section is not provided within such reasonable time as may be specified in the notice, the Council may cancel the certificate originally granted in respect of the building.

(6) All means of escape, fire alarms and means of extinguishing fire provided or fitted (as the case may be) under the provisions of sub-paragraphs (i) and (ii) of paragraph (b) of subsection (5) of this section shall be properly maintained and free from obstruction.

(7) For the purposes of paragraph (a) of subsection (1) of section 287 of the Act of 1936, as applied by this Act, the provisions of this section shall be provisions which it is the duty of the Council to enforce.

(8) (a) An authorised officer of the Council may, in respect of any premises which he has entered in pursuance of the powers conferred by the said section 287, purchase and test samples of any substance stored on such premises for the purposes of sale or use in order to ascertain whether or not such substance is a substance to which this section applies.

(b) The result of any test of a sample taken by an authorised officer of the Council by virtue of this section shall not be admissible as evidence in any legal proceedings under this section, including an appeal under subsection (9) of this section, unless the following requirements have been complied with, that is to say, the said officer shall forthwith after taking the sample notify the occupier of the building of his intention to have it tested and shall there and then divide the sample into three parts, shall cause each part to be placed in a suitable container, which shall be sealed up and marked, and shall—

(i) deliver one part to the occupier of the building;

(ii) retain one part for future comparison; and

(iii) if he thinks fit to have a test made, submit one part to be tested.

(9) (a) Any person aggrieved by a requirement of the Council under subsection (2) of this section, or by a variation of a requirement under subsection (5) of this section, may appeal to a magistrates' court on any or all of the following grounds:—

(i) that the requirement or variation is not justified by the terms of this section;

(ii) that the requirement or variation is unreasonable in character or extent;

(iii) that the period specified in the notice is not reasonably sufficient for the purpose of complying with the requirements in the notice.

(b) Any person aggrieved by the refusal of the Council to grant or amend a certificate under this section or by the cancellation of a certificate under subsection (5) of this section may appeal to a magistrates' court.

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

PART V
—cont.

(11) In this section "building" where used in relation to storage of substances therein includes the curtilage of the building and "habitable room" includes a room or place which is a public resort.

1961 c. 34.
1963 c. 41.
1964 c. 26.
1967 c. 19.

(12) Nothing in this section shall apply to premises which are subject to the Factories Act 1961, the Offices, Shops and Premises Act 1963, the Licensing Act 1964 or the Private Places of Entertainment (Licensing) Act 1967, or regulations made under those Acts.

Oil-fired
boilers.

34.—(1) As from the appointed day any person intending to install or place oil-burning equipment in any building or on any land in a district, shall give not less than fourteen days' notice to the local authority of his intention to do so.

(2) (a) The Council if requested to do so by a local authority may make byelaws for securing that, in relation to the installation or operation of the byelaws, proper arrangements are made for preventing or reducing danger from fire.

(b) Byelaws made under this section may prescribe the apparatus and fittings and fire-fighting appliances to be used in connection with the installation or placing of oil-burning equipment in any such building, or on any such land, and the mode of arrangement of any such works, fittings and appliances.

(c) The confirming authority in respect of byelaws made under this section shall be the Secretary of State.

(3) (a) Any oil-burning equipment installed or placed in accordance with plans and specifications submitted to and passed by the local authority shall, for the purposes of this section, be deemed to be approved by the local authority if complying with the appropriate specification for such equipment contained in the byelaws in respect of all matters specified in the plans and specifications so passed.

(b) If the local authority do not, within two months of the submission of plans and specifications of oil-burning equipment under this subsection, notify the person by whom the plans and specifications were submitted of the rejection or passing of the plans and specifications, they shall be deemed to have passed.

PART V
—cont.

if, in relation to the installation or placing of any oil-burning equipment in any building or on any land, the local authority is satisfied that proper arrangements will be made for preventing reducing danger from fire, they may, on the application of the person proposing to install or place such equipment, approve the installation or the placing of the equipment notwithstanding that it may not comply with the appropriate specification for such equipment contained in the byelaws.

(a) Any person aggrieved by the refusal of the local authority to approve the installation or placing of any equipment under subsection (4) of this section may, within twenty-one days of the receipt of notification of the refusal, appeal to the Secretary of State.

Where an appeal is brought under this subsection the Secretary of State may dismiss or allow the appeal, or may vary the decision of the local authority against which the appeal is made.

(c) The decision of the Secretary of State on any such appeal shall have effect as if it were a decision of the local authority under this section.

For the purposes of paragraph (a) of subsection (1) of section 287 of the Act of 1936, as applied by this Act, the provisions of this section, and of any byelaws made thereunder, shall be provisions which it is the duty of the local authority to enforce.

(7) (a) If any person installs oil-burning equipment in any building or on any land in a district without giving notice to the local authority in accordance with subsection (1) of this section, he shall be liable to a fine not exceeding twenty pounds.

If any person contravenes any byelaw made under subsection (2) of this section, he shall be liable to a fine not exceeding ten pounds, and if—

- (i) that person, after conviction of the contravention; or
- (ii) any other person, after notice of the conviction has been served on him by the local authority;

uses oil-burning equipment in contravention of that byelaw, he shall be liable to a fine not exceeding ten pounds for each occasion on which he so uses it.

In this section—

“oil-burning equipment” means a boiler designed or adapted for the combustion of oil and includes the burner, the storage tanks and the apparatus, fittings, devices and catch-pits and any other equipment used for, or in connection with, the heating of the boiler;

PART V
—cont.

" boiler " means a boiler, furnace, heater, or other plant;

" storage tank " means a tank, container or device designed or adapted for the purpose of supplying oil to a boiler;

" apparatus " and " fittings " includes pipes and pipe fittings, taps, valves, pumps, gauges, vessels, fans and flues.

(9) Nothing in this section or any byelaws made under this section shall apply to—

(a) any oil-burning equipment if the storage tank or tank supplying or designed or adapted to supply oil to a boiler has or have a total capacity not exceeding one hundred and fifty gallons; or

(b) the installation of any oil-burning equipment in a building in respect of which a licence under the Cinematograph Acts 1909 and 1952 or the Health Act 1968 is for the time being in force; or

(c) the installation by any statutory undertaker of the British Railways Board, for the purposes of their statutory undertakings, of any oil-burning equipment in a building or land, other than in houses or buildings used as offices or showrooms not being, in the case of the British Railways Board, buildings so used which form part of a railway station.

1968 c. 54.

1961 c. 34.

(10) The provisions of any byelaw made under this section shall cease to apply in relation to any premises to which the Factories Act 1961 applies on the coming into force of that Act to those premises of regulations made under that Act relating to the same subject-matter as this section.

(11) (a) In this section " the appointed day " means the day as may be fixed by resolution of a local authority in accordance with the provisions of this subsection.

(b) Different days may be fixed under this subsection for the purpose of different districts.

(c) The local authority shall cause to be published in a newspaper circulating in the district notice—

(i) of the passing of any such resolution and the day so fixed thereby; and

(ii) of the general effect of the provisions of this section and to (10) of this section;

and the day so fixed shall not be earlier than the day which is one month from the date of publication of the said notice.

PART V
cont.

(d) Either—

- (i) a copy of any such newspaper containing any such notice; or
- (ii) a photostatic or other reproduction certified by the clerk of the local authority to be a true reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice;

shall be evidence of the publication of the notice and of the date of publication.

35.—(1) Subject to the provisions of this section, a local authority shall consult with the Council as the fire authority—

Consultation by local authorities with fire authority. 1928 c. 32.

- (a) before granting, with or without conditions, a petroleum spirit licence under the Petroleum (Consolidation) Act 1928;
- (b) before exercising their functions under sections 59 or 60 of the Act of 1936 (which require a local authority to reject building plans for certain public and other buildings unless satisfactory exits, entrances and passages are provided and to reject building plans for certain high buildings unless means of escape from fire are provided);
- (c) before issuing a site licence, with or without conditions to which this paragraph applies or altering any such conditions attached to a site licence, or providing a site for caravans under the Caravan Sites and Control of Development Act 1960;
- (d) before approving under subsection (4) of section 34 (Oil-fired boilers) of this Act the installation or placing of equipment which does not comply with the appropriate specification contained in byelaws made under that section;
- (e) before rejecting any plan in accordance with subsection (1) or (2) of section 38 (Building plans: access for fire brigade) of this Act;
- (f) before approving particulars of the matters referred to in paragraphs (a) and (b) of subsection (1) of section 39 (Fire precautions in certain large buildings) of this Act;
- (g) before passing any plans of a type referred to in section 46 (Underground parking places) of this Act.

1960 c. 62.

(2) Paragraph (c) of subsection (1) of this section applies to conditions for securing that proper measures are taken for preventing and detecting the outbreak of fire and that adequate

PART V
—cont.

Prescription
of signs to
be used on
certain
buildings.

means of fire fighting are provided and maintained, and consultation in respect of the matters specified in that section shall only be required in relation to such measures for preventing or detecting the outbreak of fire and such means of fire fighting.

36.—(1) The Council may, in relation to any substance which this section applies—

- (a) prescribe standard uniform signs or notices or warning notices in a form approved by the Secretary of State, clearly indicating the nature of the substance and the existence of danger from fire;
- (b) by notice require the occupier of any part of a building used for the manufacture or storage of the substance to affix, within such reasonable time as is specified in the notice, and thereafter to keep fixed in any one position or positions in or on the part of the building used for such manufacture or storage, the sign, symbol or notice.

(2) This section applies to any substance likely to be a special hazard to persons engaged in operations for fire-fighting purposes.

(3) If any person fails to comply with the requirements of this section he shall be liable to a fine not exceeding twenty pounds and to a daily fine not exceeding five pounds.

(4) In this section "fire-fighting purposes" has the same meaning as in the Fire Services Act 1947.

1947 c. 41.

Instructions,
lectures, etc.,
on questions
relating to
fire services,
etc.

37.—(1) The Council may arrange for—

- (a) the publication of information on questions relating to fire services, fire fighting and precautions to be taken in the occurrence of fires in the county;
- (b) the delivery of lectures and addresses and the holding of discussions on such questions; and
- (c) the display of pictures, cinematograph films, or the holding of exhibitions relating to such questions.

(2) The Council may prepare, or join in, or contribute to the cost of, the preparation of, pictures, films, models or other things relating to such questions to be displayed or held within or outside the county.

Building
plans: access
for fire
brigade.

38.—(1) Where plans for the erection of a building are deposited in accordance with building regulations deposited in the local authority, the local authority shall reject the plans if—

- (a) that the building will not be provided with such means of access by the fire brigade as are necessary for the purpose of a fire in the building to be fought effectively.

PART V
—cont.

(b) that the building will interfere with the means of access by the fire brigade to a neighbouring building to such an extent as to render those means insufficient to enable a fire in the neighbouring building to be fought effectively.

(2) Where plans for the extension of a building are in accordance with building regulations deposited with a local authority, the local authority shall reject the plans if they show

(a) that the extension will be such as to affect the adequacy of the means of access by the fire brigade to the building and that the building as extended will not be provided with such means of access by the fire brigade as are necessary to enable a fire in the building to be fought effectively; or

(b) that the extension will interfere with the means of access by the fire brigade to a neighbouring building to such an extent as to render those means insufficient to enable a fire in the neighbouring building to be fought effectively.

(3) In this section "access by the fire brigade" means access by members of one or more fire brigades and their appliances, and references to a neighbouring building are, in relation to a neighbouring building for the erection, alteration or extension of which plans have been passed, references to the neighbouring building as erected, altered or extended in accordance with those plans.

(4) If a local authority reject the plans under the authority of this section, the notice given in pursuance of subsection (2) of section 64 of the Act of 1936 shall specify that the plans have been so rejected.

(5) Any question arising under this section between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the local authority ought to pass the plans may, on the application of that person, be determined by a magistrates' court.

(6) This section shall not apply in respect of plans deposited for the erection of—

(a) a one-storeyed private dwelling-house of a capacity of less than 18,000 cubic feet or such other capacity as the Secretary of State may by order prescribe; or

(b) a private dwelling-house of two storeys neither of which storey has a floor area of more than 1,000 square feet or of such other area as the Secretary of State may by order prescribe; not being a flat or maisonette.

PART V
—cont.

(7) An order under subsection (6) of this section shall be made by statutory instrument and the local authority shall cause it to be published in a local newspaper circulating in the district of the making of such order and of the general effect of the notice.

(8) Either—

(a) a copy of any such newspaper containing the notice or

(b) a photostatic or other reproduction certified by the local authority to be a true reproduction of the page or part of a page of any such newspaper containing the date of its publication and containing the notice;

shall be evidence of the publication of the notice.

Fire
precautions
in certain
large
buildings.

39.—(1) No building of the warehouse class and not used or intended to be used for the purpose of trade or manufacture shall be erected in the county of a cubic capacity of 250,000 cubic feet or extended to exceed that extent in accordance with plans and particulars submitted in accordance with building regulations and approved for the purposes of this section by the local authority of the district in which the building is to be erected or is situate) it is—

(a) provided with all such means of escape as may be reasonably required in the case of fire as may be reasonably required;

(b) (if the Council in all the circumstances thinks fit) fitted with automatic fire alarms and a fire extinguishing system or with either such alarms or such a system to the satisfaction of the local authority:

Provided that—

(i) nothing in paragraph (a) of this subsection shall apply to a factory to which section 40 of the Factories Act 1961 applies, to buildings to which section 40 of the Act of 1936 applies or to premises to which section 40 of the Shops and Railway Premises Act 1963 applies;

(ii) nothing in paragraph (b) of this subsection shall apply to a factory to which section 40 of the Factories Act of 1961 applies or to premises to which section 40 of the said Act of 1963 applies, nor so far as relates to the provision of a fire extinguishing system shall paragraphs (a) and (b) apply to a factory to which section 51 of the said Act of 1961 applies or to premises to which the said Act of 1963 applies.

1961 c. 34.

1963 c. 41.

PART V
—cont.

(2) (a) The person proposing to erect or cause to be erected or extend or cause to be extended any building to which subsection (1) of this section applies shall, when submitting plans and particulars in accordance with building regulations, deposit with the local authority particulars showing how it is proposed to comply with the requirements of paragraphs (a) and (b) of subsection (1) of this section.

(b) A local authority at any time within a period of two months after the deposit of the particulars irrespective of any decision under building regulations—

(i) may refuse to approve them; or

(ii) may approve them subject to such conditions (if any) as they think fit.

(c) Where a local authority refuse to approve the particulars or approve them subject to conditions they shall give to the person who deposited the particulars notice stating their reasons for refusal or for the imposition of conditions:

Provided that if within the period of two months mentioned in paragraph (b) of this subsection the local authority fail to give such notice they shall be deemed to have approved the said particulars.

(3) (a) If any building to which the preceding subsections of this section are applicable is erected or extended in contravention of any of the requirements of paragraph (a) or (b) of subsection (1) of this section the local authority, without prejudice to their rights to take proceedings for penalties in respect of the contravention, may by notice require the person erecting or causing to be erected the building or extension either to pull down and remove it or, if he so elects, to effect such alterations therein as may be necessary in order to comply with the said requirements.

(b) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under this subsection as they apply in relation to the notices mentioned in subsection (1) of that section.

All means of escape, fire alarms and fire extinguishing systems provided or fitted, as the case may be, under the requirements of paragraphs (a) and (b) of subsection (1) of this section shall be properly maintained and kept free from obstruction.

(4) (a) A person who erects or causes to be erected or extends or causes to be extended a building in contravention of any of the provisions of this section shall be guilty of an offence under this section.

(b) The occupier of any premises who fails to maintain the means of escape, fire alarms and fire extinguishing systems provided or fitted, as the case may be, under the requirements of

PART V
—CONT.

paragraphs (a) and (b) of subsection (1) of this section, keep them free from obstruction, shall be guilty of an offence under this section.

(c) A person who commits an offence under this section on summary conviction be liable to a fine not exceeding ten pounds and to a daily fine not exceeding ten pence.

(6) Any person aggrieved by—

- (a) a requirement of a local authority; or
- (b) a refusal by a local authority to approve any plans; or
- (c) a condition subject to which approval of any plans is given by a local authority;

under subsection (1) or (2) of this section may appeal to a magistrates' court, and on any such appeal the court may reverse or vary such requirement, refusal or condition.

(7) Any member of the fire brigade of the county who is authorised for the purpose shall, on producing to the occupier some duly authenticated document showing his authority and right to enter at all reasonable times any building to which subsections (1) to (3) of this section apply—

- (a) for the purpose of ascertaining whether there has been, in or in connection with the building, any contravention of the provisions of this section;
- (b) for the purpose of ascertaining whether or not circumstances exist which would authorise a local authority to take any action under this section.

(8) The provisions of subsections (2), (3) and (4) of section 71 of the Act of 1936 shall apply to entry into a building for the purposes of subsection (7) of this section as they apply to entry into premises for the purposes of subsection (1) of that section.

(9) Nothing in this section shall apply to any building—

- (a) in respect of which a licence under the Cinemas Acts 1909 and 1952 or the Theatres Act 1968 is at that time being in force; or
- (b) which is exempted from the provisions of Part II of the Act of 1936 with respect to building regulations by paragraph (c) of section 71 of that Act.

(10) Any reference in this section to plans drawn in accordance with building regulations shall be construed as including a reference to any sections, specifications or other particulars deposited with the plans in accordance with the regulations or this section.

40.—(1) This section applies to apparatus, including luminous tube signs designed to work at a voltage exceeding 650 volts, or other equipment so designed.

Firemen's
switches for
luminous
tube signs.

transformers required to raise the voltage so as to operate the apparatus or equipment, not being apparatus which is inside a building and is attended while in operation.

(2) As from the coming into operation of this section apparatus to which this section applies in the county shall be provided with a cut-off switch on the low-voltage side of the transformer, and the switch shall be so placed, and coloured or otherwise marked, as to satisfy such reasonable requirements as the Council may impose to secure that it shall be readily accessible to, and recognisable by, firemen.

(3) Not less than fourteen days before work is begun to install apparatus to which this section applies, the consumer shall give notice to the Council showing where the cut-off switch is to be placed and how it is to be coloured or otherwise marked.

(4) Where apparatus to which this section applies has been installed before the date of the coming into operation of this section, the consumer shall, not less than fourteen days before that date, give notice to the Council—

(a) in the case of apparatus already provided with a cut-off switch on the low-voltage side of the transformer, showing where the switch is placed and how it is coloured or otherwise marked;

(b) in the case of apparatus not already provided with such a cut-off switch as aforesaid, showing where the switch is to be placed and how it is to be coloured or otherwise marked.

(5) Where notice has been given to the Council as required by subsection (3) or subsection (4) of this section, the proposed position, as the case may be, actual position, colouring or marking of the switch shall be deemed to satisfy the requirements of the Council unless, within ten days from the date of the service of the notice, if the notice is served under subsection (3) of this section, or within twenty-one days from the date of the service of the notice, if the notice is served under subsection (4) of this section, the Council have served on the consumer a counter-notice stating that their requirements are not satisfied.

(6) A cut-off switch which complies with the regulations of the Institution of Electrical Engineers shall for the purposes of this section be deemed to satisfy the requirements of the Council.

(7) A person aggrieved by a counter-notice served by the Council under subsection (5) of this section may appeal to a Magistrates' court and the court, if it allows the appeal, shall order the cancellation of the counter-notice.

(8) If the owner or the occupier of any premises where apparatus to which this section applies is installed does not comply with

PART V
—cont.

subsection (2) of this section he shall be liable to a fine not exceeding twenty pounds and to a daily fine not exceeding five shillings.

(9) If any person fails to give notice as required by subsection (3) or subsection (4) of this section, he shall be liable to a fine not exceeding twenty pounds.

1947 c. 54.

(10) The provisions of this section shall not apply to apparatus or fittings of the Electric Supply Regulations 1947 or to any regulations that may be made under section 60 of the Electricity Act 1947.

1968 c. 54.

(11) This section shall not apply to apparatus or fittings in premises, or any part of premises, in respect of which a licence under the Cinematograph Acts 1909 and 1952 or the Cinematograph Act 1968 is for the time being in force:

Provided that where any luminous tube sign to which this subsection applies is proposed to be fitted in or on any such premises, the owner or occupier of the premises before such apparatus is fitted, give notice under subsection (3) of this section to the Council informing them of the premises in which it is proposed to place the cut-off switch.

(12) This section shall come into operation on the day after the expiration of a period of two months beginning with the day on which this Act is passed.

(13) (a) The Council shall, as soon as may be after the coming into force of this Act, cause public notice to be given of the effect of the foregoing provisions of this section by advertisement in one or more newspapers circulating in the county, and in such other manner as the Council think fit.

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

Preventing fire
in public or
other
buildings.

41.—(1) If it appears to a local authority that for the purpose of preventing fire in any such building in its district as is mentioned in subsection (5) of section 59 of the Act of 1947, it is necessary for the purpose of preventing injury or danger to persons in the building or to property therein—

- (a) the apparatus or fittings for lighting of the building require alteration; or
- (b) the arrangement of the chairs and seats in the building require alteration; or
- (c) any floor requires strengthening in order to prevent overloading; or

(d) any of the materials from which any fireplaces, flues, chimney vents or other like parts of such building are constructed are unsuitable;

PART V
--cont.

local authority may by notice require the owner or occupier of the building to make such provision in regard to the matters aforesaid as may be necessary:

Provided that—

(i) for the purposes of this subsection any fireplace, flue, chimney vent or other like part of such building which complies with building regulations for the time being in force made under section 4 of the Public Health Act 1961 shall not be deemed to have been constructed of unsuitable materials; 1961 c. 64.

(ii) this subsection shall not apply to premises in respect of which a licence under the Cinematograph Acts 1909 and 1952 or the Theatres Act 1968 is for the time being in force; 1968 c. 54.

(iii) nothing in this section shall affect the operation of the Factories Act 1961 or the Offices, Shops and Railway Premises Act 1963, or any regulation or order made thereunder. 1961 c. 34. 1963 c. 41.

(2) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

2.—(1) Section 60 of the Act of 1936 in its application to the district of any local authority in the county shall have effect as if—

Provision of means of escape from fire in certain buildings.

(a) in subsections (1) and (4) of that section the words "eighteen feet" were substituted for the words "twenty feet";

(b) in paragraph (a) of subsection (4) of that section the words "is used as a flat or flats" were substituted for the words "let in flats";

(c) in paragraph (b) of subsection (4) of that section the words "boarding school" were omitted and the words "old persons' home" were inserted after the words "children's home"; and

(d) in paragraph (c) of subsection (4) of that section the word "school" were inserted after the word "shop" and the words "for persons employed on the premises" were omitted.

PART V
—cont.

(2) (a) The local authority may by notice require the person having control of a building to which the said section as amended by subsection (1) of this section, applies (other than a house used as a flat or flats) to keep unobstructed all passages and gangways as are specified in the notice and, if he fails to do so, he shall be liable to a fine not exceeding twenty pounds.

(b) A person served with a notice under this subsection may appeal to a magistrates' court on any of the following grounds:

- (i) that the requirement is not justified by the terms of the subsection;
- (ii) that there has been some informality, defect or error in or in connection with, the notice;
- (iii) that the requirement of the notice is of an unusual character or extent or is unnecessary.

Fire
precautions in
registered
clubs.
1964 c. 26.

43.—(1) A fire officer authorised in writing by the chief fire officer of the Council may on giving not less than twenty-four hours' notice to the secretary of a club in the county registered under the Licensing Act 1964, on production of his authority, enter and inspect as regards any matter affecting fire risks the premises occupied by the club at any reasonable time on such days as may be specified in the notice; but the chief fire officer may not authorise a fire officer unless in his opinion special circumstances make it necessary that the premises should be inspected for the proper discharge of his functions in relation to any matter affecting fire risks.

(2) Any person obstructing a fire officer in the exercise of the power conferred by this section shall be liable to a fine not exceeding twenty pounds.

Byelaws for
prevention of
fire at fairs
and circuses.
1961 c. 64.

44. A local authority may make byelaws under section 107 of the Public Health Act 1961 for preventing or reducing the risk from or risk of fire in or to caravans, stands, stalls and structures used or intended to be used for the purposes of fairs or circuses with any fair or circus and may by such byelaws

- (1) prescribe the space to be kept free between and between any two such caravans used or intended to be used for sleeping accommodation and between any such caravan so used or intended to be used and any such stand, stall or structure;

- (2) prohibit or restrict the storage and use of flammable gases other than for domestic use;

and such byelaws shall in all circumstances be made and properly made for the preservation of public safety.

Provided that no byelaws made under this section shall apply to any caravan, stand, stall or structure erected for the purposes of or in connection with a fair or circus provided by The Scout Association or The Girl Guides Association or by members of an organisation established by either of such associations in pursuance of their charter.

PART V
—cont.

5.—(1) A local authority may make byelaws prescribing the times and the days of the week during which trade refuse may be taken to or burned in yards or gardens.

Byelaws as to
burning of
refuse.

(2) The confirming authority in respect of byelaws made under this section shall be the Secretary of State.

6.—(1) Where plans of any proposed work deposited with a local authority in pursuance of building regulations include proposals for the construction, alteration or extension of an underground parking place or the alteration of a building for an underground parking place the local authority may, notwithstanding anything in section 64 of the Act of 1936, reject the plans unless there are put before them such proposals as appear to them to be satisfactory for preventing or reducing danger from fire being proposals relating to all or any of the following matters:—

Underground
parking
places.

- (a) the construction of the underground parking place and the approaches thereto and the materials to be used in such construction;
- (b) the provision of adequate means of ventilation of the underground parking place;
- (c) the provision of electrical and mechanical and heating equipment in the underground parking place;
- (d) the provision of a satisfactory emergency lighting system in connection with the underground parking place;
- (e) the provision of fire-fighting equipment and appliances in connection with the underground parking place;
- (f) the provision of safe and adequate means of ingress to and egress from the underground parking place;
- (g) the provision of adequate means for preventing inflammable substances from being admitted to any drainage system forming part of the underground parking place;
- (h) the provision of adequate means of access to the underground parking place for fire brigade appliances and personnel.

PART V
—cont.

(2) Subsection (2) of section 64 and subsection (1) of section 65 of the Act of 1936 shall have effect as if they were a section of that Act.

(3) If any question arises between the local authority and any person who has executed or proposes to execute any work

(a) whether the work is such as is mentioned in subsection (1) of this section; or

(b) whether the local authority ought to have treated as satisfactory any proposal put before them in pursuance of the said subsection;

that question may, on the application of that person, be referred to the Secretary of State for determination, and the Secretary of State shall determine any question submitted to him under paragraph (a) of this subsection or, as the case may be, may direct the local authority to treat as satisfactory the said work or the said proposal as modified by him.

(4) If, after plans of any underground parking place have been passed by the local authority in consequence of any proposal made under subsection (1) of this section, it appears to the local authority that any such proposal has not been carried into effect or is not being observed, the local authority may by notice require the owner or occupier of the underground parking place to stop its use as an underground parking place until the proposal has been carried into effect or is being observed.

(5) If any person on whom a notice has been served under subsection (4) of this section uses the underground parking place or permits it to be used as an underground parking place, giving effect to or securing the observance of any proposal specified in the notice, he shall be liable to a fine not exceeding fifty pounds and to a daily fine not exceeding five pounds.

Further provision as to underground parking places.

47.—(1) Without prejudice to the provisions of section 46 (Underground parking places) of this Act, the local authority may by notice to the owner or occupier of any underground parking place in the district which is first brought into effect by the passing of this Act require compliance with such conditions as to the use of the underground parking place as may be specified in the notice for the purpose of preventing or reducing the risk of fire therein, and in the case of any underground parking place aforesaid in respect of which plans are not deposited with the local authority in pursuance of building regulations, the local authority may by notice to the owner or occupier thereof

to comply with such conditions as aforesaid and with such conditions with regard to the matters specified in paragraphs (b) to (h) of subsection (1) of the said section 46 as the authority think fit.

PART V
—cont.

any person on whom a notice under this section has been served fails to comply with any requirements specified in the notice, he shall be liable to a fine not exceeding twenty pounds or a daily fine not exceeding five pounds.

A person on whom a notice under this section has been served may within twenty-one days of the service of the notice appeal to the Secretary of State on the ground that any requirement specified in the notice is not justified by this section or is unreasonable in character or extent or is unnecessary.

Where a person is so required by any such person the local authority shall serve on him a certificate signed by their clerk stating the grounds on which the local authority have made any requirement under this section, and where such person appeals to the Secretary of State against such requirement the certificate shall be submitted to the Secretary of State at the same time that notice of appeal is given, or as soon as possible after the receipt by such person of the certificate.

On consideration of any such appeal the Secretary of State may, if he thinks fit, confirm, modify, alter or annul any requirement made by the local authority under this section.

(1) In the last two foregoing sections the expression "ground parking place" means a building or part of a building (other than a building or part of a building in respect of which a licence issued by a local authority or the Secretary of State under section 2 or 3 of the Petroleum (Consolidation) Act 1928 is in force or a building or part of a building to which provisions made by the Secretary of State under section 10 of the said Act apply) which provides waiting space or storage space, whether alone or in addition to any other facility or service, for cars or other vehicles and of which any part of the floor is situated more than 4 feet below the surface of the ground on which or nearest to such building or part of a building.

Interpretation and powers of entry for purposes of last two foregoing sections.
1928 c. 32.

For the purposes of paragraph (a) of subsection (1) of section 287 of the Act of 1936 the provisions of the last two foregoing sections shall be provisions which it is the duty of the local authority to enforce.

(1) No person shall within the county dispose of or deposit in any manner (including a container attached to a vehicle or trailer) which has been used for the storage of inflammable, flammable or poisonous substance and is no longer used for that purpose.

Disposal of dangerous containers.

PART V
—cont.

purpose unless he takes all such steps as may be reasonably necessary to prevent danger from the container to any person or property.

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

1967 c. 69.

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

1933 c. 25.

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

Protection of
dangerous
excavations.

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

1954 c. 70.

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

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

- (a) the local authority are unable, after making such inquiry, to ascertain the name and address of the owner or occupier of the land; or
- (b) the local authority have, by notice given to the owner or occupier of the land, requested the execution of works of repair, protection or enclosure as they consider necessary to obviate the danger, and an offer made by the local authority to pay or contribute to the payment of any expenses incurred by the owner or occupier in the execution of such works has not been accepted, or are not executed within such reasonable time as may be necessary for the purpose;

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

(a) Where, in a case referred to in paragraph (b) of subsection (2) of this section, the local authority propose themselves to execute works on any land they shall, before carrying the proposal into effect, serve notice on the owner or occupier of the land specifying—

- (i) the place where the local authority propose to execute such works;
- (ii) the effect of paragraphs (b) and (c) of this subsection;
- (iii) the nature of the works proposed; and
- (iv) the period, which shall not be less than twenty-eight days, within which notice of objection to the proposal may be sent in writing to the local authority.

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

If that person is aggrieved by the decision of the local authority he may, within twenty-one days after receiving notice of the decision, appeal to a magistrates' court, and the court shall have power to make such order in the matter as it considers reasonable in so doing shall have regard as between an owner and occupier to the terms and conditions, whether contractual or statutory, of any tenancy.

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

The Council may pay such contributions as they think fit towards any expenses incurred by any person (including a local authority) in executing works in relation to any such pond, well, shaft, quarry or other excavation in the county for the purpose of obviating danger to persons.

(1) If it appears to a local authority that, for the prevention of danger to persons generally or to property, any tree in their area should be lopped, cut, removed or felled, the local authority may serve a notice on the owner or occupier of the land on which the tree is growing or situated, requiring him, within twenty-one days to lop, cut, remove or fell the tree or to do such other works as the local authority may consider necessary to prevent the danger.

Removal,
etc., of
dangerous
trees.

PART V
—cont.

(2) The provisions of section 276 of the Act of 1936 relating to the sale of certain materials shall for the purposes of this section have effect as if the expression "materials" included timber.

(3) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section:

Provided that for the purposes of such application the section 290 shall have effect as if—

(a) for paragraph (a) of subsection (3) thereof there were substituted the following paragraph:

"(a) that the notice or requirement shall be enforceable;" and

(b) in subsection (6) thereof the words after "this section" were omitted.

(4) In any case where the removal or cutting down, or the execution of works in relation to, any tree

(a) will interfere with the exercise by a river authority of any of its functions; or

(b) will cause injury or damage to or otherwise interfere with any drainage work;

the local authority shall (except in case of emergency) consult with the river authority before serving notice under this section.

PART VI

HEALTH, WELFARE AND EDUCATION

Power to lend museum objects for educational purposes.

52. Any specimen, work of art or other object in the possession of the Council or a local authority for the purposes of this section provided by them may be used by them for educational purposes and circulated to schools, colleges and other educational establishments in the county or loaned to any such establishments for such period and subject to such conditions as the Council or local authority may determine:

Provided that this section shall not apply to any work of art or other object which has been left with the Council or the local authority for the purpose of identification and which is in their possession by virtue of a trust or loan the terms of which are inconsistent with the powers conferred by this section.

Tipping of spoil and refuse.

53.—(1) A local authority may make byelaws for the regulation of the tipping of spoil and refuse and for prohibiting the tipping of spoil or refuse tip so as to be a nuisance to the adjoining premises in the neighbourhood thereof.

PART VI
--- cont.

Byelaws made by virtue of this section may --

(a) contain provisions for imposing on persons offending against the byelaws fines not exceeding twenty pounds for each offence and in the case of a continuing offence a daily fine not exceeding ten pounds;

(b) provide that any spoil or refuse tip placed, kept or used in breach of the byelaws shall be a statutory nuisance for the purpose of Part III of the Act of 1936.

A byelaw under this section shall extend to regulating or controlling the tipping of spoil or refuse --

(a) by railway, canal or inland navigation undertakers for the purpose of constructing, altering or maintaining any railway, canal, inland navigation, dock or wharf works or by statutory undertakers on operational land; or

(b) by a river authority for the purpose of land drainage or flood alleviation or in the exercise of its new functions under the Water Resources Act 1963; or

1963 c. 38.

(c) on premises which are deemed to form part of a mine or quarry for the purposes of the Mines and Quarries Acts 1954 and 1969 or at a tip to which Part I of the Mines and Quarries (Tips) Act 1969 applies.

1969 c. 10.

The confirming authority for the purpose of section 250 of the Act of 1933 as respects byelaws made under this section shall be the Minister.

(1) A stationary internal combustion engine shall not be in a district unless an effectual silencer is provided and on the exhaust of the engine.

Silencers for internal combustion engines.

If any person uses such an engine in contravention of the foregoing subsection, or causes or permits such an engine to be used, the local authority may give him notice that the engine has been so used; and if, after the lapse of such time as may be reasonably sufficient for the service of the notice as may be reasonably sufficient for the cause of complaint, he uses the engine as aforesaid, or permits it to be so used, he shall be liable to a fine not exceeding twenty pounds and to a daily fine not exceeding five shillings.

An authorised officer of the local authority shall, on proof if so required some duly authenticated document showing authority, have the right --

(a) to enter at all reasonable hours premises on which there is reason to believe that such an engine is being or has been used in contravention of this section; and

PART VI
—cont.

- (b) to inspect and test any silencer on the exhaust of an engine found on the premises, and for that purpose to require the silencer to be taken off,

and any expenses incurred under this subsection by such officer may be recovered by the local authority from the occupier of the premises if there is found on the premises an engine which is not provided with an effectual silencer on the exhaust thereof.

(4) Nothing in this section shall apply to an internal combustion engine used below ground in a mine within the meaning of the Mines and Quarries Act 1954.

1954 c. 70.

Model
aircraft
1960 c. 68.

55. Section 1 (Noise or vibration nuisance) of the Abatement Act 1960 shall have effect in the county (except in any part of a pleasure ground set apart by a local authority for the flying of model aircraft in accordance with byelaws made by that authority) as if the exemption in subsection (7) of that Act of noise or vibration caused by aircraft did not apply to model aircraft.

PART VII

FINANCE

Power to
Council to
raise money
by issue of
bills.

56. In addition to the modes of borrowing prescribed by the Act of 1933, the Council may raise money

- (1) for any purpose for which the Council are authorised to borrow;
- (2) in anticipation of the receipt of revenues, for any purpose for which the revenues of the Council may properly be applied;

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

- (a) A bill shall be in the form prescribed by regulation under this section and shall be for the payment of a sum named therein in the manner and at the date mentioned, being a date not more than twelve months from the date of the bill;
- (b) A bill shall entitle the holder thereof to payment of the sum expressed in the bill to be paid on the maturity of the bill;
- (c) Bills may be offered for purchase (whether by tender or otherwise) in such manner and on such conditions as the Council may determine:

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

(e) The Council may make regulations providing for--

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

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

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

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

(v) amending or revoking any regulations previously made or deemed to have been made under this paragraph:

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

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

(i) the sum of one million seven hundred and fifty thousand pounds; or

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

whichever is the greater:

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

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

(h) The Council may lend to any local authority such as the Council think fit to lend and as the local authority authorised to borrow, and any money so lent shall be repaid

Power to Council to lend money to certain authorities.

PART VII
—cont.

to the Council by the local authority within the period specified by the sanctioning authority, or otherwise, for the repayment thereof.

(2) Any agreement under this section may be made by resolutions passed respectively by the Council and the local authority.

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

(4) The Council shall be entitled to charge such interest as may be agreed between the Council and the borrower.

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

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

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

1875 c. 83.

Exclusion
of certain
remuneration
and service
for super-
annuation
purposes.

1967 c. 12.

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

- (a) who are contributory employees for the purposes of the Local Government Superannuation Acts 1947 to 1953; or
- (b) who are teachers employed in reckonable service for the purposes of the Teachers' Superannuation Act 1962; or
- (c) who are firemen participating in the Firemen's Superannuation Scheme; or
- (d) who by virtue of the provisions of rule 3 of the Firemen's Superannuation (Policy and Local Government Superannuation) Interchange Rules 1948 are not subject to the provisions of the Local Government Superannuation Act 1953;

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

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

- (a) as an instructor or other employee performing duties at, or for the purposes of, an evening institute or for the purposes of evening classes; or
- (b) as a warden of, or other employee performing duties at, or for the purposes of, a youth centre; or
- (c) as a civil defence instructor; or
- (d) in any other capacity for the performance of duties which are not duties which he may be called upon to perform in his ordinary whole-time employment;

3) All remuneration within the meaning of the Local Government Superannuation Acts 1937 to 1953, or of any other enactment affecting the superannuation fund maintained by the Council under those Acts, and the service of any such contributory employee in any such part-time employment shall not be reckoned as service for any of the purposes of those Acts.

4) Where, before the passing of this Act, any person to whom subsection (2) of this section applies has paid any contribution or contributions to the superannuation fund maintained by the Council which would not have been so paid if this section had been in force when such contribution or contributions were made, the Council shall repay to such person a sum equal to the amount of such contribution or contributions, together with compound interest thereon calculated to the date of repayment at the rate of five pounds per centum per annum with half-yearly rests.

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

PART VII
—cont.

(5) In this section, unless the subject or context otherwise requires, words and expressions to which meanings are assigned in the Local Government Superannuation Acts, 1937 to 1953, have the same respective meanings.

Transfer of certain sums from superannuation fund.

1937 c. 68.

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

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

Provided that—

1959 c. 47.

(a) where a payment in lieu of contributions falls to be made in respect of the employee under the National Insurance Act 1959 the Council shall not under this section be required to pay to the employing authority so much of the employee's contributions as amounts to the value of such payment in lieu of contributions;

1953 c. 25

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

(3) In this section "contributory employee" and "employing authority" have the same respective meanings as in the Local Government Superannuation Act 1937.

PART VII
—cont.

Modification of mortgages by endorsement under hand.

60. Notwithstanding anything in any enactment or in any rule of law or otherwise to the contrary, where it is agreed between the Council and a person at any time entitled to any mortgage granted by the Council to extend the time for the repayment of the principal moneys secured by such mortgage, or to alter the rate of interest payable by the Council on the principal moneys so secured and not repaid, or both to extend such time and to alter such rate of interest, effect may be given thereto by an endorsement in writing under the hands of such person (or in the case of a corporate body, by the duly authorised representative of that body) and of the clerk of the Council or his duly authorised representative, endorsed on the deed by which such mortgage was originally granted, and the provisions of any such endorsement shall be deemed to be incorporated in the said deed and shall, from the date specified in such endorsement, operate and take effect accordingly.

Notice of variation of rent, etc.

61. The rent for the time being recoverable by the Council under a tenancy of any premises forming part of any housing accommodation belonging to the Council may be increased or reduced, or the terms and conditions of that tenancy may be varied, amended or added to, by the service by the Council on the tenant of a notice specifying the amount of the increase or reduction of rent, or the variation or amendment of, or addition to, the terms and conditions, whether or not such notice is accompanied by a notice to quit, but such increase, reduction, variation, amendment or addition shall not take effect until such date as may be specified in the notice not being earlier than—

- (a) four weeks after the service thereof; or
- (b) the date on which, if this section had not been enacted, the tenancy could have been terminated by serving a notice to quit on the date of the service of the notice under this section;

whichever shall be the later:

Provided that—

(i) if, before the date specified in the notice, the tenant upon whom such notice has been served serves a counter-notice upon the Council requiring them to treat the notice as a notice to quit, the notice shall be deemed to be a notice to quit the premises on that date;

(ii) this section shall have no effect in relation to a tenancy to which section 12 of the Prices and Incomes Act 1968 1968 c. 42 applies.

PART VII
—cont.

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

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

- (a) as the receiver appointed by an order made under Part VIII of the Mental Health Act 1959;
- (b) as the administrator of the estate of a deceased person acting by virtue of a grant made to him as administrator of the Council;
- (c) as a surety to a bond required by law from an officer acting in accordance with paragraph (a) of this subsection;

the amount of any sum forfeited by him to the Council, the Principal Probate Registrar, or the amount of any payment which the officer is liable to make by reason of his acting in such capacity as aforesaid.

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

Supply of
goods by
Council to
other
authorities.

63.—(1) The Council may purchase and store and supply to an authority any goods or materials required for the performance of the functions of that authority, and for those purposes the Council and any authority may enter into and carry out agreements and do all such other acts as may be necessary or convenient:

Provided that the Council shall not, in pursuance of this section, supply building materials to an authority for the purpose of the erection, alteration or extension or repair and maintenance of houses or other buildings by that authority.

(2) In this section "authority" means—

- (a) a local authority or a joint committee appointed by two or more local authorities;
- (b) any statutory undertakers or other body of persons discharging functions in pursuance of any enactment;
- (c) a voluntary organisation in receipt of a grant made by the Council within twelve months of the exercise of the powers of this section;
- (d) the police authority.

Provision of
reciprocal
services, etc.,
by Council
and other
bodies.

64.—(1) For the better performance of their respective functions and duties the Council or any local authority may enter into and carry into effect agreements with each other or, whether or not

Alternatively, with any of the authorities or bodies specified in subsection (4) of this section, for

- (a) the undertaking by one party for the other of any administrative, clerical, professional or technical services;
- (b) the use or maintenance by one party of any vehicle, plant, equipment or apparatus of the other party and, if it appears convenient, the services of any staff employed in connection therewith;
- (c) the carrying out of works of maintenance by one party in connection with land or buildings for the maintenance of which the other is responsible.

Where provision could be made either by an agreement under this section or by virtue of the powers conferred by section 271 of the Act of 1936 it shall be made under the said section 271 and not under this section.

(3) In its application to the use of any mechanical road-making equipment or plant the provisions of subsection (1) of this section extend to enable the Council to let for hire such equipment or plant to any local authority or any authority or body specified in subsection (4) of this section or any person carrying out work for or on behalf of, the Council.

(4) The authorities and bodies referred to in subsection (1) of this section are—

(a) the councils of the following areas (being areas contiguous to the county):—

(i) the county boroughs of Birmingham, Dudley, Solihull, Warley and Worcester;

(ii) the borough of Tewkesbury;

(iii) the rural districts of Alcester, Bridgnorth, Bromyard, Cheltenham, Gloucester, Ledbury, Leominster and Wigmore, Ludlow, Newent, North Cotswold, Seisden and Stratford-on-Avon;

(iv) the administrative counties of Gloucester, Herefordshire, Salop, Staffordshire and Warwickshire, in so far as the agreement is to be carried into effect within an area referred to in sub-paragraph (ii) or (iii) of this paragraph;

(b) the council of a parish in the county or in any rural district referred to in sub-paragraph (iii) of paragraph (a) of this subsection;

PART VII
—cont.

(c) the police authority;

(d) in the application of that subsection to the Council
voluntary organisation operating within the Council
and in receipt of a grant lawfully made by the Council
within twelve months of the exercise by the Council
the powers of that subsection.Electronic or
mechanical
equipment.65. At any time after the Council have provided any electron
or mechanical data processing equipment for the purposes of a
or any of their work, they may, by agreement with any local
authority or other person, use, or permit that local authori
or person to use, the said equipment for the purposes of th
local authority or person and may make such charges as ma
agreed for the use of the said equipment.Recovery of
sums paid to
officers, etc.66.—(1) Where the Council have paid in advance to
employee the amount of his emoluments and such employe
before the expiration of the period in respect of which such p
ment is made the Council shall not be required to demand
return of such portion thereof not exceeding twenty-five p
as the Council may determine.(2) In any case where the Council exercise the powers c
foregoing subsection they shall transfer from the county fund
to the fund the amount which but for the exercise of those p
would have been returned to the fund.

(3) In this section—

“employee” means any officer or servant of the Council
any officer or servant whose salary or wages or any other
payable by the Council and includes any officer or
or servant who is in receipt of a superannuation allow
ance or benefit payable out of the superannuation fund
maintained by the Council;“emoluments” means in relation to an officer or servant
his salary or wages (as the case may be) and in relation
to a former officer or servant in receipt of a superannua
tion allowance or benefit the amount of that allowance
or benefit;“the fund” means the superannuation fund maintained by
the Council.Extension of
power to
invest super-
annuation
fund moneys.
1937 c. 68.67.—(1) In its application to the investment by the Council
under subsection (3) of section 21 of the Local Government
Superannuation Act 1937 of any moneys forming part of the
Council's fund.

for the time being required to meet payments out of, the annuities fund maintained by the Council under that Act, the Trustee Investments Act 1961 shall have effect as if—

PART VII
—cont.
1961 c. 62.

(a) the following paragraphs were included in Part III (Wider-Range Investments) of Schedule 1 to that Act:—

“(4) In any securities issued in any of the scheduled territories within the meaning of section 1 of the Exchange Control Act 1947 or in Canada or in the United States of America, or in any of the following countries, namely, Austria, Belgium, Denmark, France, Holland, Italy, Japan, Luxembourg, Norway, Portugal, Spain, Sweden, Switzerland and Western Germany, being securities which at the time of making the investment are quoted on any recognised stock exchange or similar institution. 1947 c. 14.

(5) In the purchase, whether alone or jointly or in common with any other person or corporation, of immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands, or of any share or interest in such immovable property, including any interest in such immovable property comprised in a building agreement providing for the grant of a lease of such property contingent on the erection or completion of the building specified in such agreement.

(6) In the advance of money upon the security of—

(i) immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands; or

(ii) any legal estate or interest in immovable property comprised in a building agreement as specified in paragraph (5) of this subsection;

and in any such case whether the security be taken by a separate and distinct mortgage or security made exclusively to the Council, or by a mortgage or security made jointly to the Council and any other person or corporation.”;

(b) in Part IV (Supplemental) of the said schedule—

(i) in paragraph 1 there were inserted after the word “schedule” the words “other than those mentioned in paragraph 4 of the said Part III”;

PART VII
—cont.

(ii) after paragraph 2 there were inserted the following paragraph:—

“ 2A. The securities mentioned in paragraph 2 of Part III of this Schedule do not include share debenture stock not fully paid up (except share debenture stock which, by the terms of issue, is required to be fully paid up within one month of the date of issue) ”;

(iii) paragraph 3 (a) did not apply and for the wording in paragraph 3 (b) the following was substituted “ shares or debenture stock of an incorporated company which has not paid a dividend on its ordinary stock or shares for each of the four years immediately preceding the date of investment, or if the company has been incorporated or registered or been trading for less than four years before the date of investment, unless—

(i) the company has paid such a dividend on its ordinary stock or shares for each of the four years since incorporation or registration or commencement of trading as the case may be; or

(ii) in the case of a company which has not been incorporated or registered or trading for at least one year before the date of investment, the company has been formed by the amalgamation of two or more companies each of such companies has paid dividends on its ordinary stock or shares for each of the four years immediately preceding the date of the amalgamation.”

(2) Notwithstanding anything in the said Act of 1961, the Council may invest any moneys referred to in subsection (1) of this section in any manner specified in Part III of Schedule 1 to the said Act of 1961, as amended by this section, and may also from time to time vary any such investments.

Provided that—

- (i) no such moneys as aforesaid shall be so invested at any time when the value of all the investments made in the manner specified in Part III of the said schedule, as amended, equals or exceeds three-quarters of the value of the said superannuation fund; and
- (ii) no such moneys so invested in the manner specified in paragraphs (5) and (6) of subsection (1) of section 1 of the said schedule as so amended shall exceed one-quarter of the total value of the said superannuation fund.

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

PART VII
--cont.

(1) If any money (other than wages or salary) is payable by the Council to an employee or creditor, or to the holder of any authorised security, and the person entitled to such payment is a minor, the receipt of his guardian shall be a sufficient discharge to the Council.

Receipts in
case of minors.

(2) In this section "authorised security" means a mortgage, charge or other security which the Council are for the time being authorised to grant, create or issue, or upon or by means of which the Council are for the time being authorised to raise money.

(3) Subject to section 87 (Certain sections of Act not to apply to Kidderminster Corporation) of this Act, the provisions of this Part of this Act mentioned in subsection (2) of this section shall apply to a local authority and for that purpose those provisions shall have effect as if for references therein to the Council of the county there were substituted references to the local authority and to their district respectively, and subject to any other necessary modifications.

Application
to local
authorities
of provisions
of Part VII.

The provisions hereinbefore referred to are—

- Section 60 (Modification of mortgages by endorsement under hand);
- Section 61 (Notice of variation of rent, etc.);
- Section 63 (Supply of goods by Council to other authorities);
- Section 65 (Electronic or mechanical equipment);
- Section 66 (Recovery of sums paid to officers, etc.);
- Section 68 (Receipts in case of minors)

Subject as aforesaid the provisions of this Part of this Act mentioned in subsection (4) of this section shall apply to a local authority maintaining a superannuation fund and for that purpose those provisions shall have effect as if for references therein to the Council of the county there were substituted references to the local authority and to their district respectively, and subject to any other necessary modifications.

The provisions referred to in subsection (3) of this section are—

- Section 58 (Exclusion of certain remuneration and service for superannuation purposes);

PART VII
—cont.

Section 59 (Transfer of certain sums from special annual fund);

Section 67 (Extension of power to invest special fund moneys).

PART VIII

MISCELLANEOUS

Evidence of proceedings, appointments, etc.

70.—(1) In proceedings under any enactment, a document purporting to be certified by the clerk as a copy of a resolution passed, order made, or report received, by the Council or committee thereof on a specified date shall be evidence that that resolution, order or report was duly passed, made or received by the Council or committee on that date.

(2) In proceedings under any enactment, a document purporting to be certified as aforesaid as a copy of the appointment of an authority given to, an officer of the Council or a committee thereof on a specified date shall be evidence that that appointment was duly made, or that that authority was duly given, by the Council or committee on that date.

(3) In this section " officer " includes a servant and an agent.

(4) Section 286 of the Act of 1936, and that section as amended by, or incorporated in, any other enactment, shall cease to apply to the Council and its committees.

Microfilming of documents

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

(2) Notwithstanding anything contained in any enactment, the Council may destroy any documents of the Council, other than minute books, of which they have made and retained microfilm recordings:

Provided that—

(a) the Council shall not under this section destroy any documents deposited with them under the Public Records Act 1958 or acquired or accepted by them under section 19 of the Local Government (Records) Act 1962;

(b) the Council shall afford to the public equal access to a microfilm recording made under this section as would have been available, if this section had not been enacted, in respect of the document so recorded.

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

1958 c. 51.

1962 c. 56.

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

- (a) the document has been destroyed; and
- (b) a microfilm recording of the document has been made; and
- (c) the enlargement is an enlargement of that microfilm recording.

In this section unless the context otherwise requires—

- (a) "document" means the whole or part of a register, book, map, plan or other document and includes a notice, licence, certificate, scheme or order made, passed or granted by the Council or any committee of the Council, and references to documents of the Council are references to documents belonging to or permanently in the possession of the Council;
- (b) "microfilm recording" means a reproduction of a document on film which is a product of photography or any process akin to photography and is in general beyond legibility with the naked eye.

Notwithstanding anything contained in paragraph 3 of Schedule 3 to the Act of 1933, or in any other enactment of law to the contrary, the minutes of the proceedings of the Council, or of any committee or sub-committee thereof, may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed, and a copy comprising those minutes being initialled, at the same or any subsequent meeting of the Council, or, as the case may be, at any subsequent meeting of the committee or sub-committee (as the case may be) by the person presiding thereat, and minutes purporting to be so signed shall be received in evidence without further proof.

Authorisation of appearance of Council's officers in legal proceedings.

A resolution of the Council under section 277 of the Act of 1933 may refer either to an officer by name or to the holder of the office or offices stated therein.

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

Protection of members and officers of Council from personal liability.
1875 c. 55.

PART VIII
—cont.

Delegation
of powers
to sub-
committees.

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

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

(3) A majority of the members of any such sub-committee shall be members of the Council and wherever at any meeting of such sub-committee the members present thereat do not constitute a majority of members of the Council any decision of the sub-committee shall have no effect unless it is confirmed by the Council.

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

Extension of
power to
maintain
burial grounds.

76.—(1) The powers of any burial authority in the county in relation to a burial ground maintainable by them shall include the power—

- (a) to put, and keep, in order any memorial therein;
- (b) to level any grave therein;
- (c) to remove the whole or any part of a memorial therein;
- (d) to alter the position of any such memorial.

(2) Before exercising a power conferred by paragraph (a), (b), (c) or (d) of the foregoing subsection the burial authority shall—

- (a) publish a notice of their intention to do so in each of two successive weeks in a local newspaper circulating in their area, with an interval between the two publications of not less than six clear days;
- (b) display a notice thereof in a conspicuous position in the burial ground; and
- (c) serve a notice thereof upon the owner of the grave or upon a relative of a deceased person whose remains are interred therein, if after reasonable inquiry the name and address of the owner, or of a relative of the deceased person, can be ascertained.

(3) Each of the notices shall—

- (a) contain brief particulars of the burial authority's proposals and specify an address at which full particulars of the proposals can be obtained, unless the proposals are of proposals incapable of further statement;

(b) specify the date on which it is intended that the burial authority will begin to carry out the proposals, which shall be not earlier than the fourteenth day after the date of the later of the two publications or than the twenty-first day after the date on which the notice in the burial ground is first displayed or, where notice is required to be served, than the twenty-first day after the date of service whichever is the latest; and

(c) state the effect of the next following subsection.

(4) If notice of objection to a proposal, and of the ground thereof, is given to the burial authority before the date specified in paragraph (b) of the last foregoing subsection, that proposal shall not be carried out without the consent of the Minister unless notice is withdrawn.

The burial authority may put to such use as they think appropriate, or destroy, any memorial removed under this section, less it is claimed and removed by the person claiming it or a person acting on his behalf within three months after the date of the earlier of the two publications of the notice required in paragraph (a) of subsection (2) of this section or, where notice is served under paragraph (c) thereof, after the date of service, whichever is the later.

(5) Where a memorial is removed by the burial authority under this section, the burial authority may erect at their own expense, in substitution, a memorial of a value not exceeding fifty-five pounds.

The burial authority shall cause a record to be made of each memorial taken from the burial ground under this section containing—

(a) a copy of any inscription on it; and

(b) if it is intended to preserve the memorial, a statement showing where it has been taken to;

and shall deposit a copy of the record with the Registrar General.

Nothing in the foregoing provisions of this section shall exempt the burial authority from any obligation to which they are subject, apart from those provisions to obtain for any work a faculty or licence of a consistory court.

Subsections (2) to (4) of this section shall not have effect in relation to any work for which the burial authority obtain such a faculty or licence, and subsection (5) thereof shall not have effect in relation to any memorial for whose removal such a faculty or licence was obtained.

PART VIII

—cont.

1900 c. 15.

(9) In this section—

- “burial authority” has the same meaning as in section 111 of the Burial Act 1900;
- “burial ground” includes a cemetery;
- “grave” includes a grave space;
- “memorial” means any object erected, placed or planned for the commemoration of the dead, and includes a wall, kerb or railing protecting, enclosing or marking the grave or memorial.

For protection
of Common-
wealth War
Graves
Commission.

77.—(1) In this section—

- “the Commission” means the Commonwealth War Graves Commission;
- “Commonwealth war burial” means a burial of any woman or man of the naval, military or air forces of His Majesty who fell in the war of 1914 to 1921 or in the war of 1939 to 1947.

(2) In relation to any burial ground to which the provisions of section 76 (Extension of power to maintain burial ground) of this Act apply and in which there are situated any Commonwealth war graves relating to the war of 1914 to 1921 or to the war of 1939 to 1947, the burial authority shall—

- (a) not later than the date upon which such notice is published in a newspaper circulating in their area, send upon the Commission a copy of any notice which the burial authority are required to publish pursuant to said section 76;
- (b) give written notification to the Commission of their intention to apply for a faculty or licence of a consistory court for the purposes of exercising a power conferred by paragraph (b), (c) or (d) of subsection (1) of the said section 76;

and in any such case shall have due regard to any representations made by the Commission within a period of one month from the service of the notice or the grant of the notification, as the case may be.

(3) The burial authority shall not in pursuance of the provisions of the said section 76 remove any memorial placed over any Commonwealth war grave unless they have obtained from the Commission satisfactory assurances in writing in relation to all or such of the following matters as the Commission may consider appropriate, namely:—

- (a) that no other memorial shall be placed or erected over such grave;

- b) that any Commonwealth war burial in such grave shall at all times be protected from interference or disturbance otherwise than interference or disturbance authorised by a licence granted by the Secretary of State or authorised by a faculty or licence of a consistory court after prior notification to the Commission of the application for any such licence or faculty;
- c) that in the case of any headstone placed or erected by the Commission over any such grave such memorial shall be removed only in accordance with such arrangements and in such manner including disposal of the memorial as shall be agreed in writing between the burial authority and the Commission.

PART VIII
— cont.

If a Commonwealth war burial would be affected by a notice given by the Minister under subsection (4) of the said section 76, the burial authority shall, not later than the date on which the matter is referred to the Minister, inform the Commission in writing of such reference and the Minister shall consider representations submitted to him by the Commission within a period of twenty-eight days from the date of reference to the Minister.

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

For protection
of statutory
undertakers.

(1) In this section—

“ apparatus ” means mains, pipes or other apparatus and electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by statutory undertakers and includes any works constructed for the lodging therein of apparatus;

“ appropriate authority ” means the Council, the local authority, the highway authority, the police authority, the standing joint committee or any person acting with their consent as the case may require;

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

“ position ” includes depth;

(2) Nothing in section 15 (Verges, etc., of housing estates) of this Act shall affect the rights of statutory undertakers with respect to apparatus (including the placing of apparatus) in any grass verge, garden or space:

PART VIII

—cont.

Provided that, in exercising such powers, statutory undertakers shall not (except in the case of an emergency) or permit vehicles to enter upon any land which is maintained in an ornamental condition, mown, or any garden:

- (3) Nothing in the following sections of this Act, with the consent of or on the requirement of the appropriate authority from liability for damage to the apparatus or him to any apparatus in the exercise of the powers of the said sections and the said powers shall be exercised as not to obstruct or render inoperative, so far as is reasonably practicable, any apparatus or operational land:

Section 15 (Verges, etc., of housing roads)

Section 24 (Milk stands in highways)

Section 26 (Temporary stopping of streets)

Section 32 (Extension of parish council powers to provide parking places)

Section 50 (Protection of dangerous structures)

Section 51 (Removal, etc., of dangerous structures)

- (4) Nothing in section 25 (Retaining walls) shall apply to any retaining wall erected on the land of statutory undertakers:

- (5) Notwithstanding the temporary stopping of any street or part thereof under the power of section 26 (Temporary stopping of streets) of this Act, statutory undertakers shall be at liberty at all times to pass upon the street with any necessary vehicles and do all such works and things in any way which may be necessary for placing, inspecting, maintaining, renewing or removing any apparatus:

- (6) (a) Before the appropriate authority determine to grant any consent pursuant to section 28 (Rights of way over buildings under footways) of this Act, they shall give at least twenty-eight days' notice of the proposed consent therefor to any statutory undertakers who are likely to be concerned thereby, and any consent so granted, shall contain such reasonable conditions as may be required to secure that the owners of the premises, or the person to whom the notice is given, shall comply with the reasonable requirements of the undertakers for the protection of apparatus and for securing access thereto;

(6) As soon as may be after the appropriate authority have given a consent under the said section 28 they shall give notice thereof to any such undertakers:

(7) Nothing in section 33 (Parts of buildings used for storage of flammable substances) of this Act shall apply to any building, or part of a building, by reason only that part of that building is used, or intended to be used, to contain a pressure governor, or meter, booster or other apparatus for or in connection with the supply of gas:

(8) Nothing in section 36 (Prescription of signs to be used on certain buildings) of this Act shall authorise the appropriate authority to require statutory undertakers to affix on any building or part of a building on operational land any sign, symbol or notice:

(9) Nothing in section 50 (Protection of dangerous excavations) of this Act shall authorise the appropriate authority to enter on or execute works or do anything on operational land of statutory undertakers without their consent, which consent shall not be unreasonably withheld:

(10) In exercising the powers conferred by subsection (3) of section 54 (Silencers for internal combustion engines) of this Act in relation to any premises occupied by or being constructed for statutory undertakers and used by them or intended to be used by them for the generation or supply of electricity, the manufacture or storage of gas or for the pumping, storage or supply of water, an authorised officer of the appropriate authority shall conform to any reasonable requirements of the undertakers in the interest of safety and for preventing interference with any process carried on in such premises:

(11) (a) Any difference which may arise between the appropriate authority and a statutory undertaker under this section (other than a difference as to the meaning or construction of this section) shall be referred to and determined by a single arbitrator to be appointed by agreement between the parties or in default of agreement by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other party;

(b) In determining any difference under this section the arbitrator shall have regard to any duty or obligation which the undertakers may be under in respect of any apparatus, and may, if he thinks fit, require the appropriate authority to execute any temporary or other works

PART VIII
—cont.

Application
to local
authorities of
provisions of
Part VIII.

so as to avoid, so far as may be reasonable, any interference with any purpose for which the land is used.

79.—(1) Subject to section 87 (Certain sections of Act to apply to Kidderminster Corporation) of this Act, the provisions of this Part of this Act mentioned in subsection (2) shall apply to a local authority and for those provisions shall have effect as if for reference to the Council and to the county there were substituted reference to the local authority and to the respective district, subject to any other necessary modifications.

(2) The provisions hereinbefore referred to are

- Section 70 (Evidence of proceedings, appointments, etc.);
- Section 71 (Microfilming of documents);
- Section 72 (Minutes of Council meetings, etc.);
- Section 73 (Authorisation of appearance of Council officers in legal proceedings);
- Section 75 (Delegation of powers to sub-committees).

PART IX

GENERAL

Apportionment of
expenses in
case of joint
owners.

80. Where, under the provisions of any enactment, the Council or a local authority execute any works of common benefit to two or more buildings belonging to different owners, and the expenses or any part of them are recoverable by the Council or local authority, they shall (if no provision is made in the Act or in any other enactment applied thereto or incorporated therein as to the incidence of the expenses so recoverable by the Council or owners of such buildings in such proportions as shall be determined by the Council or the local authority (as the case may be) or, in case of dispute, by a magistrates' court.

Local
inquiries.

81.—(1) Any Minister of the Crown may cause such inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act.

(2) Subsections (2) to (5) of section 290 of the Act of 1968 (which relate to the giving of evidence at, and the defraying of the cost of, local inquiries) shall apply in relation to any such inquiry and for that purpose shall have effect as if the expression "department" in that section included any Minister of the Crown having functions under this Act.

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

PART IX
—cont.

1946 c. 31.

The written consent of the Attorney General shall be required for the taking of proceedings in respect of an offence created by or under this Act by any person other than a party aggrieved or the Council or a local authority; or, in the case of an offence created by or under section 17 (Byelaws for controlling rivers Severn and Avon) or section 23 (Sale of food and articles of various kinds) of this Act, a constable, as the case may be.

Restriction
on right to
prosecute.

(1) Section 300 of the Act of 1936 (which relates to appeals to magistrates' courts) shall apply to appeals to a justices' court under this Act (except under the provisions hereof mentioned in subsection (2) of section 84 (Application of general enactments) of this Act) and sections 301 and 302 of that Act (which make provision for appeals to courts of quarter sessions and as to the effect of a decision of any court upon appeals) shall apply accordingly.

Appeals.

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

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

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

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

(1) The sections of the Act of 1936 mentioned in Part I of Schedule 2 to this Act shall have effect as if references therein to that Act included reference to this Act, except the provisions mentioned in subsection (2) of this section.

Application
of general
enactments.

PART IX
—cont.

(2) The sections of the Act of 1959 mentioned in Part I of Schedule 2 to this Act shall have effect as if references therein to that Act included reference to Part IV (Highways and streets) of this Act.

(3) The sections of the Act of 1936 mentioned in Part II of Schedule 2 to this Act shall have effect as if references therein to that Act included a reference to section 15 (Village and housing estates), Part IV (Highways and streets) and Part V (Fire protection and public safety) of this Act.

Crown rights.

85.—(1) Nothing in this Act affects prejudicially any right, power, privilege or exemption of the Crown and, without prejudice to the generality of the foregoing, nothing herein contained authorises the Council or any local authority to take, use, or in any manner interfere with, any land or hereditaments or any rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Majesty under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners on behalf of Her Majesty first had and obtained for that purpose; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Nothing in this section shall prejudice or affect any powers of the Council or any local authority or any other authority—

- (a) to carry out code-regulated works within the meaning of the Act of 1950 in any highway vested in or controlled by the Minister of Transport; or
- (b) to carry out any works by reason only that they involve, or are likely to involve, an alteration to a telegraphic line of the Postmaster General, in so far as which paragraphs (1) to (8) of section 7 of the Act of 1878 apply.

1878 c. 76.

For protection
of Postmaster
General.

86.—(1) The exercise by the highway authority of the powers conferred by section 26 (Temporary stoppage of streets) of this Act in relation to any street shall not prejudice or affect any powers of the Postmaster General—

- (a) to place, maintain, inspect, repair, renew or alter any telegraphic line belonging to or used by the Postmaster General upon, over, along or across that street; or

b) for the purpose of such placing, maintenance, inspection, repair, renewal or removal to enter upon or break open that street.

2) Before the highway authority grant any licence under section 31 (Licence to erect scaffolding) of this Act they shall give notice to the Postmaster General, if he appears to them to be concerned, notice of their intention to do so, and on giving any such licence shall attach thereto such conditions as the Postmaster General may, within the period of seven days after the giving of notice to him, reasonably require for the protection of any apparatus belonging to, or used or maintained by him, or for securing access to such apparatus.

(3) In this section and in section 85 (Crown rights) of this Act the expression " telegraphic line " has the same meaning as in the Telegraph Act 1878.

1878 c. 76.

87.—(1) The sections of this Act specified in Part I of Schedule 3 of this Act shall not apply to the council of the borough of Kidderminster.

Certain sections of Act not to apply to Kidderminster Corporation.

(2) The sections of this Act specified in Part II of Schedule 3 of this Act shall not apply to or be exercisable within the borough of Kidderminster.

88.—(1) The sections of this Act specified in Part I of Schedule 4 of this Act shall not apply to the council of the rural district of Droitwich.

Certain sections of Act not to apply to Droitwich Rural District Council.

(2) The sections of this Act specified in Part II of Schedule 4 of this Act shall not apply to or be exercisable within the rural district of Droitwich.

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

Costs of Act.

The Council may borrow, without the consent of any borrowing authority, such sums as may be necessary for paying the costs, charges and expenses of this Act and, subject to the provisions of this section, Part IX of the Act of 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

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

SCHEDULES

Section 16.

SCHEDULE 1

CONDITIONS AS TO CONSTRUCTION OF DUAL-PURPOSE VEHICLES

1. The vehicle must be permanently fitted with a rigid roof without a sliding panel.
2. The area of the vehicle to the rear of the driver's seat must
 - (a) be permanently fitted with at least one row of transverse seats (fixed or folding) for two or more passengers and these seats must be properly sprung or cushioned and provided by upholstered backrests attached either to the seat or side or the floor of the vehicle; and
 - (b) be lit on each side and the rear by a window of glass or other transparent material having an area of not less than 2 square feet on each side and not less than 120 square inches at the rear.
3. The distance between the rearmost part of the steering wheel and the backrests of the row of transverse seats satisfying the requirements specified in paragraph 2 of this schedule (or if there is more than one such row of seats the distance between the rearmost part of the steering wheel and the backrests of the rearmost such row) when the seats are ready for use be not less than one-third of the distance between the rearmost part of the steering wheel and the rearmost part of the floor of the vehicle.

Section 84.

SCHEDULE 2

GENERAL ENACTMENTS APPLIED

PART I

1936 c. 49.

SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED TO THIS ACT OTHER THAN PART IV

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

PART II

PROVISIONS OF HIGHWAYS ACT 1959 APPLIED TO PART IV OF THIS ACT 1959 c. 25.

Section	Marginal note
269	Summary proceedings for offences.
270	Continuing offences.
273	Notice to be given of right of appeal.
274	Appeals and applications to magistrates' courts.
275	Appeals to quarter sessions from decisions of magistrates' courts.
277	Effect of decision of court upon an appeal.
278	Judges and justices not to be disqualified by liability to rates.
280	Notices, etc., to be in writing; forms of certain documents.
281	Authentication of documents, etc.
282	Service of notices, etc.
283	Reckoning of periods, etc.

PART III

PROVISIONS OF PUBLIC HEALTH ACT 1936 APPLIED TO SECTION 15 AND 1936 c. 49, PARTS IV AND V OF THIS ACT

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

Section 87.

SCHEDULE 3

PART I

SECTIONS OF THE ACT NOT TO APPLY TO KIDDERMINSTER BOROUGH

Section	Marginal note
4	Suspension of restrictive covenants.
7	Provision of substituted sites.
8	Reservation of easements, etc., on sale.
10	Compulsory acquisition of easements.
11	Agreements with developers.
12	Recreational and other facilities for employees.
15	Verges, etc., of housing estates.
20	Application of code of 1875 and code of 1924 to parts of public streets.
21	Recovery of street works charges where owner liable.
25	Retaining walls.
26	Temporary stoppage of streets.
30	Defacing of road surface, etc.
31	Licence to erect scaffolding.
35	Consultation by local authorities with fire authority.
38	Building plans: access for fire brigade.
46	Underground parking places.
47	Further provision as to underground parking places.
48	Interpretation and powers of entry for purposes of the foregoing sections.
51	Removal, etc., of dangerous trees.
53	Tipping of spoil and refuse.
58	Exclusion of certain remuneration and service for certain purposes.
59	Transfer of certain sums from superannuation fund.
60	Modification of mortgages by endorsement under land.
66	Recovery of sums paid to officers, etc.
68	Receipts in case of minors.
70	Evidence of proceedings, appointments, etc.
71	Microfilming of documents.
72	Minutes of Council meetings, etc.
75	Delegation of powers to sub-committees.
76	Extension of power to maintain burial ground.
80	Apportionment of expenses in case of joint owners.

PART II

SCH. 3
—cont.

SECTIONS OF THE ACT NOT TO APPLY TO OR BE EXERCISABLE WITHIN
THE BOROUGH OF KIDDERMINSTER

Section	Marginal note
23	Sale of food and articles on verges, etc.
27	Mixing of mortar in streets.
28	Restriction on buildings under footways.
29	Damage to trees, etc., on streets and in open spaces.
33	Parts of buildings used for storage of flammable substances.
34	Oil-fired boilers.
39	Fire precautions in certain large buildings.
40	Firemen's switches for luminous tube signs.
42	Provision of means of escape from fire in certain buildings.
50	Protection of dangerous excavations.
54	Silencers for internal combustion engines.

SCHEDULE 4

Section 88.

PART I

SECTIONS OF THE ACT NOT TO APPLY TO DROUWICH RURAL DISTRICT
COUNCIL

Section	Marginal note
35	Consultation by local authorities with fire authority.
38	Building plans: access for fire brigade.

PART II

SECTIONS OF THE ACT NOT TO APPLY TO OR BE EXERCISABLE WITHIN
THE RURAL DISTRICT OF DROUWICH

Section	Marginal note
34	Oil-fired boilers.
39	Fire precautions in certain large buildings.
41	Preventing fire in public or other buildings.
42	Provision of means of escape from fire in certain buildings.
44	Byelaws for prevention of fire at fairs and circuses.
53	Byelaws as to burning of refuse.