

Tyne and Wear Act 1976

CHAPTER xxxvi

ARRANGEMENT OF SECTIONS

PART I

Section

PRELIMINARY

1. Short title.
2. Interpretation.

PART II

RIVER CROSSINGS

A. Tyne Tunnel

3. Power to maintain works.
4. Use of sewers, etc., for removing water.
5. Lighting and ventilating of works.
6. Drainage of tunnel.
7. As to closing of works.
8. No mains or pipes to be laid in Works Nos. 2, 3 or 4.
9. Work No. 2 to be exempt from rates.

Section

10. Byelaws.
11. Vesting of Work No. 8.
12. Tolls.
13. Revision of tolls.
14. Application of tolls.
15. Amendments to Acts of 1946 and 1960.
16. Power to borrow.
17. Payment of interest on moneys borrowed in certain events.
18. Suspension of payments into sinking fund.
19. Accounts.
20. Power to provide toll-houses, etc.
21. List of tolls to be exhibited.
22. Regulations as to payment of tolls and charges.
23. Refusal to pay tolls.
24. Power to compound for payment of tolls.
25. Tickets.
26. Exemption from tolls.
27. Cesser of tolls.

B. Bridges

28. Application to bridges.
29. Power to widen Bridge No. 1.
30. Subsidiary works in the river and the river Wear.
31. For protection of the river and the river Wear.
32. Prohibition on interference with Bridges Nos. 1, 2, 3 or 5.
33. Lifts and accommodation in or in connection with Bridge No. 2.
34. Power to charge for use of lifts in Bridge No. 2.
35. Byelaws as to Bridge No. 3.

C. General

36. Interpretation of Part II.
37. Provision against danger to navigation.
38. Permanent lights on bridges.
39. Abatement of works abandoned or decayed.
40. Survey of works by Secretary of State.
41. Meaning of "the appropriate authority".
42. For protection of the port authority and river users.
43. Saving for Trinity House.
44. For protection of Post Office.
45. For protection of the railways board.
46. For protection of statutory undertakers.
47. For protection of public sewers.
48. For protection of land drainage.

PART III

ASSISTANCE TO INDUSTRY, ETC.

Section

- 49. Power to assist industry.
- 50. Power to guarantee rents, etc., of certain buildings.
- 51. Meaning of " industrial building ".
- 52. Duration of Part III of Act.

PART IV

INDUSTRIAL IMPROVEMENT AREAS

- 53. Declaration of industrial improvement area.
- 54. Alteration of industrial improvement area.
- 55. Duty in relation to industrial improvement area.
- 56. Power to carry out improvements.

PART V

MISCELLANEOUS

- 57. Firemen's switches for luminous tube signs.
- 58. Parking places.
- 59. Quayside market.
- 60. Tyne and Wear Passenger Transport Executive.
- 61. As to bridge fund.

PART VI

GENERAL

- 62. Compensation: how to be determined.
- 63. Local inquiries.
- 64. Appeals.
- 65. Liability of directors, etc.
- 66. Contravention due to default of other person.
- 67. Defence of due diligence.
- 68. Further provisions consequent upon sections 49 and 56 of this Act.
- 69. Application of general provisions of Act of 1936.
- 70. Restriction on right to prosecute.
- 71. Arbitration.
- 72. Repeals.
- 73. Transitional provisions.
- 74. Saving for Health and Safety at Work etc. Act 1974.
- 75. Crown rights.

SCHEDULES:**Schedule 1—**

Part I—Description of the works.

Part II—Amendments to Acts of 1946 and 1960.

Part III—Acts of 1946 and 1960 as amended by this Act.

Schedule 2—Provisions for protection of the port authority and river users.

Schedule 3—Market management.

Schedule 4—Provisions of Act referred to in section 67 (Defence of due diligence) of this Act.

Schedule 5—Sections of Act of 1936 applied—

Part I—Sections applied to this Act.

Part II—Section applied to section 58 (Parking places) of this Act.

Schedule 6—Enactments referred to in section 72 (Repeals) of this Act.

ELIZABETH II



1976 CHAPTER xxxvi

An Act to re-enact with amendments certain local enactments in force within the county of Tyne and Wear; to confer further powers on the county council of Tyne and Wear and the councils of the city of Newcastle upon Tyne and the boroughs of Gateshead, North Tyneside, South Tyneside and Sunderland; to make further provision in regard to the environment and local government of the county and those local authorities; and for other purposes.

[22nd November 1976]

WHEREAS—

(1) By virtue of the Local Government Act 1972 (hereinafter 1972 c. 70. referred to as “the Act of 1972”) the county of Tyne and Wear (hereinafter referred to as “the county”) was constituted on 1st April, 1974, so as to consist of an area comprising the following districts described by reference to administrative areas existing immediately before the passing of the Act of 1972:—

District (a)

The county borough of Newcastle upon Tyne—

In the administrative county of Northumberland—

the urban districts of Gosforth and Newburn;

in the rural district of Castle Ward, the parishes of Brunswick, Dinnington, Hazlerigg, North Gosforth and Woolsington;

the Moot Hall and Precincts, Newcastle upon Tyne:

District (b)

The county borough of Tynemouth—

In the administrative county of Northumberland—

the borough of Wallsend;

so much of the borough of Whitley Bay as lies south of the boundary referred to in paragraph 4 of Part III of Schedule 1 to the Act of 1972;

the urban district of Longbenton;

in the urban district of Seaton Valley, the wards of Backworth, Earsdon and Shiremoor:

District (c)

The county borough of Gateshead—

In the administrative county of Durham—

the urban districts of Blaydon, Felling, Ryton and Whickham;

in the rural district of Chester-le-Street, the parish of Lamesley and the parish of Birtley except the part in district (e):

District (d)

The county borough of South Shields—

In the administrative county of Durham—

the borough of Jarrow;

the urban districts of Boldon and Hebburn:

District (e)

The county borough of Sunderland—

In the administrative county of Durham—

the urban districts of Hetton, Houghton-le-Spring and Washington;

in the rural district of Chester-le-Street, so much of the parishes of Birtley, Harraton and South Biddick as lie within the designated area of Washington New Town and also so much of the said parish of Harraton as lies west of that designated area and north of the boundary referred to in paragraph 5 of Part III of Schedule 1 to the Act of 1972;

in the rural district of Easington, the parishes of Burdon and Warden Law:

(2) Numerous local enactments were in force in parts of the said area and by section 262 of the Act of 1972 it was provided that, subject to certain modifications, certain local statutory provisions should continue to apply to the area, things or persons to which or to whom they applied before that date:

(3) It was further provided by the said section 262 that certain local statutory provisions should cease to have effect at the end of 1979:

(4) It is expedient that certain of the said enactments should be re-enacted with amendments:

(5) It is expedient at the same time to extend and enlarge in various respects the powers of the county council of Tyne and Wear and the councils of the city of Newcastle upon Tyne and the boroughs of Gateshead, North Tyneside, South Tyneside and Sunderland:

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

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

(8) In relation to the promotion of the Bill for this Act the requirements of section 239 of the Act of 1972 have been observed:

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

1. This Act may be cited as the Tyne and Wear Act 1976. Short title.

2.—(1) Subject to the next following subsections, and unless Interpretation. the context otherwise requires, expressions in this Act which are defined in section 343 of the Act of 1936 have the meanings given by that section.

(2) In this Act, unless the context otherwise requires—

“ 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 1952 ” means the Magistrates' Courts Act 1952; 1952 c. 55.

PART I
—cont.

1971 c. 78.

1972 c. 70.

“ the Act of 1971 ” means the Town and Country Planning Act 1971;

“ the Act of 1972 ” means the Local Government Act 1972;

“ apparatus ” includes any works constructed for the lodging therein of apparatus;

“ the city ” means the city of Newcastle upon Tyne;

“ the city council ” means the council of the city;

“ contravention ” includes a failure to comply, and “ contravene ” shall be construed accordingly;

“ the county ” means Tyne and Wear County;

“ the county council ” means the council of the county;

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

“ district ” means a district in the county;

“ district council ” means the council of a district;

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

“ local authority ” means the county council or a district council;

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

1959 c. 25.

“ maintenance ” has the same meaning as in the Highways Act 1959;

“ officer ” includes servant;

“ the port authority ” means the Port of Tyne Authority;

1960 c. 16.

“ public service vehicle ” has the same meaning as in section 117 of the Road Traffic Act 1960;

“ the railways board ” means the British Railways Board;

“ statutory undertakers ” means the North Eastern Electricity Board, the British Gas Corporation, the Central Electricity Generating Board and the water authority, or any of them as the case may be, and “ statutory undertaker ” shall be construed accordingly;

“ the water authority ” means the Northumbrian Water Authority.

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

PART II

RIVER CROSSINGS

A. Tyne Tunnel

3. Subject to the provisions of this Act the county council may continue to maintain the tunnel and Work No. 5A together with— Power to maintain works.

(a) all approaches, roundabouts, tunnels, lifts, stairs, escalators, subways, passages, means of ingress or egress, shafts, stagings, buildings, apparatus, plant, machinery and subsidiary and incidental works; and

(b) all piles, fenders, booms, dolphins, embankments, abutments, wharves, walls, fences, drains, buildings and other works and conveniences in the river and the banks, bed and foreshore thereof;

constructed or provided in connection therewith.

4.—(1) Subject to the provisions of this Act, the county council may use for the discharge of any water pumped or found by them in the maintenance of the tunnel or Work No. 5A, the river or any available stream or watercourse or any sewer or drain, and for that purpose may within the limits of deviation shown on the plans deposited in connection with the Bills for the Act of 1946 and the Act of 1960 respectively, lay down, take up and alter conduits, pipes and other works and may make any convenient connections with the river and any such stream, watercourse, sewer or drain: Use of sewers, etc., for removing water.

Provided that—

(a) the county council shall not discharge any water into any sewer or drain vested in, or under the control of, the water authority except with the consent of the water authority, which shall not be unreasonably withheld, and subject to such terms and conditions as the water authority may reasonably impose; and

(b) the county council shall not make any opening into any such sewer except in accordance with plans reasonably approved by, and under the superintendence (if given) of, the water authority.

(2) Nothing in subsection (1) of this section shall require the county council to obtain the consent of the water authority to the use by the county council of the river or any stream, watercourse, sewer or drain for the purposes described in the said subsection (1) where such use commenced before the passing of this Act.

(3) (a) Notwithstanding anything in subsection (7) of section 11 of the Rivers (Prevention of Pollution) Act 1951, the discharge 1951 c. 64.

PART II
—cont.

of any water under the powers of this section into any stream as defined in that section shall be subject to the provisions of section 2 of that Act.

1974 c. 40.

(b) On the coming into force of section 31 of the Control of Pollution Act 1974 paragraph (a) of this subsection shall cease to have effect and the said section 31 shall apply to, or to the consequence of, a discharge under the powers of this section into any relevant waters for the purposes of the said section 31 as if this section were excluded from the reference to any provision of a local Act mentioned in sub-paragraph (ii) of paragraph (b) of subsection (2) of the said section 31 and as if no matter so discharged were trade or sewage effluent or other matter mentioned in paragraph (e) of subsection (2) of the said section 31.

(4) Any question arising between the county council and the water authority under the provisions of subsection (1) of this section shall unless otherwise agreed be determined by arbitration.

Lighting and
ventilating of
works.

5.—(1) The county council may execute all such works and do all such acts in, under or upon any of the carriageways and footways forming part of Works Nos. 2, 3 and 4 as they may from time to time think proper for lighting or ventilating those works and may for that purpose enter upon and break open the soil and pavement of such carriageways and footways and any sewers, drains or tunnels within or under the same, causing as little inconvenience as may be in the execution of the powers hereby conferred and restoring the said carriageways, footways, sewers, drains or tunnels as nearly as practicable to the same condition as they were in before such breaking and opening.

(2) The county council may light the tunnel and may enter into and carry into effect any agreement with any other body or person with respect to lighting the same.

Drainage of
tunnel.

6. In addition to the powers in the last foregoing section the county council shall have the same powers for constructing drains and such other works and conveniences as they may consider necessary or convenient for the drainage of the tunnel or Work No. 5A as a water authority have under the Act of 1936 for constructing sewers within and without their area and when exercising such powers the county council shall be subject to the restrictions to which a water authority would be subject if exercising the same, and the provisions of that Act relating to the construction of sewers shall with any necessary modifications apply accordingly.

As to closing
of works.

7. The county council may whenever in their opinion it is necessary so to do in case of emergency or for the purposes of the maintenance, repair or improvement of Works Nos. 2, 3 or 4 wholly or partially close any part of those works:

Provided that except in an emergency the county council shall not wholly or partially close Works Nos. 2, 3 or 4 or any part of those works under this section without—

PART II
—cont.

- (i) giving not less than seven days' previous notice by advertisement in a local newspaper or newspapers circulating in the area; and
- (ii) throughout the period of such closure, displaying traffic signs at convenient situations on the roads communicating with any public access road to the works, giving warning of the closure.

For the purposes of paragraph (ii) of this proviso "traffic sign" has the same meaning as in section 54 of the Road Traffic Regulation Act 1967.

1967 c. 76.

8. Notwithstanding anything contained in the Act of 1950 or in any other enactment no person shall enter upon, break up or interfere with Works Nos. 2, 3 or 4 or the carriageways and footways of the same for the purpose of laying down any main, pipe or wire or executing any work therein, thereon or thereunder, except with the consent of the county council and in accordance with such terms and conditions as the county council may determine:

No mains or pipes to be laid in Works Nos. 2, 3 or 4.

Provided that the consent of the county council to the breaking up of and interference with any of the said works or the carriageways and footways of the same for the purpose of laying down water mains, water pipes or electric lines therein shall not be withheld unreasonably and that any question which may arise as to whether such consent is so withheld or as to whether the terms and conditions subject to which any such consent is given are reasonable shall be determined by the Secretary of State.

9. Notwithstanding anything contained in any enactment, Work No. 2 and the carriageways and footways thereof and the buildings (not being office buildings), machinery, apparatus and works used in connection with the tunnel shall not be assessed to any local rate.

Work No. 2 to be exempt from rates.

10.—(1) The county council may make byelaws for the following purposes:—

- (a) the regulation, control and protection of Works Nos. 2, 3 and 4 and of persons resorting to or using the same;
- (b) the management, regulation, direction and control of traffic of every description using the said works with power to fix a speed limit for motor vehicles;
- (c) the prohibition of the passage through the said works of all forms of traffic or particular traffic at certain hours;
- (d) the appropriation of any portion of the said works for the exclusive use of any particular class of vehicle or traffic;

Byelaws.

PART II
—cont.

(e) the prohibition or imposition of conditions or restrictions on the passage through the said works of any particular class of vehicle or traffic, including pedestrian traffic.

(2) The Secretary of State shall, before confirming any byelaw made in pursuance of this section, take into consideration any objection to such byelaw submitted to him by any body representative of the operators of public service vehicles.

(3) Byelaws made under this section may provide that persons contravening such byelaws shall be liable on summary conviction to a fine not exceeding £100.

Vesting of
Work No. 8.

11. Notwithstanding the repeal by this Act of section 27 (Vesting of railway diversion) of the Act of 1960, Work No. 8 shall continue for all purposes to form part of the railway and works authorised by the Jarrow East End Light Railway Order 1929, and, subject to the provisions of the Jarrow East End Light Railway (Leasing) Order 1968, the Mercantile Dry Dock Company Limited shall continue to be entitled to exercise all or any of the powers of the said Order of 1929 with respect to the maintenance, use and operation of Work No. 8 and shall continue to be subject to all obligations imposed by the said Order of 1929 in respect of that work.

Tolls.

12. The county council may continue to demand, take and recover in respect of all traffic passing through or into Work No. 2, the tolls specified in the Tyne Tunnel Tolls (Revision) Order 1975 and such reasonable charges as they may think fit for any other services rendered by the county council in connection with Work No. 2:

Provided that the county council may (with the consent of the Secretary of State) allow traffic to use Work No. 2 without paying tolls during such hours or on such occasions as they may from time to time determine.

Revision of
tolls.

13.—(1) If at any time—

(a) it is represented in writing to the Secretary of State—

(i) by any person or any body representative of persons appearing to the Secretary of State to have a substantial interest; or

(ii) by the county council; or

(b) it appears to the Secretary of State to be expedient;

that under the circumstances then existing all or any of the tolls authorised in pursuance of this Act or any classification of vehicles by reference to which the amount of any of those tolls

is to be determined should be revised, then, subject to the provisions of this section, the Secretary of State may if he thinks fit make an order revising all or any of such tolls or any classification of vehicles as aforesaid.

PART II
—cont.

(2) As soon as may be after the receipt by the Secretary of State of a representation pursuant to subsection (1) of this section from any body or person other than the county council the Secretary of State shall send a copy of the representation to the county council.

(3) (a) When representations are made to the Secretary of State under this section the county council shall furnish the Secretary of State with such information and particulars as the Secretary of State may require and shall publish in the London Gazette and in such one or more newspapers as the Secretary of State may specify a notice stating—

- (i) the general effect of the representation;
- (ii) the place or places at which copies of the representation may be inspected free of charge and copies thereof purchased and the price of such copies;
- (iii) the date (being forty-two days after the first publication of the notice) by which objections to the representation may be made in writing to the Secretary of State.

(b) Where it appears to the Secretary of State to be expedient to revise the tolls or any classification of vehicles pursuant to paragraph (b) of subsection (1) of this section the county council shall furnish the Secretary of State with such information and particulars as the Secretary of State may require and shall publish in the London Gazette and in such one or more newspapers as the Secretary of State may specify a notice stating—

- (i) the general effect of the proposals of the Secretary of State; and
- (ii) the date (being forty-two days after the first publication of the notice) by which objections to the proposals may be made in writing to the Secretary of State.

(4) In determining the level of tolls under this section the Secretary of State shall have regard to—

- (a) the financial position and future prospects of the tunnel;
- (b) such other matters of a transportation nature within the area as he considers at that time to be relevant;
- (c) such other matters of a social nature within the area as he considers at that time to be relevant.

PART II
—cont.

(5) Before making an order under this section the Secretary of State shall if required by the applicants or by any person who has objected to the order and has not withdrawn his objection and in any other case if he thinks fit cause a local inquiry to be held by such person as he may appoint for the purpose.

(6) The Secretary of State may fix the date as from which such order shall take effect and thenceforth such order shall be observed until the same expires or is revoked or modified by a further order of the Secretary of State made in pursuance of this section.

(7) The power of the Secretary of State to make an order under this section shall be exercisable by statutory instrument.

Application
of tolls.

14.—(1) Tolls which may be collected in pursuance of this Part of this Act shall be collected and brought into account in such manner as the Secretary of State may direct and shall be applied—

(a) in meeting in each year the cost of collection including administrative charges attributable thereto incurred in such year;

and if the county council so resolve generally or specially—

(b) in defraying in each year the cost and administrative and other expenses incurred by the county council—

(i) in maintaining and repairing Works Nos. 2, 3 and 4;

(ii) in operating services and facilities provided by the county council in connection therewith;

(c) after discharging in each year the expenses specified in sub-paragraphs (a) and (b) of this subsection, in paying to any maintenance or reserve fund provided in respect of the tunnel the amounts authorised in respect thereof by them.

(2) Subject as in this section before mentioned any tolls taken in any year under the powers of this Part of this Act shall be applied towards the following purposes, that is to say:—

(a) in payment of the interest on—

(i) the moneys advanced by the Minister of Transport or the Secretary of State (as the case may be) by way of loan under the Act of 1960;

(ii) the moneys borrowed under the Act of 1960 or under section 16 (Power to borrow) of this Act for Purposes 2 and 3 referred to in the said section 16; and

(b) subject to all interest as aforesaid having been paid in any year in providing the requisite appropriations,

instalments or sinking fund payments in respect of the moneys advanced by the Minister of Transport or the Secretary of State (as the case may be) or borrowed under the Act of 1960 or under the said section 16 for the purposes referred to in sub-paragraph (ii) of paragraph (a) of this subsection;

PART II
—cont.

in proportion to the respective amounts borrowed as aforesaid from the Minister of Transport or the Secretary of State (as the case may be) and other than from the said Minister or the Secretary of State:

Provided that—

- (i) if in any year the tolls are insufficient to pay the interest mentioned in paragraph (a) of this subsection the county council may pay the interest mentioned in sub-paragraph (ii) of that paragraph or any part thereof out of the county fund, and if in any year the tolls are insufficient to provide in accordance with paragraph (b) of this subsection the appropriations, instalments or sinking fund payments in respect of moneys borrowed other than from the said Minister or the Secretary of State the county council may and in any year after a period of thirty years from the date of borrowing shall pay out of the county fund the necessary sums or any part thereof not otherwise provided;
- (ii) if any such payments as are mentioned in the foregoing proviso are made out of the county fund the county council, in any subsequent year in which the proportion of the tolls applicable under the provisions of this section to the amount borrowed otherwise than from the said Minister or the Secretary of State exceeds the amount required to provide the said interest and appropriations, instalments or sinking fund payments, may apply such excess to the repayment of any such payments to the county fund.

15.—(1) Part II of Schedule 1 to this Act which contains amendments to section 24 (Agreements with government departments and others) of the Act of 1946 and to section 42 (Confirming conditions of grant and loan advances by Minister) and Schedule 1 to the Act of 1960 shall have effect.

Amendments
to Acts of
1946 and
1960.

(2) The unrepealed provisions of the Acts of 1946 and 1960 are set out in Part III of Schedule 1 to this Act as they will have effect after the passing of this Act, and subsection (9) of section 262 of the Act of 1972 shall not apply to those provisions.

16.—(1) The county council shall continue to have power to borrow without the consent of the Secretary of State the sum requisite for the payment out of capital of interest on moneys

Power to
borrow.

PART II
—cont.

borrowed for the purpose referred to in subsection (5) of this section, in accordance with section 17 (Payment of interest on moneys borrowed in certain events) of this Act.

(2) Subject to subsection (3) of this section the period for the repayment of a sum borrowed under subsection (1) of this section shall not exceed in the case of any sum borrowed other than from the Secretary of State thirty years and in the case of any sum borrowed from the Secretary of State sixty years from the date of borrowing.

(3) If at the end of the period of thirty years for the repayment of any sum borrowed under section 43 (Power to borrow) of the Act of 1960 or under subsection (1) of this section any part of the sum is outstanding the Secretary of State shall notwithstanding the repeal by this Act of the said section 43 extend by way of re-borrowing the period for the repayment of the sum for such further period not exceeding thirty years as may be agreed between the Secretary of State and the county council.

(4) Subject to the provisions of this Part of this Act Part I of Schedule 13 to the Act of 1972 shall have effect as if money borrowed under this section were borrowed under that Part.

(5) The purpose referred to in subsection (1) of this section is the cost of the construction of Works Nos. 1, 1A, 2, 3A, 5, 5A, 5B, 6, 7 and 8 (including the matters referred to in subparagraphs (1) to (5) of Schedule 1 to the Act of 1960) and the purchase of land and easements in respect of which notice to treat had not been served under the Act of 1946 or the Act of 1956.

(6) The purpose for which money may be borrowed under subsection (1) of this section and the purpose described in subsection (5) of this section are elsewhere in this Part of this Act identified by the numbers by which they were described in the Act of 1960, that is to say—

(a) the purpose for which money may be borrowed under the said subsection (1) is described as Purpose No. 3; and

(b) the purpose described in the said subsection (5) is described as Purpose No. 2.

Payment of
interest on
moneys
borrowed in
certain
events.

17.—(1) Notwithstanding anything contained in any enactment the county council may pay interest on any moneys borrowed under the Act of 1960 for Purpose No. 2 out of moneys borrowed under section 16 (Power to borrow) of this Act for Purpose No. 3 but only in any year in which the tolls are insufficient to pay the interest upon the moneys borrowed under the Act of 1960 or the said section 16.

(2) The powers of this section shall not be exercisable after 31st December 1979, or such date thereafter (not being later than 31st December 1984) as may be agreed between the Secretary of State and the county council.

PART II
—cont.

18.—(1) Notwithstanding anything contained in any enactment it shall be lawful for the sums to be provided for the redemption of borrowed moneys for or in respect of Purpose No. 2 and Purpose No. 3 to be suspended in any year in which the tolls are insufficient to meet the requisite sinking fund payments in accordance with the provisions of section 14 (Application of tolls) of this Act: Suspension of payments into sinking fund.

Provided that in respect of moneys borrowed other than from the Minister of Transport or the Secretary of State such suspension shall not be for a longer period from the date of borrowing than thirty years.

(2) The powers of this section shall not be exercisable after 31st December 1979, or such date thereafter (not being later than 31st December 1984) as may be agreed between the Secretary of State and the county council.

19.—(1) The county council shall keep accounts of all moneys received by them in pursuance of this Part of this Act which accounts shall be made up for each year in such form as the Secretary of State may approve so as to distinguish capital from revenue and any capital moneys received by the county council in pursuance of this Act shall be credited to the capital account of the county council and any moneys received on account of revenue by the county council in pursuance of this Part of this Act shall subject to the provisions of section 14 (Application of tolls) of this Act be credited to the revenue account of the county council. Accounts.

(2) The county council shall within three months after the expiration of each year or such longer period as the Secretary of State may allow furnish a copy of their accounts kept under this section to the Secretary of State.

20. The county council may from time to time provide, set up, maintain and remove such toll-houses, toll-gates, offices and other conveniences in connection with Works Nos. 2, 3 and 4 as may be necessary or convenient. Power to provide toll-houses, etc.

21. A list of the tolls by this Part of this Act authorised to be demanded and taken and which shall from time to time be charged by the county council shall at all times be exhibited in a conspicuous place at or near the places where such tolls shall be payable. List of tolls to be exhibited.

PART II
—*cont.*

Regulations as
to payment
of tolls and
charges.

22. The tolls and charges by this Part of this Act authorised to be demanded and taken shall be paid to such persons and at such places and in such manner and under such regulations as the county council may appoint and the county council may recover such tolls and charges as a simple contract debt in any court of competent jurisdiction and when such tolls and charges are not paid at the time Work No. 2 is used or the services are provided the county council may recover an additional sum of £5 to cover administration expenses in addition to the toll or charge otherwise payable.

Refusal to
pay tolls.

23. If the tolls payable by any person desirous of using Work No. 2 be demanded from him before using the same, and such person shall, after demand from him of such tolls (such demand being made by any collector or other person appointed to receive the same), refuse or without reasonable excuse neglect to pay the same or any part thereof, the collector or other person so appointed may refuse to permit the person so in default to use Work No. 2, and may, by himself or with such assistance as he shall think necessary, stop and prevent the person so in default from using the same.

Power to
compound for
payment of
tolls.

24. The county council may compound and agree with any person using the tunnel for the passage of any such person or of any traffic through Work No. 2:

Provided that such compositions shall be subject to the approval of the Secretary of State and shall at all times be charged equally to all persons.

Tickets.

25.—(1) The county council may, in exchange for the payment of any toll, hand a ticket to any person intending to pass through or into Work No. 2, and any person to whom a ticket is so handed may be required on demand to deliver up such ticket to the toll collector or other person appointed by the county council to collect the same, at such place or places as the county council may from time to time determine.

(2) The county council may, either when they enter into compositions in accordance with the provisions of section 24 (Power to compound for payment of tolls) of this Act or otherwise, issue season tickets, and any person to whom such a ticket is issued may be required, on demand, to show such ticket to the toll collector or other person appointed by the county council to inspect the same, at such place or places as the county council may from time to time determine, and shall deliver up such ticket to such toll collector or other person appointed by the county council to receive the same at the expiration of the period for which it is issued.

26.—(1) Nothing in this Part of this Act shall prejudice any existing right of Her Majesty (including the exemptions and rights contained in section 184 of the Army Act 1955 and section 184 of the Air Force Act 1955).

PART II
—cont.

Exemption
from tolls.

1955 c. 18.

(2) Nothing in this Part of this Act shall extend to require the payment of any toll by any person—

1955 c. 19.

(a) when on duty as a member of the naval forces of the Crown;

(b) when on duty as a police officer;

(c) when on duty driving a vehicle used for the conveyance of sick or injured persons under paragraph (c) of subsection (2) of section 2 of the National Health Service Reorganisation Act 1973;

1973 c. 32.

(d) when on duty as a member of a fire brigade maintained in pursuance of the Fire Services Act 1947;

1947 c. 41.

where the payment of such toll would be likely to hinder that person in the performance of his duty.

(3) If any person, with intent to defraud, claims or takes the benefit of any exemption conferred by this section, as aforesaid, without being entitled thereto, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

27.—(1) On the cesser of the liabilities of the county council referred to in subsection (2) of this section (whether by reason of the discharge by the county council of those liabilities or otherwise) and (unless the county council resolve not to provide a maintenance or reserve fund in respect of the tunnel) when any such maintenance fund and any such reserve fund are fully funded, the power to demand, take and recover tolls continued by this Part of this Act shall cease and determine.

Cesser of
tolls.

(2) The liabilities referred to in subsection (1) of this section are—

(a) the liability to repay moneys advanced by the Minister of Transport or the Secretary of State under the Act of 1960;

(b) the liability to pay to the Northumberland County Council the sums which, if the Act of 1972 had not been passed and the Tyne Tunnel Joint Committee Order 1974 had not been made, would have become due and owing to the loans pools or consolidated loans funds transferred to the said county council by the said order in respect of advances from those pools or funds in connection with the works;

PART II
—cont.

- (c) the liability to repay the outstanding loan debts transferred to the county council by virtue of the Tyne Tunnel Joint Committee Order 1974 in connection with the works;
- (d) the liability to repay any money borrowed for Purpose No. 3.

*B. Bridges*Application
to bridges.

28. This Part of this Act applies to the following bridges:—

1962 c. xlvi.

Bridge No. 1 The bridge over the river known as Scotswood Bridge being Work No. 8 authorised by the Scotswood Bridge Act 1962:

1924 c. xcvi.

Bridge No. 2 The bridge over the river and approaches thereto being Work No. 1 authorised by the Newcastle-upon-Tyne and Gateshead Corporations (Bridge) Act 1924:

1957 c. xxvii.

Bridge No. 3 The footbridge over the river Wear known as the Barmston-Coxgreen Footbridge and footway approaches thereto authorised by the Durham County Council (Barmston-Coxgreen Footbridge) Act 1957:

1896 c. ccxxxi.

Bridge No. 4 The bridge over the river known as Redheugh Bridge authorised by the Redheugh Bridge Act 1896:

Bridge No. 5 The bridge over the river Wear in the borough of Sunderland known as Wearmouth Bridge.

Power to
widen
Bridge No. 1.

29. Subject to the provisions of this Part of this Act, the county council may widen Bridge No. 1 at any time and from time to time as occasion may require to the extent authorised by the Scotswood Bridge Act 1962.

Subsidiary
works in
the river and
the river Wear.

30.—(1) Subject to the provisions of this Act the county council in connection with and at or near Bridges Nos. 1, 3, 4 or 5 may execute, place and keep in the river or the river Wear (as the case may be) and elsewhere, temporarily, all such caissons, cofferdams, piles, piers, abutments, embankments, wharves, walls, fences, drains, fenders, booms, dolphins, pontoons, stagings, stairs, subways, buildings and other works and conveniences as they may find necessary or expedient for or in connection with the maintenance or use of the said bridges.

(2) In addition to the powers conferred on them by subsection (1) of this section the county council, in connection with and at or near Bridges Nos. 1 or 4 may execute, place and keep in the river permanently, all such fenders as they may find necessary or expedient for or in connection with the maintenance or use of those bridges.

31.—(1) No works shall be executed, placed and kept in the river or the river Wear (as the case may be) under the powers of section 30 (Subsidiary works in the river and the river Wear) of this Act—

For protection of the river and the river Wear.

- (a) so as unnecessarily to obstruct the flow of water or the passage of fish;
- (b) where such works (being temporary works) are in connection with and at or near Bridge No. 1, so as to reduce the navigable waterway of the river to a width of less than 45.7 metres;
- (c) where such works are in connection with and at or near Bridge No. 5 so as to reduce the navigable waterway of the river Wear to a width of less than 72 metres or diminish the headway beneath that bridge;
- (d) where such works are in connection with and at or near Bridges Nos. 1, 3 or 4 so as unnecessarily to narrow or obstruct the navigable waterway of the river or the river Wear (as the case may be) or otherwise interfere with or impede navigation.

(2) No materials which have been excavated in connection with the exercise of any of the powers conferred by the said section 30 in relation to Bridge No. 1 shall be deposited in any place in the river or elsewhere below the level of high water except after consultation with the port authority and in such a position and subject to such conditions and restrictions as may be fixed by the Secretary of State.

(3) The county council shall at their own expense keep repaired any works executed, placed and kept by them in the river or the river Wear in connection with and at or near any of the bridges to which this Part of this Act applies under the said section 30 or under any enactment repealed by this Act.

32. Notwithstanding anything contained in the Act of 1950, or in any other enactment, no person shall enter upon, break up or interfere with Bridges Nos. 1, 2, 3 or 5 or the carriageways and footways of the same for the purpose of laying down any main, pipe or wire or executing any work therein, thereon or thereunder except with the consent of the county council and in accordance with such terms and conditions as the county council may determine:

Prohibition on interference with Bridges Nos. 1, 2, 3 or 5.

Provided that the consent of the county council to the breaking up of and interference with any of the said works or the carriageways and footways of the same for the purpose of laying down water mains, water pipes or electric lines therein shall not be withheld unreasonably and that any question which may arise as to whether such consent is so withheld or as to whether the

PART II
—cont.

Lifts and accommodation in or in connection with Bridge No. 2.

terms and conditions subject to which any such consent is given are reasonable shall be determined by the Secretary of State.

33.—(1) The county council may, if they think fit, construct or provide, fit up and equip—

(a) in or in connection with Bridge No. 2 lifts and other apparatus for the conveyance of goods, articles and things and passengers from or to the level of Bridge No. 2 to or from the level of the quays or streets beneath the same;

(b) warehouses and other accommodation for the storage or deposit of goods, articles and things and offices or other like accommodation in or under the structure of Bridge No. 2 for the purposes of any trade or business.

(2) The county council may continue to maintain, work and manage lifts and other apparatus and may continue to maintain and manage warehouses and other accommodation constructed or provided under the powers of section 3 (Power to two corporations to construct lifts for goods and warehouses and other accommodation) or section 8 (Lifts for passengers) of the Act of 1926.

(3) In connection with and for the purpose of working any lifts or apparatus constructed or provided under this section the county council may provide, fit up, instal and use such engines, machinery and appliances and use such motive power as they may think fit.

(4) The county council may continue to use the engines, machinery and appliances provided in connection with and for the purpose of working lifts or other apparatus constructed and provided under the said section 3 or the said section 8 and may continue to use in respect of such engines, machinery and appliances such motive power as they may think fit.

Power to charge for use of lifts in Bridge No. 2.

34. The county council may charge a reasonable sum for the use of any lifts or apparatus constructed or provided under the powers of section 33 (Lifts and accommodation in or in connection with Bridge No. 2) of this Act or the Act of 1926.

Byelaws as to Bridge No. 3.

35. The county council may make byelaws for the regulation, control and protection of Bridge No. 3 and of persons resorting to or using the same.

C. General

Interpretation of Part II.

36.—(1) In this Part of this Act and in Schedules 1 and 2 to this Act—

“the Act of 1926” means the Newcastle-upon-Tyne and Gateshead Corporations (Bridge) Act 1926;

1926 c. ci.

PART II
—cont.

1946 c. xl.
1956 c. lxvi.
1960 c. xxxix.

- “ the Act of 1946 ” means the Tyne Tunnel Act 1946;
- “ the Act of 1956 ” means the Tyne Tunnel Act 1956;
- “ the Act of 1960 ” means the Tyne Tunnel Act 1960;
- “ the appropriate authority ” has the meaning assigned thereto by section 41 (Meaning of “ the appropriate authority ”) of this Act;
- “ the bridges ” means, subject to the provisions of section 46 (For protection of statutory undertakers) of this Act, the bridges described in section 28 (Application to bridges) of this Act;
- “ the level of high water ” means the level of mean high-water springs;
- “ Purpose No. 2 ” and “ Purpose No. 3 ” have the meanings respectively assigned thereto by subsection (6) of section 16 (Power to borrow) of this Act;
- “ the river ” means the river Tyne;
- “ tidal work ” means so much of the tunnel as defined in this section and of the bridges to which Head *B* of this Part of this Act applies as is in, on, under or over tidal waters or tidal lands below the level of high water and includes any alteration or addition to the tunnel as so defined or to any such bridge, and any subsidiary works constructed in connection with the foregoing;
- “ Trinity House ” means the Corporation of Trinity House of Deptford Strond;
- “ the tunnel ” means the works other than Works Nos. 5A and 8;
- “ the works ” means the works in Part I of Schedule 1 to this Act.

(2) Unless the context otherwise requires, any reference to a work identified by the number of such work shall be construed as a reference to the work of that number described in Part I of Schedule 1 to this Act.

(3) References in this Part of this Act and in Schedule 2 to this Act to a bridge identified by the number of such bridge shall be construed as a reference to the bridge of that number described in section 28 (Application to bridges) of this Act.

37.—(1) In case of injury to or destruction or decay of a tidal work or any part thereof the county council shall forthwith notify the appropriate authority and shall lay down such buoys, exhibit such lights and take such other steps for preventing danger to navigation as the appropriate authority shall from time to time direct. Provision against danger to navigation.

PART II
—cont.

(2) If the county council fail to notify the appropriate authority as required by this section or to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

Permanent
lights on
bridges.

38.—(1) The county council shall in such positions on or near bridges to which this Part of this Act applies exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation as the appropriate authority shall from time to time direct.

(2) If the county council fail to comply in any respect with a direction given under this section they shall be liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

Abatement
of works
abandoned
or decayed.

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

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

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

Survey of
works by
Secretary of
State.

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

Meaning of
“the
appropriate
authority”.

41. “The appropriate authority” means—

(1) in section 37 (Provision against danger to navigation) and section 38 (Permanent lights on bridges) of this Act—

- (a) in relation to the river, the port authority; and
- (b) in relation to the river Wear, Trinity House;

(2) in section 39 (Abatement of works abandoned or decayed) of this Act—

(a) in relation to the river, the Secretary of State or the port authority:

Provided that if there shall be any inconsistency between a requirement of the Secretary of State and a requirement of the port authority under the said section 39, the requirement of the Secretary of State shall prevail;

(b) in relation to the river Wear, the Secretary of State.

42. For the protection of the port authority and river users the provisions of Schedule 2 to this Act shall, except as may be otherwise agreed in writing between the port authority and the county council, apply and have effect.

For protection of the port authority and river users.

43. Nothing in this Act shall prejudice or derogate from the rights, duties or privileges of Trinity House.

Saving for Trinity House.

44. For the protection of the Post Office the following provisions shall, unless otherwise agreed in writing between the county council and the Post Office, apply and have effect:—

For protection of Post Office.

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

“ telegraphic line ” has the same meaning as in the Telegraph Act 1878;

1878 c. 76.

“ apparatus ” means any telegraphic line belonging to or used by the Post Office and includes any works constructed for the lodging therein of apparatus:

(2) For the purposes of the Telegraph Acts 1863 to 1916 Works Nos. 2, 3 and 4 shall be deemed to be subways within the meaning of section 6 of the Telegraph Act 1878:

(3) Nothing in this Part of this Act contained shall affect the rights and powers of the Post Office under the Telegraph Acts 1863 to 1916:

(4) Any electrical works or equipment constructed, erected, laid down, maintained, worked or used pursuant to the powers conferred by this Part of this Act shall be so constructed, erected or laid down and so maintained, worked and used that any electricity generated or conveyed by or used in or in connection with any such works or equipment does not cause interference (whether

PART II
—con.

by induction or otherwise) with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line:

- (5) The Post Office shall continue to maintain in good repair all access chambers (including covers) giving access to telegraphic lines laid down in Bridge No. 1 and shall indemnify the county council against any actions, proceedings, costs, claims or demands arising out of any failure by the Post Office so to do unless such actions, proceedings, costs, claims or demands arise by reason of any wrongful act, neglect or default of the county council, its servants or agents:

Provided that whenever any loss or damage occurs which may give rise to a claim against the county council under this subsection, the county council shall as soon as possible give notice thereof to the Post Office and shall not concede or compromise any claim made upon the county council without the written concurrence of the Post Office.

For
protection
of the railways
board.

45. The following provisions shall, unless otherwise agreed in writing between the county council and the railways board, apply and have effect:—

- (1) In this section—

“the bridge works” means so much of the works authorised by the Scotswood Bridge Act 1962 as may be situated upon, across, under or over or may in any way affect railway property;

“railway property” means any railway of the railways board and any works connected therewith for the maintenance or operation of which the railways board are responsible and includes any lands held or used by the railways board for the purposes of such railway or works;

“the tunnel works” means so much of Works Nos. 1, 2, 5 and 5A and of any works constructed in connection therewith as may be situated upon, across, under or over or may in any way affect railway property and includes the bridges carrying railway property over Works Nos. 1, 2 and 5 and works constructed in connection with those works;

and any reference to a work described by the number of such work shall be construed as a reference to the work of that number described in Part I of Schedule 1 to this Act:

1962 c. xlvi.

(2) If at any time the railways board give notice to the county council informing them that the state of repair of either of the following, that is to say:—

(a) the culverts and works ancillary thereto whereby Work No. 5A is carried under railway property; or

(b) the bridge works;

appears to be such as to affect prejudicially railway property, the county council shall, within twenty-eight days of the receipt of such notice, take such steps (if any) as may be reasonably necessary to put such culverts and ancillary works or the bridge works (as the case may be) in such state of repair as not to affect prejudicially railway property and, if and whenever the county council fail to do so, the railways board may make and do in and upon the lands of the railways board or of the county council all such works and things as shall be requisite to put such culverts and ancillary works or the bridge works in such state of repair as aforesaid and the costs and expenses reasonably incurred by the railways board in so doing shall be repaid to them by the county council:

(3) If at any time the railways board shall be desirous of widening or altering under their statutory powers or under such powers of adapting for working by electrical power railway property affected by the tunnel works, the county council shall give to the railways board all proper and reasonable facilities for that purpose including the right in connection with such electrification to make attachments to the tunnel works subject to the reasonable approval of the county council:

(4) Before providing any illumination or illuminated road traffic sign on or in connection with the bridge works the county council shall consult with the railways board and comply with any reasonable requirements of the railways board in regard thereto with a view to ensuring that such illumination or illuminated sign could not be confused with any railway signal or other light used for controlling, directing or securing the safety of traffic on any railway of the railways board:

(5) Any additional expense which the railways board may incur in widening, altering, reconstructing or maintaining railway property in pursuance of any powers existing at the passing of the Act authorising the tunnel works by reason of the existence of the tunnel works shall be repaid by the county council to the railways board:

PART II
—cont.

- (6) Should it be reasonably necessary for the protection and safety of railway property and as a result of the tunnel works for the railways board to purchase or pay compensation for any minerals required to be left unworked the costs and expenses incurred in relation to any such purchase or payment of compensation shall be shared equally between the county council and the railways board:
- (7) Any difference arising between the county council and the railways board under this section (other than a difference as to the meaning or construction of this section) shall be referred to and settled by arbitration in accordance with the provisions of section 71 (Arbitration) of this Act.

For
protection
of statutory
undertakers.

46. For the protection of the undertakers the provisions of this section shall, notwithstanding anything in this Part of this Act and unless otherwise agreed in writing between the county council and the undertakers, apply and have effect—

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

“ apparatus ” means—

(a) in relation to the electricity board or the generating board, electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by either of such undertakers;

(b) in relation to gas or water undertakers, mains, pipes, valves, hydrants, plugs, tubes, stop-cocks and other works and apparatus belonging to or maintained by such undertakers or any such apparatus for which they are responsible;

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

“ the electricity board ” means the North Eastern Electricity Board;

“ the generating board ” means the Central Electricity Generating Board;

“ the companies ” means the Newcastle and Gateshead Water Company and the Sunderland and South Shields Water Company, or either of them;

“ adequate alternative apparatus ” means alternative apparatus adequate to enable the undertakers to fulfil their statutory functions in a manner not less efficient than previously;

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

“existing” means existing immediately before the passing of this Act;

“position” includes depth;

“the undertakers” means the generating board, the electricity board, the British Gas Corporation, the companies and the water authority or any of them;

“the water undertakers” means the companies and the water authority;

and in relation to the protective provisions herein contained for the benefit of the Newcastle and Gateshead Water Company the expression “Bridge No. 1” shall include reference to the bridge forming part of Work No. 13 referred to in subsection (1) of section 52 of the Act of 1962; and the expression “Scotswood Bridge main” means a steel water main of the said water company having an internal diameter of 30 inches for which accommodation and support was provided under the said section 52 for Bridge No. 1 and which, notwithstanding the repeal of the said section 52 under the provisions of this Act, they are hereby empowered to continue to provide:

(2) Notwithstanding anything in section 8 (No mains or pipes to be laid in Works Nos. 2, 3 or 4) or section 32 (Prohibition on interference with Bridges Nos. 1, 2, 3 or 5) of this Act the undertakers shall be entitled for the purposes of—

(a) laying down, maintaining, inspecting, repairing, renewing or removing any apparatus being apparatus which would not impair the efficiency of the tunnel, or bridge in which it is laid;

(b) laying down, maintaining, inspecting, repairing, renewing or disconnecting any service pipes between any such apparatus and any premises to be supplied therefrom; and

(c) maintaining, inspecting, repairing, renewing or removing any existing apparatus;

to exercise from time to time the like rights of opening and breaking up any land, road or street or part of a road or street and the carriageways and footways of Works Nos. 2, 3 or 4 and of Bridges Nos. 1, 2, 3 and 5 as they would be entitled to exercise if those sections had not been enacted:

PART II
—cont.

Provided that—

(i) nothing in this paragraph contained shall entitle the undertakers to break up or interfere with or obstruct the surface of the carriageways and footways of Bridge No. 1 or to fix in or to Bridge No. 1 anything other than the apparatus in the accommodation provided in pursuance of the Act of 1962 or, in relation only to the Newcastle and Gateshead Water Company, the Scotswood Bridge main;

(ii) the apparatus shall at all times meet the reasonable approval of the county council;

(iii) except in case of emergency the undertakers shall give to the county council not less than ten days' notice of their intention to execute works authorised by this paragraph and shall conform with the reasonable requirements of the county council as to the time or times at which the undertakers may exercise the right of entering upon and executing works on Bridge No. 1 and as to the manner in which such works are executed and the county council shall be entitled to superintend the execution of such works. The costs reasonably incurred by the county council in such superintendence shall be repaid to them by the undertakers;

(iv) the undertakers shall not (except with the previous consent of the county council) in the exercise of their rights under this paragraph, be entitled to increase the burden to be borne by Bridge No. 1 above the weight agreed between the county council and the undertakers, or in default of agreement determined by arbitration nor to distribute such burden unequally, nor to alter the position of such burden:

- (3) The water undertakers shall not be liable for any damage caused whether before or after the passing of this Act to Work No. 2 or any works connected therewith or to any persons, animals, vehicles or property in Work No. 2 or passing along, through or otherwise using the same by reason of the escape from whatsoever cause (other than any future act or the negligence of the water undertakers) of water from any apparatus for the time being situate in the said Work No. 2 or any part thereof or any such work as aforesaid or within a distance of 30 metres on either side measured laterally on a horizontal plane from the centre line of Work No. 2 or such part thereof or such work as aforesaid and the county council shall indemnify the water undertakers against all claims, demands, proceedings, costs, damages

and expenses which may be made or taken against or recovered from or incurred by them by reason or in consequence of any such escape of water:

PART II
—cont.

- (4) Subject to the provisions of this section in relation to any works executed by the county council under the powers of this Part of this Act, the Act of 1950 shall have effect as though—
- (a) such works were mentioned in paragraph (b) of subsection (1) of section 21 of the Act of 1950; and
 - (b) any apparatus affected by those works were in a street:
- (5) Where by reason or in consequence of the exercise by the county council of any of the powers of this Part of this Act any apparatus is rendered derelict or unnecessary the county council shall unless adequate alternative apparatus is provided by or at the cost of the county council pay to the undertakers the value of the apparatus so rendered derelict or unnecessary and the costs and expenses reasonably incurred by the undertakers in the cutting off of such apparatus from other apparatus:
- (6) If by reason or in consequence of the exercise by the county council of any of the powers of this Part of this Act it shall be reasonably necessary for the water undertakers or any of them to lay a second service main in any road or street or in any part of a road or street in which they have a single service main from which supplies of water are afforded to premises situated on both sides of such road or street, the county council shall pay to them the reasonable costs and expenses incurred by them in providing and laying such second service main and the service pipes necessary for connecting that main with the premises to be supplied by means thereof:
- (7) If by reason or in consequence of any work of maintenance or the user or failure of any of the works or any subsidence resulting from any of the works any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal) or property of, or any interruption in the supply of services by, the undertakers shall be caused, the county council shall bear and pay the cost reasonably incurred by the undertakers in making good such damage or restoring the supply and shall—
- (a) make reasonable compensation to the undertakers for any loss sustained by them; and

PART II
—cont.

(b) indemnify the undertakers against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by them;

by reason or in consequence of any such damage or interruption:

- (8) If by reason or in consequence of any work of construction or maintenance of Bridge No. 1 or the user or failure thereof or any subsidence resulting therefrom any damage to any apparatus of the electricity board or the generating board (other than apparatus the repair of which is not reasonably necessary in view of its intended removal) or property of, or any interruption in the supply of services by, the electricity board or the generating board shall be caused, the county council shall bear and pay the cost reasonably incurred by those boards in making good such damage or restoring the supply and shall—

(a) make reasonable compensation to those boards for any loss sustained by them; and

(b) indemnify those boards against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by them;

by reason or in consequence of any such damage or interruption:

- (9) Not less than two months before commencing the widening of Bridge No. 1, the county council shall give to the undertakers notice thereof, and the undertakers shall within twenty-eight days from the receipt of any such notice, by notice to the county council specify any apparatus which will be, or is likely to be, affected by the proposed widening:
- (10) The provisions of section 26 of the Act of 1950 shall apply to and in relation to any works executed by the county council under the powers of section 4 (Use of sewers, etc., for removing water) of this Act as if those works were executed for purposes other than road purposes:
- (11) The county council shall so exercise the powers conferred by the following sections of this Act as not to obstruct or render less convenient (so far as reasonably practicable) the access to any apparatus and any additional expenses reasonably incurred by the undertakers in obtaining access to any apparatus in consequence of the exercise

by the county council of any of the said powers shall be paid to the undertakers by the county council—

PART II
—cont.

- section 3 (Power to maintain works);
- section 5 (Lighting and ventilating of works);
- section 8 (No mains or pipes to be laid in Works Nos. 2, 3 or 4);
- section 20 (Power to provide toll-houses, etc.);
- section 30 (Subsidiary works in the river and the river Wear);
- section 32 (Prohibition on interference with Bridges Nos. 1, 2, 3 or 5);
- section 35 (Byelaws as to Bridge No. 3):

(12) Notwithstanding—

(a) that any road or street or part of a road or street has been stopped up under the powers of section 10 (Stopping up of roads) of the Act of 1946; or

(b) the closing or partial closing of any part of Works Nos. 2, 3 or 4 under the powers of section 7 (As to closing of works) of this Act; or

(c) any byelaw made under section 10 (Byelaws) of this Act;

the undertakers, their engineers or workmen and others in their employ shall at all times have such rights of access to all or any apparatus in any such road as they had immediately before the closing or partial closing or making of the byelaw as may be necessary for inspecting, repairing, maintaining, renewing or removing such apparatus or laying new apparatus:

Provided that this paragraph shall not apply in any case in which any road or street has been permanently stopped up and the apparatus therein replaced by adequate alternative apparatus at the cost of the county council or the value of the apparatus therein has been paid by the county council to the undertakers:

(13) Notwithstanding that a street in which any apparatus was situated has been permanently stopped up by the county council under the powers of section 31 (Stopping up of streets) of the Act of 1962, the undertakers shall, notwithstanding such stopping up, continue to have the same powers and rights in respect of the apparatus

PART II
—cont.

remaining in the land, which by reason of the stopping up has ceased to be a street, as they would have had if it had remained a street:

Provided that if, as a result of the permanent stopping up of such a street, the undertakers shall deem it necessary to remove or replace any apparatus therein or the county council for the purpose of executing the works shall reasonably require the removal or replacement of any apparatus therein and shall give the undertakers not less than twenty-eight days' prior notice of such requirement then the undertakers shall—

(a) remove the apparatus and relay or replace it in the street (if any) substituted for the street so stopped up or in any such other position as the undertakers may reasonably determine; or

(b) provide and lay or place in the street (if any) so substituted or in any such other position as aforesaid other apparatus in place of the existing apparatus:

- (14) The county council shall repay to the undertakers the reasonable expenses incurred by the undertakers in or in connection with the carrying out of such works as are referred to in sub-paragraphs (a) and (b) of the last foregoing paragraph, whether or not the county council have required those works to be carried out including expenses so incurred in cutting off any apparatus from other apparatus and in doing any work rendered necessary in consequence of carrying out those works:

Provided that subsections (3) and (4) of section 23 of the Act of 1950 (which impose limitations on undertakers' rights to payment) shall so far as applicable extend and apply to any payment to be made by the county council under this paragraph as if the works in respect of which the payment is to be made were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under section 46 (For protection of statutory undertakers) of the Tyne and Wear Act 1976":

- (15) The county council shall keep the water undertakers indemnified against all loss, damage or injury they may sustain or incur by reason of any interference by or acts of the county council with any mains in any of the bridges (being mains belonging to or maintained by the water undertakers or any of them or any such mains

for which they are responsible) or any future water mains replacing those mains or by reason of any interruption of the water supply for which they are responsible arising from or consequent on the exercise by the county council of any of the powers of this Part of this Act:

- (16) (a) The undertakers may continue to maintain any existing apparatus belonging to them in Works Nos. 2, 3 and 4 and the bridges or in the carriageways and footways of the same as now constructed and shall continue to be entitled at all times free of charge to use the accommodation and support (if any) provided for that apparatus in the said works and the bridges for the purpose of inspecting, repairing, maintaining, renewing or removing the said apparatus;
- (b) The Newcastle and Gateshead Water Company shall continue to be entitled at all times free of charge to use the accommodation and support for the Scotswood Bridge main, whether or not the county council widen Bridge No. 1 in pursuance of the provisions of section 29 (Power to widen Bridge No. 1) of this Act, and the county council shall also provide a means by which the Newcastle and Gateshead Water Company may have access to the Scotswood Bridge main after the same is laid without breaking up, interfering with or obstructing the surface of the carriageways and footways of Bridge No. 1:
- (17) (a) The undertakers shall maintain in good repair and to the reasonable satisfaction of the county council all apparatus placed by them in Bridge No. 1 and shall from time to time carry out and maintain such works as the county council may reasonably require to be done or provided for ensuring the safety and stability of the said bridge and the safety and convenience of those using the said bridge, being works reasonably required to be done in consequence of the exercise by the undertakers of the rights conferred upon them by this Part of this Act and, in default, the county council may at the expense of the undertakers carry out and maintain such works, and the undertakers shall repay to the county council any expenses reasonably incurred by the county council in carrying out and maintaining any such works;
- (b) Subject to paragraph (3) of this section, the undertakers shall make good any damage suffered and repay to the county council any loss or expenses incurred by them by reason of the failure of the undertakers to comply

PART II
—cont.

with the provisions of this paragraph or by reason of any fault in or accident occurring in relation to any apparatus or material placed in Bridge No. 1 by the undertakers pursuant to the provisions of this Part of this Act and shall indemnify the county council against any actions, proceedings, costs, claims or demands arising out of or in any way attributable to the exercise by the undertakers of the rights conferred on them by this Part of this Act unless such actions, proceedings, costs, claims or demands shall arise by reason of the neglect or default of the county council, their servants or agents:

Provided that whenever any loss or damage occurs which may give rise to a claim against the undertakers under this paragraph, the county council shall as soon as possible give notice thereof to the undertakers and shall not concede or compromise any claim made upon the county council without the concurrence of the undertakers:

- (18) Any question or difference which may arise between the county council and the undertakers under this section (other than any question or difference as to the meaning or construction of this section or of the Act of 1950 as having effect by virtue of this section) shall be determined by arbitration.

For protection
of public
sewers.

47. For the protection of certain sewerage authorities the following provisions shall, unless otherwise agreed in writing between the county council and the sewerage authority concerned, apply and have effect:—

- (1) In this section—

“public sewer” has the same meaning as in the Act of 1936;

“sewerage authority” means the water authority and any authority which is a relevant authority for the purposes of section 15 of the Water Act 1973;

“new, altered or substituted works” includes any works required for the protection of any public sewer of the sewerage authority;

“the works” means Works Nos. 2, 3, 4, 5A and 8 and any of the bridges which is situated within 15 metres measured in any direction of any public sewer vested in a sewerage authority and in existence on 1st September 1961, being the date of commencement of construction of the tunnel:

- (2) Wherever in this section provision is made with respect to the approval or consent of the sewerage authority such approval shall be in writing, but shall not be unreasonably withheld:
- (3) The county council shall not carry out any alterations of the works until they have given to the sewerage authority not less than twenty-eight days' notice in writing of their intention to commence the same together with plans as described in paragraph (9) of this section (in this section referred to as "the said plans") for their approval and until the sewerage authority have signified their approval of the said plans:
Provided that if within twenty-eight days after the submission of the said plans the sewerage authority have not approved or disapproved them, they shall be deemed to have approved the said plans as submitted:
- (4) The county council shall comply with, and conform to, all reasonable orders, directions and regulations of the sewerage authority in any alteration of the works and shall provide new, altered or substituted works in such manner as the sewerage authority shall reasonably require for the protection of, and for preventing injury or impediment to, any existing public sewer of the sewerage authority by reason of such alteration, and shall indemnify the sewerage authority against all reasonable expenses occasioned thereby:
- (5) All new, altered or substituted works shall, where so required by the sewerage authority, be done by the sewerage authority, or under the direction, superintendence and control of an officer of the sewerage authority duly appointed for the purpose at the cost of the county council, and all costs, charges and expenses reasonably incurred by the sewerage authority by reason of such works, whether in the execution thereof, or in the preparation or examination of plans or designs, or in such direction, superintendence or control as aforesaid, or otherwise, shall be paid to the sewerage authority by the county council on demand:
- (6) When any new, altered or substituted works shall be completed by, or at the cost of, the county council under the provisions of this section, the same shall thereafter be as fully and completely under the direction, jurisdiction and control of the sewerage authority as any sewers or works now or hereafter may be:
- (7) The sewerage authority may require the county council in carrying out any alteration of the works to make any

PART II
—cont.

reasonable deviation (within the limits of deviation shown on the plans deposited in connection with the Bills for the Act of 1946 or the Act of 1960, as the case may be) from the line or levels shown upon the said plans for the purpose of avoiding injury or risk of injury to their public sewers and the county council shall in constructing such works deviate accordingly:

Provided that the county council shall not be required by this paragraph to deviate on to land not in their ownership:

- (8) The plans to be submitted to the sewerage authority for the purposes of this section shall be detailed plans, drawings, sections and specifications which shall describe the exact position and manner in which, and the level at which, any alterations of the works are to be constructed and shall comprise detailed drawings of every alteration which the county council may propose to make in any sewer within the limits of deviation shown on the plans deposited with the Bills for the Acts of 1946 and 1960 respectively:
- (9) The sewerage authority may require such modifications to be made in the said plans as may be reasonably necessary to secure their main drainage system against interference or risk of damage and to provide and secure a proper and convenient means of access to the said sewers:
- (10) The county council shall be liable to make good, or, if the sewerage authority so decide, to bear any expense reasonably incurred by the sewerage authority in making good all injury or damage caused by, or resulting from, the alteration or maintenance of the works to any sewers vested in the sewerage authority, and the sewerage authority may recover any expense so incurred by them from the county council in any court of competent jurisdiction:
- (11) If the county council in the exercise of any of their powers under this Part of this Act (including the provision of new, altered or substituted works in accordance with this section) damage or, without the consent of the sewerage authority, alter or in any way interfere with any existing public sewer of the sewerage authority, the county council shall—
 - (a) pay to the sewerage authority any additional expense which may be reasonably incurred by the sewerage authority in the maintenance, management

or renewal of any new, altered or substituted sewer which may be necessary in consequence of the said construction; and

PART II
—cont.

(b) give to the sewerage authority full, free and uninterrupted access at all times to any such new, altered or substituted sewer and every reasonable facility for the inspection, maintenance, alteration and repair thereof:

- (12) It shall be lawful for the proper officer of the sewerage authority at any reasonable time, on giving to the county council such notice as may in the circumstances be reasonable, to enter upon and inspect the works constructed under the powers of this section:
- (13) The approval by the sewerage authority of any plans, or the superintendence by them of any work, under the provisions of this section shall not exonerate the county council from any liability, or affect any claim for damages, under this section or otherwise:
- (14) Any difference arising between the county council and the sewerage authority under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration.

48. For the further protection of the water authority the following provisions shall, unless otherwise agreed in writing between the county council and the water authority, apply and have effect:—

For protection of land drainage.

(1) In this section—

“alter” includes renew and enlarge and “alteration” shall be construed accordingly;

“banks” and “watercourse” have the meanings respectively assigned to those expressions by the Land Drainage Act 1930;

1930 c. 44.

“the bridges” means the bridges described in section 28 (Application to bridges) of this Act;

“specified operation” means so much of any work of alteration or maintenance of the works or the bridges or of any operation carried out by the county council in exercise of the powers conferred by section 29 (Power to widen Bridge No. 1) of this Act as is or will be situate in, over or under any specified watercourse or within 10 metres therefrom but does not include routine maintenance of any highway;

PART II
—cont.

“ specified watercourse ” has the meaning assigned to that expression by paragraph (2) of this section;

“ the works ” means Works Nos. 2, 3, 4, 5A and 8:

- (2) (a) Not less than two months before commencing any alteration or maintenance of the bridges or the works or any operation in exercise of the powers conferred by section 29 (Power to widen Bridge No. 1) of this Act the county council shall submit to the water authority a map on a scale of not less than one inch to one mile showing so much of the bridges or the works as may or is likely to be affected by the alteration, maintenance or operation proposed and the water authority shall, within twenty-eight days from the receipt of any such map, specify, by notice in writing to the county council, any watercourse affected by any proposed work in relation to which the submission of plans, sections and particulars of the work under paragraph (6) of this section is required:

Provided that, in a case of emergency, the foregoing provisions of this paragraph shall not apply but the county council shall, as soon as reasonably practicable, submit a map as so described;

- (b) Any watercourse affected by a work in relation to which it is agreed between the county council and the water authority, or determined by arbitration, that the submission of plans, sections and particulars as aforesaid is reasonably required shall be a specified watercourse for the purposes of this section:
- (3) In the carrying out of any specified operation the county council shall not diminish the depth or width between the banks of any specified watercourse, except with the consent of the water authority, which consent shall not be unreasonably withheld:
- (4) Except with the consent of the water authority, which consent shall not be unreasonably withheld, the county council shall not carry out any specified operation in, over or under any specified watercourse in such manner as to obstruct or interrupt the free flow of water (including flood water) in the watercourse:
- (5) If notice in writing is served on the water authority by the county council requesting the water authority to give their consent under paragraph (3) or (4) of this section and the water authority do not within twenty-eight days after the receipt of the notice give or refuse

their consent, the water authority shall, for the purpose of the said paragraph (3) or (4) (as the case may be), be deemed to have given their consent:

PART II
—cont.

- (6) (a) Before commencing any specified operation the county council shall submit to the water authority for their reasonable approval plans, sections and particulars thereof;
- (b) If within twenty-eight days after the submission to them of such plans, sections or particulars the water authority do not signify in writing to the county council their disapproval thereof, they shall be deemed to have approved thereof;
- (7) No specified operation shall be carried out otherwise than in accordance with such plans, sections and particulars as shall have been approved (or are deemed to have been approved) by the water authority or settled by arbitration;
- (8) Every specified operation shall be carried out to the reasonable satisfaction of the water authority, and the county council shall afford to the engineer appointed by the water authority, or his duly authorised representative, access to the site of any specified operation at all reasonable times during the carrying out thereof for the purpose of inspection, and shall comply with any reasonable directions given by such engineer or representative in reference to any works executed within the confines of a specified watercourse;
- (9) (a) In the carrying out of any specified operation the county council shall take all reasonable precautions to prevent interference with the flow of water in, into, through or out of any specified watercourse and to prevent the deposit from any work of any solid matter in any specified watercourse;
- (b) At any time during or after the carrying out of any specified operation, as and when they may be reasonably requested in writing to do so by the water authority, the county council shall remove with all reasonable dispatch any accumulation of debris or other material which is caused by the carrying out of the specified operation and which interferes with the free flow of water in any specified watercourse;
- (10) The county council shall give not less than fourteen days' notice in writing to the water authority before commencing any specified operation:

PART II
—cont.

- (11) If, by reason or in consequence of the carrying out of any specified operation, or the failure or partial failure of the work or the bridge in respect of which the specified operation was carried out, the channel or banks of a specified watercourse shall at any time be damaged, such damage shall be made good by the county council to the reasonable satisfaction of the water authority and, if within such reasonable time as may be required after receiving notice thereof the county council fail to make good such damage, the water authority may make good the same and recover from the county council the costs and expenses reasonably incurred by them in so doing:
- (12) The fact that any work or thing has been executed or done in accordance with a plan approved, or not objected to, by the water authority or to their satisfaction, or in accordance with any directions or award of an arbitrator, shall not relieve the county council from any liability under the provisions of paragraph (11) of this section:
- (13) Any difference arising between the county council and the water authority under this section (other than a difference as to the construction of this section) shall be settled by arbitration.

PART III

ASSISTANCE TO INDUSTRY, ETC.

Power to
assist
industry.

49.—(1) For proper consideration, a local authority may, if requested to do so by any person—

- (a) who is the owner or lessee or intended owner or lessee of any land in their area; or
- (b) who has purchased or taken on lease or intends to purchase or take on lease from the local authority any land outside their area;

carry out or cause to be carried out any work required—

- (i) in relation to the preparation or improvement of the site for a proposed or existing industrial building, or the extension or improvement thereof;
- (ii) for the provision, extension or improvement of facilities or services on which any trade or business carried on or intended to be carried on in an industrial building depends.

(2) A local authority may make loans—

PART III
—cont.

(a) towards the cost of any work required on land—

(i) in relation to the preparation or improvement of the site for a proposed or existing industrial building, or the extension or improvement thereof;

(ii) for the provision, extension or improvement of an industrial building;

(iii) for the provision, extension or improvement of facilities or services on which any trade or business carried on or intended to be carried on in an industrial building depends;

(b) towards the cost of any plant, machinery or equipment proposed to be installed in an industrial building;

(c) to any person for the purpose of enabling or assisting him to purchase or take on lease any land in their area used or to be used for an industrial building:

Provided that—

(i) any loan made under this section shall be secured by a charge on the land and building to which the loan relates or by a floating charge on the assets of the borrower;

(ii) no loan made under paragraph (a) or paragraph (b) of this subsection (when aggregated with any other loan under that paragraph and for the time being outstanding in respect of the same work or plant, machinery or equipment) may exceed nine-tenths of the cost towards which the loan is made;

(iii) no loan made under paragraph (c) of this subsection (when aggregated with any other loan under that paragraph and for the time being outstanding in respect of the same interest in the land) may exceed nine-tenths of the amount which in the opinion of the local authority will be the market value of the interest of the intended borrower in the land in respect of which the loan is made;

(iv) the maximum period for the repayment of a loan under this subsection shall not exceed thirty years or, in the case of a loan made under paragraph (b) of this subsection towards the cost of plant, machinery or equipment, the estimated life of such plant, machinery or equipment;

(v) the provision of subsection (4) of section 3 of the Local Authorities (Land) Act 1963 (which empowers local authorities to make advances for the erection of buildings on land sold or let by them) (as varied in particular by section 6 of the National Loans Act 1968) shall apply

1963 c. 29.

1968 c. 13.

PART III
—cont.

in relation to a loan made under this subsection, and for that purpose that provision shall have effect subject to the substitution for references therein to an advance made under the said section 3 of references to a loan made under this subsection and to any other necessary modifications

- (vi) it shall be a term of any loan towards the cost of any plant, machinery or equipment under paragraph (b) of this subsection that the plant, machinery or equipment is installed, and during the subsistence of the loan remains, on such land as is referred to in subsection (1) of this section;
- (vii) a loan may not be made under paragraph (a) or paragraph (b) of this subsection except to a person in respect of such land as is referred to in subsection (1) of this section, being land used or to be used for an industrial building.

(3) A local authority may make grants to any person referred to in subsection (1) of this section towards—

- (a) the cost of payments of interest in respect of any loan made under the last foregoing subsection:

Provided that after three years of the term of the loan a grant under this paragraph shall not exceed in any one year 5 per cent. of the capital sum advanced;

- (b) the rent of an industrial building in the area or any land in the area used or to be used for an industrial building:

Provided that after a person has occupied any building or land for three years a grant to him under this paragraph in respect of that building or land shall not in any year exceed one-half of the total annual rent;

- (c) the cost of preparing or improving a site or providing services or facilities for use in connection with an industrial building;
- (d) the cost of re-siting within the county of a business occupying an industrial building; and
- (e) the cost of interest on a loan made other than by a local authority towards the cost of purchasing or taking on lease any land in the area of a local authority or towards the cost of the provision, extension or improvement of an industrial building or towards the cost of provision of any plant, machinery or equipment which is subsequently installed on such land as is referred to in subsection (1) of this section:

Provided that no grant made under this paragraph shall exceed in total one-fifth of the amount of the loan nor in any one year one-twentieth of the amount of the loan.

(4) Nothing in this section shall authorise a local authority to carry out works for the provision, extension or improvement of services which it is the function of statutory undertakers or the Post Office to provide, extend or improve.

PART III
—cont.

50. A local authority may, if requested so to do by any person who is the owner or lessee or intended owner or lessee of any industrial building or of land in their area on which it is proposed that any such building should be erected, guarantee or contract to secure the payment of—

Power to guarantee rents, etc., of certain buildings.

- (1) any rent or other sum payable in respect of the building;
- (2) any sum payable to any statutory undertaker in respect of the provision or maintenance of any works, facilities or services for the purpose of any trade or business carried on or to be carried on in the building.

51. In this Part of this Act “industrial building” has the same meaning as in section 66 of the Act of 1971.

Meaning of “industrial building”.

52. This Part of this Act shall cease to have effect at the end of 1984.

Duration of Part III of Act.

PART IV

INDUSTRIAL IMPROVEMENT AREAS

53.—(1) Where a report with respect to a predominantly industrial area within the area of a local authority is submitted to that local authority by a person or persons appearing to them to be suitably qualified and it appears to them, upon consideration of the report and of any other information in their possession that conditions in the area ought to be improved by the improvement of the amenities of the area or of buildings therein or both and that such an improvement may be effected or assisted by the exercise of their powers under this Act, the local authority may cause the area to be defined on a map and by resolution declare it to be an industrial improvement area.

Declaration of industrial improvement area.

(2) Not less than twenty-eight days before passing a resolution declaring an area to be an industrial improvement area the local authority shall—

- (a) publish in two or more local newspapers circulating in the locality a notice of their intention to pass a resolution identifying the area and naming a place or places where a copy of the proposed resolution, of the map on which the area is defined and of the report mentioned in subsection (1) of this section may be inspected at all reasonable times and specifying the name and address of the person to whom any inquiries and representations concerning the local authority’s proposed action should be addressed;

PART IV
—cont.

(b) take such further steps as may appear to them best designed to secure that the local authority's intention to pass a resolution is brought to the attention of persons occupying or owning property therein and that those persons are informed of the name and address of the person to whom any inquiries and representations concerning any proposed action to be taken in the exercise of the local authority's powers under this Part of this Act, should be addressed.

Alteration of
industrial
improvement
area.

54.—(1) A local authority may by resolution—

- (a) exclude from an industrial improvement area any land for the time being included therein; or
- (b) declare an area to be no longer an industrial improvement area.

(2) Where it appears to a local authority desirable in the interests of the improvement of the amenities of an area which has been declared an industrial improvement area that any land adjoining the area should be included in the improvement area, they may by resolution include the land in the improvement area and cause the improvement area to be re-defined accordingly.

(3) Not less than twenty-eight days before passing a resolution in pursuance of subsection (2) of this section, the local authority shall publish in two or more local newspapers circulating in the locality a notice of the local authority's intention to pass the resolution, identifying the land intended to be included in the area by the proposed resolution and naming a place or places where a copy of the proposed resolution, and of the map on which the improvement area is re-defined, may be inspected at all reasonable times and specifying the name and address of the person to whom any inquiries and representations concerning the local authority's proposed action should be addressed.

Duty in
relation to
industrial
improvement
area.

55. Where a local authority have declared an area to be an industrial improvement area it shall be their duty to bring to the attention of persons occupying or owning the property in the area the action they propose to take in the exercise of their powers under this Part of this Act and the assistance available for the improvement of the amenities of the area or of the buildings therein by publishing from time to time, in such manner as appears to them appropriate, such information as is in their opinion best designed to further the objects of this Part of this Act.

Power to
carry out
improvements.

56.—(1) Where a local authority have declared an area to be an industrial improvement area they may, for the purpose of effecting or assisting any such improvement as is mentioned in

section 53 (Declaration of industrial improvement area) of this Act, with the consent of all persons having an interest in any land or building within the area, carry out or cause to be carried out works thereon or therein or assist (whether by grants or loans or otherwise) any owner or occupier of land situated within the area in the carrying out of such works.

PART IV
—cont.

(2) Without prejudice to the generality of the foregoing, for the purposes of this section, “works” shall include the following:—

- (a) the construction of fencing or walls;
- (b) the exterior repair or painting of buildings;
- (c) landscaping and the planting of trees, shrubs and plants;
- (d) the demolition of structures or buildings;
- (e) the construction of car parking spaces, access roads, turning heads and loading bays; and
- (f) the conversion, improvement and modification of factory premises.

(3) Nothing in this section shall authorise a local authority to carry out works for the provision, extension or improvement of services which it is the function of statutory undertakers to provide, extend or improve.

PART V

MISCELLANEOUS

57.—(1) This section applies to apparatus consisting of luminous tube signs designed to work at a voltage normally exceeding 650 volts, or other equipment so designed, and of the transformers required to raise the voltage so as to operate the signs or equipment. Firemen's switches for luminous tube signs.

(2) As from the coming into operation of this section apparatus in the county to which this section applies 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 county 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 instal apparatus to which this section applies, the consumer shall give notice to the county council showing where the cut-off switch is to be placed and how it is to be coloured or otherwise marked.

PART V
—cont.

(4) Where apparatus to which this section applies has been installed before the coming into operation of this section, the consumer shall, not less than fourteen days before the coming into operation of this section, give notice to the county 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 county council as required by subsection (3) or subsection (4) of this section, the proposed, or, as the case may be, actual, position, colouring or marking of the switch shall be deemed to satisfy the requirements of the county council unless, within fourteen days after the date of the service of the notice, the county 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 for a fireman's emergency switch shall for the purposes of this section be deemed to satisfy the requirements of the county council.

(7) A person aggrieved by a counter-notice served by the county 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) The owner or the occupier of premises where apparatus to which this section applies is installed which does not comply with subsection (2) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5.

(9) A person who fails to give notice as required by subsection (3) or subsection (4) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(10) (a) This section shall come into operation on such day as may be fixed by resolution of the county council.

(b) The county council shall cause to be published in a local newspaper circulating in the county notice—

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

(ii) of the general effect of the provisions of this section; and the day so fixed shall not be earlier than the expiration of thirty days after the date of the publication of the said notice.

PART V
—cont.

(c) Either—

- (i) a copy of any such newspaper containing any such notice; or
- (ii) a photostatic or other reproduction certified by the proper officer 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 the publication.

(11) The provisions of this section shall not affect the requirements of the Electricity Supply Regulations 1937, or any regulations that may be made under section 60 of the Electricity Act 1947.

1947 c. 54.

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

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

58.—(1) Where plans of any proposed work deposited with a district council in pursuance of building regulations include proposals for the construction, alteration or extension of a parking place to which this section applies, or the alteration of a building for use as a parking place, the district council 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:—

- (a) the construction of the approaches to the parking place;
- (b) the means of ventilation of the parking place;
- (c) the electrical and mechanical and heating equipment in the parking place;
- (d) the provision of a satisfactory emergency lighting system in connection with the parking place;

PART V
—cont.

- (e) fire protection, fire alarms and fire-fighting equipment and appliances in connection with the parking place;
- (f) the means of ingress to and egress from the parking place including illuminated exit signs;
- (g) the provision of adequate means for preventing flammable substances from being admitted to any drainage system forming part of the parking place;
- (h) the means of access to the parking place for fire brigade appliances and personnel.

(2) If any question arises between the district council and a 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 district council 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 district council to treat as satisfactory the said proposal or the said proposal as modified by him.

(3) If, after plans of any parking place have been passed by the district council in consequence of any proposals made under subsection (1) of this section, it appears to the district council that any such proposal has not been carried into effect or is not being observed, the district council may by notice to the owner or occupier of the parking place prohibit its use as a parking place until the proposal has been carried into effect or is being observed.

(4) (a) Without prejudice to the provisions of subsection (1) of this section, a district council may, by notice to the owner or occupier of any parking place in the district which is first brought into use after the passing of this Act, require compliance with such conditions as to the use of the parking place as may be specified in the notice for the purpose of preventing or reducing danger from fire therein, and, in the case of any parking place as aforesaid in respect of which plans in relation to the use as a parking place are not deposited with the district council in pursuance of building regulations, the district council may, by notice to the owner or occupier thereof, require him to comply with such conditions as aforesaid and with such other conditions with regard to the matters specified in paragraphs (b) to (h) of subsection (1) of this section as the district council think fit.

(b) Section 290 of the Act of 1936 shall apply to this subsection as if references in that section to that Act included references to this subsection as if for references therein to the court there were substituted references to the Secretary of State.

PART V.
—cont.

(5) (a) If any person on whom a notice has been served under subsection (3) of this section uses the parking place, or permits it to be used as a parking place, without giving effect to, or securing the observance of, any proposal specified in the notice, he shall be liable on summary conviction to a fine not exceeding £100.

(b) Any person on whom a notice under subsection (4) of this section has been served who contravenes any requirements specified in the notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding £100.

(6) Subsection (2) of section 64 and subsections (2) to (5) of section 65 of the Act of 1936 shall have effect as if this section were a section of that Act.

(7) This section applies to a parking place consisting of—

(a) a building or part of a building which provides waiting space or storage space either alone or in addition to any other facility or service for more than three motor vehicles and of which any part of the floor is situated more than one metre below the surface of the ground adjoining or nearest to such building or part of a building; or

(b) a building or part of a building which is constructed or adapted to provide waiting space or storage space for more than twenty motor vehicles;

other than—

(i) a building or part of a building in respect of which a licence, granted by the county council or the Health and Safety Executive under section 2 or 3 of the Petroleum (Consolidation) Act 1928, is in force; and

1928 c. 32.

(ii) a building or a part of a building associated with one private dwelling-house only.

(8) 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 a district council to enforce.

59.—(1) In its application to the market the Shops Act 1950 shall have effect as if at the end of paragraph 1 of Schedule 5 thereto there were added the following sub-paragraphs:—

Quayside
market.
1950 c. 28.

“(p) drapery, clothing and footwear;

PART V
—cont.

- (q) hardware, fancy goods, household furnishings and camping equipment;
- (r) glass and china goods;
- (s) electrical goods;
- (t) antiques, curios, artistic works and jewellery;
- (u) gramophone records;
- (v) toys;
- (w) cosmetics;
- (x) books;
- (y) pet animals ”.

(2) As from the passing of this Act, the market shall be deemed to have been established by the city council under the provisions of the Act of 1955 and as if the city council were a market authority within the meaning of subsection (2) of section 49 of that Act.

(3) In the exercise of their powers as market authority the city council shall be subject to the provisions of Part III of the Act of 1955 and Schedule 3 to this Act.

(4) Any person who suffers loss by the extinguishment of any private right under this section shall be entitled to be paid by the city council compensation to be determined in case of dispute by the Lands Tribunal.

(5) In this section and Schedule 3 to this Act “ the market ” means the market in the city known as the Quayside Market and “ the Act of 1955 ” means the Food and Drugs Act 1955.

1955 c. 16
(4 & 5 Eliz. 2).

Tyne and
Wear
Passenger
Transport
Executive.

1968 c. 73.

60. The county council may acquire any shares, stock, debentures, debenture stock or any other security of a like nature of a body corporate in any body corporate formed, promoted or assisted by the Tyne and Wear Passenger Transport Executive or in which the executive joins with any other person in forming, promoting or assisting, pursuant to paragraph (xix) of subsection (1) of section 10 of the Transport Act 1968.

As to bridge
fund.

61.—(1) The county council may carry the bridge fund into the county fund and may apply the bridge fund and any income thereof for any purpose to which the county fund may properly be applied.

(2) In this section “ the bridge fund ” means the fund maintained by the county council at the passing of this Act in connection with the bridge over the river Tyne known as “ the Swing Bridge ” extending from the city to the borough of Gateshead.

PART VI

GENERAL

62. When any compensation, costs, damages or expenses is or are by this Act directed to be paid and the method for determining the amount thereof is not otherwise provided for by this or any other enactment, such amount may be recovered by action. Compensation: how to be determined.

63.—(1) Any Minister of the Crown (as defined in the Ministers of the Crown Act 1975) may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act. Local inquiries. 1975 c. 26.

(2) Subsections (2) to (5) of section 250 of the Act of 1972 shall apply in relation to any such inquiry.

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

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

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

then, until the time for appealing has expired, or, if 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 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.

65.—(1) Where an offence under this Act or against any byelaw made pursuant to this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting Liability of directors, etc.

PART VI
—cont.

to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members the foregoing subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Contravention
due to default
of other
person.

66. Where the commission by any person of an offence under this Act is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against any other person.

Defence of
due
diligence.

67.—(1) In any proceedings for an offence under any of the provisions of this Act mentioned in Schedule 4 to this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence.

(2) If in any case the defence provided under subsection (1) of this section involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(3) The time within which proceedings for an offence under any of the provisions of this Act mentioned in the said Schedule 4 may be commenced by virtue of section 66 (Contravention due to default of other person) of this Act shall, instead of being six months in accordance with section 104 of the Act of 1952, be twelve months.

Further
provisions
consequent
upon
sections 49
and 56 of
this Act.
1970 c. 39.

68.—(1) The parties to an agreement or intended agreement whereby any work which is not a work of maintenance as defined in section 1 (4) of the Local Authorities (Goods and Services) Act 1970, carried out under the powers of that Act (in this section called “relevant work”) is to be carried out by a local authority (in this section called “contracting authority”) in exercise of the powers conferred by sections 49 (Power to assist industry) and 56 (Power to carry out improvements) of this Act (in this section called “the relevant powers”) shall comply with the provisions of this section.

(2) A person desiring a contracting authority to carry out a relevant work shall either—

(a) put the relevant work out to competitive tender and in respect thereof comply with the provisions of the Code of Procedure for Selective Tendering (1972 Edition) published by the National Joint Consultative Committee of Architects, Quantity Surveyors and Builders or such other code of procedure as shall from time to time be published by that committee in collaboration with the Secretary of State or be approved for the purposes hereof by the Secretary of State; or

(b) negotiate a price which shall not exceed the limit specified in the following subsection for the carrying out of the relevant work.

(3) (a) The limit specified for the purposes of paragraph (b) of subsection (2) of this section shall be £10,000 or a higher sum bearing the same proportion to the said sum of £10,000 as shall be borne by any increase in the Index of Retail Prices to the figure shown therein for the month of May 1976.

(b) The Index of Retail Prices shall mean the Index of Retail Prices published by H.M. Stationery Office or any official publication substituted therefor.

(4) Any agreement for the carrying out of a relevant work shall incorporate the appropriate standard form of building contract for the time being published by the Joint Contracts Tribunal (commonly called the RIBA Standard Form of Contract) or that published by the Association of Consulting Engineers, the Institution of Civil Engineers and the Federation of Civil Engineering Contractors (commonly called the ICE Standard Form of Contract) or such other standard form as shall be in common use.

(5) The contracting authority shall use their best endeavours to secure that the income derived from the exercise of the relevant powers from the carrying out of each relevant work is sufficient to defray their expenditure in respect of that work.

(6) The accounts of the contracting authority shall include a separate account (hereinafter called “the specified account”) in respect of each relevant work carried out by that authority in the exercise of the relevant powers to be included in the accounts next following the expiry of nine months after the issue of the Final Certificate for each relevant work; and subsection (1) of section 159 of the Act of 1972 (which relates to the inspection and taking of copies of accounts) shall have effect as if the reference to the accounts to be audited included a reference to the specified account.

PART VI
—cont.

(7) The contracting authority shall bring into the specified accounts all known expenditure, liabilities, charges, expenses and costs including financing costs attributable to any works carried out in exercise of the relevant powers and shall in particular without prejudice to the generality of the foregoing ensure that the specified accounts shall—

(a) include a proper charge in respect of—

(i) the use of premises in connection with the carrying out of any relevant work; and

(ii) works department administrative expenses; and

(iii) central administrative expenses; and

(b) include a proper charge including capital costs, operating costs, maintenance and finance costs for all plant and vehicles including workshops, plant and equipment, and small plant and loose tools used in carrying out any relevant work; and

(c) include a proper charge to take account of any supplies taken from stock for the purpose of carrying out any relevant work; and

(d) include a proper charge for labour, materials, machinery, on cost and all other relevant costs of goods manufactured by the contracting authority and used in the carrying out of any relevant work; and

(e) where an item is attributable partly to work carried out in exercise of the relevant powers and partly to other work, show a fair apportionment having regard to the respective values of the works in question.

(8) After audit the specified accounts shall be available to the public for examination.

Application
of general
provisions of
Act of 1936.

69.—(1) The sections of the Act of 1936 mentioned in Part I of Schedule 5 to this Act shall have effect as if references therein to that Act included references to this Act.

(2) The section of the Act of 1936 mentioned in Part II of the said Schedule shall have effect as if references therein to that Act included a reference to section 58 (Parking places) of this Act.

Restriction on
right to
prosecute.

70. The written consent of the Attorney-General shall be requisite for the taking of proceedings in respect of an offence created by or under this Act by any person other than a party aggrieved or a local authority or a police officer.

71. In arbitrations under the provisions of this Act set out below the reference shall be to a single arbitrator to be appointed by agreement between the parties, or, in default of agreement, to be appointed by the President of the Institution of Civil Engineers on the application of any party after giving notice in writing to the other party or parties:—

PART VI
—cont.
Arbitration.

Section 4 (Use of sewers, etc., for removing water);

Section 45 (For protection of the railways board);

Section 46 (For protection of statutory undertakers);

Section 47 (For protection of public sewers);

Section 48 (For protection of land drainage);

Schedule 2 Provisions for protection of the port authority and river users.

72. Subject to the provisions of section 46 (For protection of statutory undertakers) of this Act the enactments mentioned in column (1) of Schedule 6 to this Act, in so far as they apply within the county, are hereby repealed to the extent mentioned in column (2) thereof.

Repeals.

73. In so far as anything done under the provisions of an enactment repealed by this Act could have been done under a provision in this Act, it shall not be invalidated by the repeal but shall have effect as if done under that provision.

Transitional provisions.

74. In the Health and Safety at Work etc. Act 1974—

Saving for Health and Safety at Work etc. Act 1974. 1974 c. 37.

(1) subsection (5) of section 62 (which enables building regulations to repeal or modify certain enactments) shall apply to any enactment in this Act and to any provision of a byelaw (or other instrument of a legislative character) made under it as that subsection applies to any enactment mentioned therein;

(2) subsection (1) of section 80 (which among other things enables regulations to repeal or modify any provision to which that subsection applies) shall apply as if the provisions to which that subsection applies included any provision of this Act and regulations and byelaws in force by virtue of this Act.

75.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing

Crown rights

PART VI
—cont.

herein contained authorises a local authority to take, use or in any manner interfere with, any land or hereditaments or any rights of whatsoever description—

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

(2) Nothing in this section shall prejudice or affect any statutory powers of a local authority to carry out code-regulated works within the meaning of the Act of 1950 in any highway vested in or maintained by the Secretary of State.

SCHEDULES

SCHEDULE 1

Section 36.

PART I

DESCRIPTION OF THE WORKS

In Part II (River crossings) of this Act, the expression "the works" means the following works:—

Work No. 1 An approach road in the borough of North Tyneside commencing at the intersection of the centre-lines of the coast road A.1058 and the A.108 Tyne Tunnel approach road, and terminating at a point 48 metres or thereabouts measured in a northerly direction from the centre-line of Tyne View Terrace and 102 metres or thereabouts east of the junction of the centre-lines of Tyne View Terrace and Coach Open:

Work No. 1A An approach road in the borough of North Tyneside commencing by a junction with Wallsend Road at a point 220 metres or thereabouts east of the centre-line of the A.108 Tyne Tunnel approach road and terminating by a junction with Tynemouth Road East 162 metres or thereabouts west of the centre-line of the A.108 Tyne Tunnel approach road near the junction of Ridley Avenue with Tynemouth Road East:

Work No. 2 A tunnel for vehicular traffic under the river Tyne with approach roads at each end commencing in the borough of North Tyneside at the termination of Work No. 1 and terminating in the borough of South Tyneside at a point 100 metres or thereabouts measured along the centre-line of the A.108 Tyne Tunnel approach road in a northerly direction from the centre-line of the South Shields branch of the railway of the railways board:

Work No. 3 A tunnel for cyclist and pedestrian traffic under the river Tyne commencing in the borough of North Tyneside at Coach Open and terminating in the borough of South Tyneside at Tyne Street:

Work No. 3A An approach road in the borough of North Tyneside commencing at the termination of Work No. 1 including part of Howdon Road and Tyne View Terrace and the road connecting therefrom with Work No. 1 and terminating by a junction with Tyne View Terrace 179 metres or thereabouts east of Work No. 1 and 27 metres or thereabouts north of the centre-line of Tyne View Terrace:

Work No. 4 A tunnel for cyclist and pedestrian traffic under the river Tyne 9 metres or thereabouts west of Work No. 3 commencing in the borough of North Tyneside and terminating in the borough of South Tyneside:

Work No. 5 An approach road situate in the borough of South Tyneside commencing at the termination of Work No. 2

SCH. 1
—cont.

and terminating 45 metres or thereabouts north of the centre of the roundabout at the junction of the A.108 Tyne Tunnel approach road and the A.184 Gateshead-Sunderland road near West House:

Work No. 5A A diversion of the river Don in the borough of South Tyneside commencing in the said river at a point 910 metres or thereabouts west of Jarrow Bridge over the said river and terminating in the said river at a point 1,274 metres or thereabouts south-west of the said bridge:

Work No. 5B A new street situate in the borough of South Tyneside including part of St. Paul's Road commencing at the termination of Work No. 2 and terminating by a junction with Russell Street near the junction of Russell Street with St. Paul's Road:

Work No. 6 A new street situate in the borough of South Tyneside including a part of St. Paul's Road, Howard Street and Monkton Terrace commencing at the termination of Work No. 5B and terminating in the centre of Albert Road 84 metres or thereabouts south-west of the intersection of the centre-lines of St. John's Terrace and Albert Road:

Work No. 7 A new street situate in the borough of South Tyneside including part of Monkton Terrace and High Street commencing by a junction with High Street at or near the junction of High Street with Monkton Terrace and terminating at the centre-line of Monkton Terrace 45 metres or thereabouts north of the intersection of the centre-lines of Monkton Terrace and the South Shields branch of the railway of the railways board:

Work No. 8 A railway diversion 409 metres or thereabouts in length situate in the borough of South Tyneside being a diversion of the light railway authorised by the Jarrow East End Light Railway Order 1929 commencing by a junction with the said light railway at a point 182 metres or thereabouts measured in a north-easterly direction from the railway bridge on the line of the said light railway and terminating by a junction with the said light railway near its junction with the South Shields branch of the railway of the railways board:

together with all approaches, bridges, roundabouts, tunnels, escalators, lifts, roads, stairs, subways, passages, means of ingress or egress, shafts, stagings, buildings, apparatus, plant, machinery and subsidiary and incidental works constructed in connection with any of those works within the limits of deviation shown on the plans deposited in connection with the Act of 1946 or the Act of 1960, as the case may be.

Section 15.

PART II

AMENDMENTS TO ACTS OF 1946 AND 1960

A. Amendments to section 24 of the Act of 1946

1. The words "construction or"; from "and" where that word sixth occurs to the word "Act" where that word third occurs; and from "but" to the end of the section, shall be omitted.

2. For the words "this Act" where they first occur, there shall be substituted the words "Part II of the Act of 1976".

SCH. 1
—cont.

3. At the end there shall be added the following subsection:—

"(2) In this section—

'the Act of 1976' means the Tyne and Wear Act 1976;

'tunnel' has the same meaning as in Part II of the Act of 1976."

AMENDMENTS TO ACT OF 1960

B. Amendments to section 42 of Act of 1960

For the words from "the works" to "1946" there shall be substituted the words "Works Nos. 1, 1A, 2, 3A, 5, 5A, 5B, 6, 7 and 8 described in Part I of Schedule 1 to the Tyne and Wear Act 1976".

C. Amendments to Schedule 1 to the Act of 1960

1. In paragraph 1 after the word "schedule" there shall be inserted the words "'the tunnel' means the works (other than Work No. 8) and" and for the words from "the" where that word secondly occurs to the end of the paragraph there shall be substituted the words "Works Nos. 1, 1A, 2, 3A, 5, 5A, 5B, 6, 7 and 8 described in Part I of Schedule 1 to the Tyne and Wear Act 1976".

2. In paragraph 8, for the words "this Act" where those words first occur there shall be substituted the words "the Tyne and Wear Act 1976"; for the number "33" there shall be substituted the number "17" and for the word "this", where that word thirdly occurs, there shall be substituted the word "that".

PART III

Section 15.

ACTS OF 1946 AND 1960 AS AMENDED BY THIS ACT

THE ACT OF 1946

24.—(1) The Tyne and Wear County Council on the one hand and the Secretary of State for the Environment on the other hand may enter into and carry into effect agreements and arrangements with respect to the maintenance of the tunnel or any part thereof and as to other objects or purposes of Part II of the Act of 1976 and matters incidental thereto and any such agreement or arrangement may make provision as to the payments to be made by any party thereto to any other party thereto in respect of any such matter.

Agreements
with govern-
ment depart-
ments and
others.

(2) In this section—

"the Act of 1976" means the Tyne and Wear Act 1976;

"tunnel" has the same meaning as in Part II of the Act of 1976.

SCH. 1

—cont.

Interpretation.

THE ACT OF 1960

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

“Councils” means, in relation to anything done before the 1st April 1974, the county councils of the administrative counties of Durham and Northumberland or either of them and in relation to anything done or to be done on or after that date the Tyne and Wear County Council;

“land” includes any interest in land and any easement or right in to or over land;

“the Minister” means, in relation to anything done before the 12th November 1970, the Minister of Transport and in relation to anything done or to be done on or after that date the Secretary of State.

Confirming conditions of grant and loan advances by Minister.

42. The general conditions set out in the First Schedule to this Act relating to the grant and the advances by way of loan by the Minister towards the cost of Works Nos. 1, 1A, 2, 3A, 5, 5A, 5B, 6, 7 and 8 described in Part I of Schedule 1 to the Tyne and Wear Act 1976 as calculated in accordance with the provisions of the said First Schedule are hereby confirmed and made binding.

FIRST SCHEDULE

GRANT AND THE ADVANCES BY WAY OF LOAN BY MINISTER AND GENERAL CONDITIONS RELATING THERETO

1. In this schedule “the tunnel” means the works (other than Work No. 8) and “the works” means Works Nos. 1, 1A, 2, 3A, 5, 5A, 5B, 6, 7 and 8 described in Part I of Schedule 1 to the Tyne and Wear Act 1976.

2. Provided that the estimates for the cost of the works and the documents relating thereto have been approved by the Minister and the cost of the works does not exceed twelve million six hundred and twenty-two thousand pounds—

(a) the Minister shall make a grant of seventy-five per cent. of the first four million pounds of expenditure incurred by the Councils in the cost of the works;

(b) the Councils shall make a contribution of twenty-five per cent. of the first four million pounds of expenditure incurred by them in the cost of the works;

(c) in addition to making such grant as aforesaid the Minister shall advance by way of loan to the Councils and the Councils may borrow from the Minister seventy-five per cent. of such further sums as they may require from time to time to meet the cost of the works the amount so advanced not to exceed six million four hundred and sixty-six thousand pounds.

3. If the estimates of the cost of the works and the documents relating thereto have been approved by the Minister and the cost of the works exceeds twelve million six hundred and twenty-two thousand

pounds the Minister may if he thinks fit make advances by way of grant and loan not exceeding seventy-five per cent. of the cost of the works.

SCH. 1
—cont.

4. The Minister shall also advance by way of loan to the Councils and the Councils may also borrow from the Minister such sum as may be required to pay interest on any sum advanced by way of loan by the Minister under sub-paragraph (c) of paragraph 2 or under paragraph 3 of this schedule—

- (a) until the completion of the tunnel; and
- (b) after the completion of the tunnel to the extent to which the proportion of the tolls to be used to pay the interest on moneys so advanced by the Minister is insufficient in any year to pay the interest payable to the Minister in that year under this schedule.

5. The period for the repayment of the loans made by the Minister will in the first instance be thirty years from the date of the initial advance provided that if at the end of that period any part of the loans is outstanding the Minister will extend by way of reborrowing the period for the repayment of the loans for a further period not exceeding thirty years as may be agreed between the Minister and the Councils.

6. Interest on the loans made by the Minister under sub-paragraph (c) of paragraph 2 or under paragraph 3 or paragraph 4 of this schedule shall accrue from the date or dates of borrowing.

7. The rate or rates of interest on the said loans shall be agreed between the Minister and the Councils in advance of the payment to the Councils of each instalment of the loan.

8. The sums advanced under sub-paragraph (c) of paragraph 2 or under paragraph 3 or paragraph 4 of this schedule together with the interest if any which may from time to time be or remain payable thereon shall be repaid to the Minister out of tolls collected in pursuance of the Tyne and Wear Act 1976 in manner provided in section 14 (Application of tolls) of that Act.

9. For the purpose of calculating the cost of the works—

- (1) the costs, charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act or any agreement made with the Minister thereunder;
- (2) any costs charges damages or expenses which may be paid or become payable by the Councils or the Minister under or in pursuance of any provisions contained in this Act or any agreement made thereunder;
- (3) the cost of making trial borings required in connection with the works authorised by this Act;
- (4) any compensation paid by virtue of the incorporation by this Act of sections 78 to 85 of the Railways Clauses Consolidation Act 1845; and

SCH. 1
—cont.

- (5) the cost of providing housing accommodation for re-housing persons displaced and the provision of buildings for the relocation of population and any contribution made by the Councils under subsection (4) of section 18 (Power to develop land for relocation of population) of this Act to such extent as the Minister may approve;

shall be deemed to be part of the cost of the works and all sums realised by the sale of materials and plant and surplus lands and the value of surplus lands (if any) retained by the Councils or either of them (in so far as the purchase price thereof is charged as part of the construction cost) shall be taken into account in order to arrive at such cost of the works.

Section 42.

SCHEDULE 2

PROVISIONS FOR PROTECTION OF THE PORT AUTHORITY AND RIVER USERS

1. In this Schedule—

- (a) “ plan ” includes sections and specifications;

“ river work ” means so much of the tunnel and of Bridges Nos. 1, 2 and 4 and any alterations or additions thereto and any subsidiary works in connection therewith which may be in, under, upon or over the river or the bed of the river;

- (b) references to the bed of the river include references to the banks and foreshore of or adjoining the river.

2. Not less than two months before commencing the execution or alteration of any river work the county council shall submit plans in duplicate of their proposals to the port authority for their reasonable approval, and shall not commence the execution or alteration until the plans have been approved by the port authority or, in case of difference, settled by arbitration:

Provided that if the port authority—

- (a) disapprove of any such plan they shall state in writing the reason for their disapproval;

- (b) do not, within two months after the receipt thereof, signify their approval or disapproval of any such plan they shall be deemed to have approved it:

Provided further that in a case of emergency the prohibition on commencement of execution or alteration shall not apply, but the county council shall—

- (a) inform the port authority immediately of the emergency and consult with them as to the immediate measures to be taken;

- (b) submit to the port authority as soon as possible plans in duplicate of any proposals to execute works of a permanent nature and of any emergency works which the county council wish to retain permanently;

and any such works which have been executed and the plans of which shall not be approved or settled as aforesaid shall, if the port authority reasonably so require, be removed.

3. In giving their approval of a plan submitted under paragraph 2 above, the port authority may attach thereto such conditions, including conditions requiring the construction of protective works by and at the expense of the county council, as are reasonably necessary for the safety and convenience of navigation.

SCH. 2
—cont.

4. Subject to the provisions of this Schedule, a river work shall not be executed or altered except in accordance with such plans as may be approved or deemed to be approved by the port authority as aforesaid, or settled by arbitration, and the execution or alteration shall be carried out to the reasonable satisfaction of the engineer of the port authority.

5. Not less than fourteen days before commencing the execution or alteration of any river work the county council shall, except in a case of emergency, send to the port authority notice of the intention so to commence, containing a description of the work proposed.

6. Notwithstanding anything contained in this Act the county council shall not construct any river work or do any acts or things of such a nature or in such a way as totally to obstruct the navigation of the river, and in the execution of any works or the doing of any acts or things which shall partially obstruct or interfere with the navigation of the river or with the traffic thereon the county council shall comply with all reasonable requirements of the port authority and shall—

(a) refund to the port authority the reasonable expenses incurred by them in carrying out such measures as the port authority reasonably deem necessary for the control of traffic on the river during the construction, existence or removal of such works or the doing of such acts or things as aforesaid; and

(b) pay compensation to the port authority and to the owner of any vessel or other person injuriously affected thereby.

7. The county council shall at all reasonable times afford to the engineer of the port authority or his duly authorised representatives access to any river work for the purposes of inspection or survey, and shall permit the port authority to use such facilities for so doing as are available.

8.—(1) The county council shall at or near a river work during the whole time of the construction, alteration or extension thereof exhibit every night from sunset to sunrise such lights, if any, and take such other steps for the prevention of danger to navigation, as the Secretary of State and the port authority or, failing agreement between the Secretary of State and the port authority, the Secretary of State shall from time to time require or approve.

(2) If the county council fail to comply in any respect with the provisions of this paragraph they shall be liable on summary conviction to a fine not exceeding £100 and on conviction on indictment to a fine.

9.—(1) On the completion of any river work or part thereof the county council shall remove all temporary works and materials for temporary works in connection therewith placed by them in, under,

SCH. 2
—cont.

upon or over the river, and shall at their own expense keep repaired all river works.

(2) The port authority may give notice to the county council requiring them, within such reasonable time as may be specified in the notice, to remove temporary works or materials pursuant to the provisions of the foregoing sub-paragraph or to any condition or requirement imposed by the port authority under this Schedule, and if the county council fail to comply with the requirements of the notice, then the port authority may themselves carry out the removal, and the expenses thereby incurred shall be recoverable from the county council as a simple contract debt.

10.—(1) Any difference which may arise between the county council and the port authority under this Schedule (other than a difference as to the meaning or construction of this Schedule) shall be determined by arbitration.

(2) No approval given by the port authority or an arbitrator by virtue of any provision of this Schedule shall impose any liability on the port authority.

11. Save as expressly provided by this Act, nothing therein contained shall prejudice or derogate from the powers, rights, privileges, liberties or franchises, or any authority or jurisdiction, now vested in or enjoyed by the port authority.

12.—(1) In the exercise of the powers of Part II (River crossings) of this Act the county council shall take all precautions and provide proper and sufficient works and conveniences, to the reasonable satisfaction of the engineer of the port authority, for keeping the river free from avoidable obstruction, and for avoiding (except with the approval of the port authority, which shall not be unreasonably withheld) the deposit of materials on the bed of the river.

(2) Any materials excavated by the county council from the bed of, or placed on or in the bed of or carried or suspended over, the river and not required permanently shall be carefully removed by them with all practicable expedition, and shall not be allowed to fall or be washed into the river.

13.—(1) Notwithstanding anything in this Act the tunnel shall be so maintained that no part thereof shall at any place under the bed of the river be above the depth at such place to which under the provisions of sub-paragraph (2) of this paragraph the bed of the river may be dredged and deepened by the port authority without responsibility for damage.

(2) The port authority shall in no way be responsible or answerable for any damage or injury to the tunnel or to any vehicle, cycle, person, goods or things in or using or being conveyed along the tunnel, or any persons employed on or in connection with the tunnel, caused by or attributable to—

(a) the dredging and deepening (including any necessary breaking up of rock or other hard material) of the part of the bed of the river (in this paragraph and in paragraph 17 of this Schedule called “the specified part of the bed of the river”)

which lies immediately over any part of the tunnel or within the limits of deviation of the river works authorised by the Tyne Tunnel Acts 1946 to 1960 so as to provide—

SCH. 2
—cont.

(i) between the north and south edges of the dredged channel of the river a depth of 15.24 metres;

(ii) between those edges and the port authority's deep water quay or river lines on the north and south sides of the river respectively a depth of 15.24 metres at the edge of the dredged channel decreasing at a uniform slope to a depth of 12.19 metres at the deep water quay or river line (except between the said north edge and high-water mark at the north side of the port authority's Howdon Yard Basin where the uniform slope shall decrease to a depth of 9.14 metres at the said high-water mark);

below the level of low water at ordinary spring tides, which level is 2.10 metres below ordnance datum (Newlyn);

(b) the dredging and deepening (including any necessary breaking up of rock or other hard material) to any depth in any part of the bed of the river other than the specified part of the bed of the river;

(c) the removal in the course of carrying out dredging and deepening to the depth specified in division (a) of this sub-paragraph of any boulder, block of stone or rock or obstruction which may be partly above and partly below that depth;

nor shall any part of the tunnel or any of the works and conveniences connected therewith be strengthened, altered or repaired in such a way as to prevent the port authority from dredging and deepening the river as aforesaid.

(3) For the purposes of sub-paragraph (2) (a) above and paragraph 14 below, the north and south edges of the dredged channel of the river, the port authority's deep water quay or river lines on the north and south sides of the river, and high-water mark at the north side of the port authority's Howdon Yard Basin shall be taken to be at the positions and on the lines respectively indicated and delineated on the plan attached to an agreement made on 15th March, 1961, between the Tyne Improvement Commissioners of the one part and the county councils of Northumberland and Durham of the other part and thereon numbered B 791.

14. The county council shall not construct any permanent shafts, openings or other works of any description whatsoever on the bed of the river between the port authority's deep water quay or river lines.

15. Nothing in Part II (River crossings) of this Act shall authorise or empower the county council without the previous consent of the port authority to encroach upon or interfere with any part of the bed of the river except as is expressly authorised by this Act.

16. In the exercise of the powers of Part II (River crossings) of this Act the county council shall not in any way injure or damage the port authority's Howdon Yard or its appurtenances, or obstruct or interfere with the working thereof or the road or river access thereto.

SCH. 2
—cont.

17.—(1) All responsibility in connection with the tunnel and all or any of the works (both temporary and permanent) connected therewith (whether of construction or maintenance) and for damage occasioned thereby shall be and remain with the county council, and the port authority shall not be liable for any damage or injury to the tunnel or any of such works resulting from operations of the port authority for the improvement or maintenance of the river or otherwise, or from vessels sunk in the river or from sunken vessels being lifted, destroyed or otherwise dealt with in the river, or from any cause whatsoever:

Provided that nothing in this paragraph shall exonerate the port authority from liability to the county council for any such damage or injury caused by negligence or improper working on the part of the port authority, their officers, servants, agents or contractors, nor for damage or injury arising from dredging and deepening (otherwise than in connection with breaking up hard material or lifting, destroying or otherwise dealing with vessels sunk in the river) the specified part of the bed of the river to a greater depth than specified or referred to in paragraph 13 (2) (a) above.

(2) No claim shall be made by the county council against the owner of a vessel or any other person in respect of damage occasioned to the tunnel by a vessel or by anything done or happening on or from a vessel in connection with or in the course of the use or navigation thereof unless the damage is occasioned by negligence or wilful misconduct.

18. The port authority shall not be liable for any damage or injury to a river work, caused by any of the operations of the port authority for the improvement of the river or arising from the navigation of any craft, vessel or dredger belonging to the port authority, unless such damage or injury shall arise from the negligence or wilful misconduct of the port authority, or their agents or servants.

19. The county council shall be liable for all injury or damage to the port authority or their property (including loss of dues, rates, tolls or charges) happening through any act, neglect, failure or default by them or by their servants or agents in connection with or by reason or in consequence of anything done to or occasioned by any failure of a river work; and the county council shall indemnify the port authority and their officers and servants against all claims, demands and costs of third parties in respect of any accidents, damages and injuries happening through such act, neglect, failure or default:

Provided that the port authority shall not without the consent in writing of the county council make any admission, offer, promise or payment in connection with any claim or matter in respect of which the county council are, pursuant to this paragraph, to indemnify the port authority, or compromise any action or proceedings taken or instituted against the port authority relating to any such claim or matter.

20. In the execution of any of the provisions of this Act in relation to Bridge No. 1 and in the execution of any alteration or repair to the bridge the county council shall ensure that—

- (a) the width of the opening between any fenders around the piers in the river carrying the bridge shall be not less than 91.44 metres;
- (b) the underside of the bridge between the said piers shall be maintained at a height of not less than 10.09 metres above ordnance datum (Newlyn);
- (c) the bridge shall be so maintained as to permit the river being dredged to a depth of not less than 7.58 metres below ordnance datum (Newlyn) along each of the piers on the side nearest to the centre of the river; and
- (d) no permanent work, other than the piers (in their existing positions) together with suitable fenders, shall be placed in the waterway of the river.

SCH. 2
—cont.

21. The county council shall not execute any of the provisions of this Act in relation to Bridge No. 2, or alter or repair the bridge, so as to leave less headway thereunder than 25.60 metres above the level of high water, nor shall they place any permanent work in the waterway of the river.

22. The county council shall not execute any of the provisions of this Act in relation to Bridge No. 4, or alter or repair the bridge, so as to leave a clear headway above high water or a width of the spans less than as shown on the plans and sections deposited with the Bill for the Redheugh Bridge Act 1896.

1896 c. ccxxxi.

SCHEDULE 3

Section 59.

MARKET MANAGEMENT

1. In this Schedule "the Association" means the Newcastle Quayside Traders' Association or any successor thereto representative of the market traders.

2. Before exercising their powers under section 51 of the Act of 1955 (which enables a market authority to appoint market days and hours) or making any byelaws under section 61 of the said Act the city council shall consult the Association and shall consider any representations made by the Association.

3.—(1) Before exercising their powers under section 52 of the Act of 1955 the city council shall consult the Association and shall consider any representations made by the Association as to the scale rate or amount of any stallages, tolls or other charges and the way in which they are to be levied and collected.

(2) The aggregate of any stallages, tolls or other charges imposed by the city council in exercise of their powers as market authority shall not, taking one year with another, exceed the total of the reasonable expenses incurred by the city council in connection with the exercise of those powers.

SCH. 3
—cont.

4. The city council shall not exercise any of their powers as market authority so as to—

- (a) restrict the number of traders, stalls, stands or vehicles in the market;
- (b) restrict or prohibit the goods or types of goods sold in the market;
- (c) impose limits on the number of traders who may sell any particular goods or classes of goods in the market;
- (d) restrict the type, size or design of stalls or the material of which they are constructed or require a trader to hire or acquire a stall from the city council;
- (e) require any trader to trade from a stall or from ground level;
- (f) restrict or prohibit any method of selling which is commonly used in the market and in particular so as to restrict or prohibit pitching or the sale of goods by auction.

5. The city council shall not alter the area of the market without first consulting the Association and shall consider any representations made by the Association.

6. The city council shall not require the payment by any of the traders of any rent or other charge for the use of the land on which the market is held.

7. Subject to paragraphs 2 and 5 of this Schedule, nothing in paragraph 4 (a) and 4 (d) of this Schedule shall prevent the city council from exercising any of their powers as market authority for the purpose of preserving public order or safety.

8. Any question, difference or dispute which may arise between the city council and the Association under paragraphs 3 (2), 4 and 7 of this Schedule shall be referred to and determined by a single arbitrator to be appointed by agreement between the parties or in default of agreement to be appointed on the application of either party after notice in writing to the other by the President of the Law Society, and in the case of any question, difference or dispute concerning paragraph 3 (2) of this Schedule, any arbitrator so appointed in default of agreement shall be assisted by an assessor who is a member of the Institute of Chartered Accountants in England and Wales.

Section 67.

SCHEDULE 4

PROVISIONS OF ACT REFERRED TO IN SECTION 67 (DEFENCE OF DUE DILIGENCE) OF THIS ACT

- Section 37 (Provision against danger to navigation).
- Section 38 (Permanent lights on bridges).
- Section 57 (Firemen's switches for luminous tube signs).
- Section 58 (Parking places).

SCHEDULE 5

Section 69.

SECTIONS OF ACT OF 1936 APPLIED

PART I

SECTIONS APPLIED TO THIS ACT

Section	Marginal note
271	Interpretation of "provide".
283 (1)	Notices to be in writing; forms of notices, &c.
285	Service of notices, &c.
286	Proof of resolutions, &c.
288	Penalty for obstructing execution of Act.
293	Recovery of expenses, &c.
297	Continuing offences and penalties.
299	Inclusion of several sums in one complaint, &c.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.
341	Power to apply provisions of Act to Crown property.

PART II

SECTION APPLIED TO SECTION 58 (PARKING PLACES) OF THIS ACT

Section	Marginal note
287	Power to enter premises.

SCHEDULE 6

Section 72.

ENACTMENTS REFERRED TO IN SECTION 72 (REPEALS) OF THIS ACT

TYNE TUNNEL

(1) Enactment	(2) Extent of repeal	
Tyne Tunnel Act 1946	The whole Act except section 24	1946 c. xl.
Tyne Tunnel Act 1956	The whole Act	1956 c. lxvi.
Tyne Tunnel Act 1960	The whole Act except in section 3, the definitions of the expressions "Councils", "land" and "the Minister", section 42 and Schedule 1	1960 c. xxxix.
The Durham County Council Act 1968	Part XI (Tyne Tunnel)	1968 c. xxxviii.

SCH. 6
—cont.

BRIDGES

	(1) Enactment	(2) Extent of repeal
1857 c. xxxix.	Wearmouth Bridge Act 1857	The whole Act
1866 c. lxiii.	Redheugh Bridge Act 1866	The whole Act
1869 c. ix.	Redheugh Bridge Act 1869	The whole Act
1896 c. ccxxxi.	Redheugh Bridge Act 1896	The whole Act
1900 c. cclviii.	Sunderland Corporation Act 1900	Section 6 Section 24 Section 25 Section 27 Section 33 Section 34
1924 c. xcvi.	Newcastle-upon-Tyne and Gateshead Corporations (Bridge) Act 1924	The whole Act
1926 c. ci.	Newcastle-upon-Tyne and Gateshead Corporations (Bridge) Act 1926	The whole Act
1957 c. xxvii.	Durham County Council (Barmston-Coxgreen Footbridge) Act 1957	The whole Act
1960 c. xli.	Newcastle upon Tyne Corporation Act 1960 ...	Section 8
1962 c. xlvi.	Scotswood Bridge Act 1962	The whole Act

ASSISTANCE TO INDUSTRY AND COMMERCE, ETC.

	(1) Enactment	(2) Extent of repeal
1910 c. xxv.	Tynemouth Corporation Act 1910	Section 7
1934 c. lxxvi.	Tynemouth Corporation Act 1934	Sections 48 and 59
1935 c. xcvi.	South Shields Corporation Act 1935	Section 119
1938 c. xlii.	Gateshead Corporation Act 1938	Section 74
1939 c. lxiii.	Jarrow Corporation Act 1939	Section 9
1939 c. liv.	Tynemouth Corporation Act 1939	Section 11
	Newcastle upon Tyne Corporation Act 1960 ...	Section 21
1963 c. xxxvii.	Durham County Council Act 1963	Sections 12, 101 and 102
1968 c. xlii.	Newcastle upon Tyne Corporation Act 1968 ...	Sections 21 and 27
1970 c. i.	Northumberland County Council Act 1970 ...	Sections 4, 6, 7 and 8

MISCELLANEOUS

SCH. 6
—cont.

(1) Enactment	(2) Extent of repeal
Newcastle-upon-Tyne Corporation (General Powers) Act 1935	Section 147
Sunderland Corporation Act 1957	Sections 23, 24 and 25
Durham County Council Act 1963	Section 50
Newcastle upon Tyne Corporation Act 1964	Sections 11, 12, 13 and 16

1935 c. cxxiv.
1957 c. xi.

1963 c. xxxvii.
1964 c. xxxv.



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