

ELIZABETH II



1985 CHAPTER xv

An Act to re-enact with amendments and to extend certain local statutory provisions in force within the county of Nottinghamshire; to confer further powers on the Nottinghamshire County Council and local authorities in the county; to make further provision with respect to the improvement, health and local government of the county; and for other purposes.

[26th June 1985]

WHEREAS—

(1) The county of Nottinghamshire (hereinafter referred to as “the county”) is a non-metropolitan county comprising the following areas, described by reference to administrative areas existing immediately before the passing of the Local Government Act 1972:—

1972 c. 70.

The administrative county of Nottingham, except the areas in South Yorkshire;

The county borough of Nottingham:

(2) Section 262 of the said Act of 1972 provides that, subject to modifications and exceptions, local statutory provisions in force in the area of any non-metropolitan counties shall continue in force until the end of 1984, and that such provisions shall then cease to have effect:

(3) There are numerous local statutory provisions so applicable in the county and it is expedient that certain of those provisions should be re-enacted with amendments and applied to the whole county or to parts of the county, and that other such provisions should be repealed:

(4) It is further expedient that new provisions should be made for the improvement, health and local government of the county and to confer further powers on the Nottinghamshire County Council and other local authorities in the county:

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

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

(7) In relation to the promotion of the Bill for this Act the requirements of section 239 of the said 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

Citation and commencement.

1.—(1) This Act may be cited as the Nottinghamshire County Council Act 1985.

(2) This Act shall come into operation on the expiration of three months after its passing.

Interpretation.
1936 c. 49.

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

“the Act of 1936” means the Public Health Act 1936;

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

1971 c. 78.

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

1972 c. 70.

“the Act of 1976” means the Local Government (Miscellaneous Provisions) Act 1976;

1976 c. 57.

“the appointed day” has the meaning given by section 3 of this Act;

- “the chief constable” means the chief constable for the county and includes the deputy chief constable acting by virtue of section 6 (1) of the Police Act 1964; PART I
—cont.
1964 c. 48.
- “contravention” includes a failure to comply, and “contravene” shall be construed accordingly;
- “the county” means the county of Nottinghamshire;
- “the county council” means the council of the county;
- “daily fine” means a fine for each day on which an offence is continued after conviction thereof;
- “district” means a district in the county;
- “district council” means the council of a district;
- “electricity board” means the East Midlands Electricity Board or the Yorkshire Electricity Board, or both of them;
- “functions” includes powers and duties;
- “local authority” means the county council or a district council;
- “open space” has the meaning given by section 290 of the Act of 1971;
- “owner” has the meaning given by section 343 of the Act of 1936;
- “premises” has the meaning given by section 343 of the Act of 1936;
- “public service vehicle” has the meaning given by section 1 of the Public Passenger Vehicles Act 1981; 1981 c. 14.
- “street” has the meaning given by section 329 of the Highways Act 1980; 1980 c. 66.
- “street works” and “street works authority” have the meanings given by section 203 (3) of the Highways Act 1980;
- “water authority” means the Anglian Water Authority or the Severn-Trent Water Authority, or both of them.

(2) Any reference in this Act to a proper officer shall, in relation to any purpose and any local authority or area, be construed as a reference to an officer appointed for that purpose by that authority or, as the case may be, for that area.

(3) Any reference in this Act to a Part not otherwise identified is a reference to that Part of this Act.

3.—(1) In this Act “the appointed day”, in relation to any Appointed provision, means such day (not earlier than the commencement day of this Act) as may be fixed for the purposes of that provision in accordance with subsection (2) below by resolution of the county council or, as the case may be, a district council.

PART I
—cont.

(2) The local authority shall publish in a newspaper circulating in their area notice—

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

(b) of the general effect of the provision for the purposes of which the day has been fixed;

and the day so fixed shall not be earlier than the expiration of 28 days from the date of the publication of the notice.

(3) 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 newspaper, being a page or part of a page bearing the date of publication and containing the notice mentioned in subsection (2) above, shall be evidence of the publication of the notice and of the date of publication.

PART II

PUBLIC HEALTH

Urgent repairs
to water, gas
and electricity
apparatus.

4.—(1) Where a district council are satisfied that, by reason of any injury to, or defect in, any apparatus used for supplying water, gas or electricity to any premises in the district, the premises or any part thereof have ceased to be supplied with water, gas or electricity sufficient for the domestic purposes of the occupants and that there is an urgent need for the supply to be restored, the district council may, without prejudice to any other action which they may be authorised to take under any other enactment, repair or renew the apparatus or execute such works and provide or repair such fittings and do such other things as they may consider necessary to secure that a sufficient supply of water, gas or electricity is restored, and recover from the owner or owners of the premises the expenses necessarily incurred by them in so doing, not exceeding in the case of each premises £200 or such greater sum as may be specified in an order made by the Secretary of State by statutory instrument under this section.

(2) (a) Where the occupier of any premises is also the owner the powers of subsection (1) above shall not be exercised in relation to those premises except with his consent.

(b) Subject to paragraph (a) above, before or, in case of emergency, as soon as possible after exercising the powers of subsection (1) above in relation to any premises, the district council shall (unless his name and address are not ascertainable by reasonable inquiry) give notice to the owner of the intended exercise of those powers or, as the case may be, of their having been exercised.

(c) Except in cases of emergency, admission to any premises shall not be demanded as of right for the purpose of doing any work under subsection (1) above unless not less than 24 hours' notice of the intended entry has been given to the occupier.

(3) (a) In proceedings to recover expenses under subsection (1) above the court may inquire whether those expenses ought to be borne wholly or in part by some person, being the occupier of the premises in respect of which they were incurred, other than the defendant in the proceedings and, subject as provided in paragraph (b) below, the court may make such order concerning the expenses or their apportionment as appears to the court to be just.

(b) The court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has, at the instance of the defendant, had due notice of the proceedings and an opportunity of being heard.

(4) The district council may, if they think fit, themselves bear the whole or any part of any expenses recoverable under this section.

(5) The powers conferred by this section shall not be exercisable in relation to any apparatus belonging to the electricity board or the British Gas Corporation, or to any water meter of the water authority or any other apparatus used for supplying water other than a water fitting in the premises supplied or the supply pipe to those premises, "water fitting" and "supply pipe" having the meanings given by Schedule 3 to the Water Act 1945.

1945 c. 42.

(6) (a) Except as provided in subsection (7) below, the powers conferred by this section shall not be exercisable in relation to any premises without the consent of the water, gas or electricity undertakers, as the case may require, within whose limits of supply the premises are situated, which consent shall not be unreasonably withheld, and in giving their consent the undertakers—

(i) may attach thereto such reasonable conditions as they think fit; and

(ii) may, without prejudice to any action or proceedings which they may take under any other enactment, elect to carry out on behalf of the district council any repair, renewal or other works proposed by the district council, in which case the expenses reasonably incurred by the undertakers in so doing shall be repaid to them by the district council.

(b) Any difference which may arise between any water, gas or electricity undertakers and a district council under this

PART II
—cont.

subsection, other than a difference as to the meaning or construction thereof, shall be determined by arbitration.

(7) In case of emergency subsection (6) above shall not apply but in any such case, as soon as possible after exercising the powers of subsection (1) above in relation to any premises, the district council shall notify the water, gas or electricity undertakers, as the case may require, within whose limits of supply the premises are situated.

Repair of
walls, etc., of
yards.

5.—(1) In this section “wall” includes a fence other than a hedge and also includes a door in the wall.

(2) If by reason of—

(a) a party or boundary wall of a court, yard or passageway usually enjoyed with, and adjacent to, a house or other building having collapsed or being in danger of collapsing or being otherwise ruinous; or

(b) the removal or demolition of such a wall or part of a wall;

serious inconvenience is caused to any of the following:—

(i) where the building is a house, its occupants;

(ii) in any case, the occupants of any house adjacent to the building;

the district council may by notice to the owner of the building require him to repair the wall or, as the case may be, to rebuild it or the part removed or demolished.

(3) The provisions of Part XII of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works apply to notices under this section.

(4) No works shall be required under this section on any property in respect of which there is in force a notice served by the National Coal Board under section 3 of the Coal-Mining (Subsidence) Act 1957 unless the works are specified in that notice or are emergency works within the meaning of section 1 (5) of the said Act of 1957.

1957 c. 59.

PART III

PUBLIC ORDER AND SAFETY

Touting,
hawking,
photographing,
etc.

6.—(1) A district council may designate, in accordance with subsection (6) below, any of the following places, or any part of such places, in the district as places to which this section applies:—

(a) for any of the purposes of subsection (2) below—

PART III
—cont.

(i) a public off-street car park, recreation ground, garden or other park, pleasure ground or open space under the management and control of a local authority;

(ii) a street or esplanade, parade, promenade or way to which the public commonly have access, whether or not as of right; and

(b) for the purposes of subsection (2) (c) below, any road or any common land or unenclosed land adjacent to, and within 15 metres of, any road:

Provided that the district council shall not designate—

(i) for the purpose of subsection (2) (b) (ii) below, any street; or

(ii) for the purpose of subsection (2) (c) below, any part of any highway, or land adjoining a highway, specified in a control order under section 7 of the Act of 1976 or any street designated under the provisions of the Nottingham City Council Act 1976.

1976 c. xiv.

(2) Any person who—

(a) in a place designated under subsection (1) (a) above importunes any person by touting for a hotel, lodging house, restaurant or other place of refreshment, for a shop, for a theatre or other place of amusement or recreation, for a hackney carriage or other conveyance (other than a public service vehicle) or for a ship or boat; or

(b) in a place designated under subsection (1) (a) above, without the consent of the district council, or in breach of any condition subject to which the council's consent is given—

(i) photographs, or purports to photograph, any person by way of trade or business; or

(ii) offers or exposes for hire any vehicle, chair or seat or any animal to ride; or

(c) in a place designated under subsection (1) (a) or (b) above, without the consent of the district council, or in breach of any condition subject to which the council's consent is given, hawks, sells or offers or exposes for sale anything;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(3) The conditions of consent referred to in subsection (2) (b) and (c) above include conditions as to the times or period for which the consent is valid and the payment for the consent of

PART III
—cont.

such reasonable fee as the council may by resolution prescribe to cover their expenses in dealing with applications for such consents; and additionally the conditions of consent referred to in subsection (2) (c) above include—

- (a) the place at which the activities specified in the consent may take place;
- (b) the design, size and number of any stalls or containers that may be used for the purposes of those activities;
- (c) the design, size and location of any signs or advertisements which may be erected;
- (d) the keeping of the place specified in the consent free from litter and refuse.

(4) Subject to any conditions as to the period for which the consent is valid, any such consent may be revoked by notice to the person to whom the consent was given under this subsection.

(5) A person aggrieved by—

- (a) the withholding by the district council of consent referred to in subsection (2) (b) or (c) above;
- (b) the conditions subject to which the council give such consent; or
- (c) the revocation of such consent under subsection (4) above;

may appeal to a magistrates' court which may dismiss or allow the appeal or may vary any conditions imposed by the council.

(6) (a) Before designating any place for any of the purposes of subsection (2) above the district council shall give notice of their proposal by advertisement in a newspaper circulating in the district, and by posting it in the places to which it relates, stating that objections to the proposal may be made to the proper officer of the council within a time, not less than 28 days after the giving of the notice, specified in the notice.

(b) After taking into consideration any objections made in accordance with paragraph (a) above and after consulting the chief constable, the district council may by resolution designate as places to which this section applies, for any of the purposes of subsection (2) above, all or any, or any part, of the places specified in the notice given under that paragraph.

(7) A resolution under subsection (6) (b) above shall come into force on such day as shall be specified by a notice given in the same manner as a notice given under subsection (6) (a) above, being a day not less than 28 days after the day on which the notice is given under this subsection.

(8) This section shall not prohibit—

- (a) the doing of anything on land by the owner or occupier of the land, or by any person with the consent of the owner or occupier, or the doing of anything on land forming part of a highway by the owner or occupier of land fronting that part;
- (b) the selling or offering or exposing for sale of anything to persons on premises fronting on, or adjacent to, a place designated under this section, whether on those premises or in that part of any highway on which the premises front or to which they are adjacent;
- (c) the taking of a photograph for the purpose of making it available for publication in a newspaper or periodical if the photographer is employed as such by or on behalf of the owner or publisher of a newspaper or periodical, or carries on a business which consists in, or includes, selling or supplying photographs for such publication;
- (d) the selling or offering or exposing for sale of newspapers and periodicals.

(9) Before giving consent under this section to the hawking, selling or offering or exposing for sale of anything in a highway, the district council shall consult the highway authority.

(10) (a) The following provisions of this section shall not have effect in any district in which Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 is in force at the commencement of this Act and, if the said schedule comes into force in any district on any day after the commencement of this Act, shall cease to have effect in that district on that day:—

In subsection (1), paragraph (b) and proviso (ii);

Subsection (2) (c);

In subsection (3), the words “and (c)” and from the words “and additionally” to the end of the subsection;

In subsection (5) (a), the words “or (c)”;

In subsection (8), paragraphs (b) and (d); and

Subsection (9).

(b) Where the said Schedule 4 comes into force in any district after the commencement of this Act and a street trading consent is thereafter required for trading in any street under that schedule, any consent then in force under this section for hawking, selling or offering or exposing for sale anything in that street (within the meaning of that schedule) shall have effect as

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—cont.

such a street trading consent for a period of 12 months or until the sooner expiry of the consent or its revocation under that schedule.

Names on
stands of
hawkers.

7.—(1) Any person who sells, or offers or exposes for sale anything from any cart, barrow or other vehicle, or any stand, shall have his full name and address legibly painted or inscribed on the cart, barrow, vehicle or stand.

(2) Any person who, without reasonable excuse, contravenes subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Occasional
sales.

8.—(1) The organiser of an occasional sale shall have his full name and address legibly displayed in a prominent position on the premises where the sale is held and shall set out such particulars on all notices, leaflets and posters announcing the sale.

(2) Any person offering goods for sale at an occasional sale shall have his full name and address legibly displayed in a prominent position on or near any stall or container used by him for the purposes of such sale or, if he uses no such stall or container, near the goods so offered for sale.

(3) Any person who, without reasonable excuse, contravenes any provision of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(4) (a) In this section “occasional sale” means an event at which articles are for private gain offered for sale to the public (including any kind of auction or sale by way of competitive bidding) by one or more sellers during any period exceeding one hour, but does not include—

- (i) a market held by virtue of a grant from the Crown or of prescription or under statutory authority;
- (ii) a market wholly or mainly for the sale by auction of farm livestock or deadstock or the contents of a building; or
- (iii) any event held on land in pursuance of a planning permission or an established use certificate granted upon an application made under the Act of 1971.

(b) For the purposes of this section the organiser of an occasional sale includes any person who—

- (i) charges admission to the premises where the occasional sale is held; or
- (ii) is entitled, as a person promoting the occasional sale or as the agent, licensee or assignee of a person promoting the occasional sale, to payment for goods

sold or services rendered to persons attending the occasional sale or for the granting of rights to other persons to sell goods or services to persons attending the occasional sale.

PART III
—cont.

9.—(1) In this section “electrical installation” means any electrical wiring or fittings installed in a house, not being electrical wiring or fittings belonging to the occupier or to the electricity board. Defective electrical installations in houses.

(2) Where it appears to the proper officer of a district council that, by reason of any defect in any electrical installation in any occupied house let for human habitation, or in any part of a building so let and occupied as a separate dwelling, in a district, that house or, as the case may be, that part of the building is in such a state as to be dangerous, the district council may, by notice, require the owner of the house or building to carry out such work as shall be necessary to remedy the defect.

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

(4) Among the grounds upon which an appeal may be brought under subsection (3) of the said section 290 against a notice under subsection (2) above shall be that it is not reasonably practicable to comply with the notice, or that, having regard to the period during which the house or part of the building is likely to continue to be used for human habitation, it is unreasonable to require the execution of the work.

(5) Not later than the seventh day after that on which the district council give notice under subsection (2) above they shall send a copy of the notice to the electricity board.

(6) This section shall not apply to a house which has been declared to be unfit for human habitation.

PART IV

ESTABLISHMENTS FOR MASSAGE OR SPECIAL TREATMENT

10. In this Part “establishment for massage or special treatment” means any premises used or represented as being or intended to be used by way of business for the reception or treatment of persons requiring— Interpretation of Part IV.

(a) massage; or

PART IV
—cont.

- (b) electric treatment or radiant heat, light or electric vapour treatment or sauna or other baths for therapeutic treatment; or
- (c) other similar treatment.

Licensing of
persons to
carry on
establish-
ments.

11.—(1) As from the appointed day in any district, no person shall carry on an establishment for massage or special treatment in the district without a licence from the district council authorising him to do so.

(2) The district council may, on the application of any person, grant or renew to him a licence under this Part on such terms and conditions as may be specified in the licence.

(3) A licence under this Part shall be for such period, not exceeding 13 months, specified in the licence as the district council may determine.

(4) An application for a licence or the renewal of a licence under this Part shall be made to the district council and the applicant shall in the application state—

- (a) his full name and age;
- (b) his private address or, if the application is made by or on behalf of a company, society, association or other body, the registered or principal office (if any) of that body and, so far as may reasonably be required, the names and private addresses of the directors or other persons directly or indirectly responsible for the management of the body;
- (c) the name under which and the address at which the establishment is carried on or proposed to be carried on;
- (d) the nature of the establishment and of the business carried on or proposed to be carried on thereat;
- (e) his qualifications (if any) for the carrying on of that business;
- (f) whether, and if so to what extent, he is or has been interested or employed in any other establishment for massage or special treatment; and
- (g) such further information (if any) as the district council may reasonably require with respect to him or the establishment carried on, or proposed to be carried on, by him.

(5) With his application for a licence under this Part the applicant shall pay such reasonable fee to cover the expense of the district council in dealing with such applications as the council may by resolution prescribe; and different fees may be prescribed for applications of different kinds.

(6) An applicant for a licence or the renewal of a licence under this Part shall, upon making his application, give notice of the application to the chief constable and such an application shall not be entertained by the district council unless they are satisfied that the applicant has complied with this subsection.

PART IV
—cont.

12.—(1) On considering an application for a licence or the renewal of a licence under this Part the district council shall take into consideration any representations which may be made to the council by the chief constable with respect to the application or the establishment to which it relates. Grant, renewal and transfer of licences.

(2) The district council may refuse to grant or renew a licence under this Part or may revoke a licence so granted in the case of—

- (a) any person under the age of 21;
- (b) any person who has been convicted of an offence under the Sexual Offences Acts 1956 to 1976 or the Street Offences Act 1959 or who may be otherwise unsuitable to hold such a licence; 1959 c. 57.
- (c) any premises which are unsuitable for the purposes of an establishment for massage or special treatment or in which the accommodation or provision for such treatment is not reasonably adequate or suitable;
- (d) any establishment which has been or is being improperly conducted;
- (e) any establishment in which adequate professional, technical or other staff is not available for the administration of such massage or special treatment as may there be provided; or
- (f) any establishment which is being carried on in contravention of the provisions of this Part or any byelaw made thereunder.

(3) Before refusing to grant or renew a licence under this Part or to revoke a licence so granted, the district council shall give to the person applying for the grant or renewal of a licence or, in the case of a revocation, the holder of the licence, an opportunity of appearing before and of being heard by a committee or sub-committee of the council and, if so required by him, the council shall within 7 days after their decision give him notice thereof containing a statement of the grounds on which it was based.

(4) The district council may on the application of the holder of a licence under this Part, or of any person to whom he wishes to assign the licence, transfer the licence to that person; and

PART IV
—cont.

subsections (4) to (6) of section 11 (Licensing of persons to carry on establishments) of this Act and subsections (1) to (3) above shall apply to a transfer as they apply to the grant of a licence under this Part.

(5) Where, before the date of expiry of a licence granted under this Part, an application has been made for the renewal of that licence, the licence shall be deemed to remain in force, notwithstanding that the date of expiry of the licence has passed, until the determination of the application by the district council or until the withdrawal of the application.

(6) Where, before the date of expiry of a licence granted under this Part, an application has been made for the transfer of that licence, the licence shall be deemed to remain in force (with any necessary modifications) notwithstanding that the date of expiry of the licence has passed or that the applicant for such transfer is carrying on an establishment for massage or special treatment in respect of which the licence was granted, until the determination of the application by the district council or until the withdrawal of the application.

Byelaws as to
establish-
ments.

13.—(1) A district council may make byelaws—

- (a) prescribing the books, cards or forms to be kept by every person holding a licence under this Part showing the business conducted by him so far as it relates to his establishment for massage or special treatment;
- (b) prescribing the entries to be made in connection with such business in such books, cards or forms; and
- (c) generally for regulating any premises used for the purposes of, or in connection with, any such establishment.

(2) Every person holding a licence under this Part shall keep exhibited in a suitable place (to be approved by the district council) in the premises to which the licence relates a copy of the byelaws for the time being in force under this section.

Offences under
Part IV.

14.—(1) A person who—

- (a) carries on an establishment for massage or special treatment, or permits such an establishment to be carried on, contrary to subsection (1) of section 11 (Licensing of persons to carry on establishments) of this Act or in contravention of terms or conditions specified in a licence under this Part; or
- (b) obtains a licence or the renewal of a licence under this Part by intentional misrepresentation or by

intentionally omitting to give to the district council such particulars as are required by this Part to be given;

PART IV
—cont.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(2) A person who—

(a) without reasonable excuse contravenes any byelaw made under this Part; or

(b) knowingly issues, publishes, or displays or causes to be issued, published or displayed any advertisement relating to an establishment for massage or special treatment which is not licensed under this Part after the expiration of a period of 7 days after the district council have given him notice that the licence relating to such establishment has expired or has been refused or revoked under this Part;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

(3) Any person who, without reasonable excuse, contravenes the provisions of subsection (2) of section 13 (Byelaws as to establishments) of this Act 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.

(4) On conviction of any person for an offence under subsection (1) or (2) above the court may, instead of, or in addition to, imposing a fine, make an order revoking a licence granted to him under this Part.

15. A person aggrieved by a refusal to grant or transfer a licence under this Part, or by any terms or conditions specified in such a licence, or by the revocation of such a licence, may appeal to a magistrates' court; and on any such appeal the court may order the grant or transfer of the licence, or the grant or transfer of it on such terms or conditions, not more onerous than those imposed by the district council, as the court thinks fit and make directions for giving effect to its decision.

Part IV
appeals.

16.—(1) An authorised officer of the district council, on producing, if so required, a duly authenticated document showing his authority, or any police constable, may at all reasonable times enter and inspect—

Part IV powers
of entry,
inspection and
examination.

(a) any premises in respect of which a licence under this Part is for the time being in force, or specified in an application for such a licence; or

PART IV
—cont.

- (b) any other premises which he has reasonable cause to believe are used or intended to be used for the purposes of, or in connection with, an establishment for massage or special treatment;

for the purpose of ascertaining—

- (i) whether there is, or has been, in or in connection with the premises, a contravention of the provisions of this Part or of any byelaw made thereunder or of any term or condition on which a licence under this Part has been granted; or
- (ii) whether or not circumstances exist which would authorise the district council to take action under this Part.

(2) An authorised officer or a police constable may exercise powers under subsection (1) (b) above only if he has been granted a warrant by a justice of the peace.

(3) (a) A justice may grant a warrant under this section only if he is satisfied either—

- (i) that notice of intention to apply for a warrant has been given to the occupier of the premises; or
- (ii) that the case is one of urgency or that the premises are unoccupied or the occupier is temporarily absent, or that the giving of notice of intention to apply for a warrant would defeat the object of entry.

(b) A warrant under this section shall authorise entry, if need be, by force, but shall cease to have effect at the expiration of a period of 7 days beginning with the day on which it is granted.

Savings.

17.—(1) Nothing in this Part shall apply to—

- (a) an establishment for massage or special treatment carried on by a registered medical practitioner or by a member of any duly constituted organisation or association which specifies qualifications for the practice by its members of chiropractic, osteopathy, naturopathy or acupuncture, being a member who is required by that organisation or association to observe professional standards in such practice; or
- (b) any hospital provided by the Secretary of State or by a charity which is registered under section 4 of the Charities Act 1960 or is excepted from registration by subsection (4) of that section; or
- (c) any nursing home which is for the time being registered under the Nursing Homes Act 1975 or exempted from registration under that Act; or

1960 c. 58.

1975 c. 37.

(d) any premises which are an establishment for massage or special treatment merely by reason of face or scalp massage being administered in those premises.

PART IV
—cont.

(2) Subsection (1) of section 11 (Licensing of persons to carry on establishments) of this Act shall not apply to a person registered by any board established under the Professions Supplementary to Medicine Act 1960, a member of the Chartered Society of Physiotherapy who is not so registered or to a nurse registered or enrolled by the General Nursing Council of England and Wales. 1960 c. 66.

(3) Nothing in this Part shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the Health and Safety at Work etc. Act 1974. 1974 c. 37.

PART V

MISCELLANEOUS

18.—(1) (a) The county council may by agreement with any person provide consultancy and supervisory services in respect of work for the provision or maintenance of sports surfaces by processes protected by patents applied for by the county council, processes of a similar nature developed by the county council or derived therefrom, and work incidental to any such processes. Sports surfaces.

(b) It shall be the duty of the county council to secure that services provided under this subsection are provided on terms as to payment on which the council consider that a person engaged in trade for profit could reasonably be expected to provide them.

(2) Nothing in this section shall be construed as derogating from the powers of the county council under the Local Authorities (Goods and Services) Act 1970 or section 19 of the Act of 1976 (provision of recreational facilities). 1970 c. 39.

19.—(1) As from the appointed day fixed by the county council in any district, where planning permission is granted under the Act of 1971 for development in the district which consists of, or includes, the laying out or construction of a new street to which this section applies, no work shall be carried out in, or for the purposes of, the construction of the street except— Plans, etc., of new streets.

(a) in accordance with plans, sections and particulars submitted to and approved, or deemed to have been approved, by the street works authority in accordance with subsection (2) below; and

PART V
—cont.

(b) in compliance with reasonable conditions specified by the street works authority as to—

(i) the giving of notices and the deposit of plans; and

(ii) the inspection of work, the testing of sewers and the taking by the authority of samples of the materials used in the execution of work of constructing the street, including the sewers and drains therein.

(2) (a) The plans, sections and particulars to be submitted shall comprise plans, sections and reasonable particulars with respect to the level and width of, and specifications for, the proposed street, including the sewers and drains therein.

(b) Before the expiration of one month from the receipt by them of plans, sections and particulars under paragraph (a) above the street works authority may give to the person by or on whose behalf they were submitted notice specifying such modifications of the plans, sections and particulars submitted to them as they reasonably require to secure the satisfactory construction of the street and, in the case of sewers and drains therein, the stability of the street as constructed.

(c) Unless the street works authority give notice under paragraph (b) above they shall be deemed to have approved the plans, sections and particulars as submitted without conditions, other than conditions imposing reasonable rights of inspection and of carrying out tests and taking samples by the street works authority as described in subsection (1) (b) (ii) above.

(d) Any question arising as to whether—

(i) modification of plans, sections and particulars is reasonably required; or

(ii) conditions imposed are reasonable;

shall in default of agreement between the street works authority and the person by or on whose behalf the plans, sections and particulars were submitted be determined by arbitration.

(3) On the completion of a street in accordance with subsection (1) above the street works authority shall—

(a) where a sum has been paid or secured under section 219 of the Highways Act 1980 in respect of the cost of the construction of the street, make such a refund or, as the case may be, release as they are empowered to make under section 221 (1) of that Act in respect of those street works; and

(b) by notice to the owner of the land on which the street has been constructed offer to undertake the maintenance of the street if dedicated as a public highway.

PART V
—cont.

(4) An offer to adopt a street under subsection (3) (b) above shall not prejudice a determination as to the adoption of any sewer or drain.

(5) (a) If work is done in contravention of subsection (1) above the owner of the land on which the street is to be constructed and, if he is a different person, the person undertaking the construction of the street shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 and to a daily fine not exceeding £50.

(b) Where the person undertaking the construction of the street, not being the owner of the land on which it is to be constructed, is charged with an offence under this subsection in respect of the contravention of subsection (1) (a) above, it shall be a defence for him to prove that he had reasonable grounds for believing that the plans, sections and particulars had been submitted by the owner of the land and approved as mentioned in the said subsection (1) (a).

(c) Proceedings under this subsection shall not be taken by any person other than the street works authority.

(6) This section does not apply to—

(a) a new street which is the subject of an agreement for adoption of the street under section 38 of the Highways Act 1980 or which is otherwise exempt from the application of section 219 of that Act (advance payments by owners of new buildings in respect of street works) by virtue of subsection (4) (e), (f) or (k) of the said section 219; or

(b) a new street constructed by the British Railways Board in pursuance of their statutory functions.

20.—(1) In any proceedings for an offence under a byelaw made under section 19 of the Public Libraries and Museums Act 1964 relating to the return of a book or other article, a statement contained in a document produced by a computer shall be admissible as evidence of any fact stated therein of which direct oral evidence would be admissible, if it is shown that the conditions mentioned in subsection (2) of section 5 of the Civil Evidence Act 1968 are satisfied in relation to the statement and computer in question; and the other provisions of the said section 5 and subsections (1), (2), (3) and (5) of section 6 of that Act shall, with any necessary modifications, apply in relation to the giving of evidence in pursuance of this section:

Computer
evidence for
certain
offences.

1964 c. 75.

1968 c. 64.

1980 c. 66.

PART V
—cont.

Provided that the court may, if there are special reasons in the particular case, require oral evidence to be given of any matter of which evidence could ordinarily be given by means of a certificate by virtue of the said section 5.

(2) In this section—

“computer” has the meaning assigned by section 5 of the said Act of 1968; and

“document” has the meaning assigned by section 10 of that Act.

(3) This section shall cease to have effect on the coming into force of section 69 of the Police and Criminal Evidence Act 1984.

1984 c. 60.

Weighing
equipment.

21.—(1) A district council may, if they think fit, make available for the use of other persons any weighing machine which the district council provide on land held by them and which is used for, or in connection with, the exercise of any of their functions.

(2) The district council may make reasonable charges for the use of any such weighing machine.

(3) The district council shall not allow the use of any such weighing machine or any offices provided in connection therewith so as to obstruct the access to, or exit from, any station or depot of the British Railways Board or of any passenger road transport undertaker.

PART VI

GENERAL

Penalty for
obstruction.

22. Any person who intentionally obstructs any officer of a local authority acting in execution of this Act, or of any byelaws made thereunder, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Saving for
conduct of
business or use
of premises.

23. Where under any provision of this Act the licence or consent of a local authority for the carrying on of any business or for the use of premises for any purpose is required as from an appointed day, it shall be lawful for any person who—

(a) immediately before that day was carrying on the business, or using any premises for the purpose; and

(b) had before that day duly applied for the licence or consent required by that provision;

to continue to carry on that business or, as the case may be, to use those premises for that purpose, until he is notified of the

decision with regard to his application, and if the decision is adverse, during such further time as is provided under section 27 (Suspension of proceedings pending appeal) of this Act.

PART VI
—cont.

24. A Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act, and section 250 (2) to (5) of the Act of 1972 shall apply to any such inquiry.

Local inquiries.

25. Where under this Act any question or difference is to be determined by arbitration, then, unless otherwise provided, the question or difference shall be referred to, and settled by, a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Arbitration.

26. Sections 300 to 302 of the Act of 1936 shall apply in respect of appeals to a magistrates' court under this Act.

Appeals to magistrates' court.

27. Where a requirement, refusal or other decision of a local authority against which a right of appeal is conferred by this Act—

Suspension of proceedings pending appeal.

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

(b) makes it unlawful for a person to carry on any undertaking, trade or business which he was lawfully carrying on immediately before the requirement, refusal or decision was made or, but for this section, came into effect, or to use premises for any purpose for which they were lawfully then used;

then, until the time for appealing has expired or, if an appeal is lodged, until it 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 to take the action, nor shall the local authority themselves execute the work or take the action; and

(ii) the person may continue to carry on the undertaking, trade or business, or to use the premises for that purpose.

28. The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by or under this Act by any person other than a party aggrieved, a local authority or a police constable.

Restriction on right to prosecute.

PART VI
—cont.
Liability of
directors, etc.

29.—(1) Where an offence under this Act, or against any byelaw made under this Act, 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, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply 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.

Defence of
due diligence.

30.—(1) In proceedings for an offence under any provision of this Act mentioned in subsection (2) below or any byelaw made under any such provision 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 the offence.

(2) The provisions referred to in subsection (1) above are the following:—

Section 6 (Touting, hawking, photographing, etc.);

Section 19 (Plans, etc., of new streets).

(3) If in any case the defence provided under subsection (1) above 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 7 clear days before the hearing, he has served on the prosecutor a notice giving such information as was then in his possession identifying, or assisting in the identification of, that other person.

Application of
general
provisions of
Act of 1936.

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

(2) Section 287 of the Act of 1936 (powers of entry) shall have effect as if references therein to that Act included a reference to the following provisions of this Act:—

Section 4 (Urgent repairs to water, gas and electricity apparatus);

Section 8 (Occasional sales);

Section 9 (Defective electrical installations in houses);

Section 19 (Plans, etc., of new streets):

Provided that, before entry on any operational railway line of the British Railways Board in pursuance of any of those provisions of this Act and of the said section 287 as it has effect by virtue of this section, not less than 24 hours' notice of intended entry shall, except in a case of emergency, be given to that board, and any person entering on any such railway line in pursuance of that notice or in any such emergency shall comply with the reasonable requirements of the British Railways Board for the protection of their undertaking.

PART VI
—cont.

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

Crown rights.

(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; 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) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

(3) 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 Public Utilities Street Works Act 1950 in any highway vested in, or maintained by, the Secretary of State.

1950 c. 39.

33.—(1) In this section “the bridge” means the bridge (Work No. 3) authorised by the Nottinghamshire County Council (Gunthorpe Bridge) Act 1925.

Gunthorpe
Bridge.
1925 c. lvii.

(2) Notwithstanding the repeal by this Act of section 23(8) of the said Act of 1925, the county council shall continue to ensure that the flood arches at each end of the bridge are at all times kept open and free for the passage of water.

34.—(1) The transitional provisions and savings in Schedule 2 to this Act shall have effect.

Transitional
provisions,
savings and
repeals.

(2) Subject to the provisions of the said Schedule 2 the statutory provisions specified in columns (1) and (2) of Schedule 3 to this Act are hereby repealed to the extent specified in column (3) of that Schedule.

PART VI
—cont.

(3) Nothing in this section shall prejudice the operation of section 254 of the Act of 1972.

1978 c. 30. (4) The inclusion in this Act of any express transitional provision or saving shall not be taken as prejudicing the operation of sections 15 to 17 of the Interpretation Act 1978 (effect of repeals).

SCHEDULES

SCHEDULE 1

SECTIONS OF ACT OF 1936 APPLIED TO THIS ACT

Section 31 (1).

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Power of local authority to sell certain materials.
283 (1)	Notices to be in writing; forms of notices, &c.
285	Service of notices, &c.
289	Power to require occupier to permit works to be done.
291	Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments.
297	Continuing offences and penalties.
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.

SCHEDULE 2

Section 34 (1).

TRANSITIONAL PROVISIONS AND SAVINGS

General provisions

1. Where an instrument or document refers, either expressly or by implication, to a statutory provision in force in any area which is repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to any provision of this Act or of any public general Act relating to the same matter in the same area.

2. In so far as anything done under a statutory provision in force in any area which is repealed by this Act could have been done under any provision of this Act, or of any public general Act, relating to the same matter in the same area, it shall not be invalidated by the repeal but shall have effect as if done under that last-mentioned provision.

3.—(1) Where any period of time specified in, or having effect in relation to, a statutory provision repealed by this Act is current at the date of such repeal, any provision of this Act or of a public general Act relating to the same matter shall have effect as if it were in force when that period began to run.

(2) References in this Act to things done, left undone, suffered or occurring in the past shall, so far as the context requires for the continuity of operation between a statutory provision in force in any

SCH. 2
—cont.

area which is repealed by this Act and any provision of this Act relating to the same matter in the same area, be construed as including reference to things done, left undone, suffered or occurring before the coming into operation of that provision of this Act.

4. For the purpose of any provision of this Act specifying penalties for a second or subsequent offence, a previous conviction under a statutory provision repealed by this Act creating the like offence shall be taken as an offence under that provision of this Act.

5. The repeal by this Act of any statutory provision shall not affect the operation of any byelaw made under that provision if the byelaw is one which could be made under or by virtue of any corresponding provision of this Act or of a public general Act, and any such byelaw shall have effect as if made under that last-mentioned provision.

6. Where an Act or Order is repealed by this Act subject to exceptions and a provision included in the repeal is material for the interpretation of a provision excepted from the repeal, the repeal shall not affect the interpretation of the excepted provision.

Provisions affecting water authorities

1973 c. 37. 7.—(1) Notwithstanding the repeal by this Act of any statutory provision continued in force by or under the Water Act 1973 relating to functions exercisable by a water authority for the supply of water within their area—

(a) the water authority may continue and maintain all waterworks authorised by that provision as if this Act had not been passed; and—

1945 c. 42. (i) for the purposes of section 3 of Schedule 3 to the Water Act 1945, the said waterworks shall be deemed to be authorised, and the lands on which those works are constructed shall be deemed to be specified, in an enactment which is for the time being in force; and

1963 c. 38. (ii) for the purposes of section 36 of the Water Resources Act 1963, the said waterworks shall be deemed to be authorised by virtue of such an alternative statutory provision as is therein referred to;

(b) the water authority may take any water which may be taken or intercepted by any of the said waterworks under and in accordance with any licences granted under Part IV of the Water Resources Act 1963 and expressed by reference to any provision so repealed.

(2) Notwithstanding the repeal by this Act of any statutory provision continued in force by the Water Act 1973 relating to any other functions exercisable by a water authority, the water authority may continue and maintain all works authorised by any such provision as if this Act had not been passed.

(3) Nothing in sub-paragraphs (1) and (2) above shall prejudice or affect any provision made, or which may be made, in any order under section 254 of the Act of 1972 as extended by section 34 of the Water Act 1973.

SCHEDULE 3

Section 34 (2).

STATUTORY PROVISIONS REPEALED

Chapter and S.I. number (1)	Short title (2)	Extent of repeal (3)
14 & 15 Vict. c. xcvii.	Newark-upon-Trent Improvement Act 1851.	The whole Act.
15 & 16 Vict. c. 42.	First Public Health Supplemental Act 1852.	Section 7 and the Order relating to Worksoop.
25 & 26 Vict. c. cxvi.	Wilford Bridge Act 1862.	The whole Act.
26 & 27 Vict. c. 32.	Local Government Supplemental Act 1863.	The Order relating to Basford.
37 & 38 Vict. c. clxxxii.	Local Government Board's Provisional Orders Confirmation Act 1874 (No. 5).	The Order relating to Mansfield.
40 & 41 Vict. c. cxxxii.	Local Government Board's Provisional Orders Confirmation (Belper Union, &c.) Act 1877.	The Order relating to Sutton in Ashfield.
41 & 42 Vict. c. clxxix.	East Retford Borough Act 1878.	The whole Act except section 35(3) and Schedule 4.
46 & 47 Vict. c. cxxxvi.	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1883.	The Order relating to Sutton in Ashfield.
46 & 47 Vict. c. cxxxviii.	Local Government Board's Provisional Orders Confirmation (Poor Law) (No. 2) Act 1883.	The Order relating to the Mansfield Union.
47 & 48 Vict. c. lxxv.	Local Government Board's Provisional Orders Confirmation (Poor Law) (No. 10) Act 1884.	The Orders relating to Charley and Newtown Linford; Marnham and South Clifton; and Charley and Markfield, to the extent that the same apply to the county.


SCH. 3
—cont.

Chapter and S.I. number (1)	Short title (2)	Extent of repeal (3)
52 & 53 Vict. c. lxi.	Local Government Board's Provisional Orders Confirmation (No. 8) Act 1889.	The Order relating to Mansfield.
54 & 55 Vict. c. cxxii.	Newark Corporation Act 1891.	The whole Act except sections 29, 32 and 78.
58 & 59 Vict. c. xci.	Local Government Board's Provisional Orders Confirmation (No. 12) Act 1895.	The Counties of Derby and Nottingham (Kirkby-in-Ashfield and Pinxton) Order 1895, the County of Nottingham (Bole and West Burton) Order 1895 and the Counties of Nottingham and West Riding of Yorkshire (Auckley and Wallingwells) Order 1895, to the extent that the same apply to the county.
1 Edw. 7. c. xcvi.	Mansfield Corporation Act 1901.	The whole Act except section 19 and Schedule 3.
5 Edw. 7. c. ci.	Mansfield Corporation Act 1905.	The whole Act except sections 5, 18 and 64 and Schedule 1.
9 Edw. 7. c. xxvi.	Worksop Waterworks Act 1909.	Section 12.
9 Edw. 7. c. lxxiii.	Derwent Valley Water Act 1909.	Section 12.
10 Edw. 7. & 1 Geo. 5. c. xl.	Worksop Urban District Council Act 1910.	The whole Act except sections 15 and 17.
2 & 3 Geo. 5. c. cxxxiv.	Local Government Board's Provisional Orders Confirmation (No. 8) Act 1912.	The Mansfield Order 1912.

Chapter and S.I. number (1)	Short title (2)	Extent of repeal (3)
3 & 4 Geo. 5. c. lviii.	West Bridgford Urban District Council Act 1913.	The whole Act.
5 & 6 Geo. 5. c. xxxvii.	Local Government Board's Pro- visional Order Confirmation (No. 7) Act 1915.	The whole Act.
15 & 16 Geo. 5. c. lvii.	Nottinghamshire County Council (Gunthorpe Bridge) Act 1925.	The whole Act.
15 & 16 Geo. 5. c. xcvi.	Mansfield Corporation Act 1925.	The whole Act except sections 22 and 24.
17 & 18 Geo. 5. c. xxiv.	West Bridgford Urban District Council Act 1927.	The whole Act.
18 & 19 Geo. 5. c. xvii.	Ministry of Health Provisional Orders Confirmation (No. 3) Act 1928.	The Mansfield Order 1928.
19 & 20 Geo. 5. c. lxi.	Nottingham Corporation Act 1929.	Section 47.
22 & 23 Geo. 5. c. vi.	Worksop Corporation Act 1932.	The whole Act.
23 & 24 Geo. 5. c. xlii.	Worksop Corporation Act 1933.	The whole Act.
1 Edw. 8 & 1 Geo. 6. c. xxii.	Ministry of Health Provisional Order Confirmation (South Nottinghamshire Joint Hospital District) Act 1937.	The whole Act.
14 & 15 Geo. 6. c. xxxi.	Nottingham City and County Boundaries Act 1951.	The whole Act.
14 & 15 Geo. 6. c. xlv.	Nottinghamshire County Council Act 1951.	The whole Act.
15 & 16 Geo. 6. & 1 Eliz. 2. c. xxxiii.	Nottingham Corporation Act 1952.	Part X and section 135.
1 & 2 Eliz. 2. c. xxxvii.	West Bridgford Urban District Council Act 1953.	The whole Act.
S.I. 1963/1332.	Central Nottinghamshire Water Board Order 1963.	Sections 4 to 16, 18(2) and (3), 19 to 24, 26 to 41, 43 and 44 and Schedules 1 to 5.

SCH. 3
—cont.

Chapter and S.I. number (1)	Short title (2)	Extent of repeal (3)
S.I.1963/1639.	Central Nottinghamshire Water Board (Amendment) Order 1963.	The whole Order.
S.I. 1967/508.	Central Nottinghamshire Water Board (Charges) Order 1967.	The whole Order.
S.I. 1969/29.	Central Nottinghamshire Water Board Order 1969.	The whole Order.
S.I. 1969/938.	Central Nottinghamshire Water Board (Financial Provisions) Order 1969.	The whole Order.
1970 c. lxi.	Nottinghamshire County Council Act 1970.	The whole Act
1971 c. vii.	Nottingham Corporation Act 1971.	Part II.

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CHAPTER xv

ARRANGEMENT OF SECTIONS

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