



Clwyd County Council Act 1985

CHAPTER xliv

LONDON
HER MAJESTY'S STATIONERY OFFICE

Clwyd County Council Act 1985

CHAPTER xliv

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ELIZABETH II



1985 CHAPTER xliv

An Act to re-enact with amendments and to extend certain local statutory provisions in force within the county of Clwyd; to confer further powers on the local authorities in that county; to make further provision with respect to the improvement, health and local government of the county; and for other purposes. [30th October 1985]

WHEREAS—

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

In the administrative county of Denbigh—

the boroughs of Colwyn Bay, Denbigh, Ruthin and Wrexham;

the urban districts of Abergele and Llangollen;

the rural districts of Aled, Ceiriog, Ruthin, and Wrexham and part of the rural district of Hiraethog;

The administrative county of Flintshire;

In the administrative county of Merioneth—

the rural district of Edeyrnion:

(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 1st April 1974:

(3) It was further provided by the said section 262 that certain local statutory provisions should cease to have effect at the end of 1984, a period since extended by order of the Secretary of State so as to expire at the end of 1986:

(4) It is expedient that certain of the said enactments should be re-enacted with amendments and applied to the whole of the county or to parts of the county:

(5) It is expedient to make further provision with respect to the improvement, health and local government of the county and to extend and enlarge in various respects the powers of local authorities in the county:

(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

Citation and
commence-
ment.

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

(2) This Act shall come into operation at the end of three months beginning with the date on which it is passed.

Interpre-
tation.
1936 c. 49.
1971 c. 78.
1972 c. 70.

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

- “the Act of 1976” means the Local Government (Miscellaneous Provisions) Act 1976; PART I
—cont.
1976 c. 57.
- “the Act of 1980” means the Highways Act 1980; 1980 c. 66.
- “the Act of 1984” means the Road Traffic Regulation Act 1984; 1984 c. 27.
- “apparatus” means, in relation to the water authority, works, mains, pipes and other apparatus belonging to or maintained by the water authority for the purpose of any of their functions;
- “the appointed day” has the meaning given by section 3 (Appointed day) of this Act;
- “contravention” includes a failure to comply, and “contravene” shall be construed accordingly;
- “the county” means the county of Clwyd;
- “the county council” means the County Council of Clwyd;
- “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;
- “fire authority” has the meaning given by section 43 of the Fire Precautions Act 1971; 1971 c. 40.
- “functions” includes powers and duties;
- “the level of high water” means the level of mean high-water springs save that in respect of the stretch of the river between the city of Chester and Connah’s Quay it means 4.5 metres above ordnance datum, Newlyn;
- “local authority” means the county council or a district council;
- “officer” includes servant;
- “open space” means any park, pleasure ground or open space within the meaning given by section 290 of the Act of 1971 under the management or control of a local authority;
- “owner” 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.
- “the river” means the river Dee;
- “the standard scale” has the meaning given by section 37 of the Criminal Justice Act 1982; 1982 c. 48.
- “statutory undertakers” means—
 (a) the British Gas Corporation, the Central Electricity Generating Board, the Merseyside and

PART I
—cont.

North Wales Electricity Board, the water authority, the Chester Water Works Company and the Wrexham and East Denbighshire Water Company; and

1984 c. 12.

(b) any person to whom a licence has been granted under section 7 of the Telecommunications Act 1984 and to whom the telecommunications code, as defined in that Act, is applied by that licence;

or any of them, as the case may be;

“street” has the meaning given by section 329 of the Act of 1980;

“traffic sign” has the meaning given by section 64 of the Act of 1984;

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

“the water authority” means the North West Water Authority, the Severn-Trent Water Authority and the Welsh Water Authority, or any of them, as the case may be.

(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.

Appointed
day.

3.—(1) In this Act “the appointed day”, in relation to any provision, means such day (not earlier than three months after the passing 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.

(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 its 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
BRIDGES

4. In this Part—

“the bridges” means the Queen’s Ferry Bridge and the footbridge;

Interpre-
tation of
Part II.

“the district” means the district of Alyn and Deeside;

“the footbridge” means the footbridge over the river with footway approaches thereto in the district authorised by section 14 (Power to construct footbridge) of the Flintshire County Council (Higher Ferry Saltney Footbridge) Act 1965;

1965 c. xxvii.

“the Queen’s Ferry Bridge” means the bridge over the river with approaches thereto in the district authorised by section 4 (Power to make bridge) of the Queen’s Ferry Bridge Act 1924.

1924 c. viii.

5. The county council may continue and maintain the bridges together with subsidiary and incidental works constructed in connection therewith.

Continuance
and
maintenance
of works.

6.—(1) The county council in connection with and at or near either of the bridges may execute, place and keep in the river, and elsewhere either permanently or temporarily all such caissons, cofferdams, piles, piers, abutments, embankments, excavations, dredging, approaches, ways, access works, pumping works, wharves, walls, fences, drains, fenders, mooring posts, mooring stages, booms, dolphins, pontoons, stagings, stairs, buildings and other works and conveniences as they may find necessary or expedient for, or in connection with, the maintenance or use of the bridges:

Subsidiary
works in
river and
elsewhere.

Provided that no materials raised under the provisions of this section shall be deposited in any place below the level of high water except in such a position and under such conditions and restrictions as may be fixed by the Secretary of State.

(2) The county council shall at their own expense keep repaired any works kept by them under the powers of this section.

(3) If any works kept by the county council under the powers of this section shall at any time become redundant the county council shall remove the same.

(4) The county council shall make compensation for any damage done by them in the exercise of the powers of this section.

PART II
—cont.

(5) Any dispute arising under this section as to the fact of damage or as to the amount of compensation shall be determined by arbitration:

Provided that if the compensation claimed does not exceed £500 all questions as to the fact of damage, liability to pay compensation and the amount of compensation may, on the application of any party be determined by, and any compensation awarded may be recovered before, a magistrates' court.

Power to make subsidiary works in respect of footbridge.

1965 c. xxvii.

7.—(1) Within the limits of deviation shown on the plan deposited in connection with the Bill for the Flintshire County Council (Higher Ferry Saltney Footbridge) Act 1965 the county council in connection with and as part of the footbridge may execute or do any of the following works or things:—

- (a) execute any works for the protection of any adjoining land or buildings;
- (b) execute any works and do any things necessary for the strengthening and supporting of any walls of adjoining buildings;
- (c) alter or remove any structure erected upon any street or land;

and shall make compensation for any damage done by them in the exercise of the powers of this section.

(2) Any dispute arising under this section as to the fact of damage or as to the amount of compensation shall be determined by arbitration:

Provided that if the compensation claimed does not exceed £500 all questions as to the fact of damage, liability to pay compensation and the amount of compensation may, on the application of any party be determined by, and any compensation awarded may be recovered before, a magistrates' court.

(3) Subsections (2) and (3) of section 6 (Subsidiary works in river and elsewhere) of this Act shall apply to works or things in the river or on the banks thereof executed under the powers of this section.

No mains or pipes to be laid in bridges without consent.

1950 c. 39.

8.—(1) Notwithstanding anything contained in the Public Utilities Street Works Act 1950, or in any other enactment relating to the breaking up of streets no person shall be entitled to enter upon, break up or interfere with the bridges 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.

(2) The county council shall not unreasonably withhold their consent under subsection (1) above on an application made to them by the water authority to enter upon, break up or interfere with the approaches to either of the bridges for the purpose of laying down any water mains, pipes or other apparatus or executing any works in the said approaches; and, where such consent is given, any question whether any terms or conditions attached thereto are reasonable shall be referred to arbitration.

PART II
—cont.

9.—(1) The Secretary of State may on the application of the person in whom either of the bridges is vested by order repeal or amend any enactment in respect of that bridge so far as it relates to the navigation and traffic of the river.

Adaptations of enactments relating to bridges over river.

(2) As soon as may be after making an order under this section the Secretary of State shall cause to be published in such manner as appears to him to be best adapted for informing persons affected a notice stating that the order has been made and specifying a place where copies thereof may be obtained.

(3) An order under this section shall be subject to special parliamentary procedure.

(4) The power to make an order under this section shall be exercised by statutory instrument.

10. The Welsh Water Authority shall not be under any obligation (whether statutory or otherwise) to maintain the stretch of the river between the city of Chester and Connah's Quay in such a condition (whether by reference to a particular depth of water or otherwise) as to permit navigation by any vessel having an overall height (including the superstructure and any fixed mast) measured from the surface of the water exceeding 3.05 metres.

As to maintenance of part of river.

11. For the protection of the Welsh Water Authority (in this section referred to as "Welsh Water") the following provisions shall unless otherwise agreed in writing between the county council and Welsh Water, apply and have effect:—

For protection of Welsh Water Authority.

(1) (a) In this section—

“banks” has the meaning given by section 116 of the Land Drainage Act 1976;

1976 c. 70.

“plans” includes sections, drawings and particulars;

“river works” means the bridges and so much of any subsidiary or incidental works in connection therewith constructed or maintained under this Part as is or will be situated on, under or over the banks or the foreshore or bed of the river;

PART II
—cont.

- (b) For the purposes of this section, references to the construction of a river work shall include the execution, placing, alteration, maintenance, repair and removal of any such work; and “construct” and “constructed” shall be construed accordingly:
- (2) The county council shall ensure that any river works shall not unnecessarily—
- (i) narrow or obstruct the navigable waterway of the river;
 - (ii) otherwise interfere with or impede navigation; or
 - (iii) obstruct the flow of water:
- (3) Before commencing the construction of any river works the county council shall submit plans of such work to Welsh Water for their reasonable approval and shall not commence the authorised work until such plans have been approved by Welsh Water or in the case of difference until they shall have been settled by arbitration:
- Provided that unless Welsh Water within two months after the receipt of any such plans signify to the county council their disapproval thereof and the grounds of their disapproval they shall be deemed to have approved thereof:
- (4) Any river works shall not be constructed except in accordance with such plans as may be approved or deemed to be approved by Welsh Water as aforesaid or settled by arbitration and shall be constructed to the reasonable satisfaction of Welsh Water who shall be given reasonable notice of the date and time on and at which the river works are to be commenced:
- (5) If by reason of the construction of any river works or of the failure thereof or of the failure to maintain or repair the same injury or damage is caused to the river or the banks thereof or to any property of Welsh Water lying or situate therein, such injury or damage shall be forthwith made good by the county council to the reasonable satisfaction of Welsh Water and if the county council fail so to do Welsh Water may make good the same and recover from the county council the costs and expenses reasonably incurred by them in so doing:
- (6) If the county council construct any work in contravention of this section Welsh Water may remove, alter or pull down the work and recover from the county council the expenses incurred in so doing:

- (7) Section 29 of the Land Drainage Act 1976 shall not apply to the construction of any river works: PART II
—cont.
1976 c. 70.
- (8) If, during the construction of a river work or within 12 months after the completion of and in consequence of such construction, any accumulation of silt or other material shall be created in the vicinity of such work which shall cause impediment to navigation or interference with the free flow of the waters in the river the county council, if so requested by Welsh Water within the period of 12 months after such completion, shall remove such accumulation of silt or other material and if they refuse or fail so to do Welsh Water may themselves cause the work to be done and may recover from the county council the reasonable cost thereof:
- (9) Any difference arising between the county council and Welsh Water under this section (other than a difference as to the construction of this section) shall be determined by arbitration.

PART III

HIGHWAYS

12. In this Part—

“bridleway”, “carriageway”, and “footpath” have the same respective meanings as in section 329 of the Act of 1980;

“the private street works code”, “street works” and “street works authority” have the same respective meanings as in section 203 of the Act of 1980;

“verge” includes any lands situated between two carriageways and any part of a street as defined in section 329 (1) of the Act of 1980 which is not a carriageway, footway or cycle track.

Interpretation
of Part III.

13.—(1) In this section—

“goods vehicle” means a vehicle, whether mechanically propelled or not, which is constructed or adapted for the carriage of goods and has a maximum gross weight which exceeds 3.5 tonnes;

“maximum gross weight” has the meaning given to it by regulation 4 (c) of the Traffic Signs (Amendment) Regulations 1982;

“prescribed hours” means the hours between 9.00 p.m. and 8.00 a.m.;

Prohibition of
parking of
goods vehicles
in residential
streets.

S.I. 1982/1879.

PART III
—cont.

“residential street” means a street predominantly fronted by—

- (a) residential or mainly residential buildings;
- (b) such buildings and schools; or
- (c) such buildings and public open spaces;

and which is not a trunk road within the meaning of section 329 of the Act of 1980.

(2) (a) If, after the appointed day, in any district it appears to the district council in consequence of a representation made to the district council in accordance with paragraph (b) below that the amenities of any part of the district are prejudicially affected by the use during the prescribed hours of any residential street in the district as a parking place for one or more goods vehicles, the district council may, by an order made in accordance with this section, prohibit the use as a parking place for goods vehicles during the prescribed hours of the residential street to which the representation relates.

(b) A representation under paragraph (a) above shall be made in writing and signed by local government electors residing in not less than five dwelling-houses, being dwelling-houses in the residential street concerned, or dwelling-houses in any other such street which are within 100 metres thereof.

(3) (a) If the district council propose to make an order under this section, they shall—

- (i) publish a notice stating the effect of the proposal in a newspaper circulating in the district;
- (ii) post copies of the notice in a conspicuous position at each end of the residential street to which the proposal relates; and
- (iii) serve a copy of the notice and the statement of the nature of the representation made under subsection (2) above on the owner or occupier of every dwelling-house in the street to which the draft order relates.

(b) The notice under paragraph (a) above shall state where the draft order can be inspected and copies purchased and that objections to the order may be made in writing to the district council before such day, not earlier than 28 days after the district council have complied with paragraph (a) above, as shall be specified in the notice.

(c) Before making the order the district council shall—

- (i) consider all objections made as provided in paragraph (b) above;
- (ii) consult the chief officer of police and the highway authority (if any) for the street in question or if the street is not a highway, the county council; and

- (iii) afford to the owner or occupier of every dwelling-house in the street to which the draft order relates, being a person who has made objection, an opportunity of being heard by a committee or sub-committee of the district council.

(4) If, after considering objections made under subsection (3) above, the district council determine to make the order, they may make the order in the terms of the draft, or in those terms as modified to meet in whole or in part all or any of the objections; but if the district council consider that any person may be adversely affected by any such modification they shall, before making the order, take such steps as appear to them to be appropriate for informing the persons likely to be so affected of the modification, for giving those persons an opportunity to make representations and for ensuring that any such representations are duly considered by the district council.

(5) When an order has been made by the district council under this section they shall publish notice of it, and of the right of appeal under subsection (7) below, in the manner required by subsection (3) (a) above for notice of a proposal.

(6) (a) Any order made under this section shall come into operation at the expiration of the period of 28 days after the district council have published notice of the making of the order under subsection (5) above or, if an appeal is lodged under subsection (7) below, when the appeal is disposed of or withdrawn or fails for want of prosecution and the district council shall publish notice of the date of coming into operation of any such order in the manner required by subsection (5) above as soon as may be after that date is known.

(b) Any such order shall have effect for such period, not exceeding five years, as the district council may determine but this paragraph does not prejudice the power of the district council to make a further order.

(7) (a) A person who is aggrieved by an order under this section may, within 28 days after the first publication of the notice of the making of the order under subsection (5) above, appeal to the county court.

(b) On an appeal to the county court under this subsection the judge may make such order, either confirming or quashing or varying the order as he thinks fit, but shall not so vary the order that it is more onerous than the order made by the district council.

(8) If any person parks a goods vehicle in contravention of an order under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

PART III
—cont.

(9) A person shall not be guilty of an offence under this section by reason only of the fact that he parks a goods vehicle during the prescribed hours on any residential street for any period not exceeding one hour or for such period as is reasonably necessary for dealing with a breakdown or other emergency.

(10) A person shall not be guilty of an offence under this section by reason only of the fact that he parks a goods vehicle in a residential street for so long as may be necessary to enable the vehicle, if it cannot reasonably be used for such purpose without being parked in that street, to be used in connection with the erection, laying, placing, maintenance, testing, alteration, repair, renewal or removal of—

- (a) any structure, works or apparatus in, on, under or over the street; or
- (b) any structure, works or apparatus of statutory undertakers or the British Railways Board in land adjacent to the street in any case where it is reasonably necessary to carry out those operations during the prescribed hours.

(11) An order under this section shall not apply to any goods vehicle held ready for use in an emergency by the British Gas Corporation, not being a vehicle which has a maximum gross weight exceeding 5.6 tonnes, but nothing in this subsection shall be taken to prejudice any rule of law or other enactment.

(12) Notice of the effect of an order made under this section shall be indicated by a traffic sign and subsection (1) of section 65 of the Act of 1984 shall have effect as respects the erection and display of the notice by the district council as if it were a notice by the county council.

Prohibition of parking or camping on highway verges, etc.

14.—(1) (a) The county council may by order prohibit the leaving of any vehicle, trailer, caravan or tent on any lay-by or on the verge of, or on unenclosed land adjacent to any part of any road for which they are the highway authority in the county and, with the consent of the highway authority, any other road in the county.

(b) In this subsection “unenclosed land” means any waste land within 15 metres of the road and any common land or other unenclosed land of whatsoever description within that distance from the road.

(2) Any person who contravenes the provisions of an order under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(3) (a) An order made under this section shall—

- (i) take effect from such date as may be specified in the order;
- (ii) specify the road or roads and any unenclosed land to which it is to apply; and
- (iii) specify the days and hours between 11 o'clock in the evening and 7 o'clock in the following morning during which the prohibition applies;

and may specify exceptions (other than those provided in subsection (10) below) from the prohibition thereby imposed.

(b) An order made under this section may at any time be altered or revoked by subsequent order made in like manner.

(4) In considering whether to make an order under this section the county council shall have regard to the availability of—

- (a) suitable parking facilities, whether on or off the road and whether provided by the county council or by some other person, for use as an alternative to those which before the making of the order have been lawfully used for that purpose; and
- (b) public sanitary conveniences in convenient situations.

(5) Before making any order under this section in relation to any road or land, the county council shall publish in one or more local newspapers circulating in the area in which the road or land is situated and in the London Gazette a notice—

- (a) stating the general effect of the order;
- (b) specifying the offices of every district council in whose district the road or land is situated where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period of 28 days from the date of the first publication of the notice; and
- (c) stating that, within the said period, any person may by notice to the county council object to the making of the order.

(6) Before making an order under this section the county council shall consider all objections made as provided in subsection (5) (c) above and may hold a public inquiry.

(7) If, after considering objections made under subsection (5) (c) above, the county council determine to make the order, they may subject to subsection (9) below make the order in the terms proposed, or in those terms as modified to meet in whole or in part all or any of the objections, but if the county council

PART III
—cont.

consider that any person may be adversely affected by any such modification they shall, before making the order, take such steps as appear to them to be appropriate for informing the persons likely to be so affected of the modification, for giving those persons an opportunity to make representations and for ensuring that any such representations are duly considered by the county council.

(8) When an order has been made by the county council under this section they shall publish notice of it, in the manner required by subsection (5) above for notice of a proposal.

(9) Where an objection to the making of an order under this section is made by the owner or occupier of any land affected by the order, or of premises adjoining such land, and is not withdrawn, the order shall not be made except with the consent of the Secretary of State.

(10) (a) No order made under this section shall apply to the leaving of—

- (i) any vehicle, trailer, caravan or tent if it is not left for more than two hours;
- (ii) any vehicle, trailer, caravan or tent left on land not forming part of a highway by or with the consent of the occupier of the land;
- (iii) any vehicle, trailer or caravan left in consequence of illness, mechanical breakdown or other immediate emergency;
- (iv) any vehicle, trailer, caravan or tent left because of the illness of any person accompanying any such vehicle, trailer, caravan or tent;
- (v) any vehicle when in use solely for the purpose of itinerant trading with the occupants of premises adjoining a verge or land;
- (vi) any caravan which is occupied by a travelling showman who is travelling for the purpose of his business;
- (vii) any vehicle, trailer or caravan in any area of the county designated as an area to which section 10 of the Caravan Sites Act 1968 applies if stationed in contravention of the said section 10;
- (viii) any vehicle, trailer, caravan (not used for human habitation) or tent used by any statutory undertakers or the British Railways Board in the exercise of their statutory powers or by the highway authority or the local authority in, or in connection with, the exercise of their statutory functions.

(b) No order made under this section shall apply to any land—

PART III
—cont.

- (i) on which tents or caravans are erected or placed in accordance with the terms of a licence granted under section 269 of the Act of 1936 or in accordance with any terms and conditions on which permission has been given for development by the local planning authority under the provisions of the Act of 1971; or
- (ii) in respect of which a site licence is for the time being in force under Part I of the Caravan Sites and Control of Development Act 1960; or
- (iii) used for the stationing of caravans occupied as residences under a licence or contract to which Part I of the Caravan Sites Act 1968 applies.

1960 c. 62.

1968 c. 52.

(11) Notice of the prohibition contained in this section shall be indicated by traffic signs.

15.—(1) This section applies to any of the following land in a district which, being in, adjoining or accessible from a highway, is mown or otherwise maintained in an ornamental condition:—

Protection of
grass verges,
etc.

- (a) a grass verge, garden, lawn or green managed by a local authority; or
- (b) land laid out as a public garden or used for the purpose of public recreation which is vested in a person other than a local authority.

(2) A local authority may by notice prohibit, either entirely or at such times on such days as may be specified in the notice, the doing of any of the following things on land to which this section applies:—

- (a) driving, riding or leaving vehicles;
- (b) allowing horses or cattle to enter;
- (c) using any equipment provided on such land.

(3) Notice of a prohibition under subsection (2) (c) above may provide exemption from the prohibition of a child under such age as shall be specified in the notice and of any person in charge of such a child while on the land.

(4) Notice of a prohibition under subsection (2) (a) or (c) above shall not prohibit the driving or leaving of vehicles or the use of equipment on land—

- (a) by any person engaged in building operations; or
- (b) by statutory undertakers, the British Railways Board or the British Waterways Board where reasonably necessary in the exercise of their statutory functions;

PART III
—cont.

but the exemption afforded by paragraph (a) above is conditional upon steps being taken to the reasonable satisfaction of the local authority to minimise damage to the land and to protect persons on the land.

(5) (a) For the purposes of this section notice shall be given by displaying it in a conspicuous position on or near the land to which it relates.

(b) Where the notice is notice of a prohibition under subsection (2) (a) or (c) above and relates to a grass verge forming part of or adjoining a highway used by motor vehicles (as defined in section 136 of the Act of 1984) it shall be indicated by a traffic sign, and section 65 (1) of the Act of 1984 shall have effect as respects the placing of traffic signs under this section whether or not the local authority are the highway authority for the highway.

(6) A person who without reasonable excuse contravenes a notice displayed under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) (a) If a vehicle is left on any land in contravention of a prohibition under subsection (2) (a) above, the local authority may cause the vehicle to be removed.

(b) For the purposes of this subsection section 99 of the Act of 1984 and the regulations in force under that section shall have effect as if the removal of a vehicle under this subsection were authorised by those regulations.

(8) Notice of a prohibition relating to land vested in a person other than a local authority shall not be given under this section except with the consent of that person.

(9) Where land to which a prohibition contained in subsection (2) (a) or (b) above applies forms part of a highway, the rights of the public over the highway, except rights of grazing cattle and horses, shall be subject to the prohibition: but, subject as aforesaid, nothing in this section shall—

- (a) limit any right of way, public or private, over land;
- (b) restrict the exercise by any person of any statutory right to enter upon land;
- (c) restrict the entry by horses or cattle on any grass or other margin provided by a highway authority in pursuance of section 71 of the Act of 1980 (provision of margins for horses and livestock).

Temporary prohibition of traffic during execution of works.

16.—(1) Where the county council are satisfied—

- (a) that traffic on any street for the maintenance of which they are responsible should, by reason of any works

being executed or proposed to be executed on or near the street, be prohibited or restricted; and

PART III
—cont.

- (b) that it is desirable that such prohibition or restriction should come into force without delay and that for this reason it is not expedient to effect the same by means of an order made under section 14 (1) of the Act of 1984;

they may by notice indicated by a traffic sign prohibit or restrict for any period not exceeding 24 hours the use of that street, or any part thereof, by vehicles, or by vehicles of any particular class or pedestrians, to such extent and subject to such conditions and exceptions as they may consider necessary:

Provided that the powers conferred on the county council by this section shall not be exercised—

- (i) in relation to any street or any part thereof on more than one occasion in any period of 14 consecutive days; or
- (ii) in relation to any street upon which public service vehicles are authorised by a road service licence to operate unless the county council give not less than 48 hours' previous notice to the traffic commissioners and to the operators of the public service vehicles so licensed; or
- (iii) so as to obstruct or interfere with the access to or exit from any station or depot of the British Railways Board or of any passenger road transport operator unless the county council give not less than 48 hours' previous notice to the British Railways Board or the operator, as the case may be.

(2) The provisions of section 14 (4) to (7) and (9) and section 16 of the Act of 1984 shall extend and apply for the purposes of this section as if any notice issued by the county council under subsection (1) above had been issued under subsection (3) of the said section 14.

(3) (a) No prohibition or restriction on the use of any street under the powers of this section shall make it unlawful for statutory undertakers to enter upon such street in a case of emergency, with any necessary vehicles, for the purpose of inspecting, repairing, maintaining, renewing or removing (as the case may be) any apparatus of the undertakers concerned or in a case where at the time of the prohibition or restriction they are already carrying out works in that street.

(b) Nothing in this section shall be taken to relieve the county council from liability for damage caused by them to any apparatus belonging to, or maintained by, statutory undertakers.

PART III

—cont.

Application of private street works code to parts of public street.

17.—(1) Notwithstanding anything in the private street works code where it appears to the county council that a new street has been formed in the county by reason of additions made to an existing footpath, bridleway or other right of way maintainable at the public expense (not being or comprising a carriageway) otherwise than by the giving up for the purpose by the county council of lands owned by them, the county council may carry out street works under, and apportion the expenses thereof in accordance with, the private street works code in respect of any such street or any part of such street as if no part of the said street was so maintainable.

(2) Notwithstanding anything in the private street works code the county council may carry out street works under, and apportion the expenses thereof in accordance with, the provisions of the private street works code throughout the width of a street notwithstanding that part of the width consists of a highway maintainable at the public expense but save in a case falling within the provisions of subsection (1) above the county council shall be entitled to apportion against the premises liable to be charged therewith only such part of the expenses as relates to the portion of the street which is not so maintainable.

(3) For the purposes of any apportionment under subsection (2) above premises fronting a street shall be deemed to front the portion of the street which is not maintainable at the public expense.

Recovery of street works charges where owner unknown.

18.—(1) Where any street works in the county have been completed but the street works authority are unable to recover the amount due in respect of the expenses of such works from the owner of any premises or otherwise under Part XI of the Act of 1980 (making up of private streets) by reason of the fact that such owner is unknown and cannot, after diligent inquiry made when the said amount becomes due and at reasonable intervals thereafter, be found, the street works authority may, at any time after the expiration of 12 years after the date when the said amount becomes due, apply to the county court, and—

- (a) the county court may, on being satisfied that the provisions of this subsection have been complied with, make an order vesting the said premises in the street works authority absolutely; and
- (b) upon the making of the order the street works authority may appropriate the said premises subject to, and in accordance with, the provisions of section 122 of the Act of 1972 as if the said premises were land which was not required for the purposes for which it was held immediately before the appropriation.

(2) Where the county court makes an order under subsection (1) above, the Lands Tribunal shall, for the purpose of determining the value of the said premises, nominate one of their members selected in accordance with section 1 (6) of the Lands Tribunal Act 1949, and the member nominated shall determine the same accordingly and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

PART III
—cont.

1949 c. 42.

(3) Upon the determination of the value of any premises under subsection (2) above, the street works authority shall pay into court a sum equal to the amount of that value, after deduction of the aggregate of—

- (a) the amount due as aforesaid;
- (b) interest on that amount for a period of six years at such reasonable rate as the street works authority may determine; and
- (c) all costs and expenses reasonably incurred by the street works authority.

(4) Any payment into court under subsection (3) above shall be made in accordance with section 25 of the Compulsory Purchase Act 1965 and section 9 (5) of that Act shall apply to any such payment into court.

1965 c. 56.

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

PART IV

FIRE PRECAUTIONS

19.—(1) This section applies to a parking place comprising or within a building which provides—

Parking places:
safety require-
ments.

- (a) parking space for more than three motor vehicles, being a space of which any part of the floor is situated more than 1.2 metres below the surface of the ground adjoining any wall of the building; or
 - (b) parking space for more than 20 motor vehicles;
- not being in either case a parking place for motor vehicles for the use only of the occupants of a single private dwelling-house.

(2) Where—

- (a) plans of any proposed work are deposited with a district council in accordance with building regulations; and

PART IV
—cont.

- (b) the plans show that the proposed work will include or consist of the construction, extension or alteration of a building for the purpose of using all or part of it as a parking place to which this section applies;

1928 c. 32. the district council shall reject the plans unless they are satisfied, after consultation with the fire authority, and, in a case where a licence under the Petroleum (Consolidation) Act 1928 will be required in respect of the building, after consultation with the licensing authority under that Act (if not the fire authority), that they may properly consent to the construction, extension or alteration of the building, either unconditionally, or subject to compliance with any conditions, specified in their consent, with respect to the matters mentioned in subsection (3) below for preventing or reducing danger from fire or other danger to life.

(3) The conditions subject to compliance with which plans may be passed under subsection (2) above are conditions with respect to the following matters relating to the parking place:—

- (a) construction of the vehicular approaches;
- (b) means of access for fire brigade appliances and personnel;
- (c) means of ingress and egress, including the provision of appropriate signs;
- (d) means of ventilation;
- (e) safety of electrical, mechanical and heating equipment;
- (f) provision of an emergency lighting system;
- (g) fire protection, fire alarms and fire-fighting equipment and appliances; and
- (h) prevention of the admission to drains of flammable substances.

1984 c. 55. (4) Section 16 (6) to (8) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of Part I of that Act.

(5) Any person aggrieved by the action of the district council under subsection (2) above in rejecting plans, or in imposing any conditions, may appeal to the Secretary of State.

(6) If any conditions, subject to compliance with which plans have been passed under subsection (2) above have not been or are not being complied with, the district council may by notice to the owner or occupier of the parking place prohibit or, as the case may be, require the cessation of its use for the parking of vehicles until those conditions are complied with.

(7) If it appears to the district council, after consultation with the fire authority, that any building or part of a building in the district—

PART IV
—cont.

- (a) has been first brought into use after the commencement of this Act as a parking place to which this section applies;
- (b) has been so brought into use in circumstances in which no notice had to be given, or plans, sections, specifications or written particulars deposited, in accordance with building regulations; and
- (c) is not so constructed or equipped that, if plans of the work consisting of, or including, the parking place had been deposited under subsection (2) above, the district council would have given their consent under that subsection without specifying conditions with respect to any of the matters specified in paragraphs (b) to (h) of subsection (3) above;

they may, for the purpose of preventing or reducing danger from fire or other danger to life, by notice to the owner or occupier of the parking place, require compliance with—

- (i) such conditions with respect to any of those matters as may be specified in the notice; and
- (ii) for the purpose of restricting the use of the parking place until those conditions have been complied with, such other conditions as may be so specified.

(8) The provisions of sections 99 and 102 of the Building Act 1984 (enforcement of, and appeals against, notices requiring the execution of works) shall so far as material apply in relation to any notice under subsection (7) above and for that purpose shall apply as if—

- (a) references in those provisions to that Act included a reference to that subsection;
- (b) in section 99 (2) the words from “and (b) without prejudice” to the end were omitted; and
- (c) for the reference in section 102 to the court there were substituted a reference to the Secretary of State.

(9) Any person on whom notice is served under subsection (6) above in respect of any parking place owned or occupied by him, who uses the parking place or permits it to be used for the parking of vehicles in contravention of the notice, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(10) Any person on whom notice is served under subsection (7) above in respect of any parking place owned or occupied by him, who contravenes any requirement specified in the notice,

PART IV
—cont.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) For the purposes of section 287 (1) (a) of the Act of 1936 as applied by this Act, the provisions of this section shall be provisions which it is the duty of the fire authority as well as the district council to enforce.

1928 c. 32.

(12) (a) In the case of a building in respect of which a licence under section 2 or 3 of the Petroleum (Consolidation) Act 1928 is in force or in respect of which application for such a licence has been made before deposit of such plans as are referred to in subsection (2) above, no conditions shall be specified under this section in respect of any matter which may be regulated by such a licence.

(b) Subject to paragraph (a) above, where plans in respect of any building have been passed subject to compliance with conditions specified under this section, no conditions shall be attached to any licence in respect of that building under section 2 or 3 of the said Act of 1928 which conflict with the conditions so specified.

Access for fire
brigade.

20.—(1) Except as provided in subsection (2) below, where plans for the erection or extension of a building are deposited with a district council in accordance with building regulations, the district council shall reject the plans unless after consultation with the fire authority they are satisfied that the plans show—

- (a) that there will be adequate means of access for the fire brigade to the building or, as the case may be, to the building as extended; and
- (b) that the building or, as the case may be, the extension of the building will not render inadequate existing means of access for the fire brigade to a neighbouring building.

(2) No requirement concerning means of access to a building or to a neighbouring building shall be made under this section in the case of a building to be erected or extended in pursuance of a planning permission granted upon an application made under the Act of 1971 unless—

- (a) notice of the provisions of this section is endorsed on or accompanies the planning permission; or
- (b) in any case where the planning permission has been granted before the coming into operation of this section, notice of the provisions of section 34 (Building plans: access for fire brigade) of the Flintshire County Council Act 1971 is so endorsed or so accompanies the permission.

1971 c. lxvi.

(3) Section 16 (6) and (7) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of Part I of that Act.

PART IV
—cont.
1984 c. 55.

(4) Any person aggrieved by the action of the district council in rejecting plans under this section may appeal to a magistrates' court.

(5) In this section references to the adequacy or inadequacy of means of access for the fire brigade shall be construed as references to a means of access adequate or, as the case may be, inadequate for use for fire-fighting purposes by members of one or more fire brigades and their appliances.

21.—(1) In this section—

Oil-burning
equipment.

“apparatus” and “fittings” include pipes and pipe fittings, taps, valves, pumps, gauges, vessels, fans and filters;

“boiler” means a boiler, furnace, heater, oven or similar plant;

“oil-burning equipment” means a boiler designed or adapted for the combustion of oil and includes the burners, the storage tanks and the apparatus, fittings, devices and catch-pits and any other equipment used for, or in connection with, the heating of the boiler, but does not include—

(a) any such equipment if the tank storage to supply oil to the boiler has a total capacity not exceeding 3,500 litres; or

(b) any such equipment for generating electricity forming part of a generating station of the Central Electricity Generating Board or equipment provided in accordance with proposals approved under section 6 of the Electricity Act 1957;

1957 c. 48.

“storage tank” means a tank, container or device designed or adapted for the purpose of supplying oil to a boiler; and references to the installation or placing of oil-burning equipment in any building or on any land shall be construed as including the installation or placing of oil-burning equipment which is partly in a building and partly on land outside the building.

(2) (a) The county council may make byelaws applicable to any district or part thereof for securing that arrangements are made for preventing or reducing danger from fire arising in connection with oil-burning equipment installed or placed in any building, or on any land, in the area to which the byelaws apply.

PART IV
—cont.

(b) Without prejudice to the generality of paragraph (a) above, byelaws made under this subsection may include provisions prescribing the works, apparatus and fittings and fire-fighting appliances to be provided in connection with the installation or placing of oil-burning equipment, and the mode of arrangement of any such works, apparatus, fittings and appliances.

(c) In relation to byelaws made under this subsection section 236 of the Act of 1972 (procedure for making and confirming byelaws) shall have effect as if in subsection (7), after the word “confirm” where it secondly occurs, there were inserted the words “or confirm with modifications”.

(d) If the Secretary of State, on considering byelaws submitted under section 236 of the Act of 1972 as having effect in accordance with paragraph (c) above, proposes to make a modification which appears to him to be substantial he shall inform the county council and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification and shall not confirm the byelaws until there has elapsed such period as he thinks reasonable for consideration of, and comment upon, the proposed modification by the county council and by other persons who have been informed of it.

(3) As from the appointed day in any district, being a day not earlier than the day on which byelaws made under subsection (2) above come into operation in the district, any person intending to install or place oil-burning equipment in any building or on any land, in the area of the district to which the byelaws apply, shall give to the district council not less than 14 days' notice of his intention to do so.

(4) (a) Any oil-burning equipment installed or placed in accordance with plans and specifications submitted to, and approved by, the district council shall be deemed to comply with the appropriate specification for such equipment prescribed in the byelaws in respect of all matters shown in the plans and specifications so passed.

(b) If the district council do not, within 8 weeks after the submission of plans and specifications of any oil-burning equipment under this subsection, notify the person who submitted the plans and specifications of their disapproval of the said plans and specifications stating the reasons for their disapproval, they shall be deemed to have approved them.

(5) (a) If, on an application made by a person proposing to install or place oil-burning equipment in any building, or on any land, in their district for waiver of the specification for such equipment prescribed in the byelaws, the district council, after consultation with the fire authority, are satisfied that proper

arrangements will be made for preventing or reducing danger from fire arising in connection with the equipment, they may dispense with, or relax, the requirements of the byelaws and approve the installation or the placing of the equipment notwithstanding that it does not comply with the specification for such equipment prescribed in the byelaws.

PART IV
—cont.

(b) If the district council do not, within 8 weeks after the making of an application under this subsection or such longer period as the applicant may in writing allow, notify him of their approval of the application, they shall be deemed to have disapproved it.

(6) (a) Any person aggrieved by the disapproval by the district council of—

(i) the installation or placing of oil-burning equipment under subsection (4) above; or

(ii) an application made under subsection (5) above;

may, within 21 days after the receipt of notification of the disapproval or, as the case may be, after the expiration of the period of 8 weeks specified in subsection (5) (b) above, appeal to the Secretary of State stating the grounds of his appeal; and the appellant shall at the same time serve on the district council and the fire authority a copy of that statement.

(b) Where an appeal is brought under this subsection the Secretary of State shall take into account any representations made by the appellant, the district council and fire authority within 21 days after the date of the notice of appeal, and may dismiss or allow the appeal or may vary the decision of the district council against which the appeal is made.

(c) Except for the purposes of this subsection the decision of the Secretary of State on any such appeal shall have effect as if it were a decision of the district council given under subsection (4) (a), or, as the case may be, subsection (5) (a) above.

(7) Any person who installs or places oil-burning equipment in any building or on any land in the area to which byelaws made under subsection (2) above apply without giving such notice as may be required under subsection (3) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) Subject to subsections (4) and (5) above, any person who contravenes any byelaw made under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and to a daily fine not exceeding £40.

(9) Nothing in this section shall apply to the installation of oil-burning equipment in any building in respect of which a

PART IV
—cont.
1985 c. 13.
1968 c. 54.

Prescription of
signs to be
used on
certain
buildings.

licence under the Cinemas Act 1985 or the Theatres Act 1968 is for the time being in force.

22.—(1) This section applies to any substance likely to involve special hazard to persons engaged in operations for the purposes of the extinction of fire and the protection of life and property in case of fire.

(2) The fire authority may prescribe standard uniform signs or symbols or warning notices, in a form approved by the Secretary of State clearly indicating the nature of any substance to which this section applies and the danger from fire arising therefrom.

(3) The fire authority may, by notice, require the occupier of any part of a building in the county used for the manufacture or storage of any such substance to affix, within such reasonable time as is specified in the notice, and thereafter to keep fixed in a conspicuous position or positions in or on the part of the building used for such manufacture or storage, the appropriate sign, symbol or notice prescribed under subsection (2) above.

(4) Any person who fails to comply with the requirements of the fire authority under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and to a daily fine not exceeding £40.

(5) (a) Nothing in this section shall authorise the fire authority to require the Central Electricity Generating Board or the Merseyside and North Wales Electricity Board to affix on any building or part of a building on operational land (as defined in section 222 of the Act of 1971) any sign, symbol or notice without the consent of the board concerned, which consent shall not be unreasonably withheld.

(b) Any question whether a consent required by this section has been unreasonably withheld shall be determined by the Secretary of State.

Buildings used
for storage of
flammable
substances.

23.—(1) In this section the expression “a highly flammable substance” means a substance which, when tested by a method approved by the Secretary of State gives off at a temperature less than 21 degrees Celsius a flammable vapour:

Provided that the expression does not include—

(a) petroleum spirit as defined in the Petroleum (Consolidation) Act 1928;

(b) any substance to which section 1 or 2 of that Act for the time being applies;

1928 c. 32.

- (c) celluloid or cinematograph film as defined in the Celluloid and Cinematograph Film Act 1922;
- (d) anything contained in a pressure governor, meter, booster or other apparatus for or in connection with the supply of gas by the British Gas Corporation.

PART IV
—cont.
1922 c. 35.

(2) This section applies to storage of highly flammable substances in a building for the purposes of trade except—

- (a) in securely closed metal containers in good condition, none of which contains more than 23 litres of the substance; or
- (b) in a quantity not exceeding 114 litres in a glass or glazed earthenware vessel securely stoppered.

(3) If the county council are of opinion that storage to which this section applies is of such a quantity and of such a kind as to constitute a fire hazard to persons residing or working in, or resorting to, the building, they may by notice to the occupier of the building, or of any part of it in which the hazard is present, require him to discontinue after such date as shall be specified in the notice the whole or part, as shall be so specified, of the storage constituting the hazard; and, if the storage is not to be wholly discontinued, the notice may require the occupier within such reasonable time as may be specified in the notice to do one or more of the following things:—

- (a) to install such fire alarms and fire-fighting appliances as may be so specified;
- (b) to provide such means of escape in case of fire as may be so specified;
- (c) to put up such notices indicating the danger from fire as may be so specified:

Provided that an occupier shall not be required under paragraph (b) above to make any structural alteration of the building for the purpose of providing a means of escape in case of fire—

- (i) beyond what might have been required under building regulations in force at the time of the notice were the building being newly constructed;
- (ii) subject to subsection (4) below, in breach of any covenant or obligation relating to the building unless the person entitled to enforce the covenant or obligation lawfully consents thereto.

(4) If it appears to the Secretary of State on a representation made by any person that compliance with a notice served under subsection (3) above would involve a breach of a covenant or obligation relating to the building, he shall direct that the occupier be not required to comply with the notice to the extent that it would involve such a breach until the Secretary of State

PART IV
—cont.

has given the person entitled to enforce the covenant or obligation, and the occupier, an opportunity of being heard by a person appointed by the Secretary of State for the purpose, and the Secretary of State, after considering the report of that person, has directed the occupier to comply with the notice as served or as modified by order of the Secretary of State.

(5) A person served with a notice under subsection (3) above may appeal to the Secretary of State on any of the following grounds:—

- (a) that the requirement is not justified by the terms of this section;
- (b) that there has been some informality, defect or error in or in connection with the notice;
- (c) that the county council have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are unreasonable in character or extent;
- (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
- (e) that the owner of the building, or any other person having an interest therein should contribute towards the cost of the execution of the works;

and on an appeal under this section the Secretary of State may dismiss or allow the appeal or may vary the decision of the county council against which the appeal is made.

(6) The county council shall, as soon as a person has complied with a notice served under subsection (3) above, issue to him a certificate of compliance.

(7) The certificate issued under subsection (6) above shall, except where the storage constituting the fire hazard is wholly discontinued, be a licence to constitute a fire hazard to which this section applies by the storage, in the building or part of the building to which the certificate relates, of substances of such a kind and in such quantity and stored in such a manner as shall be stated in the certificate.

(8) (a) An authorised officer of the county council may, in respect of any premises which he has entered in pursuance of the powers conferred by section 287 of the Act of 1936, take, on payment of the value thereof, and test samples of any substance stored on such premises for the purposes of trade in order to ascertain whether or not such substance is a substance to which this section applies.

(b) The result of any test of a sample taken by an authorised officer of the county council by virtue of this section shall not be admissible as evidence in any proceedings under this section

unless the following requirements have been complied with, that is to say, the said officer has forthwith after taking the sample notified the occupier of the building of his intention to have it tested and has there and then divided the sample into three parts, has caused each part to be placed in a suitable container, which has been sealed up and marked, and has:—

PART IV
—cont.

- (i) delivered one part to the occupier of the building;
- (ii) retained one part for future comparison; and
- (iii) if he thinks fit to have a test made, submitted one part to be tested.

(9) If, while a certificate is in force in respect of a building or part of a building, the occupier applies to the county council for an extension of what is permitted by the certificate, the council may amend the certificate, and, if they refuse the application in whole or in part, the applicant may appeal to the Secretary of State, and the Secretary of State may allow the appeal in whole or in part or reject it. If he allows the appeal he shall make such amendments of the certificate and give such directions as may be necessary.

(10) A person who contravenes a notice under subsection (3) above, in its original form or, as the case may be, as modified by the Secretary of State under this section, or stores anything in a building or part of a building in contravention of the terms of a certificate then in force in respect of the building, or refuses to permit a person to comply with a notice served under subsection (3) above, in its original form or, as the case may be, as modified by order of the Secretary of State under subsection (4) above, or contravenes directions given by the Secretary of State under subsection (9) above, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) In this section references to a building are references to the building and its curtilage.

(12) The county council shall not serve a notice under subsection (3) above in respect of a building or part of a building—

- (a) used for a purpose designated under section 1 of the Fire Precautions Act 1971; or
- (b) for which a fire certificate is for the time being required under that Act.

1971 c. 40.

24.—(1) If it appears to a district council that for the purpose of preventing fire in any public or other building in the district to which section 24 of the Building Act 1984 (provision of Fire and safety precautions in public and other buildings. 1984 c. 55.

PART IV
—cont.

passages) applies or for the purpose of preventing injury or danger to persons resorting to any such building—

- (a) the apparatus or fittings for lighting or heating the building require alteration; or
- (b) the arrangement of the chairs and seating requires alteration; or
- (c) any floor requires strengthening in order to prevent overloading; or
- (d) any fireplaces, flues, chimney vents or other similar parts of the building require repair or renewal;

then the district council may, after consultation with the fire authority, by notice require the owner or occupier of the building to make such provision in regard to the matters aforesaid as may be necessary.

1984 c. 55. (2) The provisions of sections 99 and 102 of the Building Act 1984 (enforcement of, and appeals against, notices requiring the execution of works) shall apply in relation to a notice given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

(3) A notice under subsection (1) above shall not require any measures to be taken which are more onerous than those necessary to secure conformity, as to matters to which building regulations relate, with the requirement of any of those regulations applicable to the building if newly erected for the relevant purpose.

1985 c. 13.
1968 c. 54.
1982 c. 30. (4) This section shall not apply to any building, or part of a building, in respect of which a licence under the Cinemas Act 1985, the Theatres Act 1968 or Part I of the Local Government (Miscellaneous Provisions) Act 1982, is for the time being in force.

Fire precautions in certain large buildings.

25.—(1) This section applies to the following operations, namely:—

- (a) the erection of a building of the warehouse class or intended to be used for the purpose of storing or depositing goods or materials and of a cubic extent exceeding 7,000 cubic metres; or
- (b) the extension of a building so used or intended to be so used so that, as extended, the building will be of a cubic extent exceeding 7,000 cubic metres.

(2) (a) Where plans and particulars are deposited with a district council in accordance with building regulations in respect of the carrying out of an operation to which this section applies, the district council may reject the plans and particulars

unless it is shown to their satisfaction that the building the subject of the operation will be provided with—

PART IV
—cont.

- (i) fire alarms (whether automatic or otherwise) and a fire extinguishing system, or either such alarms or such system; and
- (ii) effective means of removing smoke in case of fire.

(b) Before approving or disapproving any such plans and particulars the district council shall consult the fire authority.

(c) The district council shall not reject plans and particulars relating to any such alarms or system under paragraph (a) above on the ground that it is not shown to their satisfaction that there will be provided fire alarms or a fire extinguishing system, in any case where in respect of the building the subject of the operation a fire certificate issued by the Health and Safety Executive is for the time being required under the Health and Safety at Work etc. Act 1974.

1974 c. 37.

(3) (a) The person proposing to carry out an operation to which this section applies shall, when submitting plans and particulars in accordance with building regulations, deposit with the district council particulars showing how it is proposed to comply with the requirements of subsection (2) above.

(b) A district council, irrespective of any decision under building regulations—

- (i) may refuse to approve the particulars; or
- (ii) may approve them subject to such conditions (if any) as, after consultation with the fire authority, they think fit.

(4) Section 16 (6) to (8) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of Part I of that Act.

1984 c. 55.

(5) A person aggrieved by the action of the district council under subsection (3) (b) above in rejecting plans, or in imposing conditions may appeal to the Secretary of State.

(6) For the purposes of section 287 (1) (a) of the Act of 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the fire authority as well as the district council to enforce.

(7) Nothing in this section shall apply to an operation with respect to—

- (a) any building for which a licence under the Cinemas Act 1985 or the Theatres Act 1968, is for the time being in force; or

1985 c. 13.
1968 c. 54.

PART IV
—cont.
S.I. 1976/1676.

- (b) any building which is divided by compartment walls or compartment floors, constructed in accordance with the Building Regulations 1976, in such a manner that no division of the building is of cubic extent exceeding 7,000 cubic metres, or, being fitted throughout with such automatic sprinkler system as accords with the requirements of those regulations, is so divided in such manner that no division of the building is of cubic extent exceeding 14,000 cubic metres; or
- (c) any parking place for vehicles and to which section 19 (Parking places: safety requirements) of this Act applies.

Amendment
of section 72
of Building
Act 1984.
1984 c. 55.

26.—(1) Section 72 of the Building Act 1984 shall have effect in its application to the county as if—

- (a) in subsections (1) and (6) thereof “4.5 metres” were substituted for the words “twenty feet”;
- (b) in the said subsection (6) in paragraph (a) for the words “let in flats or” there were substituted the words “used in whole or in part as a flat or”.

(2) (a) The Council may by notice require the person having control of a building to which the said section 72, as amended by subsection (1) above, applies (other than a house used, in whole or in part, as a flat or flats) to keep unobstructed such passages and gangways as are specified in the notice and if he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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

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

and the court may dismiss or allow the appeal or may vary the requirement of the notice against which the appeal is made and may make directions for giving effect to its decision.

(3) Section 72 of the Building Act 1984, as having effect in accordance with this section, shall not apply to any premises to which section 9A of the Fire Precautions Act 1971 applies.

1971 c. 40.

27.—(1) A fire officer authorised in writing by the chief fire officer of the fire authority may on giving (except in a case of emergency) not less than 48 hours' notice to the secretary of a club in the county registered under the Licensing Act 1964, on production of his authority, enter and inspect as regards any matter affecting fire risks the premises occupied by the club at any reasonable time on such day as may be specified in the notice.

PART IV
—cont.

Fire precautions in registered clubs.
1964 c. 26.

(2) Nothing in this section shall apply to any premises occupied by a club licensed under the Gaming Act 1968.

1968 c. 65.

(3) This section shall cease to have effect upon the designation by order under section 1 or regulations made under section 12 of the Fire Precautions Act 1971 of the use of premises for purposes of a registered club as a use for which a fire certificate is required.

1971 c. 40.

28.—(1) Where—

- (a) plans are deposited with a district council in accordance with building regulations in respect of any proposed work or material change of use of a building; and
- (b) the plans show that the proposed work will include or consist of the construction, extension or alteration of, or, as the case may be, that the building is, a building of which the floor of any storey is more than 18.3 metres above the surface of the ground on any side of the building;

Fire precautions in high buildings.

the district council shall reject the plans unless they are satisfied, after consultation with the fire authority, that they may properly consent to the construction, extension, alteration or, as the case may be, the change of use of the building, either unconditionally or subject to compliance with any conditions, specified in their consent, with respect to the matters mentioned in subsection (2) below for preventing the outbreak or spread of fire in or from the building or reducing danger from fire in the building.

(2) The conditions subject to compliance with which plans may be passed under subsection (1) above are conditions with respect to the provision and maintenance of such of the following as may, after consultation with the fire authority, appear to the district council to be necessary:—

- (a) automatic fire alarms (that is to say, devices which, without manual intervention, originate an alarm of fire) or other fire alarms;
- (b) fire extinguishing systems;
- (c) effective means of removing smoke in case of fire;

PART IV
—cont.

(d) adequate means of access for fire brigade appliances and personnel.

1974 c. 37. (3) Paragraphs (a) and (b) of subsection (2) above shall not apply to any building in respect of which a fire certificate issued by the Health and Safety Executive is for the time being required under the Health and Safety at Work etc. Act 1974.

1984 c. 55. (4) Section 16 (6) to (8) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of Part I of that Act.

(5) A person aggrieved by the action of the district council under subsection (1) above in rejecting plans, or in imposing any conditions, may appeal to the Secretary of State.

(6) For the purposes of section 287 (1) (a) of the Act of 1936 as applied by this Act, the provisions of this section shall be provisions which it is the duty of the fire authority as well as the district council to enforce.

1985 c. 6. (7) In the case of a building or part of a building used or to be used only by the Post Office or, as the case may be, British Telecommunications plc or any subsidiary thereof within the meaning given by section 736 of the Companies Act 1985 for purposes which include use as a postal sorting office or for the accommodation or support (other than by way of storage only) of apparatus used for the operation of telecommunication services, a condition imposed under this section with respect to automatic fire alarms or fire extinguishing systems shall be of no effect if it conflicts with the precautions described in a code of practice (including appendices) issued by the Property Services Agency of the Department of the Environment which is then applicable to any such use of the building or part of the building.

PART V

STORAGE OF FLAMMABLE MATERIAL

Interpretation
of
Part V.

29.—(1) For the purposes of this Part—

- (a) the height of a stack is the distance from its highest part to the mean level of the ground on which it stands;
- (b) two or more stacks shall be treated as one stack if—
 - (i) the space between them does not allow free passage between them or is at any point less than one metre wide; or
 - (ii) they are both within an area not exceeding 235 square metres whose longest dimension does not exceed 20 metres.

(2) For the purposes of this Part access for the fire brigade is inadequate unless—

PART V
—cont.

- (a) it is unobstructed; and
- (b) it is not less than 4 metres wide and 4 metres high except at any gateway where the width may be reduced to 3.1 metres.

30.—(1) This Part applies to a stack which is not enclosed by any building which has been constructed in accordance with building regulations if—

Stacks to which this Part applies.

- (a) it consists of, or contains mainly, any one or more of the materials specified in subsection (2) below; and
- (b) it exceeds any of the measurements for stacks of those materials specified in subsection (3) below.

(2) The materials referred to in subsection (1) (a) above are—

- (a) paper or cardboard;
- (b) plastics;
- (c) rags;
- (d) rubber, whether natural or synthetic, including rubber tyres; and
- (e) wood, whether or not cut into planks, boards, billets, logs or firewood or joined so as to form boards, crates, pallets, casks or barrels.

(3) The measurements referred to in subsection (1) (b) above are—

- (a) for stacks of any materials, if any of the conditions specified in subsection (4) below are not fulfilled—
 - (i) 3 metres in height;
 - (ii) 50 cubic metres in capacity;
- (b) for stacks of any materials not being a stack specified in paragraph (c) or (d) below, if the conditions specified in subsection (4) below are fulfilled—
 - (i) 5 metres in height;
 - (ii) 450 cubic metres in capacity;
 - (iii) 20 metres in any horizontal dimension;
 - (iv) 235 square metres in any horizontal section;
- (c) for stacks consisting wholly of paper, cardboard or rags, if the conditions specified in subsection (4) below are fulfilled—
 - (i) 5 metres in height;
 - (ii) 750 cubic metres in capacity;

PART V
—cont.

- (iii) 20 metres in any horizontal dimension;
 - (iv) 235 square metres in any horizontal section;
 - (d) for stacks consisting wholly of wood, if the conditions specified in subsection (4) below are fulfilled—
 - (i) 10 metres in height;
 - (ii) 1,370 cubic metres in capacity;
 - (iii) 20 metres in any horizontal dimension;
 - (iv) 235 square metres in any horizontal section.
- (4) The conditions referred to in subsection (3) (b) to (d) above are—
- (a) there is no other stack to which this Part applies within 4 metres;
 - (b) there is an unobstructed access at least 4 metres wide round three of the sides of the stack or, if it is not rectangular, round three-quarters, measured continuously, of its perimeter;
 - (c) no street is within 5 metres;
 - (d) none of the following is on the same premises and within 6 metres, namely:—
 - (i) a furnace or incinerator;
 - (ii) a building;
 - (iii) any compressed flammable gas including liquid gas and gas dissolved in liquid under pressure;
 - (iv) a substance having a flash-point lower than 66 degrees Celsius when tested by any standard method.
- (5) A stack is not one to which this Part applies if—
- (a) being a stack of a temporary nature in connection with works of construction, alteration, maintenance, repair or renewal of a railway line of the British Railways Board, it is alongside a railway line on premises occupied by that board for the purposes of their undertaking and it is not on a site habitually used for the stacking or storage of any of the materials specified in subsection (2) above; or
 - (b) it forms the cargo or part of the cargo of a vessel or, being in any area of a port, dock or quay which is for the time being held or used for the transit of cargoes, has been unloaded from, or is intended to be loaded on, a vessel at that port, dock or quay or, where an intention to load it has been abandoned, is of a temporary nature pending its removal from that area of the port, dock or quay; or

- (c) it is enclosed by any building owned, occupied or administered by statutory dock undertakers for purposes of or in connection with their undertaking; or
- (d) it forms the load or part of the load of a railway waggon or of a mechanically propelled vehicle or of a trailer drawn or to be drawn by such a vehicle or is in a container to be carried on such a waggon, vehicle, or trailer.

PART V
—cont.

31.—(1) Subject to subsection (2) of section 35 (Transitional provisions for Part V) of this Act, as from the appointed day in the county it is unlawful for a stack to which this Part applies to be on any premises in the county without the consent of the county council or in breach of any condition subject to which such consent is given. Unlawful stacks.

(2) A person making application to the county council for a consent under this section shall provide such information for that purpose (including information about the materials to be stacked, the premises and the undertaking, trade or business conducted on the premises) as the county council may, within 28 days from the date on which the application is made, reasonably require.

(3) Where an application has been made to the county council for their consent under this section and the council have failed, within 8 weeks, or such longer period as the applicant may allow, after the application was made to give notice to the applicant that they give or refuse their consent, or give it subject to conditions, the county council shall be deemed to have given their consent without conditions except any that have been accepted in the application.

(4) Where the county council have given a consent under this section to the stacking of materials on any premises—

(a) they may—

(i) at the request of the owner of the materials or of the occupier of the premises; or

(ii) on a change of the occupier of the premises; or

(iii) on a change of circumstances which in their opinion creates or, as the case may be, increases the fire risks;

give notice to the owner of the materials or the occupier of the premises imposing conditions under this section, or adding to or varying any condition already imposed under this section; and

PART V
—cont.

(b) they may at any time by notice to the owner of the materials or the occupier of the premises relax any conditions imposed under this section.

(5) The conditions which may be imposed under this section on a consent to the stacking of materials on any premises shall be such as, having regard to the reasonable requirements of the undertaking, trade or business conducted on the premises, appear to the county council to be reasonably necessary to prevent the outbreak of fire, to reduce the damage that fire will cause if it breaks out and to facilitate fire fighting including the provision of water for fire-fighting purposes:

Provided that where, on an application for consent under this section to the stacking of materials, the county council are satisfied that, by reason of those materials the stack does not create fire risks, the county council shall give their consent unconditionally.

Part V
appeals.

32. A person aggrieved by the county council's refusal of consent, or by any condition imposed on such a consent under section 31 (Unlawful stacks) of this Act may appeal to the Secretary of State stating in writing the grounds of his appeal and giving information on any other matters that the Secretary of State may require; and the appellant shall at the same time serve on the county council a copy of that statement.

Powers of
entry for
Part V.

33. The power to enter premises conferred upon duly authorised officers of the county council for the purposes of this Part by section 287 (1) (a) of the Act of 1936 as applied by this Act shall include power to take samples for analysis from any stack on the premises.

Offences under
Part V.

34. Where a stack is on any premises in contravention of subsection (1) of section 31 (Unlawful stacks) of this Act the owner of the stack and the occupier of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Transitional
provisions for
Part V.

35.—(1) Where under subsection (4) of section 31 (Unlawful stacks) of this Act the county council impose or vary conditions, the new conditions, or the conditions as varied, shall not have effect until the expiration of 42 days after the imposition or variation has been notified to the person concerned by the county council or, if there is an appeal to the Secretary of State, until the expiration of 42 days after the Secretary of State has notified the appellant of his decision.

(2) Where the owner of a stack or the occupier of premises has represented to the county council that the appointed day fixed for the purposes of section 31 (Unlawful stacks) of this Act does not give him reasonable time to adjust his undertaking,

trade or business to the requirements of this Part, the county council may postpone the appointed day in respect of those premises to such other day as they may think fit, and, on that other day being notified to the appellant, the appointed day in respect of those premises shall be that day.

PART V
—cont.

(3) A person aggrieved by a decision under subsection (2) above may appeal to the Secretary of State.

PART VI

PUBLIC HEALTH

36.—(1) This section applies to any house—

- (a) which is occupied by persons who do not form a single household; or
- (b) which is one of two or more houses or other buildings supplied with water by one common supply pipe.

Urgent
repairs to
supply pipes
and water
fittings.

(2) Where a district council are satisfied that, by reason of any injury to, or defect in, a water fitting in, or the supply pipe for supplying water to, any occupied house or houses in the district to which this section applies, any such house, or any part thereof, has ceased to be supplied with water sufficient for the domestic purposes of the occupants, 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 pipe or execute such works and provide or repair such fittings and do such other things as they may consider necessary to secure that the supply of water is restored and recover from the owner of the house or, as the case may be, from the owners of the houses, the expenses necessarily incurred by them in so doing, not exceeding £300 or such greater sum as may be specified in an order made by the Secretary of State by statutory instrument under this section.

(3) 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 (2) above unless not less than 24 hours' notice of the intended entry has been given to the occupier.

(4) (a) In proceedings to recover expenses under subsection (2) 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

PART VI
—cont.

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.

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

(6) (a) The powers conferred by this section shall not be exercisable in relation to any water meter of the water undertakers or any other apparatus used for supplying water other than a water fitting in the premises supplied or the supply pipe to those premises.

1945 c. 42.

(b) The powers conferred by subsection (1) above shall not be exercised except in compliance with any byelaws made by the water undertakers under section 17 of the Water Act 1945.

(7) (a) Except as provided in subsection (8) below, the powers conferred by this section shall not be exercisable in relation to any premises without the consent of the water undertakers, 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 the water undertakers and a district council under this subsection, other than a difference as to the meaning or construction thereof, shall be determined by arbitration.

(8) In cases of emergency subsection (7) 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 undertakers.

(9) In this section—

“house”, “supply pipe” and “water fitting” have the meanings given by Schedule 3 to the Water Act 1945; and

“water undertakers” means the Welsh Water Authority or, where premises are situated within the area of the Severn-Trent Water Authority that authority or where the premises are situated within the limits of

supply of the Chester Waterworks Company or the Wrexham and East Denbighshire Water Company the company within whose limits of supply the premises are situated.

PART VI
—cont.

37.—(1) A district council may exercise the powers of section 3 of the Dogs Act 1906 with respect to the seizure, detention and disposal of stray dogs in their district; and for that purpose the said section 3 shall have effect in a district subject to the modifications specified in subsection (2) below.

(2) The modifications referred to in subsection (1) above are—

- (a) in subsection (1), the insertion after “a police officer” of the words “or a duly authorised officer of a district council” and after “public resort” of the words “in a district”;
- (b) in both subsections (2) and (4), the substitution for “the chief officer of police, or any person authorised by him in that behalf,” of the words “the chief constable or, as the case may be, the district council or any person authorised by him or them in that behalf.”;
- (c) in subsection (6), the substitution for “of a police area” of the words “and the district council” and for “in that area” of the words “by him or them respectively”; and
- (d) in subsection (7), the substitution for “The police shall not dispose of any dog seized under this section” of the words “A dog seized under this section shall not be disposed of” and the insertion after “inspection” of the words “at all reasonable times”.

(3) Section 3 of the Dogs Act 1906, as that section has effect in accordance with this section, is set out in Schedule 1 to this Act.

38. Section 22 of the Public Health Act 1961 (cleansing and repair of drains) shall have effect in the county as if—

- (a) it were renumbered as subsection (1) of that section and after the word “drains” there were inserted the words “private sewers”; and
- (b) at the end there were added the following:—

“(2) Where, in the case of a private sewer, there is more than one applicant, the charge may be recovered from the applicants in such proportions as, in case of dispute, the local authority may determine but without prejudice to the rights and obligations between themselves of the applicants and of any other owners and occupiers of the premises in question.”.

Amendment
of section 22
of Public
Health Act
1961.
1961 c. 64.

PART VII

PUBLIC ORDER AND PUBLIC SAFETY

Unauthorised
activities on
playing fields,
etc.

39.—(1) If, without the consent of the appropriate authority, any person takes part in any game or sport on any land forming part of a playground, playing field or sports complex under the control of, or maintained by, the local education authority, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale:

Provided that no person shall be liable to any fine under this section unless it is proved that at the material time notices warning persons of their liability under this section were posted so as to be readily seen by members of the public in such positions on or near the boundary of the playground, playing field or sports complex (as the case may be) as appear to the court to be appropriate.

(2) Any person found taking part in or causing or encouraging other persons to take part in any game or sport on any such playground, playing field or sports complex (as the case may be) without authority as aforesaid may be removed from the playground or playing field or sports complex by any person duly authorised in that behalf by the appropriate authority or by a police constable.

1944 c. 31.

(3) In this section the expression “appropriate authority” means the local education authority or such other person or persons as are, in accordance with the provisions of section 22 of the Education Act 1944, entitled to control the occupation and use of the playground, playing field or sports complex at the material time.

Signs on
vehicles.

40.—(1) Except as provided in subsection (2) below, as from the appointed day in any district there shall not be displayed in the district on or from any motor vehicle constructed or adapted to seat more than two and less than 9 passengers, not being a hackney carriage or public service vehicle—

(a) any sign, notice, mark, illumination or other feature which, having regard to the time and place at which it is displayed and to any other circumstances, may suggest to a person seeking to hire a private hire vehicle or a hackney carriage that the vehicle is used for the purpose of carrying passengers for hire or reward;

(b) without prejudice to the generality of paragraph (a) above in the case of a private hire vehicle any sign or notice which consists of or includes—

(i) the word “taxi”, “tax” or “cab” (whether in the singular or plural) or “hire” or any word of

similar meaning or appearance to any of those words, whether alone or as part of another word; or

(ii) any telephone number or address, or any number or words which appear to be, or resemble, a telephone number or address.

(2) Subsection (1) above shall not apply to—

(a) a sign displayed on or from a private hire vehicle prescribed or expressly permitted by condition attached to the grant of a licence for that vehicle under section 48 of the Act of 1976; or

(b) a sign displayed on or from a vehicle when it is stationary—

(i) which contains no words or numbers other than the name and address of the person owning or operating the vehicle or the name under which he carries on his business and its address and, in either case, the name of a passenger to be carried in the vehicle; and

(ii) is displayed in pursuance of a prior arrangement made for the carriage of the passenger named on the sign.

(3) No advertisement—

(a) indicating that motor vehicles can be hired on application to a specified address or telephone number being the address or telephone number of premises in the district; or

(b) on or near any such premises indicating that motor vehicles can be hired at those premises;

shall include the words “taxi”, “tax” or “cab”, whether in the singular or plural and whether alone or as part of another word, unless the vehicles offered for hire are licensed hackney carriages or the advertisement makes it clear that they are not.

(4) If any person knowingly—

(a) drives a vehicle in respect of which this section is contravened; or

(b) causes or permits this section to be contravened in respect of any vehicle; or

(c) subject to subsection (5) below, issues, or causes to be issued, an advertisement which contravenes subsection (3) above;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) When a person is charged with an offence under paragraph (c) of subsection (4) of this section, it shall be a defence to prove that he is a person whose business it is to

PART VII
—cont.

publish or arrange for the publication of advertisements and that he received the advertisement in question for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under that paragraph.

(6) In this section—

“advertisement” includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or a cinematograph film, or by way of sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly;

“private hire vehicle” has the meaning given by section 80 of the Act of 1976.

Byelaws as to
leisure centres.

41.—(1) A local authority may make byelaws for all or any of the following purposes:—

- (a) the good and orderly conduct of persons resorting to any leisure centre;
- (b) regulating the movement and parking of vehicles at any leisure centre;
- (c) prohibiting or regulating the use of vehicles by the public at any leisure centre otherwise than on a road.

(2) Byelaws made under subsection (1) (a) above may provide for the removal from the leisure centre of any person infringing any such byelaw by any proper officer of the local authority.

(3) In this section “leisure centre” means any place owned or managed by a local authority (whether alone or in conjunction with any other local authority or body) at which recreational facilities of two or more kinds and of any of the descriptions mentioned in section 19 (1) of the Act of 1976 are provided.

Byelaws as to
temporary
structures.

42.—(1) A district council may, after consultation with the fire authority, make byelaws with regard to temporary structures to which this section applies for the purpose of securing protection against fire and the safety of persons resorting thereto, including byelaws for securing—

- (a) the provision of safe and adequate means of ingress to and egress from the structure;
- (b) the provision of first-aid fire-fighting equipment;
- (c) the provision of proper and sufficient passages or gangways in the structure and between the structure and another building or structure;

- (d) the stability of the structure;
- (e) the proper arrangement of any seating accommodation to be provided in the structure;
- (f) where artificial lighting is provided in the structure, the provision of an adequate service of secondary or emergency lighting.

PART VII
—cont.

(2) This section applies to any tent, marquee or other similar structure which is erected in a district and to which the public are admitted, whether with or without any charge for admission for the purposes of or in connection with any fair (other than a pleasure fair as defined by section 75 of the Public Health Act 1961), show, exhibition, game, sport or athletic or other contest or public entertainment or any political, religious or other public meeting. 1961 c. 64.

43.—(1) No person shall without lawful authority or reasonable excuse remove or interfere with any lifebelt or other equipment for preventing drowning which is vested in a local authority or community council and which is placed in any public place within the county. Interference with life-saving equipment of local authorities, etc.

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

PART VIII
MISCELLANEOUS

44.—(1) In this section—

“front garden” means so much of the curtilage of a dwelling-house fronting on a street as lies between that street and—

Prohibition of parking of goods vehicles in front gardens.

(a) any building line within the curtilage prescribed under section 74 of the Act of 1980 or any other enactment; or

(b) if there is no such building line, a line, parallel to the street, which passes through the forwardmost part of any wall of the dwelling-house nearest to the street;

“goods vehicle” means a vehicle, whether mechanically propelled or not, which is constructed or adapted for the carriage of goods and has a maximum gross weight which exceeds 3.5 tonnes;

“maximum gross weight” has the meaning given to it by regulation 4 (c) of the Traffic Signs (Amendment) Regulations 1982;

S.I. 1982/1879.

PART VIII
—cont.

“residential street” means a street predominantly fronted by—

- (a) residential or mainly residential buildings;
- (b) such buildings and schools; or
- (c) such buildings and public open spaces;

and which is not a trunk road within the meaning of section 329 of the Act of 1980.

(2) If, after the appointed day in any district it appears to the district council that the amenities of any part of the district are prejudicially affected by the habitual use of any land within the front garden of any dwelling-house in a residential street in the district for the parking in the open of one or more goods vehicles, the district council may, by an order made in accordance with this section, prohibit the use of land within the front gardens of the dwelling-houses in the street, or any part thereof, specified in the order for the parking in the open of goods vehicles.

(3) (a) If the district council propose to make an order under this section, they shall—

- (i) publish a notice stating the effect of the proposal in a newspaper circulating in the district; and
- (ii) post copies of the notice in a conspicuous position at each end of each street or part thereof to which the proposal relates; and
- (iii) serve a copy of the notice and a statement of the nature of the representations (if any) made under subsection (2) above on the owner or occupier of every dwelling-house in the street or part thereof to which the draft order relates.

(b) The notice under paragraph (a) above shall state where the draft order can be inspected and copies purchased and that objections to the order may be made in writing to the district council before such day, not earlier than 12 weeks after the council have complied with paragraph (a) above, as shall be specified in the notice.

(c) Before making the order the district council shall—

- (i) consider all objections made as provided in paragraph (b) above and the availability of parking facilities;
- (ii) consult the chief officer of police, the licensing authority for the purposes of Part V of the Transport Act 1968 (regulation of carriage of goods by road), the highway authority (if any) for the street in question and, if the county council are not the highway authority or if the street is not a highway, the county council; and

- (iii) afford to the owner or occupier of every dwelling-house in the street or part thereof to which the draft order relates, being a person who has made objection, an opportunity of being heard by a committee or sub-committee of the district council.

PART VIII
—cont.

(4) If, after considering objections made under subsection (3) above, the district council determine to make the order, they may make the order in the terms of the draft, or in those terms as modified to meet in whole or in part all or any of the objections but if the district council consider that any person may be adversely affected by any such modification they shall, before making the order, take such steps as appear to them to be appropriate for informing the persons likely to be so affected of the modification, for giving those persons an opportunity to make representations and for ensuring that any such representations are duly considered by the district council.

(5) When an order has been made by the district council under this section they shall publish notice of it, and of the right of appeal under subsection (9) below, in the manner required by subsection (3) (a) (i), (ii) and (iii) above for notice of a proposal.

(6) (a) Any order made under this section shall come into operation at the expiration of the period of three months after the district council have published notice of the making of the order pursuant to subsection (5) above or, if an appeal is lodged under subsection (9) below, when the appeal is disposed of or withdrawn or fails for want of prosecution and the district council shall publish notice of the date of coming into operation of any such order in the manner required by subsection (3) (a) (i), (ii) and (iii) above as soon as may be after that date is known.

(b) Any such order shall have effect for such period, not exceeding five years, as the district council may determine, but this paragraph does not prejudice the power of the district council to make a further order.

(7) A district council may revoke an order made under this section and may vary an order so made so as to diminish the scope thereof.

(8) An order under this section shall be a local land charge.

(9) (a) A person who is aggrieved by an order under this section may, within 28 days after the first publication of the notice of the making of the order under subsection (5) above, appeal to the county court.

(b) On an appeal to the county court under this subsection the judge may make such order, either confirming or quashing or varying the order as he thinks fit, but shall not so vary the

PART VIII
—cont.

order that it is more onerous than the order made by the district council.

(10) Nothing in any order made under this section shall—

- (a) prevent the waiting of a goods vehicle on any land within the front garden of a dwelling-house for such period as is reasonably necessary for loading or unloading or for dealing with a breakdown or other emergency;
- (b) apply to any goods vehicle held ready for use in an emergency by the British Gas Corporation, not being a vehicle which has a maximum gross weight exceeding 5.6 tonnes but nothing in this paragraph shall be taken to prejudice any rule of law or other enactment.

(11) If any person uses, or permits to be used, land within the front garden of a dwelling-house in contravention of an order under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Touting,
etc.

45.—(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 for any of the purposes of subsection (2) below:—

- (a) (i) a public off-street car park;
- (ii) a recreation ground or garden;
- (iii) an open space;
- under the management or control of a local authority;
- (b) a street or esplanade, parade, promenade, marine drive or way to which the public commonly have access, whether or not as of right;
- (c) the seashore.

(2) Any person who, in a place designated under subsection (1) above for the purposes of this subsection—

- (a) importunes any person by touting for an 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) 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; or

(c) without the consent of the district council or in breach of any condition subject to which the council's consent is given—

(i) photographs 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 causes or permits any person so to do shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) The conditions of consent referred to in subsection (2) (b) and (c) above include, without prejudice to the generality of the power to impose conditions, conditions as to the times or period for which the consent is valid, conditions for the prevention of detriment to the amenities, conditions as to the part of the district where the consent is to apply and conditions as to the payment for the consent of such reasonable fee to cover the expense of the district council in dealing with applications for such consents as the district council may by resolution prescribe; and any such consent may be revoked by notice to the person to whom the consent was given.

(4) The grounds upon which a district council may withhold consent under subsection (2) (b) or (c) above, and may revoke a consent under subsection (3) above are that—

(a) the applicant is unsuitable by reason of misconduct or incapacity;

(b) the applicant has within the previous five years been convicted of an offence under this section;

(c) there is already a sufficiency of persons to whom consent has been given under this section, carrying out in the district or any part thereof the activity in respect of which the consent is requested;

(d) there would be a risk of danger or unreasonable inconvenience to users of any highway if the consent is given, or, as the case may be, not revoked;

(e) (in the case of a revocation) the applicant has failed to avail himself, or to avail himself to a reasonable extent, of his consent.

(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 district council give such consent; or

(c) the revocation of such consent under subsection (3) above;

PART VIII
—cont.

may appeal to a magistrates' court which may dismiss or allow the appeal or may vary any conditions imposed by the district 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 a copy of the notice in the places to which it relates, stating that objections to the proposal may be made to the proper officer of the district 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, the district council may by resolution designate, as places to which this section applies for 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 notice is given under this subsection.

(8) Any resolution under subsection (6) (b) above may be rescinded, or varied by the deletion of any place or part of a place, by a subsequent resolution of the district council.

(9) This section shall not prohibit—

- (a) the use of the forecourt of premises for any of the purposes mentioned in subsection (2) above by the owner or occupier of the premises or by a person being a relative or bona fide employee of the said owner or occupier;
- (b) the selling or offering or exposing for sale of anything to persons residing in or employed at premises fronting on, or adjacent to, a place designated under this section;
- (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;

and the district council shall not withhold their consent under subsection (2) (b) above to the selling or offering or exposing for sale by any person of newspapers and periodicals except on the ground that their consent has already been given to a sufficient number of other persons.

(10) Before giving any consent under this section in relation to a highway, the district council shall consult the highway authority.

PART VIII
—cont.

(11) (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:—

Subsection (2) (b);

In subsection (3), the words “(b) and”;

In subsection (4), the words “(b) or”;

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

In subsection (9), paragraph (b) and the words from “and the district council” to the end of the subsection; and

Subsection (10).

(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 such a street trading consent for a period of 12 months or until the previous expiry of the consent or its revocation under that Schedule.

(12) In this section, “street” includes the forecourt of any premises fronting the street.

46.—(1) In this section expressions to which meanings are assigned by the Local Government Superannuation Regulations 1974 as for the time being amended have the same respective meanings and references to regulations are to those regulations.

Division of
county
superannuation
fund.
S.I. 1974/520.

(2) (a) In its application to the county council regulation B1 shall have effect so as to enable the county council, after obtaining the actuarial valuation of the Clwyd County Council Superannuation Fund (“the main fund”) under regulation B7 as at 31st March 1984, and not later than 30th June 1986, to establish and thereafter to administer an additional superannuation fund to be known as “the Admission Agreement, etc. Superannuation Fund” (“the second fund”).

(b) The regulations shall with any necessary modifications apply to the second fund as they apply to the main fund.

PART VIII
—cont.

(3) (a) Upon the establishment under subsection (2) above of the second fund, that fund shall be the appropriate superannuation fund for all such pensionable employees and other persons who before the establishment of that fund have been entitled to participate in the benefits of the main fund by virtue of the operation of regulations B4, B4A or J8 (admission agreements for employees of other bodies) or who thereafter are admitted by virtue of the operation of any of the said regulations.

(b) Following the establishment and during currency of the second fund, any employee admitted by the county council under an agreement to which regulation B4 or B4A applies shall be admitted to participate in that fund and not in the main fund.

(4) (a) Upon the establishment of the second fund the main fund shall be apportioned and the provisions of Schedule 24 of the regulations shall apply for such apportionment and for the transfer of assets from the main fund to the second fund as those provisions apply where there occurs such a change of employment as is mentioned in regulation P2 (6); and the provisions of Schedule 24 shall apply as if—

(i) the fund to be apportioned under that schedule were the main fund and the fund of the new fund authority were the second fund;

(ii) the relevant date under that schedule were the date of establishment of the second fund under paragraph (a) of subsection (2) above, except that the values at the relevant date shall be calculated upon the actuarial valuation under regulation B7 of the main fund carried out as at 31st March 1984;

(iii) paragraph 7 and, in paragraph 8, the words “Subject to paragraph 7” were omitted; and

(iv) under paragraph 14, it had been agreed that the assets to be transferred should be solely money.

(b) The county council shall bear the costs of the apportionment required by this subsection.

(5) The county council may in connection with the second fund and out of the moneys of that fund, insure pensionable employees in the second fund against death in service to an amount not exceeding pensionable remuneration for one year payable by way of death gratuity under regulation E11.

(6) The county council may if they think fit wind up the second fund and transfer the assets thereof to the main fund, and thereupon—

(a) the pension rights in the second fund of all pensionable employees and persons entitled to participate in that

fund shall be transferred to and become rights in and entitlements to participate in the main fund;

PART VIII
—cont.

- (b) the main fund shall become the appropriate superannuation fund for those employees and persons; and
- (c) the foregoing provisions of this section shall cease to have effect.

47. In its application to any person employed by the county council, regulation Q.2 (2) of the Local Government Superannuation Regulations 1974 shall have effect as if the words “otherwise than as a teacher” were omitted.

Injury allowances, etc.
S.I. 1974/520.

- 48.—(1) The county council may pay compensation—
- (a) to any voluntary assistant who sustains an injury arising out of and in the course of his engagement;
 - (b) to the widow or widower or child of a voluntary assistant who dies or sustains an injury resulting in death arising out of or in the course of his engagement.
- Compensation for injury to or death of voluntary assistants, etc.

(2) Subsection (1) above shall extend so as to authorise the governors of any voluntary school in the county to pay compensation with the consent of the county council to any person employed by them or to the widow or widower or child of any such person.

- (3) Any compensation payable under this section may be paid either—
- (a) by way of a lump sum; or
 - (b) by way of periodical payments of such amounts and payable at such times and for such periods as the authority may from time to time determine having regard to all the circumstances of the case.

(4) The payment of compensation under this section shall not affect any right of claim to damages or compensation which a person to whom this section applies or his dependant may have against any person other than the authority or, except so far as may be agreed when the compensation is granted, against the authority.

- (5) This section applies to—
- (a) any voluntary assistant;
 - (b) any person employed by the governors of any voluntary school in the county.

(6) In this section—
“the authority” means the county council or the governors of any voluntary school in the county;

PART VIII
—cont.

“voluntary assistant” means a person who, at the request of the county council or an authorised officer of the county council performs any service or does anything, otherwise than for profit or reward, for the purposes of, or in connection with, the carrying out of any of the functions of the county council and includes any officer or member of a voluntary organisation which provides in the county services or facilities of the kind provided by the county council in pursuance of their functions or to which the county council make any financial contribution.

Extension of powers to grant gratuities.

49.—(1) A local authority may grant to any employee on his ceasing to be employed by them, or to a dependant of an employee who dies while in their employment, a gratuity either—

- (a) by way of a lump sum not exceeding an amount equal to twice that of the annual emoluments of the employment; or
- (b) by way of periodical payments not exceeding in the aggregate the amount aforesaid; or
- (c) by way of an annuity the capital value of which does not exceed the amount aforesaid; or
- (d) partly by way of an annuity for the benefit of the widow and partly by way of periodical payments for the benefit of such of the children of the deceased employee who shall for the time being be under the age of 18 years:

Provided that the aggregate of the capital value of such annuity and of such periodical payments shall not exceed the amount aforesaid:

Provided that—

- (i) a gratuity granted under this subsection shall not be paid out of any superannuation fund maintained by the county council;
- (ii) this subsection shall not apply in the case of an employee who is entitled to any payment out of any superannuation fund maintained by the county council other than a return of contributions.

(2) Subsection (1) above shall apply to a dependant of a former employee of a local authority who dies within one year after ceasing to be in their employment as it applies to a dependant of an employee who dies whilst in their employment:

Provided that no gratuity shall be granted under this subsection to a dependant of a former employee to whom a

gratuity has been granted under section 18 (1) of the Local Government Superannuation Act 1953 or under this section.

PART VIII
—cont.
1953 c. 25.

(3) Where a local authority have granted a gratuity under section 18 (1) of the Local Government Superannuation Act 1953 or this section and either—

- (a) the gratuity was by way of periodical payments and the employee dies before all the payments are completed; or
- (b) the gratuity was by way of an annuity and the employee dies before receiving an aggregate amount equal to the capital value of the annuity;

the authority may grant a gratuity to a dependant of the employee, and for that purpose this section shall have effect as if the employee had died while in the employment of the authority but as if for the amount specified in subsection (1) above there were substituted the aggregate amount of the periodical payments outstanding at the employee's death or, as the case may be, the difference between the capital value of the annuity and the aggregate amount of the payments made to the employee before his death.

(4) For the purposes of this section, a person employed in a voluntary school in the county, otherwise than as a teacher, shall be deemed to be employed by the county council and the county council may grant to or in respect of any such person a gratuity in accordance with the provisions of this section.

(5) Section 18 of the Local Government Superannuation Act 1953 shall cease to apply to local authorities in the county.

(6) In this section "local authority" includes the Clwyd Magistrates' Courts Committee and the North Wales Probation Committee.

50. The county council may in connection with the exercise of any of their functions contribute, by grants or otherwise, towards the cost of investigations and research undertaken by other bodies or persons into matters relating to European cultural or language studies.

Research into matters concerning cultural and other studies.

51. The powers of a local authority under section 142 (2) of the Act of 1972 to arrange for the publication within their area of information relating to local government extend to the publication within and outside their area of works of scholarship with a local connection.

Publication of works of scholarship.

52.—(1) A local authority may incur expenditure in advertising and making known the advantages, facilities and amenities afforded or to be afforded by their area and its

Power to provide information.

PART VIII
—*cont.*

neighbourhood for commerce or industry or as a tourist centre, place of historical or cultural interest or holiday resort in any manner which the local authority may think fit, and without prejudice to the generality of the foregoing provisions of this subsection they may for that purpose—

- (a) combine with any other organisation, company or person; and
- (b) employ such persons, firms or companies as they think fit.

(2) A local authority may supply information about any of the matters referred to in subsection (1) above both with regard to their area and its neighbourhood in any way they think fit, including the provision of information bureaux and may, if they think fit, make reasonable charges therefor.

(3) In this section “local authority” includes a community council.

Recording of documents.

53. Section 229 of the Act of 1972 (photographic copies of documents) in its application to any local authority in the county shall have effect as if—

- (a) at the end of subsection (1), there were inserted the words “or a recording in non-legible form from which a facsimile of the document may be reproduced”;
- (b) in subsections (2) and (4) to (7), there were inserted after the words “photographic copy” the words “or a facsimile produced from a recording”; and
- (c) in subsection (6) the words “or facsimile” were added.

Microfilming of documents.

54.—(1) Notwithstanding anything contained in any enactment a local authority may destroy any documents of the local authority other than minute books, of which they have made and retained microfilm recordings:

1958 c. 51.
1962 c. 56.

Provided that a local authority shall not under this section destroy records deposited with them under the Public Records Act 1958, or acquired or accepted by them under section 2 of the Local Government (Records) Act 1962.

(2) In this section “microfilm recording” means a reproduction of a document by any process, which reproduction is in general beyond legibility with the naked eye.

Destruction of documents connected with applications for permission for development.
S.I. 1977/289.

55. At any time after a period of six years from the date of the receipt by a local authority of an application for permission for development the local authority may, after making the necessary entries in the register in accordance with the provisions of article 21 of the Town and Country Planning General Development Order 1977, and making provision for

the retention of a copy of any grant of planning permission made in pursuance of the application, destroy any of the other documents received by them in connection with the application:

PART VIII
—cont.

Provided that nothing in this section shall authorise a local authority to destroy the application and a copy of any plan or plans approved by them in connection therewith, together with any related certificate, consent, permit or other document issued pursuant to any enactment.

56.—(1) This section applies where a sub-committee is appointed under section 102 of the Act of 1972 by—

Protection
of members
of sub-
committees.

(a) a committee of the county council or a district council;

or

(b) a joint committee appointed by authorities comprising the county council or a district council;

and the sub-committee includes a person (“the non-member”) who is not a member of a relevant authority.

(2) Where this section applies the non-member shall be treated for the purposes of section 265 of the Public Health Act 1875 (which protects members of local authorities from personal liability) as if he were a member of a relevant authority.

1875 c. 55.

(3) In this section, in relation to a sub-committee “relevant authority” means—

(a) where it was appointed by a committee, the authority which appointed that committee; and

(b) where it was appointed by a joint committee any of the authorities which appointed that joint committee.

57. Notwithstanding the repeal by this Act of section 5 (Power to provide and run omnibuses) of the Colwyn Bay Urban District Council Act 1926 the Colwyn Borough Council shall continue to be a local authority authorised to run public service vehicles under Part V of the Road Traffic Act 1930 (which authorises the running of public service vehicles by local authorities).

Power to run
public
service
vehicles.
1926 c. lxxx.
1930 c. 43.

PART IX GENERAL

58. 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.

PART IX
—*cont.*
Arbitration.

59. Where under this Act any question or dispute is to be referred to or determined by an arbitrator or arbitration, the reference shall be to a single arbitrator to be agreed upon between the parties or, failing agreement appointed by the President of the Institution of Civil Engineers on the application of any party to the dispute after notice in writing to the others of them.

Appeals to
magistrates'
court.

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

Appeals to
Secretary
of State.

61.—(1) On an appeal to the Secretary of State under any provision of this Act mentioned in subsection (2) below, the Secretary of State may at his discretion afford to the appellant and the local authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

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

In section 19 (Parking places: safety requirements), subsection (5);

In section 21 (Oil-burning equipment), subsection (6);

In section 23 (Buildings used for storage of flammable substances), subsection (5);

In section 25 (Fire precautions in certain large buildings), subsection (5);

In section 28 (Fire precautions in high buildings), subsection (5);

In section 32 (Part V appeals);

In section 35 (Transitional provisions for Part V), subsection (3).

(3) The time within which an appeal to the Secretary of State may be brought under any of the provisions referred to in subsection (2) above, other than subsection (6) of the said section 21, shall be 28 days from the date on which the relevant notice was served on the person desiring to appeal.

(4) On determining any such appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination and, in the case of an appeal under the said section 32, may give directions for the granting of a consent subject to such conditions as the county council may impose under section 31 (Unlawful stacks) of this Act.

(5) Where the Secretary of State gives a decision in proceedings on any such appeal the appellant or the local authority may appeal to the High Court against the decision on a point of law.

(6) At any stage of the proceedings on any such appeal the Secretary of State may state any question of law arising in the course of proceedings in the form of a special case for the decision of the High Court; and a decision of the High Court on a case stated by virtue of this subsection shall be deemed to be a judgment of the court within the meaning of section 16 of the Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).

PART IX
—cont.

62. 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.

63. 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 constable.

Restriction
on right to
prosecute.

64.—(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.

Liability of
directors, etc.

(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.

PART IX
—cont.
Penalty for
obstruction.

65. 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 level 3 on the standard scale.

Defence of
due diligence.

66.—(1) In proceedings for an offence under any provision of this Act mentioned in subsection (2) below or under any byelaws made thereunder 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 19 (Parking places: safety requirements);
- Section 21 (Oil-burning equipment) except subsection (8);
- Section 22 (Prescription of signs to be used on certain buildings);
- Section 23 (Buildings used for storage of flammable substances);
- Section 34 (Offences under Part V);
- Section 45 (Touting, etc.);
- Section 71 (Tidal works).

(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 in writing 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.

67.—(1) The sections of the Act of 1936 mentioned in Schedule 2 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:—

- Part IV (Fire precautions) except section 27 (Fire precautions in registered clubs);
- Part V (Storage of flammable material);
- Section 36 (Urgent repairs to supply pipes and water fittings);

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 IX
—cont.

68. Subsection (2) of section 30 of the Fire Precautions Act 1971 (avoidance of duplication by local Act provisions) shall apply to this Act as if passed before the coming into operation of that subsection.

Saving for Fire
Precautions
Act 1971.
1971 c.40.

69.—(1) Subsection (1) of section 80 (repeal or modification of certain provisions by regulations) of the Health and Safety at Work etc. Act 1974 shall apply to any provision of this Act and to any regulation and byelaw made under it as it applies to any provision to which it applies.

Saving for
Health and
Safety at
Work etc. Act
1974 and
Building Act
1984.

(2) Nothing in the following sections of this Act shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the said Act of 1974:—

1974 c. 37.

Section 21 (Oil-burning equipment);

Section 23 (Buildings used for storage of flammable substances);

Section 24 (Fire and safety precautions in public and other buildings);

Section 25 (Fire precautions in certain large buildings);

Section 28 (Fire precautions in high buildings).

(3) Sub-paragraph (1) of paragraph 11 of Schedule 1 to the Building Act 1984 (repeal or modification of certain enactments by building regulations) 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 sub-paragraph applies to any enactment mentioned therein.

1984 c. 55.

70. Nothing in this Act shall prejudice or derogate from any of the rights or privileges, or the jurisdiction or authority, of Trinity House.

Saving for
Trinity House.

71.—(1) The following provisions of this section shall apply to tidal works, that is to say, works on, under or over tidal waters or tidal lands below the level of high water, being works authorised by the following enactments:—

Tidal works.

(a) the Rhyl Bridge Act 1861;

1861 c. lxxxii.

(b) the Rhyl Improvement Act 1872;

1872 c. civ.

PART IX

—cont.

1892 c. clix.

1902 c. clxxv.

1924 c. viii.

1965 c. xxvii.

- (c) the Rhyl Improvement Act 1892;
- (d) the Colwyn Bay and Colwyn Urban District Council Act 1902;
- (e) the Queen's Ferry Bridge Act 1924;
- (f) the Flintshire County Council (Higher Ferry Saltney Footbridge) Act 1965;

in substitution for enactments repealed by this Act relating to the lighting, survey, abandonment or decay of, and injury to, those works, each of which is in this section referred to as "tidal work".

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

(b) If the owners fail to notify Trinity House as required by this subsection or to comply in any respect with a direction given under this subsection they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

(3) (a) The owners of a tidal work shall during the whole time of the construction and after the completion thereof exhibit every night from sunset to sunrise in such positions on or near the tidal work as may be directed from time to time by Trinity House such lights, if any, as may be so directed; and shall take such other steps for the prevention of danger to navigation as may be so directed.

(b) If the owners fail to comply in any respect with a direction given under this subsection, they shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine.

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

(b) 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 Secretary of State may include that part of the work or any portion thereof in any notice under this subsection.

PART IX
—cont.

(c) If, on the expiration of 30 days from the date when a notice under this subsection is served upon the owners, they have failed to comply with the requirements of the notice, the Secretary of State may execute the works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the owners as a simple contract debt.

(5) The Secretary of State may at any time, if he deems it expedient, order a survey and examination of a tidal work, and any expenditure incurred by the Secretary of State in any such survey and examination shall be recoverable from the owners of the work.

72.—(1) The Acts specified in Part I of Schedule 3 to this Act and the confirmation Acts and Orders specified in Part II of that Schedule are hereby repealed to the extent specified in that Schedule. **Repeals and savings.**

(2) The saving provisions in Schedule 4 to this Act shall have effect in relation to repeals effected by this Act.

SCHEDULES

SCHEDULE 1

Section 37.

1906 c. 32.

SECTION 3 OF THE DOGS ACT 1906 AS HAVING EFFECT IN ACCORDANCE WITH SECTION 37 (CONTROL OF STRAY DOGS) OF THIS ACT

3.—(1) Where it appears to a police officer or a duly authorised officer of the district council that any dog found in a highway or place of public resort is not in the charge of any person, he may seize the dog and may detain it until the owner has claimed it and paid all expenses incurred by reason of its detention.

(2) Where any dog so seized wears a collar having inscribed thereon or attached thereto the address of any person, or the owner of the dog is known, the chief officer of police or, as the case may be, the district council, or any person authorised by him or them in that behalf, shall serve on the person whose address is given on the collar, or on the owner, a notice in writing stating that the dog has been so seized, and will be liable to be sold or destroyed if not claimed within 7 clear days after the service of the notice.

(3) A notice under this section may be served either—

- (a) by delivering it to the person on whom it is to be served; or
- (b) by leaving it at that person's usual or last known place of abode, or at the address given on the collar; or
- (c) by forwarding it by post in a prepaid letter addressed to that person at his usual or last known place of abode, or at the address given on the collar.

(4) Where any dog so seized has been detained for 7 clear days after the seizure, or, in the case of such a notice as aforesaid having been served with respect to the dog, then for 7 clear days after the service of the notice, and the owner has not claimed the dog and paid all expenses incurred by reason of its detention, the chief officer of police or, as the case may be, the district council or any person authorised by him or them in that behalf, may cause the dog to be sold or destroyed in a manner to cause as little pain as possible.

(5) No dog so seized shall be given or sold for the purposes of vivisection.

(6) The chief officer of police and the district council shall keep, or cause to be kept, one or more registers of all dogs seized under this section by him or them respectively which are not transferred to an establishment for the reception of stray dogs. The register shall contain a brief description of the dog, the date of seizure and particulars as to the manner in which the dog is disposed of, and every such register shall be open to inspection at all reasonable times by any member of the public on payment of a fee of 5p.

(7) A dog seized under this section shall not be disposed of by transferring it to an establishment for the reception of stray dogs unless a register is kept for that establishment containing such particulars as to dogs received in the establishment as are above mentioned, and such register is open to inspection at all reasonable times by the public on payment of a fee not exceeding 5p.

(8) The police officer or other person having charge of any dog detained under this section shall cause the dog to be properly fed and maintained.

SCH. 1
—cont.

(9) All expenses incurred by the police under this section shall be defrayed out of the police fund, and any money received by the police under this section shall be paid to the account of the police fund.

SCHEDULE 2

Section 67.

SECTIONS OF ACT OF 1936 APPLIED TO THIS ACT

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
283 (1)	Notices to be in writing; forms of notice, &c.
285	Service of notices, &c.
289	Power to require occupier to permit works to be executed by owner.
291	Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments.
294	Limitation of liability of certain owners.
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.

Section 72.

SCHEDULE 3

ENACTMENTS REPEALED

PART I—LOCAL ACTS

Chapter (1)	Short title (2)	Extent of repeal (3)
15 & 16 Vict. c. xxxii.	Rhyl Improvement Act 1852.	The whole Act.
24 & 25 Vict. c. lxxxii.	Rhyl Bridge Act 1861.	The whole Act.
35 & 36 Vict. c. civ.	Rhyl Improvement Act 1872.	The whole Act except section 13.
55 & 56 Vict. c. clix.	Rhyl Improvement Act 1892.	The whole Act.
57 & 58 Vict. c. clxxx.	Queen's Ferry Bridge Act 1894.	The whole Act.
60 & 61 Vict. c. cclix.	Colwyn Bay and Colwyn Urban District Council Act 1897.	The whole Act.
62 & 63 Vict. c. xxv.	Queen's Ferry Bridge Act 1899.	The whole Act.
1 Edw 7. c. ccxxxix.	Rhyl Improvement Act 1901.	The whole Act except sections 7 and 10 and section 128 so far as it relates to water.
2 Edw 7 c. clxxv.	Colwyn Bay and Colwyn Urban District Council Act 1902.	The whole Act except paragraphs (2) to (4) and (7) of section 37.
1 & 2 Geo. 5 c. xlviii.	Rhôs-on-Sea Pier Act 1911.	The whole Act.
14 & 15 Geo. 5 c. viii.	Queen's Ferry Bridge Act 1924.	The whole Act.
16 & 17 Geo. 5 c. lxxx.	Colwyn Bay Urban District Council Act 1926.	The whole Act.
22 & 23 Geo. 5 c. xxxi.	Rhyl Urban District Council Act 1932.	The whole Act except sections 5, 10, 11, 13, 17, 19, 25 to 27 and 86.
25 & 26 Geo. 5 c. l.	Rhyl Urban District Council Act 1935.	The whole Act except paragraphs (c) and (e) of section 159.
4 & 5 Eliz. 2 c. lxxxvi.	Rhyl Urban District Council Act 1956.	The whole Act.

Chapter (1)	Short title (2)	Extent of repeal (3)
1965 c. xxvii.	Flintshire County Council (Higher Ferry Saltney Footbridge) Act 1965.	The whole Act.
1970 c. xviii.	Flintshire County Council Act 1970.	The whole Act.
1971 c. lxvi.	Flintshire County Council Act 1971.	The whole Act except section 21.

SCH. 3
—cont.

PART II
CONFIRMATION ACTS AND ORDERS

Chapter (1)	Short title (2)	Extent of repeal (3)
38 & 39 Vict. c. clxxv.	Local Government Board's Provisional Orders Confirmation (Aberdare, &c.) Act 1875.	The Order relating to Denbigh.
39 & 40 Vict. c. lxxxvii.	Local Government Board's Provisional Orders Confirmation (Aberavon, &c.) Act 1876.	The Order relating to Abergele and Pensarn.
45 & 46 Vict. c. ciii.	Local Government Board's Provisional Orders Confirmation (No. 9) Act 1882.	The Order relating to Rhyl.
50 & 51 Vict. c. lxxxiv.	Local Government Board's Provisional Orders Confirmation (No. 2) Act 1887.	The Order relating to Abergele and Pensarn.
50 & 51 Vict. c. clxxx.	Local Government Board's Provisional Orders Confirmation (No. 7) Act 1887.	The Order relating to Rhyl.
53 & 54 Vict. c. xxxvii.	Pier and Harbour Orders Confirmation (No. 1) Act 1890.	The Rhyl (New) Promenade Pier and Landing-Stage Order 1890.
55 & 56 Vict. c. xxxiii.	Pier and Harbour Orders Confirmation (No. 1) Act 1892.	The Colwyn Bay Pier Order 1892.
59 & 60 Vict. c. clxvii.	Local Government Board's Provisional Orders Confirmation (No. 2) Act 1896.	So much of the Order set out in the First Schedule as relates to Abergele and Pensarn.

SCH. 3
—cont.

Chapter (1)	Short title (2)	Extent of repeal (3)
59 & 60 Vict. c. ccxxxvi.	Local Government Board's Provisional Orders Confirmation (No. 13) Act 1896.	The Order relating to the County of Flint.
60 & 61 Vict. c. lxx.	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1897.	The Rhyl Order 1897.
60 & 61 Vict. c. lxxv.	Local Government Board's Provisional Orders Confirmation (No. 10) Act 1897.	The Counties of Denbigh and Flint (Erbistock &c.) Order 1897.
—	Llandudno and Colwyn Bay Light Railway Order 1898.	The whole Order.
62 & 63 Vict. c. cl.	Local Government Board's Provisional Order Confirmation (No. 15) Act 1899.	The whole Act.
—	Llandudno and Colwyn Bay Light Railway (Deviation and Amendment) Order 1903.	The whole Order.
—	Llandudno and Colwyn Bay Light Railway (Extension and Amendment) Order 1907.	The whole Order.
1 & 2 Geo. 5 c. cxlvi.	Local Government Board's Provisional Orders Confirmation (No. 8) Act 1911.	The Colwyn Bay and Colwyn Order 1911.
—	Llandudno and Colwyn Bay Light Railway (Extension No. 2) Order 1912.	The whole Order.
12 & 13 Geo. 5 c. xciv.	Ministry of Health Provisional Order Confirmation (No. 4) Act 1922.	The whole Act.
15 & 16 Geo. 5 c. lxxviii.	Ministry of Health Provisional Orders Confirmation (No. 3) Act 1925.	Colwyn Bay and Colwyn Order 1925.
—	Colwyn Bay Urban (Public Health) Order 1932.	The whole Order.

Chapter (1)	Short title (2)	Extent of repeal (3)
—	Colwyn Bay Urban (Adaptation of Local Acts) Order 1933.	The whole Order.
—	Colwyn Bay Urban (Public Health) Order 1933.	The whole Order.
1 Edw. 8 & 1 Geo. 6 c. viii.	Ministry of Health Provisional Order Confirmation (Colwyn Bay) Act 1937.	The whole Act.

SCH. 3
—cont.

Section 72.

SCHEDULE 4

SAVING PROVISIONS

1. In so far as anything done under an enactment in force in any area which is repealed by this Act could have been done under any enactment in this 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 enactment.

2.—(1) Anything begun under an enactment repealed by this Act may be continued under any enactment in this Act or in any public general Act relating to the same matter as if begun under either of those last-mentioned provisions.

(2) Where any period of time specified in, or having effect in relation to, an enactment repealed by this Act is current at the date of the coming into operation under this Act of any provision thereof relating to the same matter, that provision of this Act shall have effect as if it were in force when that period began to run.

3. References in this Act to things done, left undone, suffered or occurring shall, so far as the context requires for the continuity of operation between an enactment in force in any area which is repealed by this Act and any enactment in this Act relating to the same matter in the same area, be construed as including references to things done, left undone, suffered or occurring before the coming into operation of that provision of this Act.

4. Nothing in this Act shall affect the operation of section 254 of the Act of 1972.

5. Where an Act 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 repeal, the repeal shall not affect the interpretation of the excepted provision.

1973 c. 37. 6. Notwithstanding the repeal by this Act of enactments continued in force by or under the Water Act 1973 relating to any functions exercisable by the water authority other than the supply of water within their area, the water authority may continue and maintain all works authorised by those enactments as if this Act had not been passed.

1978 c. 30. 7. The mention of particular matters in this Schedule shall not be held to prejudice or affect the general application of sections 15, 16 and 17 of the Interpretation Act 1978.



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