



CHAPTER xxxviii.

An Act to confer further powers upon the mayor aldermen and burgesses of the borough of Brighton with respect to the acquisition and use of lands to provide that certain private enclosures in the borough and other lands shall become public pleasure grounds to make further provision with respect to the water undertaking of the said mayor aldermen and burgesses and with respect to the health local government improvement and finance of the borough and for other purposes. [30th July 1948.]

WHEREAS the borough of Brighton (hereinafter referred to as "the borough") is a county borough under the government of the mayor aldermen and burgesses of the borough (hereinafter referred to as "the Corporation"):

And whereas it is expedient that the Corporation should be authorised to acquire certain lands in the borough for the purposes mentioned in this Act:

And whereas under the Brighton Corporation Act 1931 the owners and occupiers of certain premises in the neighbourhood of the five enclosures as defined in this Act and their respective families visitors and friends are entitled to the exclusive use and enjoyment of the enclosures and the occupiers of those premises are liable for the payment of rates for defraying the expenses of and incidental to the maintenance management and improvement of the enclosures: 21 & 22 Geo. 5.
c. cix.

And whereas it is expedient that certain of the lands which the Corporation are authorised by this Act to acquire and the five enclosures should be kept open as pleasure grounds for

the use and enjoyment of the public and should be maintained by the Corporation and that further provision should be made with respect thereto as by this Act provided:

And whereas the said Act of 1931 made provision with respect to certain disused burial grounds in the borough and it is expedient that one of those burial grounds should be vested in the Corporation and that further provision should be made with respect thereto as by this Act provided:

And whereas it is expedient to make further provision with respect to the water undertaking of the Corporation and with respect to the health local government improvement and finance of the borough and to enlarge the powers of the Corporation in regard thereto:

And whereas it is expedient that the other provisions of this Act be enacted:

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

And whereas plans showing the lands which the Corporation may acquire compulsorily and the lands in which rights will be extinguished under the powers of this Act and a book of reference to those plans containing the names of the owners or reputed owners lessees or reputed lessees and of the occupiers of those lands have been deposited with the town clerk of the borough which plans and book of reference are in this Act respectively referred to as the deposited plans and the deposited book of reference:

23 & 24 Geo. 5.
c. 51. And whereas in relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

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

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as the Brighton Corporation Act 1948.

Division of
Act into
Parts.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Public walks and pleasure grounds.

- Part IV.—Dyke Road burial ground.
 Part V.—Water.
 Part VI.—Streets and buildings.
 Part VII.—Infectious disease and sanitary provisions.
 Part VIII.—Food.
 Part IX.—Sale of coke &c.
 Part X.—Superannuation.
 Part XI.—Finance and miscellaneous.

PART I.
—cont.

3. The Lands Clauses Acts except sections 92 and 127 to 132 of the Lands Clauses Consolidation Act 1845 (so far as such Acts are applicable for the purposes of and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act Provided that the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be under the corporate seal of the Corporation and shall be sufficient without the addition of the sureties mentioned in that section.

Incorporation
of Lands
Clauses Acts.
8 & 9 Vict.
c. 18.

4.—(1) In this Act unless there be something in the subject or context repugnant to such construction the several words and expressions to which meanings are assigned by the Public Health Act 1936 have the same respective meanings and where in any particular Part of that Act special meanings are assigned to words or expressions occurring therein those words or expressions have the same respective meanings in any provisions of this Act dealing with the same subject matter as that Part of that Act.

Interpretation.

26 Geo. 5. &
1 Edw. 8.
c. 49.

(2) In this Act unless the subject or context otherwise requires and except as otherwise expressly provided—

“ The borough ” means the borough of Brighton;

“ The Corporation ” means the mayor aldermen and burgesses of the borough;

“ The town clerk ” “ the medical officer ” and “ the sanitary inspector ” mean respectively the town clerk the medical officer of health and any sanitary inspector of the borough;

“ The general rate ” and “ the general rate fund ” mean respectively the general rate and the general rate fund of the borough;

“ Local planning authority ” has the same meaning as in the Town and Country Planning Act 1947;

“ Food ” has the meaning assigned to it by section 100 of the Food and Drugs Act 1938;

“ Daily penalty ” means a penalty for each day on which any offence is continued by a person after conviction;

10 & 11 Geo. 6.
c. 51.

1 & 2 Geo. 6.
c. 56.

PART I.
—cont.55 & 56 Vict.
c. 57.

“ The Minister ” means the Minister of Health;

“ The Act of 1892 ” means the Private Street Works Act 1892;

“ The Act of 1931 ” means the Brighton Corporation Act 1931;

“ The Act of 1933 ” means the Local Government Act 1933;

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

“ The Act of 1936 ” means the Brighton Corporation Act 1936;

38 & 39 Vict.
c. 55.

“ The Public Health Acts ” means the Public Health Act 1875 and any Acts amending or extending that Act;

“ Enactment ” includes this Act and any general or local Act order byelaw or regulation for the time being in force within the borough or within the limits within which the Corporation are for the time being authorised to supply water;

10 & 11 Geo. 6.
c. 49.

“ The transport commission ” means the British Transport Commission and any reference to the transport commission in relation to any functions of that commission which are for the time being delegated to an executive in pursuance of section 5 of the Transport Act 1947 shall be construed as a reference to that executive.

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

PART II.

LANDS.

Power to
take lands.

5.—(1) The Corporation may enter upon take and use the undermentioned lands in the borough—

(a) for the purposes mentioned in section 13 (The five enclosures and other lands to be public pleasure grounds) of this Act—

(i) the enclosure and gardens forming part of Montpelier Crescent being the lands numbered 12 on the deposited plans;

(ii) the lands numbered 20 on the deposited plans;

(b) for the purpose of widening and improving Marine Parade the lands numbered 14 15 and 16 on the deposited plans:

Provided that nothing in this section shall authorise the Corporation to acquire any part of the lands numbered 15 on the deposited plans which is situate more than fifteen feet from the northern boundary of Marine Parade or any interest in the tunnel under the said lands.

(2) The consent of the Minister of Town and Country Planning shall be requisite to the disposal of any land acquired by the Corporation under this section other than a disposal by way of lease or otherwise for a period of not exceeding seven years and that Minister shall not consent to the transfer of the freehold in or the granting of a lease for more than ninety-nine years of any such land unless he is satisfied that there are exceptional circumstances which render the disposal of the land in that manner expedient.

6.—(1) If there is any omission misstatement or wrong description of any lands or of the owners lessees or occupiers of any lands shown on the deposited plans or described in the deposited book of reference the Corporation after giving ten days' notice to the owners lessees and occupiers of the lands in question may apply to two justices having jurisdiction in the borough for the correction thereof.

Correction of errors in deposited plans and book of reference.

(2) If on any such application it appears to the justices that the omission misstatement or wrong description arose from mistake they shall certify the same accordingly and shall in their certificate state the particulars of the omission and in what respect any such matter is misstated or wrongly described.

(3) The certificate or a copy thereof shall be deposited with the town clerk and thereupon the deposited plans and deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to take the lands in accordance with the certificate.

(4) Any certificate or copy deposited under this section shall be kept by the town clerk with the other documents to which the same relates.

7. The following provisions of the Act of 1931 shall so far as applicable extend and apply for the purposes of this Act in as full and complete a manner as if they were re-enacted in this Act:—

Incorporation of provisions of Act of 1931 relating to lands.

Section 276 (Compensation in case of recently acquired interest):

Provided that for the words "the sixteenth day of November nineteen hundred and twenty-nine" in

PART II.
—cont.

that section there shall be substituted the words “ the twenty-second day of September nineteen hundred and forty-seven ”;

Section 277 (Power to enter property for survey and valuation);

Section 278 (Extinction of private rights of way);

Section 281 (Persons under disability may grant easements &c.).

Amendment
of section 283
of Act of
1931.

8. Section 283 (Retention and disposal of lands) of the Act of 1931 shall have effect as if the words “ other than lands in the borough acquired under any local Act applying to the Corporation ” were inserted after the word “ Corporation ” in subsection (3) thereof.

As to
increased
value of lands
due to
demolition or
alteration of
adjoining
property.

9.—(1) In determining the amount of compensation or purchase money to be paid by the Corporation in respect of the acquisition by them under any powers they may for the time being possess of any lands in the borough any enhancement in value of those lands arising out of or made possible by reason of the demolition alteration or setting back after the passing of this Act and within the period of ten years immediately preceding the date of service by the Corporation of notice to treat for those lands (and whether such demolition alteration or setting back was effected by the Corporation or by any other person) of any adjoining building or structure by reason or as a result of or in connection with—

(a) the execution by the Corporation of any works of street improvement;

(b) the prescription by the Corporation (whether before or after the passing of this Act) of a line of frontage improvement line or building line;

(c) the exercise by the Corporation of the powers conferred on them by section 293 (Further powers as to future line of street) of the Act of 1931;

(d) the exercise by the Corporation (whether before or after the passing of this Act) of the powers conferred upon them by section 1 or section 2 of the Restriction of Ribbon Development Act 1935 or by the Town and Country Planning Act 1947 or by any scheme made under any previous enactment relating to town and country planning and for the time being in force;

(e) any agreement made (whether before or after the passing of this Act) between the Corporation and any person interested in the adjoining building or structure demolished altered or set back;

shall not be taken into account.

25 & 26 Geo. 5.
c. 47.

(2) If—

(a) planning permission for any development of the lands has been granted under Part III of the Town and Country Planning Act 1947 or is deemed to have been so granted and an enhancement in the value of the lands which under subsection (1) of this section would not be taken into account in determining the amount of compensation or purchase money to be paid has thereby been created; and

(b) before the date of the notice to treat any sum has been paid under Part VII of the Town and Country Planning Act 1947 by way of development charge in respect of that development;

nothing in subsection (1) of this section shall prevent that enhancement in value from being taken into account up to an amount not exceeding the sum which has been paid by way of development charge.

(3) The provisions of subsection (1) of this section shall in relation to lands affected thereby be deemed for the purposes of Part VI of the Land Charges Act 1925 to be a local land charge and shall be registered by the proper officer accordingly and the provisions of that Act and the rules made or to be made thereunder and in force for the time being shall apply accordingly. 15 & 16 Geo. 5.
c. 22.

(4) In this section “adjoining building or structure” means any building or structure which immediately prior to its being demolished altered or set back adjoined the lands to be acquired or was separated from those lands only by a passage or street.

PART III.

PUBLIC WALKS AND PLEASURE GROUNDS.

10. In this Part of this Act “the five enclosures” means the enclosures and gardens forming part of Norfolk Square Bedford Square Regency Square Powis Square and the New Steine. Definition of
“the five
enclosures.”

11.—(1) The exclusive rights conferred by any enactment mentioned in subsection (3) of this section for the use and enjoyment of the five enclosures by the owners and occupiers of particular premises and their respective families visitors and friends and all other private rights (if any such there be) in respect of the user of the five enclosures shall on the appointed day be and are hereby extinguished. Extinguish-
ment of
rights in the
five enclosures.

PART III.
—cont.

(2) On the appointed day the several committees of the five enclosures constituted pursuant to section 265 (Committee for managing enclosed places) of the Act of 1931 shall be dissolved and cease to exist.

(3) The following provisions of the Act of 1931 and the Act of 1936 shall on the appointed day be repealed so far as they relate to the five enclosures:—

The Act of 1931.

- Section 261 (Definitions for Part XV);
 Section 262 (Enclosed places to continue vested in Corporation);
 Section 264 (Enclosed places);
 Section 265 (Committee for managing enclosed places);
 Section 266 (Committee may make rates to defray expenses);
 Section 267 (Byelaws as to enclosed places);
 Section 268 (Committee may bring actions and take proceedings);
 Section 269 (Town clerk not liable in respect of certain legal proceedings instituted in his name);
 Section 270 (Proceedings of committee not to be invalidated for want of form);
 Section 271 (As to appropriation of enclosed places);
 Section 272 (Saving for statutory powers);
 The Seventh Schedule (List of enclosed places and privileged houses);
 The Eighth Schedule (Regulations as to election of members of a committee for the management of an enclosed place).

The Act of 1936.

- Section 32 (Correction of clerical error in Seventh Schedule of Act of 1931).

(4) Notwithstanding the repeal effected by this section or anything in this Act—

(a) the five enclosures shall continue vested in the Corporation and the Corporation shall continue to be entitled to the benefit of any covenants relating to any of those enclosures to which they are entitled immediately before the appointed day;

(b) all actions arbitrations prosecutions and proceedings by or on behalf of against or in favour of the committee of any of the five enclosures by reason of any matter

or thing accruing or done before the appointed day under or in execution of or in relation to the provisions of any enactment mentioned in subsection (3) of this section may be continued commenced taken made or prosecuted by on behalf of against or in favour of the Corporation as and when it might have been continued commenced taken made or prosecuted by on behalf of against or in favour of the committee if this Act had not been passed but not further or otherwise;

- (c) all byelaws relating to any of the five enclosures made under any enactment mentioned in subsection (3) of this section which immediately before the appointed day are existing and valid shall until altered or revoked or until their expiration continue in force and may be enforced by the Corporation accordingly;
- (d) all rates rents and charges and other sums and debts which immediately before the appointed day are due and payable or accruing due or payable to the committee of any of the five enclosures shall be due and payable to and may be collected recovered and enforced by or on behalf of the Corporation as the same might have been payable to and collected recovered and enforced by or on behalf of the committee if this Act had not been passed and shall be carried to and form part of the general rate fund;
- (e) all contracts agreements conveyances deeds leases and other instruments entered into or made by the committee of any of the five enclosures in relation to that enclosure and in force immediately before the appointed day shall on and after that day be as binding and of as full force and effect against or in favour of the Corporation and may be enforced as fully and effectually as if instead of the committee the Corporation had been a party thereto or bound thereby or entitled to the benefit thereof;
- (f) all books and documents which if this Act had not been passed would have been evidence in respect of any matter for or against the committee of any of the five enclosures shall on and after the appointed day be admitted in evidence in respect of the same or the like matter for or against the Corporation;
- (g) all officers and persons who immediately before the appointed day have in their possession or under their control on behalf of the committee of any of the five enclosures any books documents papers moneys or

PART III.
—cont.

effects relating to that enclosure shall be liable to account for and deliver up the same to the Corporation or to such persons as the Corporation may appoint to receive the same and subject to the same consequences on refusal or neglect as if such officers and persons had been appointed by and become possessed of such books documents papers moneys and effects for the Corporation.

(5) The mention of particular matters in subsection (4) of this section shall not be held to prejudice or affect the general application of section 38 (Effect of repeal in future Acts) of the Interpretation Act 1889.

52 & 53 Vict.
c. 63.

(6) In this section the expression "the appointed day" means the day immediately following the date of the passing of this Act.

As to certain
money
payable as
compensation.
2 & 3 Geo. 6.
c. 75.

12. Any money which may be or become payable in respect of any of the five enclosures as compensation for the removal of railings or as compensation under the Compensation (Defence) Act 1939 or otherwise shall be paid to the Corporation.

The five
enclosures
and other
lands to be
public pleasure
grounds.

13.—(1) On and from the appointed day—

- (a) the five enclosures;
- (b) the enclosure and gardens forming part of Montpelier Crescent being the lands numbered 12 on the deposited plans; and
- (c) the lands numbered 20 on the deposited plans;

shall be public pleasure grounds within the meaning of the Public Health Acts and the Corporation may exercise in regard thereto the powers conferred upon them by any enactment in relation to public pleasure grounds and the expenses in connection therewith shall be discharged out of the general rate fund:

Provided that the lands numbered 20 on the deposited plans shall be developed and maintained exclusively as gardens or public walks in a style to be approved by the Royal Fine Arts Commission and the Corporation shall not use or permit any part thereof to be used for music or the sale of refreshments or any article or thing.

(2) The Corporation shall not obstruct or interfere with the access to or from the tunnel numbered 17 on the deposited plans from or to the lands numbered 20 on the deposited plans.

(3) As part of the widening and improvement of Marine Parade the Corporation shall subject to the approval of the Minister of Transport construct and unless and until the said

Minister shall otherwise direct thereafter maintain grass verges of a width of not less than fifteen feet in front of the premises known as Chichester Terrace and Arundel Terrace and separated therefrom by service roads the carriageway of which shall be not less than sixteen feet in width.

(4) In this section the expression "the appointed day" means in relation to the five enclosures the day immediately following the date of the passing of this Act and in relation to the lands mentioned in paragraphs (b) and (c) of subsection (1) of this section the day immediately following the day on which those lands respectively become vested in the Corporation.

14. It is hereby declared that no person having an estate or interest in the premises the owners and occupiers of which had any rights for the use and enjoyment of any of the five enclosures which are extinguished by this Part of this Act shall be under any liability to any person in respect of the extinguishment of those rights.

Persons interested in the five enclosures not under liability for extinguishment of rights.

15. Nothing in this Part of this Act shall limit any right which the Corporation may have under any Act or any Order confirmed by or having the force of an Act to use the five enclosures for any of their statutory purposes.

Saving for statutory powers.

PART IV.

DYKE ROAD BURIAL GROUND.

16. In this Part of this Act "the burial ground" means the disused burial ground on the east side of Dyke Road and the north side of Church Street in the borough (being the burial ground mentioned in subparagraph (b) of paragraph (32) of section 6 (Interpretation) of the Act of 1931) numbered 13 on the deposited plans.

Definition of "the burial ground."

17.—(1) On the day immediately following the date of the passing of this Act the burial ground shall by virtue of this Act be transferred to and vested in the Corporation without any deed of conveyance freed from all ecclesiastical and other trusts uses purposes obligations disabilities and restrictions whatsoever imposed on the lands constituting the site of the burial ground or affecting those lands under or by reason of any Act of Parliament (other than the Act of 1931 as amended by this Act) deed or other instrument and from the act or consequences of the consecration of the Church and accordingly such trusts uses purposes obligations disabilities restrictions and consecration shall be and the same are hereby absolutely extinguished and vacated.

Vesting of burial ground in Corporation.

PART IV.
—cont.

(2) In consideration of the transfer to and vesting in the Corporation of the burial ground and in full satisfaction of all claims in respect of the freehold interest therein the Corporation shall pay the sum of five hundred pounds to the Church Commissioners to be applied for the purposes for which the proceeds of a sale by agreement of the burial ground would be applicable under any enactment or measure authorising such a sale or disposing of the proceeds of such a sale.

Corporation
may adapt
burial ground
as children's
playground.

18. Notwithstanding anything contained in Part XII (Disused burial grounds) of the Act of 1931 the Corporation may adapt furnish equip and maintain the burial ground for use as a children's playground and may for that purpose exercise all the powers conferred upon them by the said Part XII and by this Part of this Act.

Removal of
human
remains.

19.—(1) Before the Corporation commence any works under the powers of this Part of this Act which would or might involve the disturbance of human remains they shall remove or cause to be removed the remains of all deceased persons which would or might be disturbed by reason of the construction of the works:

Provided that a Secretary of State on the application of the Corporation and on being satisfied that such removal is not necessary or desirable may dispense with all or any of the requirements of this section on such conditions (if any) as he thinks fit.

(2) Before proceeding to remove any such remains the Corporation shall publish a notice for three successive days in a local newspaper circulating in the borough to the effect that it is intended to remove such remains and such notice shall have embodied in it the substance of subsections (3) (4) (5) (6) and (7) of this section.

(3) Any time within two months after the first publication of such notice any person who is an heir executor administrator or relative of any deceased person in respect of whose remains the Corporation have published a notice pursuant to subsection (2) of this section may give notice in writing to the Corporation of his intention to undertake the removal of such remains and thereupon he shall be at liberty without any faculty for the purpose but subject as hereinafter mentioned to any regulations made by the bishop of the diocese of Chichester to cause such remains to be removed to and reinterred in any consecrated burial ground or cemetery in which burials may legally take place but in the case of a churchyard only with the previous consent of the incumbent of the parish.

(4) If any person giving such notice as aforesaid shall fail to satisfy the Corporation that he is such heir executor administrator or relative as he claims to be the question shall be determined on the application of either party in a summary manner by the registrar of the consistory court of the diocese of Chichester who shall have power to make an order specifying who shall remove the remains.

(5) The expense of such removal and reinterment (not exceeding in respect of remains removed from any one grave the sum of twenty-five pounds) shall be defrayed by the Corporation such sum to be apportioned if necessary equally according to the number of remains in the grave.

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the Corporation in respect of the remains in any grave or if after such notice has been given the persons giving the same shall fail to comply with the provisions of this section and with any regulation of the bishop the Corporation may without any faculty for that purpose remove the remains of the deceased person and cause them to be interred in such other consecrated burial ground or cemetery in which burials may legally take place as the Corporation think suitable for the purpose subject to the previous consent of the bishop and also in the case of a churchyard of the incumbent of the parish.

(7) All monuments and tombstones relating to the remains of any deceased person removed under this section shall at the expense of the Corporation be removed and re-erected at the place of reinterment of such remains or at such place within the borough as the bishop may direct on the application (if any) of such heir executor administrator or relative as aforesaid or failing such application on the application of the Corporation and the Corporation shall cause to be made a record of such monuments and tombstones and of their situation when re-erected showing the particulars respecting each monument and tombstone as a separate entry and such record shall be deposited at the General Register Office Somerset House London with the miscellaneous records in the custody of the Registrar-General.

(8) The removal of the remains of any deceased person under this section shall be carried out under the supervision and to the satisfaction of the medical officer.

20.—(1) The Corporation may at their discretion level or raise the surface of the burial ground notwithstanding that there may be graves thereunder or monuments or tombstones thereon and may cover up any such monument or tombstone.

Power to cover up tombstones and monuments.

PART IV.
—cont.

(2) Before the Corporation cover up any monument or tombstone they shall cause a record to be made of each such monument or tombstone showing the particulars thereof as a separate entry together with the situation of the grave to which it relates and such record shall be deposited with the town clerk and kept among the municipal records and a copy of such record shall be deposited at the General Register Office Somerset House London with the miscellaneous records in the custody of the Registrar-General.

21. The following provisions of the Act of 1931 are hereby repealed so far as they relate to the burial ground:—

Section 208 (Disused burial grounds to be maintained by Corporation only) so far as inconsistent with this Part of this Act;

Section 209 (Freehold of disused burial grounds to be vested as at commencement of Act);

In section 210 (Disused burial grounds to be public enclosures and Corporation to have easement thereover) the words from “and the Corporation” to “but not otherwise”;

Section 211 (Corporation to lay out and maintain burial grounds) so far as inconsistent with this Part of this Act;

Section 213 (Disused burial grounds not to be altered without consent specified);

Section 216 (Corporation may bring actions in respect of injury to disused burial ground);

Section 217 (Saving rights of heirs &c. of persons interred in burial grounds).

PART V.

WATER.

22. This Part of this Act shall come into operation on the first day of April nineteen hundred and forty-nine.

23. In this Part of this Act—

“the Third Schedule” means the Third Schedule to the Water Act 1945;

“the undertaking” means the water undertaking for the time being of the Corporation;

“the commencement of this Part of this Act” means the first day of April nineteen hundred and forty-nine.

Repeal of certain provisions of Act of 1931 relating to burial ground.

Commencement of Part V of Act.

Definitions for Part V of Act.

8 & 9 Geo. 6.
c. 42.

24.—(1) The Third Schedule (except sections 2 3 7 8 10 74 75 76 77 78 85 88 and 90) shall apply to the undertaking and be incorporated with Part III (Water) of the Act of 1931 subject to the modifications mentioned in the succeeding subsections of this section.

PART V.
—cont.
Third
Schedule
incorporated
with Part III
of Act of 1931.

(2) Section 4 of the Third Schedule as so applied to the undertaking shall have effect as if the words “ of the last foregoing section and to any other provisions ” were omitted therefrom.

(3) Section 9 of the Third Schedule shall not apply to any land which the Corporation have before the commencement of this Part of this Act been authorised to acquire compulsorily.

(4) Subsection (3) of section 49 of the Third Schedule as so applied to the undertaking shall not apply to any premises to which subsection (2) of section 51 (Supply to houses partly used for trade &c.) of the Act of 1931 applies.

(5) Section 52 of the Third Schedule as so applied to the undertaking shall be modified—

(a) by the addition after subsection (1) thereof of the following subsection:—

“(1A) Notwithstanding anything in this schedule or in the Water Act 1945 the undertakers shall be under no obligation to supply water to any habitation to which this section applies within the borough of Brighton unless required by the Minister so to do and shall not (unless required so to do by the Minister) supply water to any such habitation outside the borough if the local authority for the borough or district in which the habitation is situated objects to the supply being given ”;

(b) by the addition at the end of subsection (2) thereof of the words “ and houseboats or like craft.”

(6) Section 82 of the Third Schedule as so applied to the undertaking shall be modified by the addition at the end thereof of the following subsection:—

“(7) Nothing in this section shall be construed as limiting section 34 (Provisions for enforcement of bye-laws) of the Brighton Corporation Act 1931 as amended by subsection (3) of section 26 (Amendment of certain sections of Act of 1931 relating to water) of the Brighton Corporation Act 1948.”

PART V.
—cont.

(7) Section 84 of the Third Schedule as so applied to the undertaking shall be modified by the addition at the end thereof of the following words:—

“ Nothing in this section shall be construed as limiting section 36 (Penalty on occupiers obstructing compliance with byelaws) of the Brighton Corporation Act 1931.”

25.—(1) The following provisions of the Act of 1931 are hereby repealed:—

(a) the sections mentioned in Part I of the First Schedule to this Act;

(b) so much as is mentioned in the second column of Part II of the said schedule of the sections mentioned in the first column of that Part.

(2) Section 6 (Minimum charge for supply of water by meter to certain premises) of the Act of 1936 is hereby repealed.

(3) The proviso to section 21 (Exercise of powers of section 12 of Act of 1847) of the Act of 1931 shall continue in force and shall apply with respect to any lands on which the Corporation are empowered by or by virtue of this Part of this Act to execute the works or exercise the powers which they were immediately prior to the passing of this Act authorised to execute or exercise by or by virtue of the said section 21.

(4) Notwithstanding the repeals effected by this section—

(a) all agreements and other instruments entered into or made before the commencement of this Part of this Act under any repealed provision by or with the Corporation or any trustee or person acting on behalf of the Corporation or by or with any other person to whose rights or liabilities the Corporation have succeeded and in force immediately before the commencement of this Part of this Act shall be as binding and of as full force and effect in every respect against or in favour of the Corporation and be enforceable as fully and effectually as if the provisions under which they were entered into or made had not been repealed;

(b) all byelaws and regulations made by the Corporation under any repealed provision and in force immediately before the commencement of this Part of this Act shall (subject to the provisions of subsection (6) of section 19 of the Water Act 1945)

continue in force in like manner and to the like extent as if the provision under which they were made had not been repealed;

(c) all notices requirements and demands given or made under any provision of the sections mentioned in the First Schedule to this Act and in force immediately before the commencement of this Part of this Act shall continue in force in like manner and to the like extent as if the provision under which they were given or made had not been repealed.

(5) The mention of particular matters in subsection (4) of this section shall not be held to prejudice or affect the general application of section 38 (Effect of repeal in future Acts) of the Interpretation Act 1889.

26.—(1) In paragraph (4) of section 17 (Power to maintain and provide waterworks and supply water) of the Act of 1931 for the word " Acts " there shall be substituted the word " enactments ".

Amendment
of certain
sections of
Act of 1931
relating to
water.

(2) Section 20 (Limiting powers of Corporation to abstract water) of the Act of 1931 shall have effect as if after the word " water " in subsection (1) thereof there were inserted the words " (other than works for intercepting foul water) " and as if at the end of that subsection there were inserted the words " or an order under section 23 of the Water Act 1945 ".

(3) Section 34 (Provisions for enforcement of byelaws) of the Act of 1931 both as originally enacted and as applied by subsection (2) of section 5 (Application of provisions of Part III of Act of 1931) of the Act of 1936 shall have effect as if for the words from " and for the purposes of this section " to " the said section 305. " in subsection (1) thereof there were substituted the words " and the proviso to subsection (1) and subsections (2) to (5) of section 82 of the Third Schedule to the Water Act 1945 shall apply as if they were re-enacted in and in terms made applicable to this section ".

(4) In subsection (1) of section 44 (Rates for domestic supply) of the Act of 1931 for the words " dwelling-house or part of a dwelling-house " there shall be substituted the word " premises ".

(5) The said section 44 of the Act of 1931 shall have effect as if it provided that the prescribed proportion of the net annual value of any premises for the purposes of paragraph (b) of subsection (1) of section 46 of the Third Schedule should

PART V.
—cont.

be in the case of premises of the nature mentioned in the first column of the following table the proportion set opposite thereto in the second column of that table:—

(1)	(2)
Lock-up shops	66 $\frac{2}{3}$ per centum.
Other premises	100 per centum.

(6) Section 72 (Penalty for interfering with valves &c.) of the Act of 1931 shall have effect as if—

- (a) for the words “ any house or building or part of a house or building or premises ” there were substituted the words “ any premises or any part of any premises ”;
- (b) the words “ main or ” were omitted;
- (c) for the reference to section 60 of the Waterworks Clauses Act 1847 there were substituted a reference to section 67 of the Third Schedule.

10 & 11 Vict.
c. 17.As to pre-
scribed sums
for purposes
of section 48
of Third
Schedule.

27. The prescribed sums for the purposes of subsection (1) of section 48 of the Third Schedule shall be—

- (a) in the case of water used for watering a garden of any size the sum specified in the Second Schedule to this Act in relation to a garden of that size;
- (b) in the case of water used for the purposes mentioned in paragraph (b) of the said subsection the sum of twenty shillings with an additional sum of ten shillings for each vehicle kept in excess of one.

Amendment
of sections 17
and 35 of
Water Act
1945.

28.—(1) Section 17 (Byelaws for preventing waste misuse or contamination of water) of the Water Act 1945 shall in its application to the Corporation and the undertaking be modified by the addition at the end thereof of the following subsection (being a provision corresponding to subsection (4) of section 60 (Byelaws for preventing waste of water) of the Act of 1931):—

- “(5) Any person who contravenes the provisions of any byelaw made under this section shall be liable (in addition to any penalty to which he may be liable) to pay to the undertakers compensation for any damage or loss sustained by them as a consequence of such contravention and the amount of such compensation in case of dispute shall be ascertained by the court before whom he is convicted.”

(2) Subsection (4) of section 35 (Power to supply water fittings) of the Water Act 1945 shall in its application to the Corporation and the undertaking be modified by the addition at the end thereof of the following paragraph (being a provision corresponding to a provision included in subsection (1) of section 70 (Injuring meters &c.) of the Act of 1931):—

PART V.
—cont.

“(b) In addition and without prejudice to the preceding provisions of this subsection the undertakers may recover from any such person the amount of any damage sustained by them as a consequence of any such injury and the amount so recoverable shall in case of dispute be ascertained by the court before whom such person is convicted.”

29. The provisions of section 27 (Supply of water for non-domestic purposes) of the Water Act 1945 shall apply to the supply of water for works of repair or construction executed by a highway authority with respect to any highway or intended highway within the limits within which the Corporation are for the time being authorised to supply water as if such highway or intended highway were premises and the highway authority were occupiers thereof.

As to supply of water to highway authorities.

PART VI.

STREETS AND BUILDINGS.

30.—(1) Where plans and sections of a new street have been deposited with and approved by the Corporation no person except with their consent shall in any such street commence to erect any new building or to excavate for the foundation thereof until he has defined by posts or in some other suitable manner the approved line width and level of so much of the street as abuts upon or adjoins the land on which the building is to be erected or any land which will be occupied in connection with that building and it shall not be lawful for any person to erect the building or any fence nearer to the centre of the street than any posts or other marks by which the width of the street has been defined.

No building allowed until street defined.

(2) Any person who shall offend against this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

31.—(1) Any person who lays out or intends to lay out a new street or part of a new street shall before any building is begun to be erected abutting on such new street or part of a new street if required by the Corporation so to do construct the carriageway and footway of such new street or such part of the new street as may be required by the Corporation in

No buildings to be erected until street formed.

PART VI.
—cont.

accordance with the byelaws for the time being in force with respect to new streets and shall also if required sewer such street or such part of such street:

Provided that where any new street is or is intended to be constructed of a length exceeding one hundred yards the Corporation shall not be empowered to require such new street to be constructed in its entire length by one operation but such new street may be constructed in parts and in such event nothing in this section shall prevent the erection of a new building abutting on any part of such street in reference to which the foregoing provisions of this section have been complied with.

(2) The execution of any works under the provisions of this section shall not relieve any person of any liability under the Act of 1892 or under the local Acts for the time being in force within the borough.

(3) Any person offending against this enactment shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

(4) Section 298 (Formation of new streets) of the Act of 1931 and so much of section 314 (Penalties under certain sections of Part XVII) of the Act of 1931 as relates to the said section 298 are hereby repealed.

32.—(1) At any time within one month after the deposit of the plans of any new building intended or adapted for use as a dwelling-house (or where such plans have been approved but the erection of the building has not been begun before the passing of this Act at any time before the erection thereof has been commenced) the Corporation may by notice in writing require the provision either before the building is erected or before it is sold let or occupied (as the Corporation shall specify) of sufficient means of communication between the building and a street which is either a highway repairable by the inhabitants at large or has been laid out and constructed in accordance with the byelaws or other provisions for the time being in force with respect to new streets.

(2) If it appears to the Corporation to be necessary that the means of communication to be provided under this section shall be in the form of a street the Corporation may by their notice require a new street to be laid out and if the construction of such means of communication appears to them necessary they may by their notice require constructional work in connection with such means of communication not exceeding that required for a new street by the byelaws or other provisions in force with respect to the construction of new streets.

(3) Where notice of a requirement under this section has been given by the Corporation to any person such person shall not nor shall any other person begin to erect or proceed with the erection of any building to which the notice relates nor sell let or occupy such building (as the notice shall specify) until the notice of the Corporation has been complied with or until security has been given to the satisfaction of the Corporation that the notice will be complied with.

(4) Any person who shall offend against the provisions of this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

33.—(1) On the deposit of a plan and sections of a new street in pursuance of any byelaw in force in the borough the Corporation may in order to secure means of communication between such new street and any other street or intended street or for the purpose of securing an adequate opening at either end of the new street by order prohibit the erection or retention on land belonging to the owner of the land upon which such new street is proposed to be constructed or laid out of any wall or fence at either end of such new street:

As to termination of new streets.

Provided that such prohibition shall not become operative until the streets on both sides of such wall or fence shall become highways repairable by the inhabitants at large.

(2) If any person acts in contravention of any order made by the Corporation under the provisions of this section he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

34. The Corporation may make byelaws to prevent streets which have been laid out or constructed in accordance with byelaws made under the Public Health Acts from being altered in such a way that if at first so laid out or constructed they would have contravened the byelaws.

Byelaws as to alteration of streets.

35. The powers conferred upon the Corporation by section 300 (As to communication &c. of new streets) of the Act of 1931 shall be extended so as to enable them to require that the corners formed at the junction of a new street with another street (whether new or existing) shall for the purposes of safety be rounded off so as to be coincident with the arc of a circle tangential to the adjacent boundaries of the two streets and having such radius as may be determined by the Corporation.

Rounding of corners at street junctions.

36. For the purpose of preventing danger to pedestrians from traffic the Corporation may as respects roads (not being highways repairable by the inhabitants at large) adjacent to

Power to place fences near school entrances &c.

PART VI.
—cont.

the entrances to or exits from any schools public baths public parks recreation grounds playing fields alley ways and passage ways exercise the like powers of placing fences rails and posts on the sides of any footways or carriageways of such roads as under section 149 of the Public Health Act 1875 are exercisable by them as respects roads so repairable and the Corporation may from time to time repair renew maintain or remove any fences rails or posts so placed by them.

37.—(1) The Corporation may with the consent in writing of the owner of any building or wall or any bridge over any street attach thereto such brackets and attachments (in this section called "attachments") as may be required for the purpose of the lighting of streets.

(2) Where in the opinion of the Corporation any consent under subsection (1) of this section is unreasonably withheld they may make complaint to a court of summary jurisdiction who may by order either allow the attachments subject to such terms (if any) as to compensation or rent or otherwise as they may think fit or disallow the attachments.

(3) The provisions of subsection (2) of this section shall not apply in relation to—

- (a) any building or wall forming part of an aerodrome; or
- (b) any building which is designated in a list compiled or approved by the Minister of Town and Country Planning as being a building of architectural or historic interest or any building or wall which the owner thereof alleges to be a building or wall of such interest; or
- (c) any building or wall or bridge owned by the transport commission or any gas undertakers or any Electricity Board within the meaning of the Electricity Act 1947;

but if in the opinion of the Corporation any consent under subsection (1) of this section is unreasonably withheld in relation to any such building or wall or bridge they may appeal in the case of a building or wall or bridge owned by gas undertakers or by any electricity board to the Minister of Fuel and Power and in any other case to the Minister of Transport and the Minister of Fuel and Power or the Minister of Transport as the case may be may by order either allow the attachments subject to such terms (if any) as to compensation or rent or otherwise as he thinks fit or disallow the attachments.

(4) Where any attachments have been affixed to a building or wall or bridge under this section and the person who gave the consent or who was the owner when the order allowing the

Attachment
of brackets
&c. to
buildings
and bridges
for street
lighting
purposes.

10 & 11 Geo. 6.
c. 54.

attachments was made ceases to be the owner of the building or wall or bridge the subsequent owner may give to the Corporation notice in writing requiring them to remove the attachments and subject to the provisions of this subsection the Corporation shall within three months after the service of the notice remove the attachments:

Provided that the provisions of subsection (2) and subsection (3) of this section shall apply in relation to any such notice as they apply in relation to a refusal of a consent to the making of attachments.

(5) Where any attachments have been made under this section to any building or wall or bridge the owner of the building or wall or bridge may require the Corporation at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building or wall or bridge.

(6) In this section—

The expression “owner”—

(a) in relation to a building or wall occupied under a tenancy for a term of years whereof five years or more remain unexpired means the occupier of the building or wall;

(b) in relation to a building occupied under any other tenancy means the person who is receiving the rack rent or who would receive the rack rent if the building were let at a rack rent;

(c) in relation to a building or wall forming part of an aerodrome means (notwithstanding anything in this subsection) the person having control of the aerodrome;

and the expression “own” shall be construed accordingly;

The expression “rack rent” means in relation to a building a rent which is not less than two-thirds of the full net annual value of the building; and

The expression “aerodrome” means an aerodrome licensed pursuant to an order made under the Air Navigation Act 1920 or any Act amending replacing or consolidating the same. 10 & 11 Geo. c. 80.

38. Section 339 (Dangerous structures and projections and unfenced ground) of the Act of 1931 shall have effect as if the following words were added at the end of subsection (3) thereof:— Amendment of section 339 of Act of 1931.

“and the costs charges and expenses thereof (including the expenses of any works carried out by the

PART VI.
—cont.

Corporation for the protection of any adjoining structure or ground) shall be repaid to the Corporation by such owner or occupier as aforesaid.”

Stopping up
and diversion
of highways.

39.—(1) Subject to the provisions of this section a court of summary jurisdiction if satisfied on the application of the Corporation made with the consent of the local planning authority for the district in which the highway is situate that a highway within the borough is unnecessary may by order authorise the stopping up thereof and if so satisfied that a highway within the borough can be diverted so as to make it nearer or more commodious to the public may by order authorise it to be so diverted.

(2) Any such application or order may be made with respect to any length of a highway and in the subsequent provisions of this section any reference to a highway shall be construed as a reference to that length thereof to which the application or order relates.

(3) No order shall be made under subsection (1) of this section unless the court is satisfied that notice of the intention to make the application specifying the time and place at which it is to be made and the order which will be asked for and embodying a plan showing what will be the effect of the order asked for—

(a) has at least twenty-eight days before the date on which the application is made been served either personally or by registered post on the owners or reputed owners and the occupiers of all land abutting on the highway whose addresses can with reasonable diligence be ascertained and (when the application relates to a classified road as defined in the Local Government Act 1929) on the Minister of Transport; and

(b) has during at least twenty-eight days been exhibited in such manner and in such positions on or near the highway as are reasonably sufficient for notifying persons using the highway of the application;

and that a similar notice (except that there may be substituted for the plan a statement of the place where such a plan can be inspected at all reasonable hours without payment) has been inserted once at least in each of four successive weeks in a local newspaper circulating in the borough.

(4) On the hearing of such an application the Corporation and any person who is interested in land abutting on or served by the highway or uses the highway or is otherwise aggrieved shall have a right to be heard and an appeal against the decision of the court may be brought to quarter sessions either by the Corporation or by any such person as aforesaid who was or claimed to be heard by the court.

(5) For the purposes of the provisions of the Summary Jurisdiction Act 1879 as amended by the Summary Jurisdiction (Appeals) Act 1933 with respect to appeals to quarter sessions—

PART VI.

—cont.

42 & 43 Vict.

c. 49.

23 & 24 Geo. 5.

c. 38.

(a) a refusal by a court of summary jurisdiction to make an order under this section shall be deemed to be an order;

(b) in a case where more than two persons were heard or claimed to be heard in opposition to an application under this section it shall be sufficient if a notice of appeal against a refusal to make an order upon that application is served upon any two of those persons in addition to the clerk to the court of summary jurisdiction but any of those persons whether served with such a notice or not may appear at quarter sessions as respondents to the appeal;

(c) any appeal under this section whether against an order or against a refusal to make an order shall be in the nature of a rehearing.

(6) Every order made under this section shall have annexed thereto a plan signed by the chairman of the court and shall be binding on all persons whatsoever.

(7) Provided that—

(i) nothing in this section shall authorise the diversion over any land of any highway unless the written consent of the local planning authority for the district in which that land is situate and of every person having a legal interest in that land is produced to and deposited with the court; and

(ii) an order under this section authorising the diversion of a highway shall not authorise the stopping up of any part thereof until the new part to be substituted for the part stopped up has been completed to the satisfaction of two justices and a certificate to that effect signed by them has been transmitted by their clerk to the clerk of the peace.

(8) Where an order is made by a court of summary jurisdiction under this section authorising the stopping up or diversion of a highway the clerk to the court shall forthwith transmit the order to the clerk of the peace together if the order be for diverting a highway with the written consents produced to the court and the clerk of the peace shall enrol any documents so transmitted to him and any certificates transmitted to him under subsection (7) of this section among the records of quarter sessions.

PART VI.
—cont.

(9) Where any highway is diverted in accordance with an order made under this section the substituted highway shall be repairable by the person (if any) by whom the original highway was repairable:

Provided that the owner of any land shall not be required to maintain so much of a highway as is diverted from his land.

(10) Any application or order under this section—

(a) may include two or more highways which are connected with each other;

(b) may relate to the stopping up or diversion of a highway for the purposes of all traffic or subject to the reservation of a bridle-way or footway.

(11) The provisions of this section shall be in addition to and not in derogation of any other provisions relating to the stopping up and diversion of highways.

40.—(1) The Minister of Transport if satisfied on the application of the Corporation made with the consent of the local planning authority for the district in which the highway is situate that the stopping up or diversion of a highway in the borough would be of public benefit but cannot be authorised under the last preceding section of this Act may by order authorise the Corporation to stop up or divert such highway.

(2) Any such application or order may be made with respect to any length of a highway and in the subsequent provisions of this section any reference to a highway shall be construed as a reference to that length thereof to which the application or order relates.

(3) The Minister of Transport may make an order under this section notwithstanding that the highway proposed to be stopped up is not unnecessary or that any proposed diversion if carried out would not make the highway proposed to be diverted nearer or more commodious to the public if he is satisfied that other considerations of public benefit exist which render it desirable that such an order should be made.

(4) No order shall be made under subsection (1) of this section unless the Minister of Transport is satisfied that notice of the intention to make the application specifying the order which will be asked for and embodying a plan showing what will be the effect of the order asked for—

(a) has at least twenty-eight days before the date on which the application is made been served either personally or by registered post on the owners or reputed owners and the occupiers of all land abutting

on the highway whose address can with reasonable diligence be ascertained; and

- (b) has during at least twenty-eight days been exhibited in such manner and in such positions on or near the highway as are reasonably sufficient for notifying persons using the highway of the application;

and that a similar notice (except that there may be substituted for the plan a statement of the place where such a plan can be inspected at all reasonable hours without payment) has been inserted once at least in each of four successive weeks in a local newspaper circulating in the borough.

(5) Every such notice shall specify the time within which and the manner in which objections may be made to the application and the time so specified shall not be less than a period of fourteen days commencing with the date of expiry of the respective periods of twenty-eight days mentioned in paragraphs (a) and (b) of subsection (4) of this section or the date of publication of the newspaper in which the notice is last inserted pursuant to that subsection whichever of those dates is the latest.

(6) If any objection to such an application is made by any person who is interested in land abutting on or served by the highway or uses the highway or is otherwise aggrieved and is not withdrawn, the Minister of Transport shall before making an order under this section cause a public local inquiry to be held unless he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.

(7) Nothing in this section shall authorise the diversion over any land of any highway unless the written consent of the local planning authority for the district in which that land is situate and of every person having a legal interest in that land is produced to and deposited with the Minister of Transport.

(8) Where any highway is diverted in accordance with an order made under this section the substituted highway shall be repairable by the person (if any) by whom the original highway was repairable:

Provided that the owner of any land shall not be required to maintain so much of a highway as is diverted from his land.

(9) Any application or order under this section—

- (a) may include two or more highways which are connected with each other;
- (b) may relate to the stopping up or diversion of a highway for the purposes of all traffic or subject to the reservation of a bridle-way or footway.

PART VI.
—cont.

(10) (a) If any person having any estate or interest in any land abutting on so much of any highway as is stopped up or diverted in pursuance of an order made under this section proves that his estate or interest is injuriously affected by the stopping up or diversion he shall be entitled to recover from the Corporation compensation for the injury to that estate or interest.

(b) Any question whether compensation is payable under this subsection or as to the amount of any compensation so payable shall in default of agreement be determined by an official arbitrator under the Acquisition of Land (Assessment of Compensation) Act 1919.

9 & 10 Geo. 5.
c. 57.

(c) In determining the amount of compensation to be paid by the Corporation under this subsection the value of any benefit which may accrue by reason of the stopping up or diversion of the highway or by reason of the execution by the Corporation of any other works to any land in which the claimant has an estate or interest shall be fairly estimated and shall be set off against the said compensation.

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

For protection
of Brighton
Hove and
Worthing Gas
Company.

41. Except so far as may be otherwise agreed in writing between the Corporation and the Brighton Hove and Worthing Gas Company (in this section referred to as "the company") the following provisions shall have effect:—

(1) In this section the expression "apparatus" means and includes all or any mains pipes and other works or apparatus belonging to the company:

(2) Before commencing the stopping up or diversion of a highway or part of a highway under the powers of section 39 (Stopping up and diversion of highways) or section 40 (Power to Minister of Transport to authorise stopping up or diversion of highways) of this Act or of any order made under either of those sections the Corporation shall give to the company not less than twenty-eight days' written notice of their intention so to do:

(3) If it shall be agreed between the company and the Corporation or (in case of difference) determined by arbitration that in consequence of any such stopping up or diversion it is reasonably necessary that any apparatus situate in or under the highway or part of a highway proposed to be stopped up or diverted should be removed or diverted the company may remove or divert the apparatus accordingly:

- (4) Any such diversion of apparatus shall be carried out in accordance with plans sections and particulars to be previously submitted by the company to and reasonably approved by the Corporation:

Provided that unless within one month after the submission to them of any such plans sections and particulars the Corporation intimate in writing to the company the objection of the Corporation thereto or make any requirement with reference thereto they shall be deemed to have approved the said plans sections and particulars as submitted to them:

- (5) Forthwith after the completion of any such removal or diversion of apparatus the company shall to the reasonable satisfaction of the Corporation fill in the excavation and make good the surface of the ground:
- (6) The Corporation shall pay to the company the amount of any expenses reasonably incurred by the company in or in connection with—

(a) the diversion or removal of apparatus under or in accordance with the foregoing provisions of this section; or

(b) the cutting off of any apparatus of the company from any other apparatus and the connecting of any new apparatus with any existing apparatus of the company rendered necessary by reason or in consequence of the exercise of the powers of the said sections 39 and 40; or

(c) the removal or any alteration of any service pipes rendered necessary by reason or in consequence of the exercise of such powers;

and shall indemnify the company against all claims and demands by the owners or occupiers of premises supplied by means of any such service pipes:

- (7) Whenever by reason of the exercise by the Corporation of the powers of the said sections 39 and 40 any apparatus (other than apparatus for which new apparatus is substituted at the expense of the Corporation under the foregoing provisions of this section) is rendered derelict useless or unnecessary the Corporation shall pay to the company such a sum as may be agreed between the company and the Corporation or as failing such agreement shall be determined by arbitration to be the value of such apparatus and such apparatus shall upon such payment become the property of the Corporation:

PART VI.
—cont.

- (8) The Corporation shall pay to the company the reasonable cost of and incidental to the cutting off of any such apparatus as is referred to in the last foregoing paragraph from any other apparatus and of and incidental to any other works or things rendered reasonably necessary or expedient in consequence of any such apparatus being rendered derelict useless or unnecessary:
- (9) Any difference which may arise between the Corporation and the company under this section (other than a difference as to the meaning or construction of this section) shall be referred to and determined by an arbitrator to be agreed upon between the parties or (failing agreement) to be appointed by the President of the Institution of Civil Engineers on the application of either party after written notice to the other and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to the reference.

For protection
of Postmaster-
General.

42.—(1) Where any highway or portion of a highway is stopped up in pursuance of an order made under section 39 (Stopping up and diversion of highways) or section 40 (Power to Minister of Transport to authorise stopping up or diversion of highways) of this Act the following provisions shall unless otherwise agreed in writing between the Corporation and the Postmaster-General have effect in relation to any telegraphic line belonging to or used by the Postmaster-General which is under in upon over along or across such highway or portion of a highway at the time of such stopping up:—

- (a) The power of the Postmaster-General to remove the line shall be exercisable notwithstanding the stopping up of the highway or portion of the highway so however that the said power shall not be exercisable as respects the whole or any part of the line after the expiration of a period of three months from the date mentioned in subsection (2) of this section unless before the expiration of that period the Postmaster-General has given notice to the Corporation of his intention to remove the line or that part thereof as the case may be;
- (b) The Postmaster-General may by notice to the Corporation in that behalf abandon the said line or any part thereof and shall be deemed as respects the line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;

(c) The Postmaster-General shall be entitled to recover from the Corporation the expense of providing in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line a telegraphic line in such other place as the Postmaster-General may require;

(d) Where under paragraph (b) of this subsection the Postmaster-General abandons the whole or any part of a telegraphic line it shall vest in the Corporation and the provisions of the Telegraph Acts 1863 to 1943 shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

(2) As soon as the whole or any portion of any highway has been stopped up the Corporation shall send by post to the Postmaster-General a notice informing him of such stopping up and the period of three months mentioned in subsection (1) of this section shall commence to run from the date on which such notice is sent.

(3) If in the exercise or intended exercise of the powers conferred by section 35 (Rounding of corners at street junctions) of this Act the Corporation require an alteration either temporarily or permanently in any telegraphic line belonging to or used by the Postmaster-General the enactments numbered (1) to (8) in section 7 of the Telegraph Act 1878 shall apply with respect to such alteration.

41 & 42 Vict.
c. 76.

(4) If in consequence of the exercise or intended exercise by the Corporation of any of the powers conferred on them by the last-mentioned section of this Act the Postmaster-General considers it necessary or expedient that an alteration should be made in any telegraphic line belonging to or used by him and placed in any highway affected by the exercise or intended exercise by the Corporation of any of the said powers the Postmaster-General may himself make such alteration in such telegraphic line as he deems necessary or expedient and the Corporation shall pay to the Postmaster-General all the expenses incurred by him in respect of such alteration and the amount of any loss or damage sustained by him in consequence thereof Provided that—

(a) before making such alteration the Postmaster-General shall give a notice to the Corporation containing particulars of the telegraphic line to be altered and of the nature of the alteration he intends to make;

(b) the Corporation may within fourteen days of the receipt of the notice give to the Postmaster-General

PART VI.
—cont.

a notice objecting to the alteration on the ground that it is unnecessary or unreasonable and thereupon a difference shall be deemed to have arisen and sections 4 and 5 of the Telegraph Act 1878 shall apply accordingly and the tribunal by which the difference is determined may make such order as it thinks just as to the alteration (if any) to be made in the telegraphic line and as to the manner in which the proposed work of the Corporation is to be carried out.

(5) Expressions in this section have the same meaning as in the Telegraph Act 1878.

Provisions
with respect
to private
streets
adjoining
borough
boundary.

43.—(1) Where any street (not being a highway repairable by the inhabitants at large) or any part of any such street is situate for any part of its width within the borough and for the remainder of its width within the area of any other local authority or where the premises (or any of them) fronting adjoining or abutting on any such street or part of a street are situate within the area of any other local authority the Corporation may with the consent of such other local authority exercise in regard to the whole width of such street or part of such street (as the case may be) and in regard to such premises and in regard to the owners and occupiers of such premises the powers of the Act of 1892 as if such street or part of a street (as the case may be) and such premises were situate within the borough and the Corporation may enforce in regard to so much of such street or part of a street as is within the area of any such other local authority and also (where applicable) in regard to the lands adjacent to so much as aforesaid of such street or part of a street the provisions of any byelaws in regard to streets which are for the time being in force within the borough as if so much as aforesaid of such street or part of a street and such lands were comprised within the borough.

15 & 16 Geo. 5.
c. 71.

(2) For the purposes of the exercise by the Corporation of the powers of section 30 of the Public Health Act 1925 the whole of any such street or part of a street as is referred to in subsection (1) of this section and the whole of any land abutting on or adjoining the same (within the meaning of the said section 30) shall be deemed to be within the borough but nothing in this subsection shall be deemed to deprive the authority for the time being responsible for the exercise of the powers of the said section 30 in any district in which any part of such street or land is situate of any powers in regard thereto which are conferred upon that authority by the said section 30 unless

and, until the Corporation shall have exercised in regard to such part of such street or land the powers of the said section 30 as amended and extended by this subsection.

PART VI.
—cont.

(3) (a) The Corporation shall not exercise any of the powers of the Act of 1892 or sections 30 or 31 of the Public Health Act 1925 with respect to any part of a street which is situate outside the borough without the consent (in the case of the Act of 1892) of the road authority or (in the case of the said sections 30 and 31) of the authority for the time being responsible for the exercise of the powers of those sections in the district (other than the borough) in which any portion of such part of a street is situate or if any such consent is refused or is not given within one month after the date of application therefor without the consent of the Minister.

(b) (i) In giving any such consent the road authority, the responsible authority or the Minister may attach thereto terms and conditions:

Provided that any such terms or conditions so attached by any road authority or any such responsible authority shall be reasonable in nature and any question as to whether any such terms or conditions are reasonable in nature shall be determined by the Minister.

(ii) The Corporation shall comply with any terms and conditions so attached or determined to be reasonable in nature.

(4) As from the date upon which any such street or part of a street as is referred to in subsections (1) and (2) of this section becomes a street repairable by the inhabitants at large in consequence of the exercise by the Corporation of the powers of the enactments referred to in this section the Corporation shall subject to any terms and conditions attached or determined to be reasonable in nature as aforesaid maintain and repair the same and the cost incurred by them in so doing shall be borne by and divided between the Corporation and the road authority of the district (other than the borough) in which any portion of such street or part of a street is situate in proportion to the respective portions of such street or part of a street which are situate within the borough and such district. Any sum payable by any such road authority to the Corporation under the provisions of this section may be recovered by the Corporation from such road authority either summarily as a civil debt where the amount recoverable does not exceed twenty pounds or as a debt in any court of competent jurisdiction.

(5) "Road authority" for the purpose of this section means the authority for the time being exercising the functions of maintenance and repair of the portion of any such street or part of a street which is situate outside the borough.

PART VI.

—cont.

Amendment
of Act of 1892
in relation to
parts of
streets which
are public
footways or
otherwise
repairable
by inhabitants
at large.

44.—(1) In this section the expression “private street works” has the same meaning as in section 6 of the Act of 1892.

(2) Notwithstanding anything contained in the Act of 1892 where it appears to the Corporation that by reason of additions made otherwise than by the giving up for the purpose by the Corporation of lands owned by them to an existing footpath bridle-path or other right of way repairable by the inhabitants at large (not being or comprising a carriageway) a new street has been formed the Corporation may in respect of such street or any part of such street carry out private street works under the provisions of the Act of 1892 and apportion the expenses thereof on the premises fronting adjoining or abutting on such street or such part thereof as if no part of the said street was so repairable.

(3) Notwithstanding anything contained in the Act of 1892 the Corporation may under the provisions of that Act carry out private street works throughout the width of a street notwithstanding that part of the width consists of a highway repairable by the inhabitants at large but save in a case falling within the provisions of subsection (2) of this section the Corporation 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 repairable.

(4) For the purposes of any apportionment under subsection (3) of this section premises fronting adjoining or abutting on a street shall be deemed to front adjoin or abut on the portion of the street which is not repairable by the inhabitants at large.

45. If—

- (i) any owner of land fronting adjoining or abutting on a street within the meaning of the Act of 1892 or a street to which either of the two last preceding sections of this Act applies conveys sells leases or otherwise disposes of the part or any portion of the part of that land which fronts adjoins or abuts on that street; and
- (ii) any expenses of works executed by the Corporation under the Act of 1892 in or in relation to that street are apportioned on such part or portion of that land; and
- (iii) the Corporation are unable to recover such expenses in whole or in part from the person to whom such

As to evasion
by owners
of private
street works
expenses.

part or portion of that land was conveyed sold leased or disposed of or by the sale of such part or portion of that land; and

- (iv) a court of summary jurisdiction is satisfied that such conveyance sale lease or disposal was intended for the purpose of evading the payment of any expenses under the Act of 1892;

then such expenses or so much thereof as has not been recovered by the Corporation may to such extent as the court may determine be recovered from that owner and shall be charged upon the premises in the same manner as expenses of the execution of works under the Act of 1892 may be recovered and are charged upon the premises as though he had not made such conveyance sale lease or disposal and as though the said amount of the said expenses had been apportioned on the land of that owner which before such conveyance sale lease or disposal was made fronted adjoined or abutted on such street.

46.—(1) Within one month after the date of the first publication under section 6 of the Act of 1892 of the resolution of the Corporation approving the specifications plans estimates and provisional apportionments of private street works the owner of any premises shown as liable to be charged in the provisional apportionment may give notice to the Corporation that he desires a crossing for vehicles to be made over a footpath comprised in the works upon which his premises abut and in that case shall indicate the place where he desires the crossing to be made.

Crossings in connection with private street works.

(2) If the Corporation approve the making of a crossing in a place selected by the owner or agreed between him and the Corporation the Corporation when carrying out the private street works shall make such crossing.

(3) The expenses of private street works shall be deemed to be the expenses which would have been incurred if the crossing had not been made and the final apportionment of such expenses shall be made and the expenses may be recovered as if no crossing had been made and any additional expenses incurred by the making of the crossing shall be repaid to the Corporation by the owner of the premises for which it is provided and such expenses may be recovered from him and shall be charged upon the premises in the same manner as expenses of the execution of works under the Act of 1892 may be recovered and are charged upon the premises.

PART VI.

—cont.

Further
provisions as
to working-
class houses.26 Geo. 5. &
1 Edw. 8.
c. 51.

47.—(1) For the purposes of Part II of the Housing Act 1936 any dwelling-house which is occupied or is of a type suitable for occupation by persons of the working classes the person having control of which fails to keep such dwelling-house sufficiently repaired and painted and the interior surface of the walls thereof sufficiently papered or distempered with washable distemper of a suitable quality so as to prevent the dilapidation thereof and so as to secure reasonable amenities for the occupier or occupiers shall be deemed to be a house not in all respects fit for human habitation and the powers of the Corporation under the said Part II shall apply in respect of such dwelling-house accordingly:

Provided that this section shall apply only in cases where works have been executed or anything has been done following a notice served by the Corporation under section 9 of the Housing Act 1936 or section 93 of the Public Health Act 1936.

(2) On an appeal to the county court by the person having control of a dwelling-house upon whom the Corporation have served notice under section 9 of the Housing Act 1936 in consequence of his failure to comply with the provisions of this section the county court judge shall take into consideration—

- (a) if the person upon whom the notice is served is a lessee or agent for a lessee the length of the unexpired period of the lease;
- (b) the period for which the dwelling-house is likely to continue occupied;
- (c) the expenditure incurred by the person having control of the house or the owner during the preceding three years upon the dwelling-house;
- (d) whether the condition of the dwelling-house is or is not due to the wilful default or neglect of the tenant.

PART VII.

INFECTIOUS DISEASE AND SANITARY PROVISIONS.

Compensation
to persons for
ceasing
employment
to prevent
spread of
disease.

48. If any person be prohibited by reason of section 377 (Prohibition on infected person carrying on business) of the Act of 1931 from following or at the request of the Corporation or the medical officer stop his employment for the purpose of preventing the spread of a notifiable disease the Corporation may make compensation to him for any loss occasioned by reason of such prohibition or stoppage.

Prevention of
smoke from
industrial
furnaces.

49.—(1) No person shall instal in any building whether erected before or after the passing of this Act any furnace for steam raising or for any manufacturing or trade purpose unless such furnace is so far as practicable capable of being operated continuously without emitting smoke.

(2) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding ten pounds and any person who after conviction of an offence of installing a furnace in contravention of those provisions uses that furnace shall unless it has been amended so as to comply with those provisions be liable to a penalty not exceeding two pounds for each day on which he so uses the furnace.

(3) If a person before installing in a building a furnace to which this section applies submits to the Corporation plans proposals and particulars of the proposed furnace and furnishes them with such other necessary information in regard thereto as they may require the Corporation shall within a period of six weeks from the date upon which such plans proposals particulars and information are received by them serve a notice upon such person stating whether or not they are satisfied that the furnace is so far as practicable capable of being operated continuously without emitting smoke and if they are so satisfied or if they do not serve a notice upon such person before the expiration of the said period of six weeks no proceedings shall be taken against him under this section in respect of the installation of that furnace in accordance with the plans proposals particulars and information so submitted and furnished.

(4) Before serving a notice under this section stating that they are not satisfied that the furnace is so far as practicable capable of being operated continuously without emitting smoke the Corporation shall consult with the Minister of Fuel and Power.

(5) In determining for the purposes of this section whether a furnace is so far as practicable capable of being operated continuously without emitting smoke the Corporation or a court shall if either of the parties so desire have regard to cost and to local conditions and circumstances.

50. It shall be lawful for a court of summary jurisdiction upon complaint by the Corporation in pursuance of a report by the medical officer or the sanitary inspector that any smoke gas or vapour from any chimney flue or pipe of a washhouse or outbuilding forming part of or in proximity to a dwelling-house in the borough is a nuisance to any of the inhabitants of the borough to make an order requiring the owner of such chimney flue or pipe within such time as shall be specified in such order to cause the same to be raised or such other means for preventing or mitigating such nuisance to be adopted as may seem fitting to such court and as shall not involve an expenditure exceeding twenty pounds and any such owner as aforesaid who shall neglect or refuse to obey such order shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Power to order alteration of chimneys.

PART VII.
—cont.
Prohibition
of sale of
verminous
furniture &c.

51.—(1) No dealer shall sell or expose for sale any second-hand furniture mattress bed-linen or similar articles if the same are to his knowledge infested with bed bugs or if by taking reasonable precautions he could have known the same to be so infested.

(2) A dealer offending against the provisions of this section shall be liable to a penalty not exceeding five pounds.

(3) In this section "dealer" means any person (other than a pawnbroker) who trades or deals in any of the articles referred to in this section.

PART VIII.

FOOD.

Notice of
slaughter of
animal unfit
for food.

52.—(1) As from the commencement of this section where any person being the owner of any bull ox cow heifer calf sheep lamb goat or pig which is emaciated or diseased and unfit for food is about to slaughter the same or about to cause the same to be slaughtered he shall give not less than twelve hours' previous notice to an authorised officer of such intention and shall on the application of an authorised officer within six weeks from the date of such slaughter furnish such information within his knowledge as the authorised officer may reasonably require for the purpose of enabling enquiries to be made to trace the disposition of the carcase or any part thereof.

(2) Any person failing to give such notice or refusing to furnish such information or knowingly furnishing false information shall be liable to a penalty not exceeding ten pounds.

(3) This section shall not apply to the slaughter of any animal to which the Public Health (Meat) Regulations 1924 apply.

(4) Nothing in this section shall affect the operation of the Diseases of Animals Acts 1894 to 1937 or of Part IV of the Agriculture Act 1937 or of any order licence or act of the Minister of Agriculture and Fisheries made granted or done thereunder.

(5) In this section the expression "authorised officer" means—

(a) the medical officer;

(b) the sanitary inspector; or

(c) any other officer of the Corporation who is by virtue of the Food and Drugs Act 1938 an authorised officer for the purpose of the examination and seizure of meat under the provisions of that Act.

53.—(1) It shall not be lawful to use any receptacle or to cause or permit any receptacle to be used for the purpose of containing any potted pressed pickled or preserved food intended for sale in that receptacle unless the receptacle is properly cleansed and sterilised.

PART VIII.
—cont.
Cleansing of receptacles used for preserved food.

(2) Every person intending to use a receptacle for any purpose mentioned in subsection (1) of this section or to cause or permit a receptacle to be used for any such purpose shall provide suitable and efficient means of cleansing and sterilising such receptacle.

(3) Any person offending against the provisions of this section shall be liable to a penalty not exceeding five pounds.

PART IX.

SALE OF COKE &C.

54. The provisions of sections 20 to 29 inclusive of the Weights and Measures Act 1889 and of any byelaws made by the Corporation thereunder (which provisions and byelaws relate to the sale of coal) shall also apply to the sale of coke within the borough.

Application to sale of coke of Weights and Measures Act 1889.
52 & 53 Vict. c. 21.

55. If any seller of coke or any person in charge of any vehicle from or on which coke is being sold or delivered on sale or offered or exposed for sale wilfully makes any false statement as to the weight of the coke or wilfully increases such weight by damping such coke or wilfully does any other act by which the purchaser of the coke shall be defrauded such seller or person in charge shall be liable for every such offence on the first occasion to a penalty not exceeding five pounds and on the second or any subsequent occasion to a penalty not exceeding ten pounds.

Penalty on fraudulent sale.

56. Every vehicle carrying coal or coke for sale or for delivery on sale shall have the seller's name and place of business together with the words "coal merchant" or "coke merchant" as the case may require or words to the like effect clearly marked on or attached to the front of such vehicle in a visible position.

Requirements as to vehicles carrying coal or coke for sale or delivery on sale.

57. Proviso (a) to section 27 of the Weights and Measures Act 1889 in its application to the borough shall be read and have effect as if in that proviso the words "one mile" were substituted for the words "half a mile."

Amendment of section 27 of Weights and Measures Act 1889 in its application to borough.

58. The provisions of this Part of this Act relating to coke shall apply to any solid fuel derived from coal or of which coal or coke is a constituent as if it were coke.

Application of this Part of Act.

PART IX.
—cont.
Notice of
Part IX.

59.—(1) Public notice of the provisions of this Part of this Act shall be given forthwith after the passing of this Act by advertisement in a newspaper published or circulating in the borough.

(2) A copy of the newspaper containing the advertisement shall be sufficient evidence that the provisions of this section have been complied with.

PART X.

SUPERANNUATION.

Definitions
for Part X
of Act.

1 Edw. 8. &
1 Geo. 6.
c. 68.

60. In this Part of this Act—

“ the Act of 1937 ” means the Local Government Superannuation Act 1937;

“ contributory employee ” “ employing authority ”
“ service ” “ contributing service ” and “ non-contributing service ” have the meanings assigned to those expressions respectively by the Act of 1937;

“ the Regulations ” means the National Health Service (Superannuation) Regulations 1947.

Extension and
modification
of Act of
1937.

61.—(1) Any person who—

(a) at the date of the passing of this Act is; or

(b) after the date of the passing of this Act becomes;

a contributory employee in relation to the superannuation fund maintained by the Corporation but is not such an employee as is mentioned in paragraphs (a) (b) or (c) of regulation 39 (1) or in regulation 42 of the Regulations may within six months after the date of the passing of this Act or the date on which he becomes a contributory employee (as the case may be) give notice in writing to the Corporation that he desires that this section shall apply to him and thereupon the following provisions of this section shall extend and apply in relation to him for so long as he remains a contributory employee in relation to the superannuation fund maintained by the Corporation. A person who gives notice under this subsection is hereinafter in this section referred to as an “ electing employee.”

(2) The Act of 1937 shall extend and apply in relation to any electing employee as if in consideration of the contributions required thereby there were substituted for any title accruing in respect of service reckonable thereunder to a superannuation allowance lump sum retiring allowance injury allowance or death gratuity a title to such benefits as are conferred by regulations 5 to 7 inclusive (as modified by regulation 28) and regulation 10 of the Regulations and there were

conferred by the Act in addition or in substitution for any similar benefits to which any electing employee might become entitled thereunder and under the Act of 1936 in respect of service reckonable under the Act of 1937 the benefits conferred by regulations 8 9 and 11 of the Regulations and the Act of 1936 and the Act of 1937 shall have effect accordingly with any necessary modifications.

(3) The amount of any retiring allowance to which an electing employee to whom paragraph (a) of subsection (1) of this section applies may become entitled shall be increased as nearly as may be in accordance with the provisions of regulation 23 (2) of the Regulations.

(4) (a) The Act of 1937 in its application to any electing employee shall be further modified to provide that the employing authority may on any annual pension lump sum retiring allowance or death gratuity becoming payable to or in respect of the electing employee resolve that in respect of every year of non-contributing service there shall be substituted a fraction of his average remuneration larger than one one-hundred-and-sixtieth but not exceeding one-eightieth:

Provided that any extra charge resulting from any resolution passed by an employing authority under this subsection shall be repaid by that authority to the superannuation fund maintained by the Corporation.

(b) For the purposes of the application of Part III of the Second Schedule to the Act of 1937 the reference in paragraph (c) of that Part to proviso (i) to paragraph (b) of subsection (2) of section 8 of that Act shall be construed as a reference to paragraph (a) of this subsection.

(5) The Act of 1937 in its application to any electing employee shall be further modified to confer a right on him by making payments similar to those provided for by the Fourth Schedule to the Regulations to reckon any period of non-contributing service as a period of contributing service and shall have effect as if the provisions of the said Fourth Schedule (except so much of subparagraph (d) of paragraph 3 thereof as follows the word "cease" where that word occurs for the second time subparagraphs (e) and (f) of that paragraph 3 and paragraph 4) were incorporated therein with any necessary modifications.

(6) Any pension or injury allowance to which any electing employee becomes entitled shall be granted subject to the conditions contained in regulations 20 and 21 of the Regulations with any necessary modifications in lieu of any similar conditions in corresponding provisions of the Act of 1937.

PART X.

—cont.

Annuities for
spouses and
dependants.

62.—(1) The Corporation may from time to time make and operate a scheme or schemes for securing that in such circumstances and subject to such conditions as to proof of good health and other matters as may be specified in such scheme or schemes the provisions of section 9 (Allocation of part of superannuation benefits to wife or husband) of the Act of 1937 and of any rules made thereunder may be applied with any necessary modifications and adaptations to any person who is a contributory employee in relation to the superannuation fund maintained by the Corporation (not being a person who has given notice under section 13 (Annuities for widows) of the Act of 1936 requiring any provisions of that section to apply to him or a person to whom Part III of the Regulations applies or a person who has given notice under subsection (1) of the last preceding section of this Act) who so requests the Corporation in writing at any time after the date on which he would if he ceased to hold his employment become entitled to a superannuation allowance under paragraph (b) or (c) of subsection (1) of section 8 (Eligibility for superannuation allowance and scale of allowances) of the Act of 1937 and to the spouse of such employee being—

- (i) the spouse to whom he is married on the date on which he becomes entitled to a superannuation allowance under the said paragraph (b) or (c) and who has not ceased to be his spouse at the date of the contributory employee's death; or
- (ii) the spouse to whom he is married at the date of his death if he dies before ceasing to hold his office or employment and if he had so ceased immediately before his death he would have been entitled to a superannuation allowance under the said paragraph (b) or (c);

so that if such spouse survives the contributory employee the Corporation may grant a pension to such spouse from the date of the contributory employee's death at any time after such request is made.

(2) Upon any scheme for securing the benefits mentioned in subsection (1) of this section becoming operative section 13 (Annuities for widows) of the Act of 1936 shall cease to apply in relation to any person who has not then given notice under that section requiring any provisions thereof to apply to him.

(3) A scheme made under this section shall come into operation when but not until it is approved by the Minister.

(4) A contributory employee in relation to the superannuation fund maintained by the Corporation in giving a notice of his desire to take advantage of the provisions of section 13 (Annuities for widows) of the Act of 1936 or section 9 (Allocation of part of superannuation benefits to wife or husband) of the Act of 1937 may nominate a person as being dependent upon him (whether or not the person giving the notice has a spouse) and the said section 13 and the said section 9 and any rules for the time being in force under the last-mentioned section shall have effect as if such person were the spouse of the person giving the notice subject to such modifications of the First Schedule or of the Second Schedule to the Act of 1936 or of the relevant tables (as the case may be) as may be made by the Corporation on the advice of an actuary.

PART XI.

FINANCE AND MISCELLANEOUS.

63. The Corporation shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority the sum or sums requisite for the payment of the costs charges and expenses of this Act and they shall pay off all money so borrowed within such period as they may determine not exceeding five years from the date of the passing of this Act.

Power to borrow.

64. Section 24 (Renewal and repairs fund) of the Act of 1936 shall have effect as if—

Amendment of section 24 of Act of 1936.

(a) for the words “ any sum not exceeding the average annual cost incurred by the Corporation during the previous three years in connection with the maintenance and repair of buildings ” in subsection (1) thereof there were substituted the words “ any sum not exceeding two per centum of the cost incurred by the Corporation in connection with the provision of buildings ”;

(b) for the words “ twenty thousand pounds ” in subsection (2) thereof there were substituted the words “ the product of a rate of one shilling in the pound calculated according to the rules made pursuant to sections 9 and 58 of the Rating and Valuation Act 1925. ”

15 & 16
Geo. 5.
c. 90.

65. Section 22 (Capital fund) of the Act of 1936 shall have effect as if—

Amendment of section 22 of Act of 1936.

(a) for the words “ the sum of fifty thousand pounds ” in proviso (b) to subsection (1) thereof there were

PART XI.
—cont.

substituted the words " five per centum of the rateable value of the borough " ;

- (b) for the words " five thousand pounds " in subsection (2) thereof there were substituted the words " ten thousand pounds. "

Recovery of
rates from
certain
owners.

66.—(1) Where the owner of any hereditament has agreed with the occupier thereof that the owner shall pay the general rate charged on such hereditament or the water rate charged in respect of the supply of water to such hereditament the owner shall be liable to pay to the Corporation so much of any payment in respect of rent received by him from the occupier as shall represent the proportions of general rate and water rate included in such payment and so much of such payment may on proof of such agreement be recovered by the Corporation from the owner in the same manner and subject to the same conditions under and subject to which general rates and water rates respectively are recoverable from occupiers of rated hereditaments.

The remedy of the Corporation under this section shall be in addition and without prejudice to their other remedies for the recovery of general rates and water rates.

(2) For the purposes of this section the expression " owner " in relation to a hereditament means the person who is entitled to receive the rent payable in respect thereof.

(3) This section shall not apply to any hereditament to which subsection (1) of section 11 of the Rating and Valuation Act 1925 applies by virtue of a resolution of the Corporation and nothing in this section shall prejudice or affect the operation of section 54 of the Third Schedule to the Water Act 1945.

As to recovery
of rates from
tenants and
lodgers.

67. For the purposes of section 15 of the Rating and Valuation Act 1925 the rates due from the person rated for any hereditament within the borough shall be deemed to be in arrear if such rates are not paid within two months after lawful demand in writing has been made for the same.

Extension
and amend-
ment of
certain
sections of
Act of 1931.

68.—(1) The Act of 1931 shall have effect as if in section 4 (Limits of Act) thereof after the reference to Part VI (Generating and main transmission works) there were inserted references to the undermentioned sections thereof:—

- Section 531 (Undertakings to bind successive owners);
Section 541 (Power to charge supervision in addition to costs);
Section 542 (As to expenses);

- Section 543 (Extending time for summary recovery of expenses and rates);
- Section 544 (In executing works for owner Corporation liable for negligence only);
- Section 547 (Penalty on persons obstructing officers &c.);
- Section 549 (Evidence of appointments authority &c.);
- Section 550 (Authentication and service of notices &c.);
- Section 552 (Breach of conditions of consent of Corporation);
- Section 553 (Consents of Corporation to be in writing);
- Section 554 (Powers of court of summary jurisdiction on appeal);
- Section 555 (Appeals to court of quarter sessions);
- Section 556 (Compensation how to be determined);
- Section 557 (Several sums in one summons);
- Section 558 (Informations by whom to be laid);
- Section 559 (Recovery of demands);
- Section 560 (Recovery of penalties &c.);
- Section 561 (Saving for indictments &c.);
- Section 562 (Powers of Act cumulative);
- Section 563 (Application of section 265 of Public Health Act 1875);
- Section 564 (Judges not disqualified);
- Section 567 (Application of Arbitration Act 1889).

(2) The Act of 1931 shall have effect as if in the definition in section 6 (Interpretation) thereof of the expression "local enactment" the words "obtained or made by the Corporation and for the time being in force" were substituted for the words "for the time being in force within the borough."

(3) Section 541 (Power to charge supervision in addition to costs) section 544 (In executing works for owner Corporation liable for negligence only) section 549 (Evidence of appointments authority &c.) section 550 (Authentication and service of notices &c.) section 552 (Breach of conditions of consent of Corporation) and section 557 (Several sums in one summons) of the Act of 1931 shall have effect as if the words "in the borough" or the words "within the borough" wherever those words occur in those sections were omitted.

69.—(1) In this section the expression "personal weighing machine" means any weighing machine which is used or As to personal weighing machines.

PART XI.
—cont.

exposed for use for the purpose of ascertaining the weight of a person—

- (a) for the use of which a charge is made; or
- (b) which is kept in any shop premises or place in the borough to which the public have access.

(2) As from the commencement of this section the owner or the person in charge of any personal weighing machine which is false or unjust shall be liable to a penalty not exceeding forty shillings or in the case of a second or any subsequent offence five pounds.

(3) As from the commencement of this section a personal weighing machine shall not be used or exposed for use unless it has been examined and approved by an inspector of weights and measures of the Corporation and has been marked with a distinguishing mark by such inspector and after the expiration of twelve months from the commencement of this section every person who has in his possession or under his control any personal weighing machine which is not so marked shall be liable to a penalty not exceeding forty shillings or in the case of a second or subsequent offence five pounds and the machine shall be liable to be forfeited.

(4) If any person forges or counterfeits or removes any such distinguishing mark as is referred to in the last preceding subsection or knowingly exposes for use any personal weighing machine without any such mark or with such forged or counterfeit mark thereon he shall be liable to a penalty not exceeding five pounds and the machine shall be liable to be forfeited.

(5) Any inspector of weights and measures of the Corporation may at all reasonable times inspect and examine any personal weighing machine in the borough and may seize and detain any such machine which is liable to be forfeited under the provisions of this section and may for the purposes of such inspection and examination enter any place (whether open or closed) where there is reasonable cause to believe that there is a personal weighing machine which he is authorised to inspect and examine.

(6) The Corporation may make byelaws—

- (a) generally with respect to the examination and inspection of personal weighing machines and the distinguishing marks to be fixed to personal weighing machines under this section and the circumstances and conditions under which such marks may be affixed or cancelled;

- (b) with respect to the tests to be applied for the purpose of ascertaining the accuracy and efficiency of personal weighing machines;
- (c) for fixing the fees to be paid to the Corporation for the examination approval and marking of personal weighing machines under this section or for the examination of such personal weighing machines as are found to be incorrect or defective;
- (d) for fixing the limits of error to be allowed on examination and approval or on inspection and examination of any personal weighing machine under this section.

70.—(1) In this section “neglected site” means the site of a demolished building in the borough which is in such a condition as to be prejudicial to the property in or the inhabitants of the neighbourhood. As to neglected sites.

(2) A court of summary jurisdiction on complaint by the Corporation may order the owner of any neglected site to remove any rubbish resulting from the demolition of the building within a reasonable time to be fixed by the order.

(3) If the order is not obeyed within the time thereby prescribed the Corporation at any time after the expiration of such time may enter upon the neglected site and execute the order.

(4) All expenses incurred by the Corporation under subsection (3) of this section in relation to a neglected site shall be repaid to the Corporation by the owner of the neglected site.

71.—(1) Any person who shall wilfully or negligently obstruct or interfere with the convenient access to any police telephone call box or police shelter or box or who shall remove or efface any plate or mark indicating the position of such call box shelter or box or any fire hydrant shall be liable to a penalty not exceeding five pounds and the Corporation may recover the expenses of replacement and making good from such person. Interference with telephone call boxes &c.

(2) Any person who shall knowingly and improperly use or cause to be used by means of any false or malicious statement message or otherwise any police telephone call box or (for the purposes of requiring the services of the police or an ambulance) any telephone call box of the Post Office telephone service shall for every such offence be liable to a penalty not exceeding five pounds.

(3) Section 310 (Fire-plugs) of the Act of 1931 is hereby repealed.

PART XI.

—cont.

Amendment
of section 415
of Act of 1931.

72. Section 415 (As to licensing of boatmen) of the Act of 1931 shall have effect as if for the words "the chief constable" wherever those words occur in that section there were substituted the words "an officer duly authorised by the Corporation in that behalf."

Amendment
of section 417
of Act of 1931.

73. Subsection (2) of section 417 (Byelaws as to boats) of the Act of 1931 is hereby repealed.

Byelaws as to
pleasure fairs.

74.—(1) The Corporation may from time to time make byelaws—

- (a) for regulating the hours during which pleasure fairs and any place kept or used for any boxing or wrestling entertainment or for public roller skating may be open to the public;
- (b) for securing safe and adequate means of ingress to and egress from any pleasure fair or to and from any place kept or used for any boxing or wrestling entertainment or for public roller skating;
- (c) for the prevention and suppression of nuisances and for preserving sanitary conditions cleanliness order and public safety at any pleasure fair or any place kept or used for any boxing or wrestling entertainment or for public roller skating.

(2) In this section—

the expression "pleasure fair" means any place of entertainment for admission to which or for the use of the contrivances in which a charge is made and where the entertainment comprises any or all of the following whether or not in combination with any other forms of entertainment that is to say any circus exhibition of human beings or performing animals merry-go-round roundabout switchback railway coconut shy hoop-la shooting gallery swings dodgems or other mechanical driving or riding devices automatic or other machines intended for entertainment or amusement and anything similar to any of the foregoing:

Provided that the expression "pleasure fair" does not include any place where—

(a) any fair is held by statute royal charter royal licence letters patent or ancient custom; or

(b) the entertainment is not run for profit and is not carried on for more than seven consecutive days;

the expression "boxing or wrestling entertainment" means any public contest or display of boxing or wrestling except such as may be provided or given—

- (i) by travelling showmen at pleasure fairs;
- (ii) in premises licensed under the Theatres Act 6 & 7 Vict. 1843 if and so long as the conditions attached to the licence under the said Act are complied with as though such contest or display were a stage play; c. 68.
- (iii) by bona fide associations clubs hospitals or societies which are not carried on for profit;
- (iv) by members of the Boy Scouts Association or of any organisation formed by the Boy Scouts Association in pursuance of their charter; or
- (v) by any school.

(3) Before making any byelaws under this section the Corporation shall give to the Amusement Caterers Association and the Association of Amusement Park Proprietors of Great Britain not less than one month's notice of the intention of the Corporation to make such byelaws and such notice shall be accompanied by a copy of the draft byelaws and the Corporation shall confer with the said associations thereon before they submit them to the Secretary of State for confirmation.

(4) The limits within which this section shall be in force shall be the borough.

75. The following provisions for the further protection of the Brighton Hove and Worthing Gas Company (in this section referred to as "the company") shall unless otherwise agreed in writing between the Corporation and the company apply and have effect:—

For further protection of Brighton Hove and Worthing Gas Company.

- (1) In this section the expression "apparatus" means and includes all or any mains pipes and other works or apparatus belonging to the company:
- (2) Nothing in section 31 (No buildings to be erected until street formed) of this Act or in any requirement of the Corporation thereunder shall prevent or restrict the company from beginning to erect or proceeding with the erection of a pressure governor-house for the purposes of their undertaking abutting on any new street or part of a new street before such new street or part thereof is constructed or sewered in accordance with any such requirement:
- (3) (a) Not less than twenty-one days before the Corporation in the exercise of the powers of section 35 (Rounding of corners at street junctions) of this Act add to the carriageway of a street any portion of any

PART XI.
—cont.

footway in or under which any apparatus is for the time being situate the Corporation shall give notice in writing to the company and the company may and if so required by the Corporation shall alter the position of any apparatus in or under such footway by relaying the apparatus in such position (under either the carriageway or the footway) and at such depth as may be reasonable and the Corporation shall repay to the company the reasonable expenses of or in connection with such alteration of position;

(b) Any such alteration of position of apparatus shall be carried out in accordance with such plans sections and particulars as may be reasonably necessary which shall be previously submitted by the company to and reasonably approved by the Corporation:

Provided that unless within one month after the submission to them of any such plans sections and particulars the Corporation intimate in writing to the company the objection of the Corporation thereto or make any requirement with reference thereto they shall be deemed to have approved the said plans sections and particulars as submitted to them:

- (4) The provisions of section 49 (Prevention of smoke from industrial furnaces) of this Act shall not apply to any furnace installed in any building erected or to be erected on any land which the company are for the time being authorised to use for the manufacture or storage of gas or the working up or storage of residual products and used by the company for the purposes of their undertaking:
- (5) The provisions of section 50 (Power to order alteration of chimneys) of this Act shall not apply to any chimney erected or to be erected on any land which the company are for the time being authorised to use for the manufacture or storage of gas or the working up or storage of residual products and used by the company for the purposes of their undertaking:
- (6) Any difference which may arise between the Corporation and the company under this section (other than a difference as to the meaning or construction of this section) shall be referred to and determined by an arbitrator to be agreed upon between the parties or (failing agreement) to be appointed by the President of the Institution of Civil Engineers on the application of either party after written notice to

the other and subject as aforesaid the provisions of the Arbitration Acts 1889 to 1934 shall apply to the reference.

PART XI.
—cont.

76. The provisions of section 57 (Company's fireplaces &c. to consume their own smoke) of the Brighton and Hove General Gas Company's Act 1866 shall extend and apply throughout the borough as if the borough had been substituted for the parish of Brighton therein mentioned.

Amendment of section 57 of Brighton and Hove General Gas Company's Act 1866.
29 & 30 Vict. c. clxxxiv.

77. As respects byelaws made under this Act the confirming authority for the purposes of section 250 of the Act of 1933 shall be—

Confirming authority for byelaws.

(a) in the case of byelaws made under section 69 (As to personal weighing machines) of this Act the Board of Trade;

(b) in the case of byelaws made under section 74 (Byelaws as to pleasure fairs) of this Act the Secretary of State;

(c) in all other cases the Minister.

78.—(1) The provisions of this Act to which this section applies shall come into operation on but not until such date as may be fixed by a resolution of the Corporation of which date public notice shall be given by the Corporation by advertisement in one or more local newspapers circulating in the borough. Every such advertisement shall also state the effect of the provisions to which it relates and the date specified therein as the date on which such provisions shall come into operation shall not be less than one month after the date of publication of the advertisement.

Commencement of certain provisions of this Act.

(2) A copy of a newspaper containing such advertisement shall be sufficient evidence of the publication of the advertisement.

(3) This section shall apply to section 52 (Notice of slaughter of animal unfit for food) and section 69 (As to personal weighing machines) of this Act.

79. Section 298 (Restriction on right to prosecute) of the Public Health Act 1936 shall apply to offences created by or under Part VI (Streets and buildings) Part VII (Infectious disease and sanitary provisions) and Part VIII (Food) of this Act as if they were offences created by or under that Act.

Restriction on right to prosecute.

80.—(1) Any person aggrieved by any requirement refusal or other decision of the Corporation or of any officer thereof under Part VI (Streets and buildings) Part VII (Infectious

As to appeals.

PART XI.
—cont.

disease and sanitary provisions) or Part VIII (Food) of this Act may except when some other right of appeal is conferred by this Act appeal to a court of summary jurisdiction.

(2) The procedure upon any such appeal shall be by way of complaint for an order and the Summary Jurisdiction Acts shall apply to the proceedings.

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

(4) In any case in which such an appeal lies the document notifying the requirement refusal or decision in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought unless these have already been stated in the notice to the person concerned informing him of his right to a hearing before the Corporation with regard to the same matter.

(5) Where a person aggrieved by any order determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to a court of quarter sessions he may appeal to such a court.

(6) Where any requirement refusal order determination or other decision against which a right of appeal is conferred by this Act involves the execution of any work or the taking of any action or makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of such requirement refusal order determination or other decision or to use any premises for any purpose for which they were lawfully used up to such time—

(a) no proceedings in respect of any failure to execute the work or take the action shall be taken;

(b) the Corporation shall not execute such work or take such action; and

(c) any such person may carry on such business and use such premises for such purpose;

until the time for appealing has expired or when an appeal is lodged until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(7) Where upon an appeal under this Act a court varies or reverses any requirement refusal or other decision of the Corporation effect shall be given to the order of the court and in particular any necessary consent certificate or other document shall be granted or issued and any necessary entry in any register shall be made.

81. Section 556 (Compensation how to be determined) of the Act of 1931 shall have effect as if for the words "the Public Health Acts" there were substituted the words "subsection (2) of section 278 (Compensation to individuals for damage resulting from exercise of powers under Act) of the Public Health Act 1936."

PART XI.
—cont.
Amendment
of section 556
of Act of 1931.

82. Section 560 (Recovery of penalties &c.) section 561 (Saving for indictments &c.) and section 562 (Powers of Act cumulative) of the Act of 1931 shall extend and apply to and for the purposes of this Act as if they were re-enacted herein.

Application of
provisions of
Act of 1931.

83.—(1) Section 275 (Power of local authority to execute certain work on behalf of owners or occupiers) of the Public Health Act 1936 shall have effect as if it were re-enacted in this Act and in terms made applicable thereto.

Application of
provisions of
Public Health
Act 1936.

(2) Section 277 (Power of councils to require information as to ownership of premises) section 287 (Power to enter premises) and section 289 (Power to require occupier to permit works to be executed by owner) of the Public Health Act 1936 shall have effect as if they were re-enacted in this Act and in terms made applicable to Part VI (Streets and buildings) Part VII (Infectious disease and sanitary provisions) and Part VIII (Food) thereof.

84. The Secretary of State the Minister the Minister of Transport the Minister of Fuel and Power or the Board of Trade as the case may be may hold such inquiries as he or they may consider necessary in regard to the exercise of any powers conferred upon him or them or the giving of consents under this Act and section 290 of the Act of 1933 shall apply accordingly.

Inquiries by
government
departments.

85. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Saving for
town and
country
planning.

86. The costs charges and expenses of and incidental to preparing applying for and obtaining this Act as taxed by the taxing officer of one of the Houses of Parliament shall be paid by the Corporation out of the general rate fund or out of moneys to be borrowed under this Act.

Costs of Act.

The SCHEDULES referred to in the foregoing Act.

THE FIRST SCHEDULE.

PART I.

SECTIONS OF ACT OF 1931 WHOLLY REPEALED.

- Section 15 (Definitions for Part III);
- Section 24 (Power to lay pipes in private streets);
- Section 25 (Further powers in relation to water mains);
- Section 26 (As to streets forming boundary of water limits);
- Section 27 (Application of Act of 1847 to discharge pipes telephones &c.);
- Section 28 (Meters in streets to measure water or detect waste);
- Section 29 (Discharge of water into streams);
- Section 30 (As to disputes with railway company);
- Section 37 (Powers for protection of waters and waterworks);
- Section 38 (Power to agree as to drainage of lands);
- Section 41 (Limit of pressure);
- Section 42 (Cisterns to be provided for high-level supplies);
- Section 45 (Supply by meter);
- Section 46 (As to net annual value of two or more houses or parts of a house in one occupation);
- Section 48 (Price for water supplied for public purposes);
- Section 49 (Charges when hose-pipes refrigerating and other apparatus used);
- Section 50 (Special terms for supplies to caravans &c.);
- Section 53 (Revision of water rates);
- Section 54 (Revision of water charges in parish of Telscombe);
- Section 56 (Water rates payable half-yearly in advance);
- Section 59 (Guarantee by Newhaven Rural District Council);
- Section 60 (Byelaws for preventing waste of water);
- Section 61 (Extension of power to inspect premises);
- Section 62 (Maintenance of common pipe);
- Section 63 (Separate communication pipes may be required);
- Section 64 (As to communication pipes);
- Section 65 (Power to Corporation to repair communication pipes);

- Section 66 (Stop-cocks to be fitted in communication pipes);
- Section 67 (Corporation to connect communication pipes with mains);
- Section 68 (Notice to Corporation of connecting or disconnecting meters);
- Section 69 (Power to sell meters);
- Section 70 (Injuring meters &c.);
- Section 71 (Power to supply water fittings);
- Section 73 (Penalty for closing valves and apparatus);
- Section 74 (Contracts for supplying water in bulk outside water limits);
- Section 75 (Purchase of water in bulk);
- Section 77 (Notice of discontinuance).

1ST SCH.
—cont.

PART II.

SECTIONS OF ACT OF 1931 PARTLY REPEALED.

(1) Section.	(2) Extent of repeal.
Section 5 (Incorporation of Acts).	So much of subsection (1) as incorporates the Waterworks Clauses Act 1847 and the Waterworks Clauses Act 1863; Paragraph (iii) of subsection (2).
Section 21 (Exercise of powers of section 12 of Act of 1847).	The words from the beginning to "Waterworks Clauses Act 1847."
Section 44 (Rates for domestic supply).	In subsection (1) the words from "In addition to the foregoing rate" to the end of the subsection; Subsection (2).
Section 51 (Supply to houses partly used for trade &c.).	Subsections (1) (3) and (4).
Section 57 (Water rates may be collected with general rate).	Subsection (2).
Section 548 (General provisions as to byelaws).	In subsection (1) the second proviso.

THE SECOND SCHEDULE.

ADDITIONAL CHARGES FOR WATERING GARDENS BY MEANS
OF HOSEPIPES.

	£	s.	d.
Not exceeding 100 square yards	10	0	0
Exceeding 100 square yards but not exceeding 200 square yards	14	0	0
Exceeding 200 square yards but not exceeding 300 square yards	18	0	0
Exceeding 300 square yards but not exceeding 500 square yards	1	6	0
Exceeding 500 square yards but not exceeding 700 square yards	1	14	0
Exceeding 700 square yards but not exceeding 1,000 square yards	2	6	0
Exceeding 1,000 square yards	3	0	0

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