

ELIZABETH II



1966 CHAPTER xxxviii

An Act to provide for the removal of restrictions attaching to the churchyard of the church of Saint Andrew in the borough of Hove and the development and disposition thereof, to make further provision with reference to the local government and improvement of the borough; and for other purposes. [13th December 1966]

WHEREAS—

(1) The borough of Hove (in this Act called “the borough”) is under the management and local government of the mayor, aldermen and burgesses of the borough (in this Act called “the Corporation”):

(2) The church of Saint Andrew in the borough is surrounded by a churchyard (in this Act called “the churchyard”) and by Order in Council of Her late Majesty Queen Victoria dated 22nd May, 1883, burials in the churchyard were discontinued subject to certain specified exceptions:

(3) It is expedient that burials in parts of the churchyard should be wholly discontinued and that the powers contained in this Act with respect to the disposition of those parts of the churchyard, the laying out and development thereof, the erection of buildings thereon and the use thereof should be enacted:

(4) It is expedient to make further provision with reference to the local government and improvement of the borough:

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

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

1933 c. 51.

(7) 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:

(8) Plans showing the lands required or which may be taken, used or otherwise dealt with for the purposes or under the powers of this Act, and also a book of reference containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of those lands, were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office, House of Commons, and with the clerk of the county council of the administrative county of East Sussex, which plans and book of reference are in this Act referred to respectively as the deposited plans and book of reference:

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

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Act may be cited as the Hove Corporation Act 1966.

S.I. 1954/1574.

(2) The Hove Corporation Acts and Orders, 1830 to 1947, the Hove Superannuation Scheme Approval Instrument, 1954, and this Act may be cited jointly as the Hove Corporation Acts and Orders, 1830 to 1966.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Saint Andrew's Churchyard.

Part IV.—Organisation and methods.

Part V.—Finance and miscellaneous.

3.—(1) In this Act the several words and expressions to which meanings are assigned by section 343 of the Public Health Act, 1936, have the same respective meanings, unless there be something in the subject or context repugnant to such construction. 1936 c. 49.

PARt I
—cont.

Interpretation.

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

“ the Act of 1933 ” means the Local Government Act, 1933; 1933 c. 51.

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

“ the benefice ” means the benefice of the parish;

“ the bishop ” means the Lord Bishop of Chichester for the time being, and during a vacancy in the see of Chichester includes the guardian of the spiritualities thereof;

“ the borough ” means the borough of Hove;

“ the church ” means the parish church of Saint Andrew in the borough;

“ the churchyard ” means the churchyard surrounding the church;

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

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

“ the council ” means the council of the borough;

“ the county council ” means the county council of the administrative county of East Sussex;

“ the diocesan authority ” means The Chichester Diocesan Fund and Board of Finance (Incorporated);

“ enactment ” includes an enactment in this Act or in any general or local Act, and any order, byelaw, scheme or regulation for the time being in force within the borough;

“ the incumbent ” means the incumbent for the time being of the benefice or, during any period when the benefice is vacant, the bishop;

“ magistrates’ court ” has the same meaning as in the Magistrates’ Courts Act, 1952; 1952 c. 55.

“ the Minister ” means the Minister of Housing and Local Government;

“ Minister of the Crown ” has the same meaning as in the Ministers of the Crown (Transfer of Functions) Act, 1946; 1946 c. 31.

“ the parish ” means the parish of Saint Andrew in the borough as from time to time constituted;

“ the parochial church council ” means the parochial church council of the parish;

PART I
—cont.

“ the specified lands ” means so much of the churchyard as is shown coloured green, grey and pink on the deposited plans and thereon numbered 23 and 24;

“ the town clerk ” means the town clerk of the borough;

“ the tribunal ” means the Lands Tribunal.

(3) Except where the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by or by virtue of any subsequent enactment, including this Act.

Application
of Part I of
Compulsory
Purchase
Act, 1965.
1965 c. 56.
1946 c. 49.

4.—(1) Subject to the provisions of this Act, Part I of the Compulsory Purchase Act, 1965 (except sections 4 and 27 and paragraph 3 (3) of Schedule 3 thereof) shall apply for the purposes of the acquisition of land under this Act as it applies in relation to a compulsory purchase order under the Acquisition of Land (Authorisation Procedure) Act, 1946, and as if this Act was such an order.

(2) In subsection (1) of section 11 of the Compulsory Purchase Act, 1965, as so applied, for the words “ fourteen days ” there shall be substituted the words “ three months ”.

1845 c. 18.

(3) Notwithstanding the provisions of section 1 of the Lands Clauses Consolidation Act, 1845, the provisions of that Act shall not apply to the undertaking authorised by this Act and shall not be incorporated with this Act.

PART II

LANDS

Correction
of errors in
deposited
plans and
book of
reference.

5.—(1) If the deposited plans or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Corporation, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the borough for the correction thereof.

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

(3) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the clerk of the county council and with the town clerk, and thereupon the deposited plans and

the 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 land in accordance with the certificate.

PART II
—cont.

(4) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

6.—(1) The Corporation may enter into and carry into effect agreements with any person being the owner of, or interested in, any land abutting on any portion of land that may be acquired under this Act with respect to the sale by the Corporation to him of any land. Agreements with adjoining owners.

(2) The Corporation may accept as satisfaction for the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Corporation for the purposes of this Act.

7.—(1) The powers of section 164 of the Act of 1933 may be exercised by the Corporation in respect of the Adelaide Gardens and the Brunswick Gardens notwithstanding that such gardens have been made available for free and unrestricted access by members of the public: Power to lease parts of Adelaide and Brunswick Gardens.

Provided that the Corporation shall not under the powers of this section lease—

(a) in the case of the Adelaide Gardens an area exceeding 80 square yards;

(b) in the case of the Brunswick Gardens an area exceeding 225 square yards.

(2) The powers conferred on the Corporation by this section may be exercised without the consent of the Minister.

(3) In this section—

“ the Adelaide Gardens ” means the gardens in the centre of Adelaide Crescent in the borough; and

“ the Brunswick Gardens ” means the gardens in the centre of Brunswick Square in the borough.

PART III

SAINT ANDREW'S CHURCHYARD

8.—(1) As from the passing of this Act—

(a) burials in the specified lands shall be wholly discontinued; and

(b) the specified lands shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions

Closing of specified lands for burials and discharge of trusts and restrictions affecting specified lands.

PART III
—cont.

whatsoever (including the effects of consecration) which immediately before the passing of this Act attached thereto under ecclesiastical law or otherwise, and from all rights and interests of any person who is a personal representative or relative of any deceased person whose remains are interred in the specified lands and from all other trusts, uses, obligations, disabilities and restrictions whatsoever which attached thereto immediately before the passing of this Act by reason of the specified lands, or any part thereof, having been or formed the enclosure of a church or having been used or set apart for the interment of human remains or otherwise:

Provided that nothing in this Act shall operate to affect prejudicially any private right or easement (not being a right in respect of a grave) over the specified lands, or any part thereof, which attached thereto immediately before the passing of this Act.

(2) (a) Any person who at the date of the passing of this Act is the owner of a right of burial in a vault or walled grave in the specified lands shall be entitled to be paid compensation for the loss of that right by virtue of the provisions of this section.

(b) The amount of any compensation payable under this subsection shall in case of dispute be determined by the tribunal.

Power to
sell specified
lands and
application
of proceeds
of sale.

9.—(1) (a) The incumbent, the incumbent of All Saints or the Church Commissioners for England or any or all of them as the case may require—

- (i) shall, on being requested by the county council so to do, convey to the county council for educational purposes their estate and interest (if any) in so much of the specified lands as is shown coloured green on the deposited plans, or such other part or parts of the specified lands as may be agreed between the county council, the Corporation and the incumbent;
- (ii) shall, on being requested by the Corporation so to do, convey to the Corporation for highway purposes their estate and interest (if any) in so much of the specified lands as is shown coloured grey on the deposited plans, or such other part or parts of the specified lands as may be agreed between the county council, the Corporation and the incumbent;
- (iii) may convey to the diocesan authority their estate and interest (if any) in so much of the specified lands as is shown coloured pink on the deposited plans or such other part or parts of the specified lands as may be agreed between the county council, the Corporation and

the incumbent for the provision of a building or buildings to be used for charitable purposes in connection with the work of the Church of England or any charitable purpose intended to further the work of the Church of England in the spiritual, moral and physical education and training of the inhabitants of the parish.

PART III
—cont.

(b) In this subsection the expression “the incumbent of All Saints” means the incumbent for the time being of the benefice of All Saints in the borough as from time to time constituted or during any period when that benefice is vacant the bishop.

(2) The county council and the Corporation shall pay to the incumbent, in consideration of any conveyance to them under subsection (1) of this section, such sum as may be agreed between the county council and the Corporation (as the case may be) and the incumbent or as failing agreement may be determined by the tribunal under and in accordance with the Land Compensation Act, 1961, and for the purposes of determining such sum, regard shall be had to the obligations of the county council or the Corporation (as the case may be) under subsection (2) of section 8 (Closing of specified lands for burials and discharge of trusts and restrictions affecting specified lands) and section 12 (Removal of human remains) of this Act. 1961 c. 33.

(3) All sums payable in consideration of the conveyance, sale or other disposal of the specified lands or any part thereof under this section shall be paid to the incumbent (whose receipt shall be a good and sufficient discharge) and after deducting the amount of any costs, charges or other expenses incurred in connection with the conveyance, sale or other disposal, the incumbent shall pay the net proceeds to the parochial church council.

(4) All moneys received by the parochial church council under this section shall be applied by them for such of the following purposes as the incumbent with the approval of the parochial church council may from time to time determine, namely:—

- (a) the erection on the specified lands of a parish hall or other building or buildings to be used for purposes mentioned in sub-paragraph (iii) of paragraph (a) of subsection (1) of this section;
- (b) the removal by the parochial church council of human remains pursuant to section 12 (Removal of human remains) of this Act;

PART III
—cont.

1951 No. 5.

- (c) the preservation and maintenance of the fabric of the church and of so much of the churchyard as does not form part of the specified lands;
- (d) the improvement of the benefice income of the benefice which may be by way of payment to the Church Commissioners for England to be held by them pursuant to section 4 of the Benefices (Stabilization of Incomes) Measure, 1951;
- (e) the purchase, development, improvement and maintenance of lands and buildings held or used or to be held or used for charitable purposes in connection with the parish; and
- (f) any other charitable ecclesiastical purposes connected with the parish.

As to transfer
of certain
lands.

10.—(1) The diocesan authority or other the owner for the time being of the land shown coloured blue on the deposited plans and thereon numbered 25 shall on being requested by the Corporation so to do convey to the Corporation the said land for the purpose of the construction of a footpath:

Provided that the Corporation shall not request the conveyance of the said land before it has ceased to be used for educational purposes.

1961 c. 33.

(2) The Corporation shall pay to the diocesan authority or other the owner for the time being of the said land in consideration of any conveyance to them under subsection (1) of this section such sum as may be agreed between the Corporation and the diocesan authority or such other owner or, as failing agreement, may be determined by the tribunal under and in accordance with the Land Compensation Act, 1961.

Power to use
specified
lands.

11.—(1) Notwithstanding anything contained in any enactment, but subject to the provisions of this Act, it shall be lawful at any time after the passing of this Act to use, deal with or dispose of the specified lands or any part thereof as if no part thereof had ever been consecrated or formed the enclosure of a church or been used or set apart for the interment of human remains.

(2) In the exercise of their powers under subsection (1) of this section and without prejudice to the generality of those powers or of their powers under section 12 (Removal of human remains) of this Act the county council or the Corporation (as the case may be) may in respect of any part of the specified lands vested in them remove or change the position of any memorial in that part of the specified lands.

(3) (a) Before removing or changing the position of any memorial under this section the appropriate authority shall—

PART III
—cont.

- (i) publish a notice of their intention to do so once in each of two successive weeks in some newspaper circulating in the borough with an interval between the dates of publication of not less than six clear days;
- (ii) display a notice thereof in a conspicuous position in the part of the specified lands vested in them; and
- (iii) serve a notice thereof upon the owner of the grave or upon a relative of a deceased person whose remains are interred therein, if after reasonable inquiry the name and address of the owner or of a relative of such person can be ascertained.

(b) Each of the notices shall in relation to the grave to which it refers—

- (i) contain brief particulars of the appropriate authority's proposals, and specify an address at which full particulars of the proposals can be obtained, unless the brief particulars are of proposals incapable of further statement;
- (ii) specify the date on which it is intended that the appropriate authority will begin to carry out the proposals, which shall be not earlier than three months after the first publication of such notice.

(c) The appropriate authority may put to such use as they think appropriate, or destroy, any memorial removed under this section, unless the memorial is claimed and removed within three months from the date of the earlier of the two publications of the notice required by sub-paragraph (i) of paragraph (a) of subsection (3) of this section.

(d) The appropriate authority shall cause a record to be made of each memorial removed or otherwise disposed of by them in pursuance of their powers under this section containing—

- (i) a copy of any inscription on it; and
- (ii) if it is intended to preserve the memorial, a statement naming the place to which it has been taken;

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

(4) In this section—

“the appropriate authority” means in relation to any part of the specified lands used or required for educational purposes the county council and in relation to any part of the specified lands used or required for highway purposes the Corporation;

“memorial” means anything commemorating the dead and includes any railing protecting or marking the memorial.

PART III
—cont.Removal of
human
remains.

12.—(1) Before any person begins to use any part of the specified lands for—

- (a) the erection thereon or thereunder of any building; or
- (b) any other purpose likely to involve the disturbance of human remains (any question as to which shall be determined by the Secretary of State, whose decision shall be final);

the owner shall give notice of his intention to remove, or cause to be removed, from that part of the specified lands the remains of any deceased person found to have been interred therein by publishing a notice once in each of two successive weeks in a newspaper circulating in the borough with an interval between publications of not less than six days, and shall display a like notice in a conspicuous place on that part of the specified lands and such notice shall have embodied in it the substance of subsections (2), (3), (4), (5), (6), (7) and (8) of this section.

(2) At any time within two months after the first publication of such notice, any person who is a personal representative or relative of any deceased person whose remains are interred in that part of the specified lands may give notice in writing to the owner 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, 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 consent of the incumbent of the benefice concerned) or to be removed to and cremated in any crematorium.

(3) If any person giving such notice as aforesaid shall fail to satisfy the owner that he is such personal representative 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 and as to the payment of the costs of the application.

(4) The expenses of such removal and reinterment or cremation (not exceeding in respect of remains removed from any one grave the sum of fifty pounds) shall be defrayed by the owner such sum to be apportioned if necessary equally according to the number of remains in the grave.

(5) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the owner in respect of the remains in any grave, or if after such notice has been given the person giving the same shall fail within two months to cause such remains to be removed in compliance with the provisions of this section, and with any regulation of the bishop, the owner

without any faculty for that purpose shall 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, subject to the consent of the bishop, the owner thinks suitable for the purpose (but, in the case of interment in a churchyard, the previous consent of the incumbent of the benefice concerned shall also be required) or cremated in such crematorium as the owner thinks fit.

(6) Upon any removal of remains from the specified lands a certificate of removal and reinterment or cremation shall be sent to the Registrar General by the owner giving the dates of removal and reinterment or cremation respectively and identifying the place from which the remains were removed and the place in which they were reinterred or cremated showing the particulars of each removal separately.

(7) Any monument or tombstone relating to the remains of any deceased person removed under this section shall, at the expense of the owner, be removed and re-erected at the place of reinterment of such remains or at such place as the bishop may direct on the application (if any) of such personal representative or relative as aforesaid or failing such application on the application of the owner and the owner shall cause a record to be made of each monument and tombstone taken from the specified lands under this section containing—

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

(b) if it is intended to preserve the monument or tombstone a statement naming the place to which it has been taken;

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

Provided that in the case of a monument or tombstone in respect of which no application is made by such personal representative or relative as aforesaid it shall not be necessary to re-erect the monument or tombstone if the owner considers that, by reason of its ruinous condition, it is unsuitable for re-erection and any such monument or tombstone may be disposed of in such manner as the owner subject to the faculty jurisdiction within the diocese may direct.

(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 of health of the borough.

(9) (a) For the purposes of this section the expression “the owner” means—

(i) in relation to any part of the specified lands used or required for educational purposes the county council;

(ii) in relation to any part of the specified lands used or required for highway purposes the Corporation; and

PART III
—cont.

- (iii) in relation to any part of the specified lands used or required for use for the provision of a building or buildings to be used for purposes mentioned in subparagraph (iii) of paragraph (a) of subsection (1) of section 9 (Power to sell specified lands and application of proceeds of sale) of this Act the parochial church council:

Provided that any authority, body or person in whom any part of the specified lands is vested or who has the management or control of any part of the specified lands may enter into agreement with any other authority, body or person in whom any other part of the specified lands is vested or who has the management or control thereof whereby either of the parties to the agreement shall be responsible for removing from the specified lands or the part thereof to which the agreement relates the remains of deceased persons interred therein in accordance with the provisions of this section and the party so responsible under any such agreement shall be deemed to be "the owner" for the purposes of this section.

(b) Any agreement entered into in pursuance of the proviso to the foregoing paragraph shall contain such provisions as may be necessary—

- (i) for ensuring that the provisions of this section are complied with; and
- (ii) for securing that the expenses incurred shall be borne by the parties in such proportions as may be agreed or as in default of agreement may be settled by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed by the President of The Law Society.

PART IV

ORGANISATION AND METHODS

13.—(1) Notwithstanding anything in any enactment—

- (a) a grant of the exclusive right of burial in any part of a burial ground or cemetery maintainable by the Corporation; and
- (b) any licence granted by the Corporation;

may be given under the hand of the town clerk or his duly authorised deputy instead of under the common seal of the Corporation.

(2) For the purposes of—

- (a) subsection (1) of this section; and
- (b) any certificate of registration issued by the Corporation;

As to grants of burial, licences and certificates of registration.

a grant, licence or certificate of registration shall be deemed to be given under the hand of the town clerk or his duly authorised deputy if a facsimile of his signature by whatever process reproduced is affixed to such grant, licence or certificate.

PART IV
—cont.

14. Notwithstanding anything contained in paragraph 3 of Part V of Schedule 3 to the Act of 1933, or in any other enactment or rule of law to the contrary, the minutes of the proceedings of meetings of the council or of any committee or sub-committee thereof, may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed, and each leaf comprising those minutes being initialled, at the same or next ensuing meeting of the council or, as the case may be, at the same or any subsequent meeting of the committee or sub-committee by the person presiding thereat, and any minutes purporting to be so signed shall be received in evidence without further proof.

As to minutes of council meetings, etc.

15. Subject to subsection (5) of section 85 of the Act of 1933 the power of delegation conferred on the council by that section shall extend to enable the council to delegate functions to a committee, notwithstanding that those functions have been delegated to the council by or by virtue of any enactment.

Delegation to committees.

PART V

FINANCE AND MISCELLANEOUS

16.—(1) The Corporation may borrow—

Power to borrow.

- (a) such sums as may be necessary for any of the purposes of this Act;
- (b) without the consent of any sanctioning authority, for any of the purposes specified in column (1) of the following table the sum specified in relation thereto in column (2) of that table.

(2) Every sum borrowed under paragraph (a) of the foregoing subsection shall be repaid within such period from the date of borrowing as the Corporation, with the consent of the sanctioning authority, may determine, not exceeding sixty years.

(3) Every sum borrowed under paragraph (b) of subsection (1) of this section shall be repaid within such period from the date of borrowing as the Corporation, without the consent of any sanctioning authority, may determine, not exceeding the period specified in relation thereto in column (3) of the following table.

PART V
—cont.

(4) Subject to the provisions of this section, Part IX of the Act of 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

1946 c. 58.

(5) It shall not be lawful to exercise the powers of borrowing conferred by this section, other than the power of borrowing to pay the costs, charges and expenses of this Act, except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act, 1946.

Purpose for which money may be borrowed (1)	Amount (2)	Maximum period for repayment of loan (3)
(a) The purchase of lands, under the powers of this Act	The sum requisite	Sixty years.
(b) The carrying out by the Corporation of their obligations under section 12 (Removal of human remains) of this Act	The sum requisite	Sixty years.
(c) The costs, charges and expenses of this Act	The sum requisite	Five years.

Removal of
vehicles.

1960 c. 16.

17.—(1) If a vehicle is left in the borough elsewhere than on a road or in an off-street parking place provided under section 81 of the Road Traffic Act, 1960, the Corporation may, with the consent of the occupier of the land on which the vehicle is left and after giving not less than seven days' notice to the owner of the vehicle, cause it to be removed:

Provided that, where the vehicle appears to the Corporation to be abandoned—

- (a) the Corporation may cause it to be removed without the consent of the occupier of the land if they are unable after reasonable inquiry to ascertain his name and address; and
- (b) the Corporation may cause the vehicle to be removed without notice to the owner thereof if they are unable after reasonable inquiry to ascertain his name and address.

(2) The provisions of any regulations for the time being in force under section 43 of the Road Traffic Act, 1960, about the

method of removing vehicles and their loads and arrangements for the safe custody of vehicles and their loads shall apply to vehicles removed under this section.

PART V
—cont.

(3) Section 15 of the Road Traffic and Roads Improvement Act, 1960, and any order for the time being in force under that section shall apply to a vehicle removed under this section as if it had been removed from a road in pursuance of regulations under section 43 of the Road Traffic Act, 1960. 1960 c. 63.
1960 c. 16.

(4) For the purpose of the said section 15 and any such order as applied by the last preceding subsection, “the appropriate authority” means the Corporation, and any reference in regulations made under section 43 of the Road Traffic Act, 1960, to a charge to payment of which the Corporation are entitled under the said section 15 shall be construed accordingly.

(5) If it appears to the Corporation that a vehicle removed under this section has been abandoned the Corporation may sell or otherwise dispose of it subject to compliance with such regulations as are for the time being in force under section 43 of the Road Traffic Act, 1960, relating to the disposal of vehicles abandoned on roads; and the provisions of any regulations under that section relating to the proceeds of the sale of vehicles abandoned on roads and to the recoupment of costs incurred in connection with the disposal of such vehicles shall, with the necessary modifications, apply to the sale and disposal of vehicles under this subsection.

(6) In this section “owner” in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement means the person in possession of the vehicle under that agreement and “road” means a highway or other road to which the public has access and includes bridges over which the road passes.

18.—(1) If the Corporation—

- (a) acquire land by agreement; or
- (b) enter into an agreement to acquire land; or
- (c) have acquired land by agreement before the passing of this Act; or
- (d) appropriate (whether before or after the passing of this Act) land previously acquired by agreement;

Suspension of
restrictive
covenants.

for a purpose for which they are for the time being or could under any enactment for the time being in force be authorised to acquire the land compulsorily and the land is affected by any restriction arising under covenant or otherwise (other than a restriction imposed by any enactment) as to the user thereof or the building thereon the Corporation may, subject to the provisions of this section, by resolution suspend the operation of such restriction.

PART V
—cont.

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

(3) The Corporation shall—

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

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

(c) on or before the date of the first publication of the said notice affix a copy or copies of the said notice to some conspicuous object or objects on the land to which the resolution relates.

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

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

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

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

(7) If in the opinion of the Corporation there is doubt whether any such land as is mentioned in subsection (1) of this section is affected by any restriction to which that subsection relates or whether any such restriction is enforceable the Corporation may—

(a) in three successive weeks publish in one or more local newspapers circulating in the borough a notice describing the land and stating generally the effect of this and subsections (8) and (9) of this section and specifying the time not being less than three months from the first publication of the notice within which and the manner in which any person claiming to be entitled to enforce a restriction against the land may intimate such claim to the Corporation and produce to them his documents of title in support of his claim;

(b) on or before the date of the first publication of the notice referred to in paragraph (a) of this subsection—

(i) serve a copy of that notice by registered post or the recorded delivery service on every person who it appears to them after diligent inquiry may reasonably be expected to claim to be entitled to enforce a restriction against the land; and

(ii) affix a copy or copies of that notice to some conspicuous object or objects on the land.

(8) If any person is entitled to enforce a restriction against the land but fails to comply with the requirements of such notice, the restriction shall, so far as concerns such person and his successors in title, be deemed to have been suspended under the foregoing provisions of this section, but without prejudice to any claim for compensation under subsection (9) of this section.

(9) The Corporation shall pay compensation in accordance with the provisions of section 10 of the Compulsory Purchase Act, 1965, to any person entitled to the benefit of a restriction suspended under the powers of this section who suffers loss in consequence thereof and the amount of such compensation shall be determined in case of dispute in accordance with the Land Compensation Act, 1961. 1965 c. 56. 1961 c. 33.

(10) Any restriction suspended under the powers of this section shall be unenforceable so long as the Corporation are the owners of the land to which the restriction relates, or, if the Corporation convey the land to any body for any of the purposes of the Education Acts, 1944 to 1964, so long as the land is used by that body for the purpose of those Acts and, if compensation is paid by the Corporation under subsection (9) of this section in respect of the suspension of a restriction relating to the building upon or use of land, that restriction shall remain unenforceable in respect of such building or use notwithstanding any subsequent conveyance or disposition of the land to any other person:

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—cont.

Provided that if such compensation is paid on the basis that land may be used for a particular purpose, the restriction shall after any subsequent conveyance or disposition of the land to a person otherwise than for any of the purposes of the Education Acts, 1944 to 1964, remain unenforceable only so long as the land is used for that purpose.

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

(12) Nothing in this section shall apply to any restriction for the protection of or for securing access to apparatus of any statutory undertakers or the British Railways Board contained in any deed, wayleave, agreement or other instrument.

(13) In this section the expression “ the appropriate Minister ” means the Minister of the Crown having power to authorise the compulsory purchase of the land for the purpose for which the Corporation have acquired or agreed to acquire or appropriated that land.

(14) For the purposes of this section any land acquired by the Hove Commissioners, the Hove Urban District Council or other the predecessors of the Corporation and vested in the Corporation at the passing of this Act shall be deemed to have been acquired by the Corporation.

Coffee bars,
clubs, etc.,
open after
11 p.m. or
before 5 a.m.

19.—(1) In this section—

“ coffee bar ” means—

(a) any premises which are kept open for public refreshment at any time between the hours of eleven o'clock in the evening and five o'clock in the morning; or

(b) any premises which are used by a club, organisation or body and which, if they were kept open to the public, would fall within paragraph (a) of this definition;

but does not include any premises—

(i) in respect of which there is in force for the time being a justices' on-licence within the meaning of subsection (2) of section 1 of the Licensing Act, 1964; or

(ii) which are kept open wholly or mainly as an ancillary amenity to a bona fide hotel, guest house or lodging house; or

(iii) which are used by a club registered or licensed under the Licensing Act, 1964, or a club provided or maintained by the Corporation; or

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—cont.

1964 c. 26.

(iv) which are used by a club, organisation or body—

(A) registered as a charity under section 4 of the Charities Act, 1960, or not required to be registered under that section by virtue of the provisions of subsection (4) thereof; or

1960 c. 58.

(B) exclusively and bona fide for the purpose of a gymnasium or swimming bath, or playing badminton, fives, racquets, squash, bingo, tombola, billiards, chess, dominoes, bridge, whist or any game similar to any of those games; or

(v) in respect of which a licence is for the time being in force for the public performance of stage plays or a cinematograph exhibition;

“specified drug” means any substance which the council, with the approval of the Secretary of State, by resolution determine should, from a date to be fixed by the resolution, be included among the drugs to which subsection (13) of this section applies;

“young person” means a person of not more than eighteen years of age.

(2) For the purposes of a resolution relating to a specified drug the provisions of subsections (2) and (3) of section 20 (Commencement of section 19 of Act) of this Act shall (with any necessary modifications) apply to any such resolution and the date fixed thereby.

(3) If in the opinion of the Corporation it becomes unnecessary that premises of any particular class or description should remain subject to the provisions of this section the council may by resolution determine that as from a date to be fixed by the resolution such class or description of premises shall be exempted from the provisions of this section; and the provisions of subsections (2) and (3) of the said section 20 shall (with any necessary modifications) apply to any such resolution and the date fixed thereby:

Provided that the Corporation may, after the date so fixed by any such resolution, apply to a magistrates' court for an order that, having regard to any relevant circumstances, any specified premises exempted from the provisions of this section by such a resolution should become subject to the provisions of this section, and if the court so orders those premises shall become subject to the provisions of this section from such date as may be fixed

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—cont.

by the court, being a date not earlier than one month from the date of service upon the occupier of those premises of a copy of the order of the court.

(4) On and after the coming into operation of this section—

- (a) no premises in the borough shall be used for the purpose of a coffee bar, unless they are registered with the Corporation in accordance with the provisions of this section;
- (b) if any owner, occupier or other person concerned in the management of premises in the borough uses them for the purpose of a coffee bar or permits the premises to be used for that purpose he shall, unless the premises have been so registered with the Corporation and the registration remains in force, be liable to a fine not exceeding one hundred pounds.

(5) The Corporation may refuse to register or renew the registration of any premises for use as a coffee bar if they are satisfied that—

- (a) the premises are not suitable for the purpose, having regard to the likelihood of nuisance being caused by reason of the situation of the premises and the character of adjacent properties;
- (b) the premises, or the persons intended to be concerned with the conduct of the premises as a coffee bar, are such that young persons resorting thereto are likely to be depraved or corrupted;
- (c) the premises are not safe for the purpose;
- (d) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;
- (e) adequate precautions against fire on the premises have not been taken;
- (f) satisfactory means of escape in case of fire and suitable fire-fighting appliances have not been provided on the premises; and
- (g) the applicant has, within the period of five years immediately preceding the date of the application to the Corporation, been convicted of an offence under subsection (6) or (13) of this section.

(6) (a) The Corporation may, on registering or renewing the registration of any premises for use as a coffee bar, impose conditions as to—

- (i) the maintenance of public order and safety;
- (ii) the number of persons who may be allowed to be on the premises at any time;

- (iii) the taking of proper precautions against fire, and the maintenance in proper order of means of escape in case of fire, fire-fighting appliances and means of lighting and ventilating the premises;
- (iv) the maintenance in safe condition of means of heating the premises; and
- (v) the hours of opening and closing the premises for use as a coffee bar so as to ensure that nuisance is not likely to be caused to residents in the neighbourhood:

Provided that the Corporation shall not impose any condition under sub-paragraph (v) of this paragraph in the case of premises which are kept open wholly or mainly as an ancillary amenity to a bona fide ten-pin bowling establishment.

(b) Any person concerned in the management of a coffee bar who contravenes any condition imposed under this subsection, or who knew or had reasonable cause to suspect that such a condition was being contravened by some other person, shall be liable to a fine not exceeding fifty pounds:

Provided that if the person against whom proceedings are brought under this paragraph proves that he has used all due diligence to secure that the condition concerned was complied with, he shall be acquitted of the offence under this paragraph.

(7) The Corporation may at any time revoke the registration of any premises on any ground upon which, pursuant to subsection (5) of this section, they may refuse to renew the registration of those premises, or if they are satisfied that any condition imposed under subsection (6) of this section has not been complied with.

(8) An application for registration or renewal of registration under this section shall be made in writing to the Corporation by the owner or occupier of the premises to which the application relates and every such application shall state—

- (a) the address or situation of the premises to which the application relates;
- (b) the name and address of the applicant and his trade or calling during the six months preceding the application;
- (c) such other information regarding the premises to be registered and the manner in which the premises are proposed to be used as the Corporation may reasonably require.

(9) Any person making application for registration or renewal of registration under this section shall when making application pay to the Corporation in respect thereof a fee of one pound,

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—cont.

(10) Before refusing to register or renew the registration of any premises or revoking the registration of any premises the Corporation shall give to the person applying for registration or renewal of registration or in whose name the premises are registered an opportunity of appearing before and of being heard by a committee of the council and, if so required by him, the Corporation shall within seven days of their decision give to him a statement of the grounds upon which it was based.

(11) Any person aggrieved by the refusal of the Corporation to register or renew the registration of any premises under this section, or by the revocation of any such registration or by any condition imposed under this section, may within twenty-one days from the date of such refusal, or revocation, or the imposition of the condition, appeal to a magistrates' court; and on any such appeal the court may by order confirm or set aside such refusal or revocation, or confirm, vary or set aside any such condition, or impose any condition which the Corporation would have been entitled to impose by virtue of this section, and the Corporation shall give effect to such order accordingly.

(12) Registration under this section shall, unless revoked, remain in force for such period not exceeding thirteen months as may be fixed by the Corporation.

1964 c. 64.
1965 c. 15.

(13) If a coffee bar is conducted in a disorderly manner, or if any drug to which the Drugs (Prevention of Misuse) Act, 1964, or the Dangerous Drugs Act, 1965, applies, or any specified drug is sold, supplied or otherwise distributed on the premises by a person to any other person resorting thereto, any person concerned in the management of the coffee bar who knew or had reasonable cause to suspect that the premises were so conducted as aforesaid or that such sale, supply or distribution was taking place on the premises shall be guilty of an offence under this section and liable on conviction to a fine not exceeding fifty pounds:

1956 c. 76.

Provided that nothing in this subsection shall apply to the administration of a drug or a specified drug for the purposes of medical treatment by or in accordance with the directions of a medical practitioner registered pursuant to the Medical Act, 1956, or any enactment amending or replacing the same.

(14) Any duly authorised officer of the Corporation shall on producing if so required some duly authenticated document showing his authority, and any police officer, shall have a right to enter, at all reasonable times, any premises used as a coffee bar, or intended to be so used, for the purpose of ascertaining—

(a) whether there is, or has been, in or in connection with the premises, any contravention of the provisions of this section or of any condition imposed under the powers of this section;

(b) whether or not circumstances exist which would authorise the Corporation to take any action under this section.

(15) The provisions of subsections (2), (3) and (4) of section 287 of the Act of 1936 shall apply to entry into any premises for the purposes of subsection (14) of this section as they apply to entry into premises for the purposes of subsection (1) of that section.

(16) Where an offence under this section committed by a body corporate is proved to have been committed with the consent of or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(17) Notwithstanding the reference in subsection (1) of this section to the hours of eleven o'clock in the evening and five o'clock in the morning where premises are for the time being registered with the Corporation under this section the person who keeps the premises shall be deemed to have been duly licensed in respect of those premises under the provisions of the Refreshment Houses Act, 1860, in respect of the period between the hours of ten o'clock in the evening and five o'clock in the morning and the provisions of that Act, and of any enactment amending or extending the same, shall apply accordingly. 1860 c. 27.

20.—(1) Section 19 (Coffee bars, clubs, etc., open after 11 p.m. or before 5 a.m.) of this Act shall come into operation on such day as may be fixed by resolution of the council subject to and in accordance with the provisions of this section. Commencement of section 19 of Act.

(2) The Corporation shall cause to be published in a local newspaper circulating in the borough notice—

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

(b) of the general effect of the provisions of the said section 19;

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

(3) Either—

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

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—cont.

- (b) a photostatic or other reproduction certified by the town clerk to be a true reproduction of a page, or part of a page, of any such newspaper bearing the date of its publication and containing any such notice;

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

- (4) It shall be lawful for any person who—

- (a) immediately before the coming into operation of the said section 19 was using any premises for the purpose of a coffee bar to which the said section 19 applies; and
- (b) had before the coming into operation of the said section 19 duly applied for registration required by that section;

to continue to use those premises for that purpose, until he is informed of the decision with regard to his application, and if the decision is adverse during such further time as is provided under section 23 (Appeals) of this Act.

Local
inquiries.

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

(2) Subsections (2) to (5) of section 290 of the Act of 1933 shall apply in relation to any such inquiry; and for that purpose the definition of “department” in subsection (8) of that section shall include any Minister of the Crown having functions under this Act as well as the Ministers therein mentioned.

Restriction on
right to
prosecute.

22. The written consent of the Attorney General shall be requisite for the taking of proceedings in respect of an offence created by or under section 19 (Coffee bars, clubs, etc., open after 11 p.m. or before 5 a.m.) of this Act by any person other than the Corporation.

Appeals.

23.—(1) Section 300 of the Act of 1936 shall apply to appeals to a magistrates’ court under section 19 (Coffee bars, clubs, etc., open after 11 p.m. or before 5 a.m.) of this Act and sections 301 and 302 of that Act shall apply accordingly.

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

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

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

PART V
—cont.

- (i) no proceedings shall be taken in respect of any failure to execute the work, or take the action; and
- (ii) that person may use those premises for that purpose.

24. Sections 271, 283, 288, 296, 304 and 328 of the Act of 1936 shall have effect as if references therein to that Act included a reference to this Act except section 17 (Removal of vehicles).

Application of provisions of Act of 1936.

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

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

26. The enactments specified in the schedule to this Act are hereby repealed to the extent specified in column (3) thereof:

Repeal.

Provided that nothing in this repeal shall affect any byelaw in force at the commencement of this Act, and while such a byelaw continues in force by virtue of this proviso, any question as to its application or interpretation shall be determined as if this Act had not been passed.

27. The provisions of the Town and Country Planning Act, 1962, and any restrictions or powers thereby imposed or conferred in relation to land, shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Act.

Saving for town and country planning.
1962 c. 38.

28. The costs, charges and expenses preliminary to, and of and incidental to the preparing, applying for, obtaining and passing of this Act, shall be paid by the Corporation.

Costs of Act.

SCHEDULE

Section 26.

REPEALS

	Act (1)	Section (2)	Extent of repeal (3)
1851 c. cxl.	Brunswick Square Improvement Extension Act, 1851	XXVI (Beach carriage-ways, &c., vested in the Commissioners)	The words "and subject also as to the Crescent called Queen Adelaide Crescent to the Liberty or Privilege on the Part of the said Baron de Goldsmid of erecting and putting upon on the Southern End or Side of the Lawn or Pleasure Ground forming Part of the said Crescent a Building not exceeding in Depth from South to North Thirty-two Feet, and in Width from East to West One hundred and sixty Feet, and in Height Five Feet above the Curbstone along the Southern Side of the present Inclosure Fence of the said Lawn, such Building nevertheless to be erected at an equal Distance from the South-east and South-west Corners of the same Fence, and also of erecting or putting up on any Part of the said Lawn or Pleasure Ground a Garden Seat or Summer House, not exceeding in Height above the Ground Eight Feet".
1913 c. liii.	Hove Corporation Act, 1913	XXXV (Reservation of Road)	The whole section.
1947 c. xxx.	Hove Corporation Act, 1947	46 (Improper construction or repair of water closet or drain)	The whole section.
		26 (Separate sewers for sewage and surface water)	The whole section.
		34 (Power to borrow)	The whole section.
		35 (As to exercise of borrowing powers)	The whole section.

Act (1)	Section (2)	Extent of repeal (3)	SCH. —cont.
Hove Corporation Act, 1947 —cont.	37 (Consolidated loans fund)	The whole section.	1947 c. xxx.
	38 (Capital fund) ...	The whole section.	
	40 (Renewal and repairs fund)	The whole section.	
	55 (Superannuation of employees of Central Valuation Committee)	The whole section.	
	72 (Costs of Act) ...	The whole section.	



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CHAPTER xxxviii

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