

ELIZABETH II



1970 CHAPTER lxxx

An Act to confer further powers upon the mayor, aldermen and burgesses of the borough of Bootle; to empower them to establish an undertaking for the supply of heat; to make further provision for the improvement, health, local government and finances of the borough; and for other purposes.

[17th December 1970]

WHEREAS—

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

(2) It is expedient to confer further powers on the Corporation and to make further provision with reference to lands and the improvement, health, local government and finances of the borough:

(3) It is expedient that the Corporation should be authorised to supply heat to premises within and outside the borough as by this Act provided:

(4) It is expedient that the Corporation should be enabled to acquire and use for highway purposes a portion of the churchyard of the former church of St. Mary in the parish of St. Mary with St. John, Bootle:

(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 to be acquired, used or dealt with in accordance with the provisions of this Act and a book of reference relating thereto were duly deposited in the office of the Clerk of the Parliaments, House of Lords, and in the Private Bill Office, House of Commons, and with the town clerk of the borough:

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 Bootle Corporation Act 1970.

(2) The Bootle Corporation Acts 1873 to 1959 and this Act may be cited jointly as the Bootle Corporation Acts 1873 to 1970.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—District heating.

Part IV.—Streets and buildings.

Part V.—Public health.

Part VI.—Public order and public safety.

Part VII.—Fire precautions.

Part VIII.—Hackney carriages.

Part IX.—Window cleaners.

Part X.—Finance and superannuation.

Part XI.—Miscellaneous.

Part XII.—General.

Interpretation.

1936 c. 49.

3.—(1) In this Act (except in Part IV (Streets and buildings) of 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.

(2) In this Act, except as otherwise expressly provided or 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; 1936 c. 49.
- “ the Act of 1950 ” means the Public Utilities Street Works Act 1950; 1950 c. 39.
- “ the Act of 1957 ” means the Housing Act 1957; 1957 c. 56.
- “ the Act of 1959 ” means the Highways Act 1959; 1959 c. 25.
- “ the Act of 1962 ” means the Town and Country Planning Act 1962; 1962 c. 38.
- “ the Act of 1963 ” means the Offices, Shops and Railway Premises Act 1963; 1963 c. 41.
- “ the appointed day ” has the meaning assigned to it by section 104 (The appointed day) of this Act;
- “ the borough ” means the county borough of Bootle;
- “ bulk refuse container ” means a container of not less than 1 cubic yard nominal capacity for refuse, designed or adapted to be emptied by mechanical means into a refuse vehicle of the Corporation;
- “ 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;
- “ daily fine ” means a fine for each day on which an offence is continued after conviction;
- “ the electricity board ” means the Merseyside and North Wales Electricity Board;
- “ 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 gas board ” means the North Western Gas Board;
- “ the general rate fund ” and “ the general rate ” mean respectively the general rate fund and the general rate of the borough;
- “ the generating board ” means the Central Electricity Generating Board;
- “ hackney carriage ” has the same meaning as in the Town Police Clauses Act 1847 but shall not be construed as including a public service vehicle; 1847 c. 89.
- “ land ” includes land covered with water and any interest in land or any easement or right in, to or over land;
- “ the Liverpool Corporation ” means the lord mayor, aldermen and citizens of the city of Liverpool;

PART I
—cont.

1952 c. 55.

“ magistrates’ court ” has the same meaning as in subsection (1) of section 124 of the Magistrates’ Courts Act 1952;

1906 c. 25.

“ open space ” has the same meaning as in the Open Spaces Act 1906;

1960 c. 16.

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

“ the railways board ” means the British Railways Board;

“ statutory undertakers ” means persons authorised by any enactment to carry on any undertaking for the supply of electricity, gas or water in the borough;

1878 c. 76.

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

“ the town clerk ” and “ the treasurer ” mean respectively the town clerk and the treasurer of the borough.

(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.

PART II

LANDS

Interpretation
of Part II.

4. In this Part of this Act, except as otherwise expressly provided or unless the subject or context otherwise requires—

“ the churchyard lands ” means the portion of the churchyard of the former church of St. Mary in the parish of St. Mary with St. John, Bootle, delineated on the deposited plans and thereon numbered 1;

“ the deposited plans ” means the plans referred to in the Preamble to this Act.

Power to use
churchyard
lands for
highway
purposes.

5.—(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 churchyard lands for highway purposes in like manner as if no part thereof had ever been used or set apart for the purpose of burial of human remains and the Corporation may enter upon, take and use the churchyard lands for those purposes.

(2) As from the date on which the Corporation enter upon, take or use the churchyard lands under the powers of this section for highway purposes the churchyard lands shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever (including the effects of consecration) which immediately before the passing of this Act attached to the churchyard lands 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 churchyard lands and from all other trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing of this Act attached thereto.

PART II
—cont.

6.—(1) Before the churchyard lands are used for highway purposes the Corporation shall remove or cause to be removed therefrom the remains of all deceased persons interred therein: Removal of human remains.

Provided that if it appears to the Secretary of State that compliance with any of the requirements of this subsection is in all the circumstances unnecessary in relation to all or any of the remains, he may dispense (on such conditions, if any, as he thinks fit) with compliance with those requirements in relation to those remains.

(2) (a) Before proceeding to remove any such remains the Corporation shall give notice of their intention so to do by publishing a notice in manner provided in paragraph (b) of this subsection in at least two newspapers circulating in the borough and shall display a like notice in a conspicuous place in the churchyard lands and such notice shall have embodied in it the substance of subsections (3) to (6) and (8) and (9) of this section.

(b) The notice referred to in paragraph (a) of this subsection shall be published in each of four successive weeks by publication in at least one newspaper in the first and third of those weeks and in at least one other newspaper in the second and fourth of those weeks.

(3) 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 the churchyard lands 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 and subject to any regulations made by the bishop) to cause such remains to be removed to and reinterred in any 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 benefice concerned, or to be removed to and cremated in any crematorium.

(4) If any person giving such notice as aforesaid fails to satisfy the Corporation 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 and the registrar shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(5) The expense of removal and reinterment or cremation (not exceeding in respect of remains removed from any one grave

PART II
—cont.

the sum of seventy-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—

- (a) 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
- (b) within two months after such notice has been given no application has been made under subsection (4) of this section and the person who gave the notice fails to remove the remains; or
- (c) within two months after any order is made under the said subsection the person, not being the Corporation, specified in the order fails to remove the remains;

the Corporation may, without any faculty for the purpose, cause the remains of the deceased person to be removed and reinterred in such other burial ground or cemetery in which burials may legally take place as, subject to the consent of the bishop, the Corporation think suitable for the purpose, or cremated in such crematorium as the Corporation think 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.

(7) Upon the reinterment or cremation of any remains under this section a certificate of reinterment or cremation shall be sent to the Registrar General by the Corporation giving the date of reinterment or cremation and identifying the place from which the remains were removed and the place in which they were reinterred or cremated.

(8) (a) Subject to the provisions of this subsection any memorial relating to the remains of any deceased person removed and reinterred 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 other place as the bishop may direct on the application either of such personal representative or relative as aforesaid or of the Corporation.

(b) Any memorial relating to the remains of any deceased person removed and cremated under this section shall at the request of such personal representative or relative as aforesaid or, if no such request is made, may, at the discretion and in either case at the expense of the Corporation, be removed and re-erected at such place as the bishop may direct on the application either of such personal representative or relative or of the Corporation.

(c) Any memorial not re-erected in accordance with the provisions of paragraph (b) of this subsection shall be offered

by the Corporation to the bishop for re-erection or disposal as he thinks fit, and—

PART II
—cont.

- (i) if accepted by him shall be so re-erected or disposed of at the expense of the Corporation; and
- (ii) if not accepted by him shall be broken and defaced before being disposed of in such manner as the Corporation think fit.

(d) Where the Corporation consider that by reason of its ruinous condition any memorial removed under this subsection is unsuitable for re-erection it may be disposed of in such manner as the Corporation think fit.

(e) The amount required to be paid by the Corporation in respect of the cost of removal and re-erection or disposal of any memorial under this subsection by or at the request of the said personal representative or relative or the bishop shall not exceed the sum of twenty pounds.

(f) The Corporation shall cause a record to be made of each memorial removed under this subsection containing—

- (i) a copy of the inscription thereon; and
- (ii) a statement of the place, if any, where it has been re-erected;

and shall deposit a copy of the record with the Registrar General and in the Public Episcopal Registry.

(9) The removal of the remains of any deceased person under this section shall be carried out in accordance with any conditions the Secretary of State may impose.

(10) In this section—

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

“ the registrar ” means the registrar of the Consistory Court of the Diocese of Liverpool.

7.—(1) In this section—

“ the Commission ” means the Commonwealth War Graves Commission;

“ Commonwealth war burial ” means a burial of any officer or man of the naval, military or air forces of His Majesty fallen in the war of 1914 to 1921 or in the war of 1939 to 1947;

“ the principal section ” means section 51 (Extension of power to maintain burial grounds) of the Bootle Corporation Act 1959;

“ burial ground ” means any burial ground to which the provisions of the principal section apply and in which

For protection
of Common-
wealth War
Graves
Commission.

1959 c. xli.

PART II
—cont.

there are situated any Commonwealth war graves relating to the said war of 1914 to 1921 or to the said war of 1939 to 1947;

“ memorial ” means any object erected, placed or planted for the commemoration of the dead, and includes any wall, kerb or railing protecting, enclosing or marking the grave or memorial.

(2) In relation to any burial ground, the Corporation shall—

- (a) not later than the date upon which such notice is first published in a newspaper circulating in the borough, serve upon the Commission a copy of any notice which the Corporation are required to publish pursuant to the principal section;
- (b) give written notification to the Commission of their intention to apply for a faculty or licence of a consistory court for the purpose of exercising a power conferred by paragraph (b), (c) or (d) of subsection (1) of the principal section;

and in any such case shall have due regard to any written representations made by the Commission within a period of one month from the service of the notice or the giving of the notification, as the case may be.

(3) The Corporation shall not in pursuance of the powers of the principal section remove any memorial placed or erected over any Commonwealth war grave unless they have first given to the Commission satisfactory assurances in writing in regard to all or such of the following matters as the Commission consider appropriate, namely:—

- (a) that no other memorial shall be placed or erected over such grave;
- (b) that any Commonwealth war burial in such grave shall at all times be protected from interference or disturbance otherwise than interference or disturbance authorised by a licence granted by the Secretary of State or authorised by a faculty or licence of a consistory court after prior notification to the Commission of the application for any such licence or faculty;
- (c) that in the case of any headstone placed or erected by the Commission over any such grave such memorial shall be removed only in accordance with such arrangements and in such manner including disposal of the memorial as shall be agreed in writing between the Corporation and the Commission.

(4) If a Commonwealth war burial would be affected by a consent given by the Secretary of State under subsection (4) of the principal section, the Corporation shall not later than the

date on which the matter is referred to the Secretary of State inform the Commission in writing of such reference and the Secretary of State shall consider any representations submitted to him by the Commission within a period of twenty-eight days from the date of reference to the Secretary of State.

PART II
—cont.

8.—(1) The Corporation and any person having an estate or interest in any land within the borough may enter into an agreement which may provide for all or any of the following:— Agreements with developers.

- (a) determining the order in which development of that land shall be carried out as between the different parts of that land and as between the different parts of the development of any part of that land;
- (b) determining the time by which development of that land shall be completed or the times by which the parts of that development shall be completed;
- (c) providing that the estate or interest of that person in that land shall not be conveyed, leased or assigned except by way of mortgage or legal charge to any person unless the Corporation shall have first satisfied themselves that that person has or can command sufficient financial resources to carry out development of that land and to implement all the provisions of the agreement;
- (d) the dedication to the public of rights of way over that land or over a part or parts of any building or structure which is comprised in the development and the maintenance and cleansing of the public rights of way so dedicated including the maintenance and cleansing of the surface and the lighting of the building or structure over or above the public rights of way so dedicated and the maintenance of any support of the public rights of way so dedicated;
- (e) arrangements relating to the provision, maintenance or use of facilities for the parking of vehicles for or in connection with development of that land;
- (f) any other related or consequential matters.

(2) (a) An agreement entered into under the preceding subsection may contain positive and negative covenants and whether they be positive or negative and notwithstanding that they may not enure, and may not be expressed to enure, for the benefit of any other land of the covenantee they shall, if registered in the local land charges register, be enforceable by the Corporation against the covenantor and all persons deriving title by, through or under the covenantor.

(b) In the event of the person who has entered into an agreement under the preceding subsection or any person deriving title by, through or under him failing to perform any of the positive covenants contained in the agreement the Corporation may after

PART II
—cont.

giving not less than twenty-one days' notice of their intention so to do enter on the land and do the work in default and the expenses incurred by the Corporation in so doing shall be recoverable by them from the person in default.

(c) Except as may be expressly provided in the agreement an agreement entered into under the preceding subsection shall be enforceable and be deemed to be intended to be enforceable in perpetuity or for the duration of the estate or interest which the person entering into the agreement has in the land at the time when the agreement is entered into.

(3) The Corporation may take or acquire shares or other securities in any company incorporated in the United Kingdom with which an agreement is entered into under this section.

(4) In this section "development" has the same meaning as in section 12 of the Act of 1962.

PART III

DISTRICT HEATING

Interpretation
of Part III.

1882 c. 56.

9. In this Part of this Act, except as otherwise expressly provided or unless the subject or context otherwise requires—

"electric line" has the same meaning as in the Electric Lighting Act 1882;

"heat" means heat however supplied and includes hot water and hot air but does not include gas other than non-combustible gas;

"heating charges" means the charges for heat prescribed by the Corporation under subsection (1) of section 17 (Heating charges) of this Act;

"heating fittings" includes radiators, air heaters, water heaters, mains, pipes, meters, taps, cocks, valves, ferrules and other works and apparatus used in connection with the supply or use of heat;

"the heating undertaking" means the heating undertaking authorised by this Part of this Act and includes all lands, stations, boiler-houses, properties, works, buildings, machinery, plant, mains, pipes, apparatus, appliances, easements, rights, powers and privileges for the time being belonging to or held, used or enjoyed by the Corporation for or in connection with the provision, storage, transmission, distribution and supply of heat;

"main" includes a pipe or duct for the transmission of heat whether or not that transmission is for the purpose of supplying heat and also includes mechanical and thermal protection for a main and apparatus used in connection with a main.

Supply of
heat.

10.—(1) The Corporation may supply heat to—

(a) such premises in the borough; and

(b) such premises owned by them outside the borough;

as they may think fit, upon and subject to the terms and conditions provided by this Part of this Act and such other terms and conditions as may be agreed between the Corporation and the owners or occupiers of the premises:

PART III
—cont.

Provided that in the exercise of the powers of this section the Corporation shall not show undue preference to any person and shall not exercise any undue discrimination against any person.

(2) Before the Corporation enter into an agreement with the occupier of any premises for the supply of heat to such premises, they shall give notice of their intention to do so to the owner of the premises and in the event of the supply of heat to such premises being discontinued, notice of such discontinuance shall be given by the Corporation to the owner of such premises.

11.—(1) Subject to the provisions of this Part of this Act, the Corporation may on any lands in the borough belonging or leased to them erect, lay down, maintain, work and use stations, boiler-houses, mains, pipes and other works for providing, storing, transmitting, distributing and supplying heat and for producing any material, product, matter or thing arising or used in the process of such provision of heat (including the generation of electricity), together with such buildings, boilers, engines, pumps, machinery, lifts, hoists, sidings, electric lines, matters and things of whatever description as may be required by the Corporation to enable them to provide, store, transmit, distribute and supply heat; and the Corporation may accordingly on those lands provide, store, transmit, distribute and supply heat and may produce such materials, products, matters and things:

Works for
provision
of heat.

Provided that—

- (a) nothing in this section shall be taken to dispense with the consent of any government department to any use of any lands of the Corporation in any case in which such consent would have been required if this section had not been enacted;
- (b) any electrical works or equipment erected, laid down, maintained, worked or used pursuant to the powers conferred by this section shall be so erected or laid down and so maintained, worked and used as to prevent interference with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line;
- (c) before installing any engines or machinery for the generation of electricity (other than electricity to be used for or in connection with the supply of heat under the powers of this Part of this Act at the works at which it is generated) the Corporation shall consult

³PART III
—cont.

with the generating board and shall not instal such engines or machinery except with the agreement of that board.

(2) Any electricity generated by the Corporation as aforesaid may be sold—

(a) to the generating board; or

(b) with the approval of the generating board to the electricity board;

and any electricity so generated and not so sold as aforesaid may only be used for or in connection with the supply of heat under the powers of this Part of this Act at the works at which it is generated or (with the consent of the generating board and the electricity board) elsewhere.

(3) The generating board shall, subject to the terms of any agreement made under paragraph (c) of the proviso to subsection (1) of this section, take all the electricity generated by the Corporation as aforesaid which is not—

(a) required for or in connection with the supply of heat; or

(b) supplied to the electricity board with the approval of the generating board;

upon such terms and conditions as may be agreed between the Corporation and the generating board or, in default of agreement, determined by arbitration, and the arbitrator in determining the terms and conditions shall have regard to the costs which the generating board would incur in producing the equivalent amount of electricity from their own resources.

(4) Before erecting or laying down any works for providing, storing, transmitting, distributing or supplying heat, the Corporation shall give notice of their proposals to the generating board, the electricity board, the Gas Council, the gas board and to such other bodies as the Corporation may consider it appropriate to consult, together with such information and estimates with regard to their proposals as any of such bodies may reasonably require, and if so requested in writing by any of such bodies within fourteen days after the date of the receipt by that body of such information, the Corporation shall consult with that body as to the Corporation's proposals and any alternative proposals which may within three months after that date be submitted by that body.

Power to buy
heat in bulk.

12.—(1) The Corporation may enter into and carry into effect agreements with any persons able to supply heat for the furnishing to the Corporation by such persons of a supply of heat for the purposes of this Part of this Act, and—

(a) any such person may enter into any such agreement accordingly;

- (b) any such agreement may provide for the provision by the Corporation or for the joint user by them and any other party to the agreement of any works, plant, materials or things required for the purposes of the agreement; and
- (c) the Corporation may let any land which they may possess to any such person to enable that person to supply heat in accordance with the agreement.

(2) The Corporation may for the said purposes also enter into and carry into effect agreements for the taking and use of surplus heat, hot water or steam from any generating station, gasworks, refuse destructor or industrial plant and any person able to supply heat, hot water or steam may enter into such an agreement.

13.—(1) The Corporation may be authorised by the Secretary of State to purchase compulsorily for the purposes of the heating undertaking land within the borough.

Purchase of land for heating undertaking.
1946 c. 49.

(2) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of that Act.

(3) (a) In this section the expression “land” includes easements and rights in respect of land and the Corporation may be authorised under this section to acquire compulsorily such easements or rights only as they may require without purchasing any other interest in the land.

(b) In relation to the compulsory acquisition of any such easement or right the Acquisition of Land (Authorisation Procedure) Act 1946 and the enactments incorporated therewith shall have effect as if references (whatever the terms used) to the land comprised in the compulsory purchase order were construed where the context so requires as references to the land in respect whereof the easement or right is acquired, and references to the obtaining or taking possession of the land so comprised were construed as references to the exercise of the easement or right.

(4) Where the Corporation have acquired an easement or right only in any land under this section—

- (a) they shall not be required or (except by agreement) entitled to fence off or sever that land from the adjoining land;
- (b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this Act had not been passed.

(5) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Corporation to acquire the land, the

PART III
—cont.

Corporation shall not be entitled under this section to acquire the easement or right unless the Lands Tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house:

Provided that nothing in this subsection shall apply to land forming part of a street.

(6) A notice to treat given under this section for an easement or right shall be endorsed with notice of the effect of subsection (5) of this section.

Power to lay
mains, etc.,
and break
open streets.
1945 c. 42.

14.—(1) The following provisions of the Third Schedule to the Water Act 1945 are hereby incorporated with this Part of this Act:—

- Part V (Power to lay mains, &c.);
- Section 22 (Power to break open streets);
- Section 25 (Protection for railway companies navigation authorities tramway undertakers, &c.);
- Section 27 (Remedies where undertakers fail to comply with foregoing requirements);
- Section 28 (Application of Part VI to verges and streets and highways not maintainable at the public expense); and
- Section 93 (Protection for works of navigation authorities and for catchment boards and railways).

(2) For the purposes of this Part of this Act, in the construction of the provisions incorporated by this section—

- “the limits of supply” means the borough;
- “main” has the meaning assigned to it by section 9 (Interpretation of Part III) of this Act;
- “service pipe” means a pipe for supplying heat from a main to any premises;
- “supplying water” means supplying heat and “supply of water” shall be construed accordingly; and
- “the undertakers” means the Corporation.

(3) Nothing in the provisions incorporated by this section shall authorise the Corporation—

- (a) to lay down a main outside the borough except for the purpose of—
 - (i) giving or facilitating a supply of heat within the borough; or
 - (ii) taking a supply of heat from any works or premises outside the borough; or

- (iii) supplying heat to any premises owned by them;
- (b) to supply heat to any premises outside the borough other than premises owned by them.

PART III
—cont.

15.—(1) For the purposes of the heating undertaking or in connection with the use or sale of electricity under the provisions of subsection (2) of section 11 (Works for provision of heat) of this Act the Corporation may, within the borough, lay down or erect electric lines and apparatus—

Power to lay down or erect electric lines, etc.

- (a) in, under or over any street, subject however to the provisions of subsection (3) of this section; and
- (b) with the consent of every owner and occupier of any land not forming part of a street in, on or over that land;

and may from time to time inspect, repair, alter or renew or may at any time remove any electric line or apparatus laid down or erected by them whether by virtue of this section or otherwise:

Provided that a consent required for the purposes of this subsection shall not be unreasonably withheld, and any dispute as to whether such a consent is or is not unreasonably withheld shall be referred to and determined by the Secretary of State.

(2) (a) Where the Corporation in the exercise of the powers of this section lay down or erect any electric line or apparatus in, on or over any land not forming part of a street or inspect, repair, alter, renew or remove any electric line or apparatus laid down or erected in, on or over any such land, they shall from time to time pay compensation to every person interested in that land for any damage done to or injurious affection of that land by reason of the laying down, erection, inspection, repair, alteration, renewal or removal of the electric line or apparatus.

(b) Any dispute as to the amount of compensation to be paid under this subsection shall be determined by arbitration.

(3) The following provisions of the Third Schedule to the Water Act 1945 shall apply with the necessary modifications to the laying down, erection, inspection, repair, alteration, renewal or removal of electric lines and apparatus under this section, and for the purpose of such application the borough shall be deemed to be the limits of supply:—

1945 c. 42.

- Section 22 (Power to break open streets);
- Section 25 (Protection for railway companies navigation authorities tramway undertakers, &c.);
- Section 27 (Remedies where undertakers fail to comply with foregoing requirements);
- Section 28 (Application of Part VI to verges and streets and highways not maintainable at the public expense);
- Section 93 (Protection for works of navigation authorities and for catchment boards and railways).

PART III

—cont.

1888 c. 12.

1947 c. 54.

1899 c. 19.

1969 c. 48.

(4) Without prejudice to the operation of section 4 of the Electric Lighting Act 1888 those provisions of the Electricity (Supply) Acts 1882 to 1936, as amended by the Electricity Act 1947, and in the schedule to the Electric Lighting (Clauses) Act 1899 which, as applied by the Post Office Act 1969, afford protection to the Post Office and its telegraphic lines, shall so far as applicable extend and apply to any electric lines or apparatus laid down or erected under this section, and references in those provisions to the electricity board or the undertakers shall be construed as references to the Corporation.

(5) The powers of this section shall not be exercised except with the consent of the electricity board which consent shall not be unreasonably withheld and any dispute as to whether such consent is or is not unreasonably withheld shall be determined by the Secretary of State.

Power to
supply
fittings.

16.—(1) In any premises to which the Corporation supply or propose to supply heat they may provide (but not manufacture) and may supply by way either of sale or hire any such heating fittings as may be required for or in connection with the supply or utilisation of the heat so supplied and may instal, repair, renew or alter any heating fittings whether supplied by them or not and may provide any materials and do any work required in connection with such installation, repair, renewal or alteration.

(2) The Corporation may make such charges as may be agreed or, in default of agreement, as may be reasonable for any heating fittings supplied or any materials provided or work done under this section at the request of the owner or occupier of the premises supplied.

(3) Any heating fittings let for hire by the Corporation and marked or impressed with a sufficient mark or brand indicating the Corporation as the actual owners thereof—

(a) shall not be subject to distress or to the landlord's remedy for rent or be liable to be taken in execution under process of any court or any proceedings in bankruptcy against the person in whose possession the same may be; and

(b) shall, notwithstanding that they be fixed or fastened to any part of the premises in which they may be situate or to the soil under any such premises, at all times continue to be the property of and (subject to the provisions of the Hire-Purchase Act 1965) removable by the Corporation:

1965 c. 66.

Provided that nothing in this subsection shall affect the valuation for rating of any rateable hereditament.

(4) All heating fittings supplied by the Corporation under any hire-purchase agreement shall, until payment of the final

instalment of the purchase money for such fittings, be deemed for the purposes of subsection (3) of this section to be fittings let for hire by the Corporation.

(5) The Corporation shall so adjust the charges to be made by them under this section as will taking one year with another meet any expenditure by them thereunder, including interest upon any moneys borrowed for the purposes thereof, establishment charges, and any sums carried to a sinking fund for repayment of moneys so borrowed.

(6) If any person wilfully injures or suffers to be injured any heating fittings belonging to the Corporation he shall be liable to a fine not exceeding twenty pounds and the Corporation may do all such work as is necessary for repairing any injury done and may recover the expenses reasonably incurred by them in so doing from the offender and, if the amount does not exceed twenty pounds, summarily as a civil debt.

17.—(1) The Corporation may from time to time prescribe a scale of charges for heat supplied to premises under the powers of this Part of this Act and for connecting premises to the heating undertaking and (where premises have been disconnected from the said undertaking) for reconnecting premises thereto, and where heat is so supplied to any premises the heating charges in accordance with the scale shall be payable by the occupier of those premises except in any case where the owner has agreed with the Corporation to pay the same, in which case they shall be payable by the owner. Heating charges.

(2) The heating charges payable by any person may after a demand therefor be recovered from him by the Corporation either as a simple contract debt in any court of competent jurisdiction or, if the amount does not exceed twenty pounds, summarily as a civil debt and, subject as hereinafter provided, where a person fails to pay within seven days after a demand therefor any heating charges payable by him in respect of any premises, the Corporation may cut off the supply of heat to the premises and recover the expenses reasonably incurred by them in so doing in the same manner as the heating charges:

Provided that if, before the expiration of the said seven days, notice is given to them that there is a dispute as to the amount due in respect of the heating charges or as to the liability to pay the same, the Corporation shall not cut off the supply of heat until the dispute has on the application of either party been determined by a court of competent jurisdiction.

(3) Without prejudice to any other method of recovery any heating charges payable by the tenant of any premises belonging to the Corporation and connected as aforesaid may be recovered as rent due from him.

PART III
—*cont.*
Security for
payment of
accounts.

18. The Corporation may require any person desiring to take a supply of heat or to be supplied with heating fittings or materials under this Part of this Act to deposit with the Corporation such sum as the Corporation may reasonably require as security for the payment of any moneys which may become due from him to the Corporation in respect of such supply of heat or of any fittings or materials supplied to him in connection therewith.

Power to
enter premises.

19.—(1) Subject to the provisions of this section, any authorised officer of the Corporation shall, on producing if so required some duly authenticated document showing his authority, have a right to enter at all reasonable hours any premises to which the Corporation are supplying or have agreed to supply heat under the powers of this Part of this Act, or any premises in or upon which any heating fittings have been installed for the purpose of or in connection with supplying heat to any premises as aforesaid, for the purpose of—

- (a) inspecting and examining any heating fittings whether belonging to the Corporation or not;
- (b) ascertaining whether there is or has been on or in connection with the premises any contravention of the provisions of this Part of this Act or of any byelaws made thereunder;
- (c) ascertaining whether or not circumstances exist which would authorise the Corporation to take any action or execute any work under this Part of this Act;
- (d) taking any action or executing any work authorised or required by this Part of this Act to be taken or executed by the Corporation:

Provided that, except in cases of emergency arising from defects in any heating fittings, admission to any premises shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing that—

- (a) admission to any premises has been refused or that refusal is apprehended or that the premises are unoccupied or that the occupier is temporarily absent or that the case is one of urgency or that an application for admission would defeat the object of the entry; and
- (b) there is reasonable ground for entry into the premises for any such purpose as aforesaid;

the justice may by warrant under his hand authorise the Corporation by any authorised officer to enter the premises, if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier or that the premises are unoccupied or that the occupier is temporarily absent or that the case is one of urgency or that the giving of such notice would defeat the object of the entry.

(3) An authorised officer of the Corporation entering any premises by virtue of this section or of a warrant issued thereunder may take with him such other persons as may be necessary and, on leaving any unoccupied premises which he has entered by virtue of such a warrant, shall leave them as effectually secured against trespassers as he found them.

(4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(5) If any person who, in compliance with the provisions of this section or of a warrant issued thereunder, is admitted into a factory or workplace discloses to any person any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret he shall, unless such disclosure was made in the performance of his duty, be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.

(6) Nothing in this section shall authorise any authorised officer of the Corporation to enter any premises (other than offices or showrooms) belonging to or used by the generating board or the electricity board or the Gas Council or the gas board for the purposes of or in connection with the generation or supply of electricity or the manufacture, storage or supply of gas (as the case may be).

20.—(1) If any person wilfully and without the consent of the Corporation turns on, opens, closes, shuts off or otherwise interferes with any valve, cock or other work or apparatus belonging to the Corporation and thereby improperly causes the supply of heat to be interfered with he shall be liable to a fine not exceeding twenty pounds and, whether proceedings be taken against him in respect of his offence or not, the Corporation may recover from him the amount of any damage sustained by them either as a simple contract debt in any court of competent jurisdiction or, if the amount does not exceed twenty pounds, summarily as a civil debt.

Interference
with
apparatus, etc.

(2) If any person wrongfully takes, uses or diverts any heat from any apparatus provided for the purposes of this Part of this Act he shall (without prejudice to any other right or remedy of the Corporation) be liable to a fine not exceeding twenty pounds.

PART III
—cont.
Byelaws for
protection
of heating
undertaking.

21.—(1) The Corporation may make byelaws for preventing the waste, misuse, undue consumption or contamination of, or interference with, the circulation or supply of hot water or steam used by them in connection with the supply and use of heat under this Part of this Act.

(2) Byelaws under this section may include provisions—

- (a) prescribing the size, nature, materials, strength and workmanship and the mode of arrangement, connection, disconnection, insulation, alteration and repair of the heating fittings to be used; and
- (b) forbidding the use of any heating fittings which are of such a nature or are so arranged or connected as to cause or permit or be likely to cause or permit—
 - (i) waste, misuse, undue consumption or contamination of or interference with the circulation of hot water or steam;
 - (ii) reverberation in pipes; or
 - (iii) waste, misuse or undue consumption of heat.

(3) If any person contravenes the provisions of any byelaw made under this section, the Corporation may, without prejudice to their right to take proceedings in respect of such contravention, cause any heating fittings belonging to or used by that person which are not in accordance with the requirements of the byelaws to be altered, repaired or replaced, and may recover the expenses reasonably incurred by them in so doing from the person in default either as a simple contract debt in any court of competent jurisdiction or, if the amount does not exceed twenty pounds, summarily as a civil debt.

Discount
for prompt
payment.

22. The Corporation may, if they think fit, make an allowance by way of discount on all sums of money due to them for the supply of heat or rent of meter or for heating fittings or materials supplied at the request of the owner or occupier of the premises from any person who pays the same within such time of the demand thereof as the Corporation think fit to prescribe in that behalf, and notice to that effect shall (if and so long as the Corporation shall allow such discount) be endorsed on every demand note in respect of such charges:

Provided that the Corporation shall make the same allowance to all persons under similar conditions.

Notice to be
given before
quitting
premises
supplied
with heat.

23.—(1) If the occupier of any premises supplied with heat by the Corporation quits the premises without giving twenty-four hours' notice in writing of his intention so to do to the Corporation, he shall be liable to pay to the Corporation all money accruing due for heat supplied by them to the premises and for

meter rent up to the next date on which the register of the meter on the premises is usually ascertained or the date from which any subsequent occupier of the premises requires the Corporation to supply heat to the premises, whichever first occurs.

(2) The foregoing provisions of this section, or a statement of the effect thereof, shall be endorsed upon every demand note in respect of heating charges payable to the Corporation.

24. Nothing in this Part of this Act shall exonerate the Corporation from any indictment, action or other proceedings for nuisance in the event of any nuisance being caused or permitted by them.

Corporation not to be exempted from proceedings for nuisance.

25.—(1) In any case in which—

(a) the Corporation are the operating undertakers within the meaning of section 26 of the Act of 1950 in respect of undertakers' works authorised by this Part of this Act, or are the owning undertakers within the meaning of that section in respect of apparatus laid down under the powers of this Part of this Act; and

(b) either the Post Office, the generating board, the electricity board, the Gas Council, the gas board or the Liverpool Corporation are the owning undertakers or (as the case may be) the operating undertakers;

Modification of section 26 of Act of 1950.

the said section 26 shall be modified as follows:—

(i) the notice to be given under subsection (2) of the said section by the operating undertakers to the owning undertakers shall be accompanied by plans, sections and particulars of the works;

(ii) subject to the provisions of the next succeeding paragraph the said notice shall be given not less than seven days before the works are commenced;

(iii) on the first occasion on which the Corporation execute undertakers' works under this Part of this Act, and on any subsequent occasion on which the Corporation execute such works extending for a distance of more than 100 yards, the said notice shall be given not less than twenty-one days before the works are commenced and shall be accompanied by information as to—

(A) the maximum temperatures and pressures at which hot water or steam is proposed to be transmitted or distributed by the Corporation by means of such works; and

(B) the measures (if any) proposed to be taken by the Corporation with respect to the securing of the

PART III
—cont.

safety of any apparatus of the Post Office or the generating board or the electricity board or the Gas Council or the gas board or the Liverpool Corporation from damage or injury arising directly or indirectly from such works and with respect to the insulation of such works so as to prevent the escape of heat therefrom;

- (iv) any question which may arise under the said section as modified by this section between the operating undertakers and the owning undertakers shall be determined by arbitration in accordance with section 31 of the Act of 1950 and the proviso to subsection (2) of that section shall not apply.

(2) In this section any expressions to which meanings are assigned by the Act of 1950 have the same respective meanings.

Separate
accounts of
heating
undertaking.

26.—(1) The Corporation shall keep separate accounts in respect of the heating undertaking so as to include all items (including receipts and payments in respect of loans applicable thereto) which ought to be entered therein in order to show the financial position of the heating undertaking and so as to distinguish capital from revenue and as to revenue so as to show under a separate heading or division on the one side all income (including investment income) in respect of the heating undertaking, and on the other side all expenditure in respect of the heating undertaking, such expenditure being divided so as also to show the amounts expended in respect of each of the following purposes (that is to say):—

- (a) the working and establishment expenses and cost of maintenance of the heating undertaking;
- (b) the interest on moneys borrowed by the Corporation for the purposes of or in connection with the heating undertaking or used for those purposes under any enactment;
- (c) the annual charges in respect of the repayment of the principal of any moneys borrowed or used as aforesaid;
- (d) all other expenses (if any) of the heating undertaking properly chargeable to revenue;
- (e) the establishment and maintenance of a reserve fund in respect of the heating undertaking.

(2) The Corporation shall apportion between the accounts to be kept by them under this section and any other accounts of the Corporation any receipts, credits, payments and liabilities which from time to time ought to be so apportioned.

(3) In this section the expression “investment income” means so much of the income received by the Corporation from the

investment of moneys of an authorised fund established in connection with the heating undertaking as cannot be carried to the credit of the fund because the fund has reached its prescribed maximum amount.

27. For the protection of the Liverpool Corporation and the mayor, aldermen and burgesses of the borough of Crosby (each of whom is in this section referred to as “the protected corporation”) the following provisions shall unless otherwise agreed in writing between the Corporation and the protected corporation apply and have effect:—

For protection of Liverpool and Crosby Corporations.

(1) Notwithstanding the provisions of this Part of this Act the Corporation shall not supply heat to any premises in the city of Liverpool or the borough of Crosby without the consent of the protected corporation concerned but such consent shall not be unreasonably withheld and shall not be withheld in any case where the protected corporation concerned are unable or unwilling to supply heat on terms and conditions as favourable as the terms and conditions on which the Corporation are able to supply heat to those premises:

(2) Any dispute between the Corporation and the protected corporation under this section shall be determined by arbitration.

PART IV

STREETS AND BUILDINGS

28. In this Part of this Act, except as otherwise expressly provided or unless the subject or context otherwise requires “structure” means a wall, fence, hoarding or similar erection; but for the purpose of this definition “wall” does not include a wall forming part of a permanent building; and the several words and expressions to which meanings are assigned by sections 294 and 295 of the Act of 1959 have the same respective meanings.

Interpretation of Part IV.

29.—(1) The Corporation may, on the occasion of any public festivity, cause flag-poles and pylons to be erected in any street in the borough for the purpose of displaying decorations, and may for that purpose provide sockets or slots in, or under the surface of, any such street.

Decorations in streets.

(2) If any person wilfully removes or damages a flag-pole, pylon, socket or slot erected or provided under this section, he shall be liable to a fine not exceeding twenty pounds.

PART IV
—cont.

(3) The Corporation shall not exercise the powers of this section—

- (a) in a trunk road without the consent of the Secretary of State;
- (b) in a street (not being a street maintainable at the public expense) where the subsoil is owned by the Mersey Docks and Harbour Board without the consent of that board.

(4) (a) Any consent required by the foregoing subsection shall not unreasonably be withheld but may be given subject to a condition that the Corporation shall at their own expense remove anything placed in or under the surface of a street under the powers conferred by this section if reasonably required to do so by the Secretary of State or the Mersey Docks and Harbour Board, as the case may be.

(b) Any question whether a consent required by paragraph (b) of subsection (3) of this section has been unreasonably withheld shall be referred to and determined by the Secretary of State.

(5) The powers conferred by this section shall be so exercised as not to obstruct or render less convenient, so far as is reasonably practicable, the access to any telegraphic line belonging to or used by the Post Office or any works constructed for the lodging therein of such telegraphic line, or to any operational land of the Post Office (as defined by sub-paragraph (4) of paragraph 93 of Schedule 4 to the Post Office Act 1969).

1969 c. 48.

Licence to
erect
scaffolding.

30.—(1) Any person may, in connection with any building operations or work of demolition, or in connection with the alteration, repair, maintenance or cleansing of the exterior of any building, erect or place, or cause to be erected or placed, any scaffolding, obstruction or projection constituting an obstruction (each of which is hereafter in this section referred to as “scaffolding”) in, upon or over any street in the borough if he has previously obtained a licence from the Corporation and complies with such terms and conditions as may be attached to the licence:

Provided that the Corporation shall be entitled to refuse a licence only on the grounds that the scaffolding would cause an avoidable or unreasonable obstruction of the highway.

(2) Any scaffolding erected under a licence granted under this section shall be sufficiently lighted during the hours of darkness:

Provided that this subsection shall not apply to scaffolding projecting over the footway of a street but not over the carriage-way if no part thereof is less than 8 feet above the level of the

footway measured vertically and if the nearest part thereof to the carriageway is at least 1 foot 6 inches from the carriageway measured horizontally.

(3) If any person without a licence from the Corporation erects or places, or causes to be erected or placed, any scaffolding in, upon or over any street in the borough, or contravenes the terms or conditions attached to any licence granted under this section, he shall be liable for every such offence to a fine not exceeding fifty pounds and to a daily fine not exceeding two pounds.

(4) Any person aggrieved by the refusal of the Corporation to grant a licence under this section, or by the terms and conditions attached to any such licence, may appeal to a magistrates' court.

(5) No licence shall be required under this section in respect of any scaffolding erected or placed by the railways board for the purpose of constructing, reconstructing or maintaining any works pursuant to their statutory powers.

(6) Before the Corporation grant any licence under this section they shall (except in the case of emergency) give at least seven days' notice to the Post Office, if it appears to them to be concerned, of their intention to do so, and on granting any such licence shall attach thereto such conditions as the Post Office may, within the said period of seven days, require to secure that the person to whom such licence is granted shall comply with its reasonable requirements for the protection of any telegraphic line belonging to or used by the Post Office or any works constructed for the lodging therein of such telegraphic line or for securing access to such telegraphic line.

31.—(1) The Corporation may, for the benefit, improvement or development of the borough, by licence authorise the construction of any building or structure over, above or across a highway maintainable at the public expense in the borough, on such terms and conditions as they think fit, including terms and conditions relating to the construction, use and maintenance of the building or structure:

Buildings and structures over highways.

Provided that—

- (a) the Corporation shall not exercise the powers of this section as respects a trunk road without the consent of the Secretary of State;
- (b) before authorising, in exercise of the powers conferred by this section, the erection of any building or structure so as to reduce below 16 feet 6 inches the clear headway over the carriageway of any highway, the Corporation shall give notice of the proposal by advertisement in

PART IV
—cont.

some local newspaper circulating in the borough and shall take into consideration any objections or representations in respect of such proposal which may be made to them in writing within twenty-eight days of the first publication of such notice;

- (c) before authorising, in exercise of the powers conferred by this section, the erection of any building or structure so as to reduce below 17 feet 6 inches the clear headway over the carriageway of any highway which is the only means of vehicular access to an electricity substation of the electricity board or the generating board, the Corporation shall give notice of the proposal to the electricity board or the generating board, as the case may be, and shall take into consideration any written objections or representations in respect of such proposal which may be made by the electricity undertakers concerned within twenty-eight days of such notice.

(2) If after the passing of this Act a person, except in the exercise of statutory powers, constructs a building or structure over, above or across a highway maintainable at the public expense within the borough without a licence under this section or constructs or uses a building or structure over, above or across a highway otherwise than in accordance with the terms and conditions of the licence or fails to remove or alter a building or structure over, above or across a highway when required to do so in accordance with any condition of the licence or within one month from the date of the expiration of the licence the Corporation may serve upon the owner or occupier of the building or structure a notice requiring him to remove or alter the same as the case may be.

(3) If a person on whom a notice under subsection (2) of this section is served fails to comply, within twenty-eight days from the date of the service of the notice on him, with a requirement of the notice he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding twenty pounds and if after conviction of such offence he continues to fail to comply with the notice he shall be guilty of a further offence and be liable to a fine not exceeding five pounds for every day on which the failure continues after the said conviction.

(4) Where the Corporation have served a notice under subsection (2) of this section on any person and he is guilty of an offence by reason of his failure to comply with a requirement of the notice within the time specified in subsection (3) of this section then, whether or not proceedings are taken against him in respect of the offence, the Corporation may remove or alter (as the case may be) the building or structure to which the notice relates and may recover the expenses reasonably incurred by

them in so doing from the owner or occupier of the building or structure to which the notice relates if, in either case, he is a person on whom the notice was served.

PART IV
—cont.

(5) Schedule 13 to the Act of 1959 shall apply in relation to any sum paid by an occupier of premises in complying with a requirement of the Corporation under subsection (2) of this section or, where the requirement was not complied with, in reimbursing the Corporation for expenses reasonably incurred by them under subsection (4) thereof:

Provided that—

(a) in the application of the said Schedule 13 a reference to this section shall be substituted for the reference to the Act of 1959; and

(b) the said Schedule 13 shall not so apply if the requirement was made in connection with a building or structure erected by that occupier.

(6) The Corporation shall not exercise the powers conferred upon them by this section so as to authorise the construction of a building or structure which would affect the sighting of railway signals or the stability of railway works.

(7) The provisions of this section shall not apply to any advertisement to which regulations made under section 34 of the Act of 1962, for the time being apply.

(8) Nothing in a licence granted under this section shall authorise any interference with a telegraphic line except with the consent of the Post Office or any interference with any mains, pipes, lines or apparatus (including any structure constructed for the lodging therein of mains, pipes, lines or apparatus) of any statutory undertakers except with the consent of those undertakers.

(9) Nothing in this section shall prejudice the powers of the Corporation under section 151 of the Act of 1959 (which empowers a highway authority to grant to the owner or occupier of premises adjoining a highway a licence to construct a way by means of a bridge over the highway on terms and conditions) or the rights of any person under a licence granted in pursuance of the said section 151.

32.—(1) The Corporation may by order made for the purposes of this section designate land, being land in the borough to which this section applies, as a service area: Control of goods service areas.

Provided that—

(a) land shall not be so designated unless it is expedient to do so to prevent or reduce traffic congestion in a street in the borough caused by the loading or unloading of vehicles standing on any such street;

PART IV
—cont.

- (b) the land shall not be so designated unless either—
- (i) it belongs to the Corporation; or
 - (ii) it has been provided as an area for the loading or unloading of vehicles pursuant to planning permission;
- (c) where the land is in the curtilage of premises and used in connection with only one shop, the order shall relate only to such part of the land as is required for loading or unloading vehicles, including obtaining access to or egress from the point at which vehicles are loaded or unloaded for the purpose of the business conducted at those premises.

(2) No person shall cause or permit any vehicle to wait on a service area designated under this section between the hours of 8 o'clock in the morning and 6 o'clock in the afternoon on a weekday otherwise than for the loading or unloading of that vehicle.

(3) This section applies to such part of any land, within the curtilage or vicinity of shop premises, as is used or intended to be used as a place where vehicles may wait for the loading or unloading of goods and includes a roadway not being a public highway.

(4) This section shall not apply to any property belonging to and used by the railways board for their purposes.

(5) If any person contravenes the provisions of subsection (2) of this section he shall be liable, in the case of a first offence, to a fine not exceeding twenty pounds, and, in the case of a second or subsequent conviction, to a fine not exceeding fifty pounds.

(6) (a) If the Corporation consider that an order should be made under this section they shall give notice thereof to the owner and occupier of the land stating that objections to the said order may be made in writing within one month after the date of service of the notice.

(b) The Corporation shall consider all such objections and shall afford to any owner or occupier who has made objection an opportunity of appearing before and being heard by a committee of the council before the order is made.

(7) (a) After considering any objection duly made under the last foregoing subsection the Corporation may make an order.

(b) Any such order shall come into operation at the expiration of the period of one month after the service of the notice in pursuance of subsection (8) of this section or if an appeal is lodged when the appeal is disposed of or withdrawn or fails for want of prosecution and shall have effect for such period not exceeding five years as the Corporation may determine but without prejudice to their power to make a further order in the same manner as the original order.

(8) When an order has been made by the Corporation under this section they shall give notice thereof and of the right to appeal to the owner and occupier of the land and any such owner or occupier who is aggrieved by the order may appeal to a magistrates' court.

(9) Nothing in this section shall apply to any vehicle used by the generating board or the electricity board for or in connection with the placing, inspecting, repairing, maintaining, renewing or removing of any apparatus in or adjoining land designated as a service area under this section.

(10) In this section, "shop premises" has the meaning assigned to it by section 1 of the Act of 1963 and for the purposes of subsection (2) of this section the reference therein to loading or unloading of a vehicle shall include the carrying out of any operation which is required on the occasion of any such loading or unloading for compliance with the need for hygiene in connection with the sale of food to the public.

33.—(1) The Corporation may in the borough instal, maintain and operate moving footways and any necessary or convenient apparatus, machinery or plant required in connection therewith. Power to provide moving footways.

(2) The Corporation shall not exercise the powers of this section in a trunk road without the consent of the Secretary of State.

(3) In this section a moving footway includes an escalator.

34.—(1) If a person, without lawful authority or excuse, takes down, alters or removes any fence or other guard erected, or extinguishes or removes any light placed, by any undertakers in pursuance of the requirements of section 8 of the Act of 1950 when executing works in the borough, he shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding one hundred pounds. Damage to obstruction lights, etc.

(2) In this section "undertakers" has the same meaning as in subsection (1) of section 39 of the Act of 1950.

35.—(1) Where the Corporation are satisfied that it is expedient to execute urgent repairs to any house in the borough arising directly or indirectly from damage caused thereto by aircraft or other aerial devices or articles falling therefrom or by explosion, flooding, earthquakes or landslides, the Corporation may, at their expense, execute such emergency works of repair to the house as are necessary to render the house immediately fit for housing purposes. Repair of damaged houses.

(2) Before exercising their powers under this section the Corporation shall, if it is reasonably practicable to do so, give notice of their intention to the owner and occupier of the house.

(3) In this section the expression "house" means any building or part of a building which is occupied as a separate dwelling.

PART IV
—cont.
Boundary
walls.

36.—(1) Without prejudice to the provisions of any other enactment, where any building or structure or part of a building or structure is demolished by the Corporation leaving exposed a wall of adjoining premises, the Corporation may—

(a) with the consent of the owner of those adjoining premises, carry out at their own expense or, if so agreed with the owner, partly at their expense and partly at the expense of the owner, any works which they consider to be reasonably necessary or desirable for either or both of the following purposes, that is to say, for:—

(i) weatherproofing the surface of the wall;

(ii) restoring or improving the appearance of the wall; or

(b) make such contribution, if any, as they think fit towards any expenses incurred by the owner or occupier of those adjoining premises in carrying out works for either or both of the purposes referred to in the foregoing paragraph:

Provided that where in the opinion of the Corporation any consent required for the carrying out of works proposed by them for the purposes mentioned in sub-paragraph (ii) of paragraph (a) of this subsection is unreasonably withheld, and the appearance of the wall in question is, or unless such works are carried out will be, detrimental to the general appearance of the area in which the adjoining premises are situate, they may apply to the magistrates' court, by way of complaint, for an order, and the court may either order the carrying out of the proposed works subject to such conditions, if any, as the court thinks fit, or disallow the carrying out of those works.

(2) An officer of the Corporation, or of their contractor, acting in pursuance of an order of a magistrates' court or of a court of quarter sessions made in pursuance of the foregoing provisions of this section, and after the giving of not less than seventy-two hours' notice to the occupier of the land on which the exposed wall is situated, may, at all reasonable times, and on producing, if so required, some duly authenticated document showing his authority, enter on such land for the purpose of carrying out in compliance with the said order the works referred to therein.

(3) Nothing in this section, nor the carrying out of any works thereunder, shall impose upon the owner of any such adjoining premises as are referred to in subsection (1) of this section any liability which would not have been imposed upon him if this section had not been enacted and the said works had not been carried out, other than the liability to comply with the terms of any order made by a court under this section.

PART V

PUBLIC HEALTH

37.—(1) Where plans of a building have been deposited with Refuse the Corporation in pursuance of building regulations the Corpora- disposal. tion may reject the plans if they are not satisfied that they show that—

- (a) the method of storage and collection of refuse together with the related facilities to be provided are adequate; and
- (b) adequate means of access from a highway to the place of storage of the refuse so as to facilitate the removal of refuse to the Corporation's refuse vehicles will be provided.

(2) If the Corporation reject the plans under the authority of this section the notice given in pursuance of subsection (2) of section 64 of the Act of 1936 shall specify that the plans have been so rejected.

(3) Any question arising under this section between the Corporation and the person by or on whose behalf plans are deposited as to whether the accommodation for the storage of refuse or the means of access shown on the plans is adequate may on the application of that person be determined by a magistrates' court:

Provided that no such application shall be entertained unless it is made before the proposed building has been substantially commenced.

(4) In this section "building" does not include a house to which section 55 of the Act of 1936 applies.

38. The Corporation may at the request of the owner or occupier of any premises within the borough provide and maintain at such premises a bulk refuse container on such terms and conditions and at such monthly, quarterly or annual charge as may be agreed between such owner or occupier and the Corporation. Provision of bulk refuse containers by Corporation.

39.—(1) Where the owner or occupier of any premises within the borough provides a bulk refuse container, or where the Corporation at the request of the owner or occupier provide a bulk refuse container, the Corporation may by notice require him to provide and maintain to the satisfaction of the Corporation a good and sufficient stand or base for the bulk refuse container, Maintenance of and access to bulk refuse containers.

PART V
—cont.

and to provide and maintain to the satisfaction of the Corporation such means of access from a highway to the bulk refuse container as are sufficient to allow the passage and to bear the weight, with a full bulk refuse container, of any trolley or other vehicle of the Corporation constructed to convey bulk refuse containers to and from refuse vehicles.

(2) A notice under the preceding subsection may require the owner or occupier of the premises to execute such work and to make such provision in regard to the matters aforesaid as may be necessary.

(3) The provisions of section 290 of the Act of 1936 shall apply to notices given under this section as they apply to the notices mentioned in subsection (1) of that section and, in their application to notices given under this section, shall have effect as if the following paragraph were added to subsection (3) thereof:—

“(g) where the notice requires the owner or occupier of part of the premises in question to execute works for the benefit of the owner or occupier of any other part of the premises, that the owner or occupier of that other part ought to bear, or contribute towards, the expenses of executing the works required”;

and subsection (5) of the said section 290 shall have effect accordingly as if after the words “paragraph (f)” there were inserted the words “or paragraph (g)”.

Power to provide dustbins for trade refuse.

40. The Corporation may, as respects any premises in the borough, provide and maintain such number of dustbins or other receptacles for the reception of trade refuse as they may consider necessary.

Reduction of noise from the use of air-powered tools and compressors.

41.—(1) No person shall use, cause or permit to be used any air-powered tool or mobile air compressor unless it is equipped with effective means for reducing the noise emitted:

Provided that in any proceedings brought by virtue of this section it shall be a defence to prove that the best practicable means had been employed to reduce the noise emitted.

(2) Any person who contravenes the provisions of this section shall be liable on summary conviction to a fine not exceeding twenty pounds and to a daily fine not exceeding two pounds.

(3) In determining in any case whether the best practicable means have been employed regard shall be had, amongst other things, to cost and to local conditions and circumstances and to the current state of technical knowledge.

(4) In this section "best practicable means" includes the provision and maintenance of plant and the proper use thereof.

PART V
—cont.

42.—(1) Any expenses adjudged to be payable to the Corporation consequent upon the exercise of their powers under subsection (1) of section 23 or subsection (3) of section 44 of the Act of 1957 shall until recovered be a charge on the premises in respect of which the expenses were incurred and on all estates and interests therein.

Expenses of
executing
demolition
orders.

(2) The Corporation shall for the purpose of enforcing a charge under this section have all the powers and remedies under the Law of Property Act 1925 and otherwise of a mortgagee by deed having the power of sale and leasing, of accepting the surrender of a lease and of appointing a receiver.

1925 c. 20.

43.—(1) As from the appointed day a person shall not carry on the business of a person who tattoos or offers to tattoo members of the public in the borough on premises occupied by him unless he is registered by the Corporation under this section and the premises are so registered.

Registration
of tattooists.

(2) On application in that behalf made to the Corporation by any person for registration of the applicant or of any premises and (if the application relates to premises) on his furnishing them with particulars of the premises the Corporation shall register the applicant or the premises and issue to the applicant a certificate of registration.

(3) The Corporation may make byelaws for the purpose of securing—

- (a) the cleanliness of premises registered under this section and of the instruments, towels, materials and equipment used therein; and
- (b) the cleanliness of persons working in such premises in regard to both themselves and their clothing.

(4) If any person carries on business in contravention of subsection (1) of this section he shall be liable to a fine not exceeding twenty pounds and a daily fine not exceeding five pounds.

(5) If any person contravenes any byelaw made under subsection (3) of this section he shall be liable to a fine not exceeding twenty pounds and if he is registered the court by which he is convicted may instead of or in addition to imposing a fine order the suspension or cancellation of his registration and of the registration of the premises in which the offence was committed if they are occupied by him.

PART V
—cont.

1952 c. 55.

(6) A court ordering the suspension or cancellation of registration under the last foregoing subsection may suspend the operation of the order until the fourteen days prescribed by subsection (1) of section 84 of the Magistrates' Courts Act 1952 for giving notice of appeal to quarter sessions have expired:

Provided that if notice of appeal is given within the said fourteen days an order made under this subsection shall be suspended until the appeal is finally determined or abandoned.

(7) Where the registration of any person is cancelled by order of a court under subsection (5) of this section—

- (a) he shall within seven days deliver up to the Corporation the cancelled certificates of registration and if he fails to do so he shall be liable to a fine not exceeding one pound and a daily fine not exceeding ten shillings; and
- (b) he shall not again be registered by the Corporation under this section except in pursuance of a further order of a magistrates' court made on his application.

(8) The occupier of premises registered under this section shall keep a copy of the said byelaws and of the certificate of registration displayed in the premises and if he fails to do so he shall be liable to a fine not exceeding ten pounds and a daily fine not exceeding one pound.

(9) For the purposes of paragraph (a) of subsection (1) of section 287 of the Act of 1936, as applied by this Act, the provisions of this section shall be provisions which it is the duty of the Corporation to enforce.

PART VI

PUBLIC ORDER AND PUBLIC SAFETY

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

44.—(1) In this section—

“ coffee bar ” means—

(a) any premises which are kept open for public refreshment at any time between the hours of 11 o'clock in the evening and 5 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) a justices' on-licence within the meaning of subsection (2) of section 1 of the Licensing Act 1964;

1964 c. 26.

(B) a licence granted by the licensing justices under section 121 (Places for dancing, music and other entertainments to be licensed) of the Bootle Corporation Act 1890 or the Private Places of Entertainment (Licensing) Act 1967; 1890 c. ccxix. 1967 c. 19.

so long as they are in use wholly or mainly and bona fide for the purpose authorised by such licence; 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 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; or

(vi) which are used as a canteen forming part of a factory or office which is subject to the Factories Act 1961 or the Act of 1963; 1961 c. 34.

“ 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 (14) of this section applies;

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

(2) For the purposes of this section premises shall be deemed to be kept open for public refreshment at any time during which they are being used for the sale of refreshments to the public whether or not the public are allowed to be on the premises at the time of sale.

PART VI
—cont.

(3) For the purposes of a resolution relating to a specified drug, the provisions of subsections (3) and (4) of section 104 (The appointed day) of this Act shall (with any necessary modifications) apply to any such resolution and the date fixed thereby.

(4) 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 (3) and (4) of the said section 104 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 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.

(5) As from the appointed day—

- (a) no premises in the borough shall be used as 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 as a coffee bar or permits the premises to be used as a coffee bar 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.

(6) 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 use as a coffee bar 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 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 use as a coffee bar;
- (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 are not provided on the premises;
or
- (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 subsections (7) or (14) of this section.

(7) (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 tenpin 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:

PART VI
—cont.

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.

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

(9) 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.

(10) 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.

(11) Before refusing to register or renew the registration of any premises or cancelling 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 from the date of their decision give to him a statement of the grounds upon which it was based.

(12) Any person aggrieved by the refusal of the Corporation to register or renew the registration of any premises under this section, or by the cancellation of any such registration or by any condition imposed under this section, may within twenty-one days from the date of the service of the notice of such refusal or cancellation, 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 cancellation or confirm, vary or quash 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.

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

(14) If a coffee bar is conducted in a disorderly manner, or if any drug to which the Drugs (Prevention of Misuse) Act 1964 1964 c. 64. or the Dangerous Drugs Act 1965 applies, or any specified drug 1965 c. 15. 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:

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 1956 c. 76. or any enactment amending or replacing the same.

(15) Any duly authorised officer of the Corporation on producing if so required some duly authenticated document showing his authority, and any police constable, 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.

(16) 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 (15) of this section as they apply to entry into premises for the purposes of subsection (1) of that section.

(17) Notwithstanding the reference in subsection (1) of this section to the hours of 11 o'clock in the evening and 5 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 Late Night Refreshment Houses Act 1969 in respect of the period between 1969 c. 53. the hours of 10 o'clock in the evening and 5 o'clock in the morning and the provisions of that Act, and of any enactment amending or extending the same, shall apply accordingly.

PART VI
—cont.
Securing of
unoccupied
buildings.

45.—(1) Where—

- (a) under section 16 of the Act of 1957 the Corporation have accepted an undertaking that any house will not be used for human habitation until the Corporation cancel the undertaking; or
- (b) by a closing order made under sections 17, 18, 26 or 35 of the Act of 1957, the Corporation have ordered any house or building, or any part thereof, to be closed; or
- (c) by a clearance order made under section 44 of the Act of 1957, the Corporation have ordered any building, or any part thereof, to be vacated, and in such a case it appears to the Corporation that the building or the part thereof (as the case may be) will not be, or is unlikely to be, demolished within six weeks from the date when in pursuance of the order the premises are vacated; or
- (d) any house or any building in the borough is unoccupied for a period exceeding six weeks;

the Corporation may, if the premises are not effectively secured so as to prevent the entry on to the premises when unoccupied of any person other than a person authorised by the owner or the Corporation, after giving to the owner not less than forty-eight hours' notice of their intention to do so, except in an emergency when they shall give such notice as is reasonably practicable, themselves do such things in relation to the house or building or part thereof as will so secure the premises against entry.

(2) Section 169 of the Act of 1957 (which makes provision for the service of notices on persons other than local authorities) shall, subject to any necessary modifications, apply in relation to a notice under subsection (1) of this section.

(3) Nothing in this section shall prejudice the power of the Corporation to take steps to deal with any dangerous, ruinous or dilapidated house or building under any enactment.

(4) (a) When the Corporation give any notice under subsection (1) of this section they shall at the same time give a copy of such notice to the statutory undertakers.

(b) Nothing in this section shall prejudice the rights of statutory undertakers to enter upon the premises in exercise of their statutory powers in that behalf:

Provided that, without prejudice to any other obligation or liability arising in respect of any entry in exercise of statutory powers, the undertakers in exercising such powers of entry in respect of any premises required to be secured under this section shall ensure that the premises are not left less secure by reason of the entry.

(5) In this section—

“house” has the same meaning as in the Act of 1957;

“owner” includes any person deemed to be the person having control of the house for the purposes of Part II of that Act.

PART VI
—cont.

46.—(1) No person shall within the borough dispose of or deposit any container (including a container attached to a vehicle or machine) which has been used for the storage of a flammable, explosive or poisonous substance and is no longer used for that purpose unless he takes all such steps as may be reasonably necessary to prevent danger from the container to any person or property.

Disposal of dangerous containers.

(2) If any person contravenes the provisions of subsection (1) of this section, he shall be liable to a fine not exceeding twenty pounds, and the Corporation may take such steps as may be reasonably necessary to prevent danger from the container and may recover from that person the expenses incurred by them in so doing:

Provided that no proceedings shall be instituted for an offence under this section if the disposal or deposit of the container contravenes section 19 of the Civic Amenities Act 1967.

1967 c. 69.

(3) In this section “poisonous substance” means a substance specified in the Poisons List for the time being in force under section 17 of the Pharmacy and Poisons Act 1933.

1933 c. 25.

47.—(1) A person, other than an officer of the Corporation or a person or the servant of a person employed by the Corporation in or about any work in connection with the burial grounds maintainable by the Corporation, shall not, except for the purpose of properly tending any grave, pluck out or otherwise interfere with any flower, plant, shrub, wreath, ornament or other thing on any grave in a burial ground.

As to offences in burial grounds.

(2) If any person contravenes the provisions of this section, he shall be liable to a fine not exceeding five pounds.

(3) In this section “burial ground” includes a cemetery.

48.—(1) As from the appointed day no person shall at any place in the borough to which this section applies—

Touting, hawking, etc.

(a) importune any person by touting for a hotel, lodging house or refreshment house, for a shop, for a theatre, garden or place of amusement, or for a boat, hackney carriage or public service vehicle; or

(b) without the consent of the Corporation, which may be given on such terms and conditions as they think fit—

(i) hawk, sell or offer for sale any article or commodity; or

(ii) take a photograph by way of trade or business of any person except as mentioned in subsection (4) of this section.

PART VI
—cont.

(2) The Corporation shall not withhold their consent under paragraph (b) of the foregoing subsection to the sale or offering for sale by any person of newspapers and periodicals except on the ground that their consent to such sale or offering for sale has already been given to a reasonably sufficient number of other persons.

(3) The prohibition imposed by sub-paragraph (i) of paragraph (b) of subsection (1) of this section shall not apply to a sale or offering for sale to persons residing in, or employed or carrying on business at, premises in or adjoining a place to which this section applies.

(4) The prohibition imposed by sub-paragraph (ii) of paragraph (b) of subsection (1) of this section shall not apply to the taking of a photograph for the purpose of making it available for publication in a newspaper or periodical if the photographer is employed as such by or on behalf of the owner or publisher of a newspaper or periodical, or carries on a business which consists in, or includes, selling or supplying photographs for such publication.

(5) This section applies to any place—

- (a) in or on an esplanade, parade, promenade or public walk;
- (b) in a park, pleasure ground or open space which is provided by the Corporation, or under their management and control;
- (c) in any street or part of a street to which this section applies by virtue of byelaws made by the Corporation under this section;
- (d) on any unenclosed land of whatsoever description to which this section applies by virtue of byelaws made by the Corporation under this section adjacent to or within 15 yards of any street or part of a street:

Provided that nothing in paragraph (d) of this subsection shall prohibit the sale or offering for sale of any article or commodity on any land by or with the consent of the owner of such land.

(6) Any person aggrieved by the refusal of the Corporation to give their consent under paragraph (b) of subsection (1) of this section, or by any terms or conditions attached to a consent given by the Corporation thereunder, may appeal to a magistrates' court.

(7) If any person contravenes any of the foregoing provisions of this section, or any term or condition upon which any consent is given thereunder, he shall be liable to a fine not exceeding twenty pounds.

PART VII

FIRE PRECAUTIONS

49. In this Part of this Act, except as otherwise expressly provided or unless the subject or context otherwise requires— Interpretation of Part VII.

“ flammable material ” means—

- (a) timber;
- (b) (i) firewood;
- (ii) wooden boxes, crates, casks or barrels;
- (iii) paper or cardboard;
- (iv) rags;
- (v) motor tyres or cycle tyres;
- (vi) natural or synthetic rubber;

or materials of similar character; or

(c) subject to the provisions of section 56 (As to application of Part VII to certain stacks) of this Act, materials of the type commonly known as plastics;

“ height ” in relation to any stack means the height measured from the mean level of the ground or floor on or over which it stands to its highest point;

“ premises ” means any premises in the borough but does not include a railway wagon container or a mechanically or electrically propelled vehicle or any trailer designed to be attached thereto;

“ stack ” includes a pile;

“ timber ” includes uncut timber and wood in its natural state;

“ unenclosed or partially unenclosed structure ” means a shed or similar structure (whether of one or more storeys in height) having unprotected areas in its sides exceeding in the aggregate one-half of the total area of its sides, and for the purpose of calculating such areas any window, door, enclosure, shutter or opening, and any part of an external enclosure, not capable of resisting the action of fire for a period of at least half an hour to be determined in accordance with the standards prescribed by building regulations shall be regarded as an unprotected area.

50.—(1) (a) The Corporation may give—

- (i) a general consent to the use of any premises for the formation or maintenance of any stack of flammable material; or

Consent to storage of flammable material.

PART VII
—cont.

- (ii) a particular consent to the formation or maintenance of any such stack on any premises;

and the Corporation shall not refuse to give any consent applied for under this section except where they consider such a refusal to be necessary for any of the purposes mentioned in paragraph (b) of this subsection.

(b) The Corporation may attach to any consent given under this subsection such terms and conditions as, having regard to the reasonable requirements of the undertaking, trade or business being carried on on the premises, they consider to be reasonably necessary for the purposes of preventing outbreaks of fire, lessening the danger from the spread of fire and facilitating the extinguishing of fire including terms and conditions as to the piling, stacking or storage of flammable material.

(c) Any reference in this Part of this Act to the consent of the Corporation is a reference to a consent (whether general or particular, as the case may be) given under this subsection.

(2) Subject to the provisions of this Part of this Act no person shall without the consent of the Corporation given in writing under the foregoing subsection form or maintain a stack of flammable material on any premises.

(3) (a) Any application for the consent of the Corporation shall be made to the Corporation in writing and the applicant shall supply such plans and particulars in relation to the application as the Corporation may require.

(b) Applications, plans and other documents made or supplied to the Corporation as aforesaid shall on delivery become the property of the Corporation.

(c) If the Corporation have not notified to the applicant their decision on his application within a period of two months from the date of the receipt thereof and of such plans and particulars as they may have required him to supply (or within such longer period as may be agreed in writing between the Corporation and the applicant), the provisions of this Part of this Act shall have effect as if the consent of the Corporation applied for had been given on the last day of that period without any terms or conditions being attached thereto except any such terms and conditions as may have been stipulated in such application.

(4) (a) The Corporation may from time to time, by notice served on any person maintaining a stack of flammable material as respects which the consent of the Corporation has been given, withdraw or vary as from the specified date any term or condition attached to such consent or may as from the specified date attach such terms and conditions or additional terms and conditions

thereto as they consider to be reasonably necessary for any of the purposes mentioned in paragraph (b) of subsection (1) of this section.

PART VII
—cont.

(b) In this subsection “the specified date” means such date as may be specified in a notice served under this subsection (not being less than twenty-eight days after the service thereof).

(5) Where any terms and conditions have been attached to the consent of the Corporation as respects any premises in pursuance of subsection (1) or subsection (4) of this section, then such terms and conditions shall not (except in pursuance of a request for that purpose made in writing to the Corporation by the occupier of the premises to which those terms and conditions relate) be withdrawn, varied or added to in pursuance of the provisions of the last foregoing subsection, except where there has been—

(a) a change of occupancy of the premises; or

(b) some other material change in the circumstances affecting the fire hazards arising at or from the use of the premises;

since the said terms and conditions were so attached.

51.—(1) Any person—

(a) who has applied for the consent of the Corporation and is aggrieved by—

(i) refusal to give such consent; or

(ii) any term or condition attached to the consent;

or

(b) who is aggrieved by the variation of any term or condition attached to any consent of the Corporation or by any terms or conditions or additional terms or conditions attached thereto in pursuance of a notice served under paragraph (a) of subsection (4) of section 50 (Consent to storage of flammable material) of this Act;

Appeals under
Part VII.

may within twenty-one days from the date on which such refusal or the attachment or variation of such term or condition is notified to him require the Corporation to deliver to him a certificate in writing stating the grounds for such refusal or the attachment or variation of such term or condition, and the person may appeal to the Secretary of State within ten days after the receipt of the certificate.

(2) Every appeal to the Secretary of State under this section shall be made in writing asking that the consent may be granted notwithstanding the refusal of the Corporation, or that such term or condition may not be attached or varied or may be modified in such manner and to such extent as may be set forth in the appeal, and shall be accompanied by the certificate of the Corporation given under the last foregoing subsection.

PART VII
—cont.

(3) (a) Where an appeal is brought under this section the Secretary of State may—

- (i) confirm or quash the refusal of the Corporation to give their consent;
- (ii) confirm, vary or quash any term or condition or any variation of a term or condition which is the subject of the appeal; or
- (iii) attach to the consent of the Corporation any term or condition which the Corporation would be entitled to attach under either subsection (1) or subsection (4) of section 50 (Consent to storage of flammable material) of this Act.

(b) The decision of the Secretary of State on any appeal under the last foregoing subsection shall have effect for the purpose of any consent for which application has been made to the Corporation or of any term or condition which was or might have been attached to the consent of the Corporation as if it had been given or attached (as the case may be) by the Corporation.

(4) Before determining any appeal made to him under this section, the Secretary of State may, if he thinks it necessary or desirable, cause an inquiry and report upon the matter to be made to him by such person as he may appoint for the purpose and shall afford to the appellant and to the Corporation, if either so desire, an opportunity of appearing before and being heard by the person so appointed.

Stack not to contain room, etc.

52. No stack of flammable material formed or maintained on any premises shall contain any room, chamber or similar space other than a passage which, if provided, shall be kept unobstructed.

Power of entry for inspection, etc.

53.—(1) Any person authorised in that behalf by the Corporation may (on producing if so required some duly authenticated document showing his authority) at all reasonable times enter upon, inspect and examine any premises on or in which a stack has been, or he has reasonable cause to believe has been, formed and is maintained, and may do all such things (including the taking of samples for analysis from any stack formed on the premises) as are reasonably necessary to ascertain whether the provisions of this Part of this Act, or any terms or conditions attached to a consent given thereunder, are being complied with.

(2) The provisions of subsections (2), (3), (4) and (5) of section 287 of the Act of 1936 shall apply to entry into any premises for the purposes of the foregoing subsection as they apply to entry into premises for the purposes of subsection (1) of that section.

54.—(1) Any person who—

- (a) forms or maintains on any premises a stack of flammable material for which the consent of the Corporation is required under section 50 (Consent to storage of flammable material) of this Act without first obtaining that consent;
- (b) contravenes any term or condition which, in pursuance of subsection (1) or subsection (4) of the said section 50 is for the time being attached to a consent given by the Corporation under subsection (1) of the said section 50;
- (c) contravenes the provisions of section 52 (Stack not to contain room, etc.) of this Act;

PART VII
—cont.
Offences.

shall be guilty of an offence:

Provided that no offence under paragraph (b) of this subsection shall have been committed by any person—

- (i) until the end of any period within which an appeal under section 51 (Appeals under Part VII) of this Act may be made by him in respect of the term or condition in question; and
- (ii) if such an appeal is duly made, until seven days after the appeal has been withdrawn or determined.

(2) Any person guilty of an offence under the foregoing subsection shall be liable on summary conviction to a fine not exceeding fifty pounds and in the case of a continuing offence for every day on which such offence continues after conviction to a fine not exceeding ten pounds, and the court by whom any such person is convicted may make such order as it thinks fit for the removal or modification of the stack in respect of which the offence was committed.

(3) Any person who fails to comply with an order of the court made under the last foregoing subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which such offence continues.

55. Notwithstanding the provisions of section 50 (Consent to storage of flammable material) of this Act, the consent of the Corporation shall not be required under that section—

Consent not required in certain circumstances.

- (1) as respects a stack of flammable material not exceeding 10 feet in height and 400 cubic feet in size, so long as it is separated from any other stack of flammable material on the same premises by an unobstructed space not less than 3 feet in width; or

PART VII
—cont.

(2) as respects any other stack not exceeding 30 feet in height and 48,000 cubic feet in size in the case of a stack of timber, 15 feet in height and 24,000 cubic feet in size in the case of a stack which is composed only of one type of plastics material, or 15 feet in height and 16,000 cubic feet in size in the case of a stack of any other flammable material, so long as each of the following provisions is complied with:—

(a) the horizontal sectional area of the stack does not exceed 2,500 square feet and the stack is not more than 60 feet in length;

(b) an unobstructed space not less than 12 feet in width is left around three of the four sides of the stack, or if the stack is not rectangular in shape around not less than three-quarters of the length of the perimeter of the stack and in either case the stack is separated from any other stack of flammable material on the same premises by a distance of not less than 12 feet;

(c) no part of the stack is nearer than 20 feet to—

(i) the nearest part of any furnace, incinerator or building;

(ii) any substance having a flash point lower than 66 degrees centigrade when tested by any standard method; or

(iii) any compressed gas, including a gas liquified or dissolved under pressure;

or nearer than 15 feet to the nearest part of any street; and

(d) unobstructed access from a street to the stack, being not less than 12 feet in width and in height, is provided and maintained for fire brigade appliances and personnel, and any gateway to such access is not less than 10 feet in width and 12 feet in height:

Provided that where any two or more stacks of timber or (as the case may be) of plastics or any other flammable material are contained within a rectangular area not exceeding 2,500 square feet and not more than 60 feet in length, those stacks shall be treated for the purposes of this paragraph as if they were one stack; or

(3) as respects a stack of flammable material at a site which forms part of the premises occupied by the railways board for the purposes of their undertaking but which is not habitually used for the stacking of flammable material such stack being of a temporary nature and required for the purposes of or in connection with works of construction, maintenance or repair of the said undertaking.

56.—(1) For the purposes of this Part of this Act a stack shall not be deemed to be a stack of flammable material by reason only of the fact that the material or materials of which the stack is primarily composed are—

- (a) supported on wooden pallets; or
- (b) contained in sacks or bulk containers.

(2) A stack of material or materials of the type commonly known as plastics shall not be deemed to be a stack of flammable material for the purposes of this Part of this Act if—

- (a) in the case of a stack which contains two or more types of plastics, the stack contains no material with a calorific value of 2,500 calories per gram or more; and

- (b) in the case of a stack which is composed only of one type of plastics, either—

- (i) the plastics material of which the stack is composed has a calorific value of less than 4,500 calories per gram; or

- (ii) the plastics material of which the stack is composed is self-extinguishing or of very low flammability or falls within the like or any additional or substituted description which is contained in a British Standard and which is for the time being prescribed in an order made by the Corporation after consultation with such bodies representing the interests affected as they may think fit;

and any order made under sub-paragraph (ii) of this paragraph may be revoked or varied by a subsequent order so made.

(3) The Secretary of State, after consultation with the Corporation and such bodies representing the interests affected as he may think fit, may direct the Corporation to make an order under sub-paragraph (ii) of paragraph (b) of the last foregoing subsection in such form as he may think fit, and the Corporation shall comply with any such direction.

(4) In subsection (2) of this section—

“ British Standard ” means a British Standard published by the British Standards Institution;

“ self-extinguishing or of very low flammability ” in relation to plastics material, means that the material would properly be reported as self-extinguishing or (as the case may be) of very low flammability if subjected to the appropriate test for that purpose prescribed in the last published edition of British Standard 2782: Part V: method 508.

PART VII
—cont.
Savings and
transitional
provisions.

57.—(1) The provisions of this Part of this Act shall not apply to any stack of flammable material in any building, but for this purpose an unenclosed or partially unenclosed structure shall be deemed not to be a building.

(2) Until 1st July, 1972, it shall not be necessary for any stack of flammable material on premises in use at the date of the passing of this Act for the piling, stacking or storage of flammable material and situated in the borough to be formed or maintained in accordance with the provisions of this Part of this Act.

(3) (a) Where by reason of the provisions of the last foregoing subsection a stack of flammable material on any premises is not until 1st July, 1972, required to be formed or maintained in accordance with the provisions of this Part of this Act, the occupier of those premises may, before 1st April, 1972, submit to the Corporation an application in writing that section 50 (Consent to storage of flammable material) of this Act shall not have effect in relation to those premises until such date after 1st July, 1972, but not being later than 1st July, 1973, as he may specify in that application, being a date which is in his opinion reasonable having regard to the need to modify, by reason of the passing of this Act, the operations of any undertaking, trade or business being carried on on those premises.

(b) The Corporation may, by notice served on the occupier of any premises who has submitted an application under the foregoing paragraph and within a period of two months from the date of the receipt of that application—

- (i) approve the application and the date specified therein;
- (ii) approve the application subject to the substitution for the date specified therein of such other date as the Corporation may consider to be reasonable in the circumstances; or
- (iii) refuse to approve the application if they consider such refusal to be reasonable in the circumstances;

and, if the Corporation have not notified the applicant of their decision on his application within the said period of two months, the provisions of this Part of this Act shall have effect as if the approval of the Corporation applied for under this subsection had been given on the last day of that period.

(c) Any applicant aggrieved by the terms of a notice served on him by the Corporation under paragraph (b) of this subsection may appeal to the Secretary of State on the ground that the Corporation have unreasonably refused to approve the application in the form in which it was submitted by him and section 51

(Appeals under Part VII) of this Act shall, with any necessary modifications, apply for the purposes of such an appeal as it applies for the purposes of an appeal against a refusal to give a consent under subsection (1) of section 50 (Consent to storage of flammable material) of this Act.

PART VII
—cont.

58.—(1) No building of the warehouse class and no building used or intended to be used for the purpose of trade or manufacture shall be erected in the borough of a cubic extent exceeding 250,000 cubic feet or extended to exceed that extent unless (in accordance with plans and particulars submitted in accordance with building regulations and approved for the purposes of this section by the Corporation)—

Fire precautions in certain large buildings.

- (a) it is provided with all such means of escape therefrom in case of fire as may be reasonably required; and
- (b) if the Corporation so require, it is fitted with automatic fire alarms and a fire extinguishing system or with either such alarms or such system to the satisfaction of the Corporation:

Provided that—

- (i) nothing in paragraph (a) of this subsection shall apply to a factory to which section 40 of the Factories Act 1961 applies to buildings to which section 59 of the Act of 1936 applies or to premises to which the Act of 1963 applies; 1961 c. 34.
- (ii) nothing in paragraph (b) of this subsection so far as it relates to the provision of fire alarms shall apply to a factory to which subsection (7) of section 48 of the said Act of 1961 applies or to premises to which section 34 of the Act of 1963 applies, nor so far as it relates to the provision of a fire extinguishing system shall the said paragraph apply to a factory to which subsection (1) of section 51 of the said Act of 1961 applies or to premises to which the Act of 1963 applies.

(2) (a) The person proposing to erect or cause to be erected or to extend or cause to be extended any building to which subsection (1) of this section applies shall, when submitting plans and particulars in accordance with building regulations, deposit with the Corporation particulars showing how it is proposed to comply with the requirements of paragraphs (a) and (b) of subsection (1) of this section.

PART VII
—cont.

(b) The Corporation at any time within a period of two months after deposit of the particulars irrespective of any decision under building regulations—

(i) may refuse to approve them; or

(ii) may approve them subject to such conditions (if any) as they think fit.

(c) Where the Corporation refuse to approve the particulars or approve them subject to conditions they shall give to the person who deposited the particulars notice stating their reasons for refusal or for the imposition of conditions:

Provided that if within the period of two months mentioned in paragraph (b) of this subsection the Corporation fail to give such notice they shall be deemed to have approved the said particulars.

(3) (a) If any building to which the preceding subsections of this section are applicable is erected or extended in contravention of any of the requirements of paragraph (a) or (b) of subsection (1) of this section the Corporation, without prejudice to their rights to take proceedings for penalties in respect of the contravention, may by notice require the person erecting or causing to be erected the building or extension either to pull down and remove it or if he so elects to effect such alterations therein as may be necessary in order to comply with the said requirements.

(b) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under this subsection as they apply in relation to the notices mentioned in subsection (1) of that section.

(4) All means of escape provided, and any fire alarms and fire extinguishing systems fitted, under the requirements of paragraphs (a) and (b) of subsection (1) of this section shall be properly maintained and kept free from obstruction.

(5) (a) A person who erects or causes to be erected or extends or causes to be extended a building in contravention of any of the provisions of this section shall be guilty of an offence under this section.

(b) The occupier of any premises who fails to maintain the means of escape provided, and any fire alarms and fire extinguishing systems fitted, under the requirements of paragraphs (a) and (b) of subsection (1) of this section, or to keep them free from obstruction, shall be guilty of an offence under this section.

(c) A person who commits an offence under this section shall on summary conviction be liable to a fine not exceeding fifty pounds and to a daily fine not exceeding ten pounds.

PART VII
—cont.

(6) Any person aggrieved by—

- (a) a requirement of the Corporation; or
- (b) a refusal by the Corporation to approve particulars; or
- (c) a condition subject to which approval of particulars is given by the Corporation;

under subsection (1) or (2) of this section may appeal to a magistrates' court and on any such appeal the court may by order confirm, quash or vary such requirement, refusal or condition.

(7) Any officer of the Corporation who is duly authorised for the purpose shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter at all reasonable times any building to which subsections (1) to (3) of this section apply—

- (a) for the purpose of ascertaining whether there is, or has been in or in connection with the building any contravention of the provisions of this section;
- (b) for the purpose of ascertaining whether or not circumstances exist which would authorise the Corporation to take any action under this section.

(8) The provisions of subsections (2), (3) and (4) of section 287 of the Act of 1936 shall apply to entry into a building for the purpose of subsection (7) of this section as they apply to entry into premises for the purposes of subsection (1) of that section.

(9) Nothing in this section shall apply to any building—

- (a) in respect of which a licence under the Cinematograph Acts 1909 and 1952 or the Theatres Act 1968 is for the 1968 c. 54. time being in force; or
- (b) exempted from the provisions of Part II of the Act of 1936 with respect to building regulations by paragraph (c) of section 71 of that Act.

(10) Any reference in this section to plans deposited in accordance with building regulations shall be construed as including a reference to any sections, specifications and written particulars deposited with the plans in accordance with the regulations or this section.

PART VII
—cont.

Parts of
buildings used
for storage of
flammable
substances.

59.—(1) The occupier of any part of a building to which this section applies which after the appointed day is used or intended to be used for the storage for the purposes of sale or trade of any substances to which this section applies (in this section referred to as “the storage part of the building”) shall give notice to the Corporation of such use or intention to use, as the case may be, and such notice shall be given—

- (a) in the case of any part of a building which is so used immediately before the appointed day, within twenty-one days after the appointed day; and
- (b) in the case of any part of a building which after the appointed day is intended to be so used, not less than twenty-one days before such user takes place.

(2) The Corporation may, if they are of the opinion that such storage—

- (a) is in such quantity as to be likely to prove a source of danger to any person inhabiting or using any part of the building as a habitable room or as a place where any person works; or
- (b) is in such manner as to be liable to cause fire or explosion;

by counter-notice require the occupier of any part of a building in respect of which a notice has been served under subsection (1) of this section to provide within such reasonable period as may be specified in the counter-notice—

- (i) adequate means for extinguishing fire and safeguards to prevent the spread of fire to or from the storage part of the building;
- (ii) means of ready escape in case of fire from the storage part of the building and any other part of the building being a part comprising a habitable room or a place in which any person works if that other part communicates directly or indirectly with or is adjacent to or constructed at a higher level than the storage part of the building;
- (iii) notices in or on the storage part of the building indicating the existence of danger from fire.

(3) (a) An authorised officer of the Corporation may, in respect of any premises which he has entered in pursuance of the powers conferred by section 287 of the Act of 1936 as incorporated with this Act, purchase and test samples of any substance stored on such premises for the purposes of sale or trade in order to ascertain whether or not such substance is a substance to which this section applies.

(b) The result of any kind of test of a sample taken by an authorised officer of the Corporation by virtue of this section shall not be admissible as evidence in any legal proceedings under this section including an appeal under subsection (6) of this section unless the following requirements have been complied with: that is to say, the said officer shall, forthwith after taking the sample, notify to the occupier of the building his intention to have it tested and shall there and then divide the sample into three parts, shall cause each part to be placed in a suitable container which shall be sealed up and marked, and shall—

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

(4) The occupier of any building who—

- (a) by reason of a restriction affecting his interest in the building is unable to execute works for the purpose of complying with a requirement of the Corporation under this section; or
- (b) considers that the owner of the building or any other person having an interest therein should contribute towards the cost of the execution of works as aforesaid and is unable to agree with the owner or such other person as to whether such a contribution should be made or as to the amount thereof;

may apply to the county court for an order to enable the execution of such works as may be necessary for the purpose of complying with such requirement or, as the case may be, to direct the owner of the building or any other person who appears to the court to have an interest therein to contribute towards the cost of such works as aforesaid such an amount as appears to the court in all the circumstances of the case to be fair and reasonable and the court may on such application make an order in respect of either or both of the matters aforesaid accordingly.

(5) (a) If, after the requirements of the Corporation under subsection (2) of this section have been complied with and a certificate to that effect has been granted by the Corporation, any material extension or material structural alteration of the building to which the certificate relates is made, the Corporation may serve a further counter-notice varying any requirement made under subsection (2) of this section in respect of that building.

(b) Upon compliance being made with such varied requirements, the Corporation shall amend the certificate or grant a

PART VII
—cont.

new certificate in respect of the building, but if anything required to be provided in accordance with a further counter-notice served under this subsection is not provided within such reasonable time as may be specified in the further counter-notice, the Corporation may cancel the certificate granted under this subsection in respect of the building.

(6) (a) Any person aggrieved by a requirement of the Corporation under subsection (2) of this section, or by a variation of a requirement under subsection (5) of this section, may appeal to a magistrates' court on any or all of the following grounds:—

- (i) that the requirement or variation is not justified by the terms of this section;
- (ii) that the requirement or variation is unreasonable in character or extent;
- (iii) that the period specified in the counter-notice is not reasonably sufficient for the purpose of complying with the requirements of the counter-notice.

(b) Any person aggrieved by the refusal of the Corporation to grant or amend a certificate under this section or by the cancellation of a certificate under subsection (5) of this section may appeal to a magistrates' court.

(7) If any person contravenes the provisions of this section or the requirements of the Corporation under this section he shall be liable to a fine not exceeding twenty pounds and to a daily fine not exceeding five pounds.

(8) This section applies to—

- (a) any building in the borough which is used, or intended to be used, partly for the storage for the purposes of sale or trade of any substance to which this section applies and partly as a habitable room or a place in which any person works, if the part used as a habitable room or a place in which a person works communicates directly or indirectly with or is adjacent to or constructed at a higher level than the storage part of the building;
- (b) (i) any substance which is gaseous at a temperature of 33 degrees Fahrenheit at atmospheric pressure and which is flammable; and
- (ii) any other substance which when tested by a method approved by the Secretary of State gives off a flammable vapour at a temperature of less than 150 degrees Fahrenheit:

Provided that this section shall not apply to any building in which no substance to which this section applies is stored other than—

- (A) one or more of the substances to which sections 1 and 2 of the Petroleum (Consolidation) Act 1928 apply; or 1928 c. 32.
- (B) not more than fifty gallons of any substance which does not when tested by a method approved by the Secretary of State give off a flammable vapour at a temperature of less than 80 degrees Fahrenheit and which is stored in securely closed metal containers in good condition and containing not more than five gallons each; or
- (C) any substance which does not when tested by a method approved by the Secretary of State give off a flammable vapour at a temperature of less than 80 degrees Fahrenheit and which is stored in separate glass or glazed earthenware vessels securely stoppered and the aggregate amount of all such substances stored in such manner would not, if the whole contents were in bulk, exceed twenty-five gallons.

(9) In this section “building” where used in relation to the storage of substances therein includes the curtilage of the building.

(10) Nothing in this section shall apply to premises which are subject to the Factories Act 1961 or the Act of 1963. 1961 c. 34.

(11) Nothing in this section shall apply to any building or part of a building by reason only that part of that building is used or intended to be used to contain a pressure governor, meter, booster or other apparatus for or in connection with the supply of gas.

60.—(1) As from the appointed day any person intending to instal or place oil-burning equipment in any building in the borough, whether erected before or after the passing of this Act, or on any land in the borough shall give not less than fourteen days’ notice to the Corporation of his intention so to do. Oil-fired boilers.

(2) (a) The Corporation may make byelaws for securing that, in relation to any oil-burning equipment so installed or placed after the coming into operation of the byelaws, proper arrangements will be made for preventing or reducing danger from fire.

(b) Byelaws made under this section may include provisions—

- (i) prescribing in connection with the installation or placing of oil-burning equipment in any such building or on any such land as aforesaid the works, apparatus and fittings and fire-fighting appliances to be provided, and the mode of arrangement of any such works, apparatus, fittings and appliances; and
- (ii) empowering the Corporation, if they are satisfied that proper arrangements will be made for preventing or reducing danger from fire, to approve the installation or

PART VII
—cont.

placing of any oil-burning equipment notwithstanding that it does not comply with the appropriate specification for such equipment contained in the byelaws.

(3) (a) Any oil-burning equipment installed or placed in accordance with plans and specifications submitted to, and passed by, the Corporation shall, for the purposes only of this section, be deemed to be approved by the Corporation as complying with the appropriate specification for such equipment contained in the byelaws in respect of all matters shown in the plans and specifications so passed.

(b) If the Corporation do not, within two months from the submission of plans and specifications of any oil-burning equipment under this subsection, notify the person by whom they were submitted of the rejection or passing of the said plans and specifications, they shall be deemed to have passed them.

(4) (a) Any person aggrieved by the refusal of the Corporation to approve the installation or placing of any oil-burning equipment under any byelaw made under sub-paragraph (ii) of paragraph (b) of subsection (2) of this section may, within twenty-one days from the receipt of notification of the refusal, appeal to the Secretary of State.

(b) Where an appeal is brought under this subsection the Secretary of State may dismiss or allow the appeal or may vary the decision of the Corporation against which the appeal is made.

(c) The decision of the Secretary of State on any such appeal shall have effect as if it were a decision of the Corporation given under the byelaw.

(5) (a) If any person installs oil-burning equipment in any building or on any land in the borough without giving notice to the Corporation in accordance with subsection (1) of this section, he shall be liable to a fine not exceeding fifty pounds.

(b) If any person contravenes any byelaw made under subsection (2) of this section, he shall be liable to a fine not exceeding fifty pounds, and if—

(i) that person after conviction of the contravention; or

(ii) any other person after notice of the conviction has been served on him by the Corporation;

uses the oil-burning equipment in contravention of that byelaw he shall be liable to a fine not exceeding ten pounds for each day on which he so uses it.

(6) Nothing in this section or any byelaws made thereunder shall apply to—

(a) any oil-burning equipment if the storage tank or tanks supplying or designed or adapted to supply oil to the

boiler has or have a total capacity not exceeding 750 gallons; or

- (b) any oil-burning equipment installed in any building in respect of which a licence under the Cinematograph Acts 1909 and 1952 is for the time being in force; or
- (c) the installation of any oil-burning equipment by the generating board, the electricity board or the Gas Council or the gas board for the purposes of their respective undertakings:

Provided that the exemption conferred by this paragraph shall not extend—

- (i) to houses; or

- (ii) to buildings used as offices or showrooms; or

- (d) the installation of any oil-burning equipment by the railways board for the purposes of their undertaking:

Provided that the exemption conferred by this paragraph shall not extend—

- (i) to houses; or

- (ii) to buildings used as offices or showrooms other than buildings so used which form part of a railway station.

(7) The provisions of any byelaw made under this section shall cease to apply in relation to any premises to which the Factories Act 1961 or the Act of 1963 apply on the coming into force in relation to those premises of regulations made under either of those Acts and relating to the same subject-matter as this section. 1961 c. 34.

(8) (a) In this section—

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

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

“ house ” means a dwelling-house, whether a private dwelling-house or not, and includes a flat and maisonette;

“ oil-burning equipment ” means a boiler designed or adapted for the combustion of oil and includes the burner, the storage tanks and the apparatus, fittings, devices and catch-pits, and any other equipment used for or in connection with the heating of the boiler;

“ storage tank ” means a tank, container or device designed or adapted for the purpose of supplying oil to a boiler.

(b) References in this section to the installation or placing of oil-burning equipment in any building or on any land shall be construed as including the installation or placing of oil-burning equipment which is partly in a building and partly on land outside the building.

PART VII
—cont.

Amendment
of section 60
of Bootle
Corporation
Act 1959.
1959 c. xli.

61. The following section shall be substituted for section 60 (Amendment of sections 59 and 60 of Act of 1936) of the Bootle Corporation Act 1959:—

“ Amendment
of sections 59
and 60 of
Act of 1936.

60.—(1) Section 59 of the Act of 1936 shall have effect in its application to the borough as if paragraph (b) of subsection (5) thereof were deleted and the following paragraph were substituted therefor:—

‘ (b) any restaurant, shop, store, office or warehouse in which more than ten persons are employed ’.

(2) Section 60 of the Act of 1936 shall have effect in its application to the borough as if—

(a) in subsections (1) and (4) thereof the words ‘ eighteen feet ’ were substituted for the words ‘ twenty feet ’;

(b) in paragraph (b) of subsection (4) thereof the words ‘ boarding school ’ were omitted and the words ‘ old persons’ home ’ were inserted after the words ‘ children’s home ’;

(c) paragraph (c) of subsection (4) thereof were deleted and the following paragraph were substituted therefor:—

‘ (c) is used as a restaurant, shop, store, office or warehouse’;

(d) the following paragraph were added to subsection (4) thereof:—

‘ or

(d) is used for the holding of dances or dancing classes other than—

(i) any premises in respect of which a licence has been granted under section 121 (Places for music dancing and other entertainments to be licensed) of the Bootle Corporation Act 1890;

(ii) any premises registered under section 72 (Registration of entertainment proprietors) of the Bootle Corporation Act 1959;

(iii) any building or part of a building in respect of which a licence under the Cinematograph Acts 1909 and 1952 is for the time being in force;

(iv) a private house used for the holding of dances (but not dancing classes) to which the public are not admitted ’.

(3) (a) The Corporation may by notice require the person having control of a building to which the said section 60, as amended by subsection (2) of this section, applies (other than a house let in flats) to take steps to secure that such passages and gangways as are specified

in the notice shall be kept unobstructed and, if he fails to do so, he shall be liable to a fine not exceeding twenty pounds.

PART VII
—cont.

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

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

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

Fire precautions in registered clubs.
1964 c. 26.

(2) Any person obstructing an officer of the Corporation in the exercise of the power conferred by this section shall be liable to a fine not exceeding twenty pounds.

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

1968 c. 65.

63.—(1) The Corporation may, in relation to any substance to which this section applies—

Prescription of signs to be used on certain buildings.

- (a) prescribe standard uniform signs or symbols or warning notices in a form approved by the Secretary of State clearly indicating the nature of the substance and the existence of danger from fire;
- (b) by notice require the occupier of any part of a building used for the manufacture or storage of the substance to affix, within such reasonable time as is specified in the notice, and thereafter to keep fixed in a conspicuous position or positions in or on the part of the building used for such manufacture or storage, the appropriate sign, symbol or notice.

(2) This section applies to any substance likely to involve special hazard to persons engaged in operations for fire-fighting purposes or other emergency operations.

(3) If any person fails to comply with the requirements of the Corporation under this section he shall be liable to a fine not exceeding twenty pounds and to a daily fine not exceeding five pounds.

(4) In this section “fire-fighting purposes” has the same meaning as in the Fire Services Act 1947.

1947 c. 41.

PART VIII

HACKNEY CARRIAGES

Misleading
signs on
motor vehicles.

1962 c. 13.

64.—(1) If in the borough any person exhibits or permits to be exhibited on any vehicle (not being a hackney carriage licensed to ply for hire or a public service vehicle) any sign (not being a sign required to be exhibited by virtue of section 14 of the Vehicles (Excise) Act 1962) or advertisement which might reasonably be taken to indicate that the vehicle is a hackney carriage licensed to ply for hire he shall be liable to a fine not exceeding ten pounds.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, if in the borough any person exhibits or permits to be exhibited on any vehicle (not being a hackney carriage licensed to ply for hire or a public service vehicle) which is offered or let for hire with the services of a driver any sign or advertisement containing the words “ cab ”, “ taxi ”, “ taxi-cab ” or “ for hire ” he shall be deemed to have contravened the provisions of that subsection.

Suspension
and revocation
of licences.

1847 c. 89.

65.—(1) Notwithstanding anything in the Town Police Clauses Act 1847, the Corporation may suspend or revoke the licence—

(a) of a proprietor of a hackney carriage on the ground of the unfitness of the hackney carriage or on the ground that since the granting of the licence the vehicle has been transferred to a person other than the person to whom the licence was granted and is not being used as a hackney carriage; or

(b) of a driver of a hackney carriage on the ground that he has since the granting of the licence been convicted of an offence involving dishonesty, violence or indecency.

(2) Any hackney carriage proprietor or driver aggrieved by a decision of the Corporation under subsection (1) of this section may appeal to a court of quarter sessions.

Cost of
inspection of
hackney
carriages.

1960 c. 16.

66.—(1) The cost not exceeding the prescribed amount per inspection incurred by the Corporation in carrying out inspections of vehicles for the purpose of determining whether hackney carriage licences should be granted therefor shall, if the council so resolve, be recoverable from the proprietors thereof.

(2) In this section “ the prescribed amount ” means the amount of the fee for the time prescribed by the Secretary of State under section 65 of the Road Traffic Act 1960 as the fee to be paid on an application for the examination of vehicles under that section.

PART IX

WINDOW CLEANERS

67. As from the appointed day no person shall within the borough— Window cleaners to be licensed.

- (1) carry on the trade of window cleaner; or
- (2) perform the duties of window cleaning while employed by a person carrying on the trade of window cleaner;

without a licence from the Corporation authorising him so to do.

68.—(1) An application for a licence under this Part of this Act— Applications for and provisions as to window cleaning licences.

- (a) shall be made in writing to the Corporation;
- (b) shall be made by or on behalf of the person requiring the licence;
- (c) may be made by such person on behalf of any person employed by him or proposed to be employed by him as aforesaid;
- (d) shall be in such form as the Corporation shall from time to time require;
- (e) shall be signed by the applicant; and
- (f) shall contain such information as the Corporation may reasonably require with respect to the applicant and every person employed by him or proposed to be employed by him as aforesaid.

(2) Every such licence shall be in force for one year only from the date of such licence or until the next general licensing day in case any such general licensing day be appointed by the Corporation (which they are hereby authorised to appoint) and the town clerk shall enter such licences in a register to be provided and kept by the Corporation for that purpose.

69. The Corporation shall as soon as reasonably practicable after the receipt of an application under this Part of this Act grant or renew a licence to the applicant to carry on the trade of window cleaner or, as the case may be, to perform the duties of window cleaning. Grant of window cleaning licences.

70. As from the appointed day for the purposes of section 67 (Window cleaners to be licensed) of this Act— Penalties under this Part of Act.

- (a) any person who carries on the trade of window cleaner; and
- (b) anyone employed by such person who performs the duties of window cleaning;

without a licence granted or renewed under section 69 (Grant of window cleaning licences) of this Act shall be liable to a fine not exceeding ten pounds and to a daily fine not exceeding one pound.

PART X

FINANCE AND SUPERANNUATION

Interpretation
of Part X.

71. In this Part of this Act, except as otherwise expressly provided or unless the subject or context otherwise requires—

1937 c. 68.

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

1961 c. 62.

“the Act of 1961” means the Trustee Investments Act 1961;

“authorised security” means any mortgage, stock, bond or other security which the Corporation are for the time being authorised to grant, create or issue, or upon or by means of which the Corporation are for the time being authorised to raise money;

“financial year” means a period of twelve months ending on 31st March;

“the fund” means the superannuation fund maintained by the Corporation under Part I of the Act of 1937;

1967 c. 9.

“gross rate income” means the gross rate income as used in the determination of the product of a rate of one new penny in the pound under rules made pursuant to section 113 of the General Rate Act 1967;

“revenues” has the same meaning as in section 218 of the Act of 1933;

“signature” includes a facsimile of a signature by whatever process reproduced;

“statutory security” means any security in which trustees are for the time being authorised by law to invest trust moneys or in which the Corporation are by virtue of this Act authorised to invest money forming part of the fund.

Power to
borrow.

72.—(1) The Corporation may borrow—

(a) such sums as may be necessary for any of the purposes of this Act;

(b) without the consent of any sanctioning authority, such sums as may be necessary for paying the costs, charges and expenses of this Act;

and, 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.

(2) The Corporation shall repay sums borrowed under paragraph (b) of the foregoing subsection within ten years from the date of borrowing.

(3) It shall not be lawful to exercise the powers of borrowing conferred by paragraph (a) of subsection (1) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act 1946.

1946 c. 58.

PART X
—cont.

Power to
Corporation
to raise
money by
issue of bills.

73.—(1) In addition to the modes of borrowing prescribed by the Act of 1933 or any other enactment, the Corporation may raise money—

- (1) for any purpose for which the Corporation are authorised to borrow;
- (2) in anticipation of the receipt of revenues for any purpose for which the revenues of the Corporation may properly be applied;

by means of bills (to be called “ Bootle Corporation bills ” and in this section referred to collectively as “ bills ” and separately as a “ bill ”) subject to and in accordance with the following provisions:—

- (a) A bill shall be in the form prescribed by regulations made under this section and shall be for the payment of the sum named therein in the manner and at the date therein mentioned, being a date not more than twelve months from the date of the bill:
- (b) A bill shall entitle the holder thereof to payment at maturity of the sum expressed in the bill to be payable:
- (c) Bills may be offered for purchase (whether by tender or otherwise) in such manner and on such conditions as the Corporation may determine:
- (d) Bills shall be issued under the authority of a resolution passed by the council and shall bear the signature of the treasurer or of some other person authorised by the Corporation:
- (e) The Corporation may make regulations providing for—
 - (i) the preparation and form and the mode of issue, payment and cancellation of bills;
 - (ii) the issue of a new bill in lieu of one defaced, lost or destroyed;
 - (iii) the prevention, by the use of counterfoils or of a special description of paper or otherwise, of fraud in relation to bills;
 - (iv) the giving of a proper discharge on the payment of a bill; and
 - (v) the amendment or revocation of any regulations previously made or deemed to have been made under this paragraph:
- (f) The amount of money received in respect of a bill shall be deemed to be principal money raised by means of the bill and the difference between the amount payable in respect of a bill and the amount received in respect thereof shall be deemed to be interest on the principal money so raised:

PART X
—cont.

(g) The aggregate amount payable on bills current at any one time shall not (except by the amount payable on bills issued shortly before any other bills fall due in order to pay off the last-mentioned bills) exceed—

(i) the sum of seven hundred and fifty thousand pounds; or

(ii) one-fifth of the amount of the estimated gross rate income of the borough during the then current financial year;

whichever is the greater:

(h) Subject to the provisions of the last preceding paragraph the Corporation may renew a bill at maturity:

(i) The Corporation may borrow for the purpose of repaying the principal money raised by bills, but except as aforesaid any power of the Corporation to borrow shall be suspended to the extent of the amount which has been raised for capital purposes by the issue of bills.

(2) The power of raising money under subsection (1) of this section may not be exercised by the Corporation in any financial year during which the amount estimated to be produced by the general rate levied in the borough does not exceed three million pounds.

Amendment
of power to
issue bonds.
1963 c. 46.

74. For the purposes of subsection (2) of section 7 of, and sub-paragraph (c) of paragraph 1 of Schedule 1 to, the Local Government (Financial Provisions) Act 1963—

(a) bonds issued by the Corporation under the said Act of 1963 to and held continuously by building societies and persons and bodies of such other classes as the Corporation may, with the consent of the Treasury, from time to time determine, shall not be deemed to have been issued for a period of less than one year by reason only of the fact that the holder of such a bond has the right to claim premature repayment under a stress clause;

(b) a bond issued by the Corporation as aforesaid shall not be deemed to have been issued for a period of less than one year by reason only of the fact that it is issued on the condition that it may at the discretion of the Corporation be repaid upon the death of the holder or in any other case for the purpose of relieving hardship to the holder.

Power to
raise money
by bearer
bonds

75. In addition to any other method by which the Corporation may raise any money which they are authorised to borrow, they may, with the consent of the Treasury and subject to such conditions as the Treasury may impose, raise the money by means of the issue of bearer bonds or other securities to bearer.

76.—(1) Any method by which the Corporation are empowered by any enactment to raise any money which they are authorised to borrow shall, notwithstanding anything in such enactment, be deemed to include the raising of money by that method outside the United Kingdom or in any foreign currency.

PART X
—cont.
Power to raise money abroad.

(2) The powers conferred by the foregoing subsection shall not be exercised except with the consent of the Treasury, and subject to such conditions as the Treasury may impose.

(3) The enactments empowering the Corporation to raise money shall have effect in relation to a transaction authorised by this section for the raising of money in a foreign currency as if for any reference in those enactments to sterling there was substituted a reference to the foreign currency and for any reference therein to a sum expressed in terms of sterling there was substituted a reference to the sum expressed in terms of the foreign currency (adjusted, where necessary, to produce an amount which the Corporation consider appropriate having regard to all the circumstances of the transaction).

(4) Nothing in this section shall be taken as exempting the Corporation from the provisions of any order under section 1 of the Borrowing (Control and Guarantees) Act 1946.

1946 c. 58.

77. Nothing in the last two foregoing sections shall be taken as exempting the Corporation from the provisions of the Exchange Control Act 1947.

Saving for Exchange Control Act 1947.

78. The following section shall be substituted for section 87 (Investment of superannuation fund) of the Bootle Corporation Act 1959:—

1947 c. 14.

87.—(1) In its application to the Corporation subsection (3) of section 21 of the Local Government Superannuation Act 1937 shall have effect as if for the obligation to invest as mentioned in that subsection moneys forming part of but not for the time being required to meet payments out of the superannuation fund maintained by the Corporation under that Act there were substituted an obligation to invest such moneys as follows, namely:—

Amendment of powers of investment of superannuation fund.

1959 c. xli.

1937 c. 68.

(a) in or upon any investments for the time being authorised by law for the investment of trust funds; or

(b) in or upon any of the stocks, funds or securities of any dominion, commonwealth, union, dependency or colony forming part of the British Commonwealth of Nations or any province or state having a separate local legislature and forming part thereof; or

(c) in or upon any of the stocks, bonds, mortgages or securities of any municipality, county or district council or local or public authority

“ Investment of superannuation fund.

PART X
—cont.

- or board in the United Kingdom or any such dominion, commonwealth, union, dependency, colony, province or state as aforesaid authorised under any general or special Act of the United Kingdom Parliament or the legislature concerned to issue the same; or
- (d) in or upon any stocks, shares, bonds, mortgages or securities the capital whereof or a minimum rate of dividend or interest whereon is guaranteed by the United Kingdom government or by the government of any such dominion, commonwealth, union, dependency, colony, province or state as aforesaid; or
- (e) in or upon any of the stocks, funds or securities of the government of any foreign country or state; or
- (f) in or upon the bonds, debentures, debenture stock, convertible debenture stock, obligations or securities of any company incorporated under any general or special Act of the United Kingdom Parliament or under any royal charter or registered or incorporated in any part of the world; or
- (g) in or upon any guaranteed, preference or ordinary stock or shares or any preferred or deferred or other stock or shares of any company incorporated under any general or special Act of the United Kingdom Parliament or under any royal charter or registered or incorporated in any part of the world, being stock or shares which at the time of making the investment are quoted on any recognised stock exchange or similar institution; or
- (h) in the purchase, whether alone or jointly or in common with any other person or corporation, of immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands, or of any share or interest in such immovable property, including any interest in such immovable property comprised in a building agreement providing for the grant of a lease of such property contingent on the erection or completion of the building specified in such agreement; or
- (i) in the advance of money upon the security of—
- (i) immovable property of any tenure or kind in the United Kingdom, the Isle of Man or the Channel Islands; or

(ii) any legal estate or interest in immovable property comprised in a building agreement as specified in paragraph (h) of this subsection;

and in any such case whether the security be taken by a separate and distinct mortgage or security made exclusively to the Corporation, or by a mortgage or security made jointly to the Corporation and any other person; or

(j) in undertaking or financing, whether alone or jointly with any other person—

(i) the erection of a new building or the improvement or extension of an existing building; or

(ii) building operations or other development;

on land outside the borough—

(A) belonging to the Corporation or to any other person; or

(B) which is, or will be, held jointly by the Corporation and any other person; or

(k) upon the security of freehold or leasehold ground rents, land charges or rentcharges;

with the like power of varying such investments from time to time by sale and reinvestment or otherwise:

Provided that no investment of the nature specified in paragraph (g) of this subsection shall be made at any time when the value of all the investments made under the said paragraph (g) which form part of the superannuation fund equals or exceeds three-quarters of the total value of the assets of that fund.

(2) For the purposes of subsection (1) of this section, the value of any investment of moneys forming part of the superannuation fund shall be treated as being the value of the investment at the time at which it was made.

(3) For the purposes of the foregoing provisions of this section an investment in the units of a unit trust scheme or in participation certificates or in any form of participation under any trust or scheme established in the United Kingdom or in any of the territories or countries referred to in subsection (1) of this section having the effect of enabling persons to participate in the profits and income arising from the acquisition, holding, management or disposal of such securities or of such land or interest in land as are specified in that subsection shall be regarded as an investment in the securities in question or in such land or interest in land.

PART X
—cont.

(4) In this section the expression—

‘ participation certificate ’ means any document conferring upon the holder the right to participate in (or constituting evidence of the right of the holder to participate in) the profits or income arising from the acquisition, holding, management or disposal of a particular investment specified or described in the document;

‘ recognised stock exchange ’ in its application to the United Kingdom, means any body of persons which is for the time being a recognised stock exchange for the purposes of the Prevention of Fraud (Investments) Act 1958.”

1958 c. 45.

Transfer of certain sums from super-annuation fund.

79.—(1) If a contributory employee of the Corporation is dismissed or resigns or otherwise ceases to hold employment in consequence of an offence of a fraudulent character or grave misconduct the Corporation may transfer from the fund to the general rate fund or to the revenue account of any undertaking or service of the Corporation the accounts of which do not form part of the general rate fund (as the case may be) an amount not exceeding the whole or any part of any contributions not returned to him or paid to his wife or family under subsection (4) of section 10 of the Act of 1937, or the amount of loss suffered by the Corporation in consequence of the contributory employee’s offence or misconduct whichever is the less.

(2) If a contributory employee of an employing authority whose employees participate in the benefits of the fund is dismissed or resigns or otherwise ceases to hold employment in consequence of an offence of a fraudulent character or grave misconduct by reason of which the employing authority have suffered direct financial loss, the Corporation shall, on demand from the employing authority, pay to them out of such fund an amount equal to so much of the employee’s contributions to the fund as the employing authority have not directed to be returned to the employee or paid to his wife or family, or the amount of such loss suffered by the employing authority in consequence of his offence or misconduct, whichever is the less:

Provided that—

(a) where a payment in lieu of contributions falls to be made in respect of the employee under the National Insurance Act 1965, the Corporation shall not under this subsection be required to pay to the employing authority so much of the employee’s contributions as amounts to one-half of such payment in lieu of contributions;

1965 c. 51.

(b) the Corporation shall not be required to pay to the employing authority so much of the employee's contributions as relates to any period of previous service, unless the employing authority have directed that all rights enjoyed by or in respect of him with respect to that period of previous service, being rights under Part I of the Act of 1937 or under the Local Government Superannuation Act 1953, or any regulations made thereunder, shall be forfeited.

PART X
—cont.

1953 c. 25.

(3) In this section "contributory employee" and "employing authority" have the same respective meanings as in the Act of 1937.

80. All costs, charges and expenses incurred by the Corporation in investing moneys forming part of the fund shall be paid by the Corporation out of that fund.

Expenses of investment of superannuation fund.

81.—(1) The Corporation may pay to any of their officers who act in any of the following capacities:—

Officers of Corporation acting as receivers, etc. 1959 c. 72.

(a) as the receiver appointed by an order made under Part VIII of the Mental Health Act 1959;

(b) as the administrator of the estate of a deceased person acting by virtue of a grant made to him as the nominee of the Corporation;

(c) as a surety to a bond required by law from an officer acting in accordance with paragraph (a) of this subsection;

the amount of any sum forfeited by him to the Crown or the Principal Probate Registrar or the amount of any payment which he is liable to make by reason of his acting in the course of his duties as an officer of the Corporation in any such capacity as aforesaid.

(2) The Corporation may pay the amount of any premiums upon an insurance policy indemnifying an officer acting in any of the capacities mentioned in subsection (1) of this section against any act, neglect or default, whether his own or that of any other person, occurring in the course of the receivership or administration.

(3) Any payments which the Corporation have power to make under the provisions of subsection (1) of this section, and any of the risks referred to in subsection (2) of this section, may, for the purposes of section 34 (Insurance fund) of the Bootle Corporation Act 1930, be treated as risks against which the Corporation would ordinarily insure and that section shall be construed accordingly.

1930 c. clxxxvi.

PART X

—cont.

Recovery of
sums paid to
officers, etc.

82.—(1) Where the Corporation have paid in advance to any employee the amount of his emoluments and such employee dies before the expiration of the period in respect of which such payment is made, the Corporation shall not be required to demand the return of such portion thereof not exceeding twenty-five pounds as the Corporation may determine.

(2) In any case where the Corporation exercise the powers of the foregoing subsection, they shall transfer from the general rate fund to the fund the amount which, but for the exercise of those powers, would have been returned to that fund.

(3) In this section—

“employee” means any officer or servant of the Corporation or any officer or servant whose salary or wages is or are payable by the Corporation and includes any former officer or servant who is in receipt of a superannuation allowance or benefit payable out of the fund; and

“emoluments” means in relation to an officer or servant his salary or wages (as the case may be) and in relation to a former officer or servant in receipt of a superannuation allowance or benefit the amount of that allowance or benefit.

Benefits in
certain cases
of premature
retirement.

83.—(1) Where, after the passing of this Act, the employment of a contributory employee who has attained the age of fifty-five years and completed ten years' service is terminated in the interests of efficiency before he has attained the age of sixty-five years, he shall be entitled to superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment:

Provided that this subsection shall not apply to a contributory employee if not later than one month after ceasing to hold his employment he notifies the Corporation in writing that he does not wish this subsection to apply to him.

(2) Where, after the passing of this Act, a contributory employee who has attained the age of fifty-five years and completed twenty-five years' service, but has not attained pensionable age, terminates his employment at his own request, then superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment shall be payable in lieu of any entitlement to a return of contributions under section 10 of the Act of 1937:

Provided that—

PART X
—cont.

- (i) where a person has become entitled to a superannuation benefit by virtue of this subsection he may, by notice given to the Corporation in writing at any time before any payment on account of such benefit has been made to him, elect that this subsection and any rights to which he is entitled thereunder shall cease to apply in relation to him as from the date on which such notice is given;
- (ii) unless the Corporation otherwise determine on compassionate grounds, no benefit shall be paid to a person by virtue of this subsection before the date on which he attains pensionable age.

(3) Where a person, who has become entitled to a superannuation benefit by virtue of subsection (2) of this section, dies before any payment on account of such benefit has been made to him, as from the date of his death, the like benefits shall be payable in respect of him as would have been paid if he had died on the last day of his employment as a contributory employee.

(4) For the avoidance of doubt it is hereby declared that where a person is for the time being entitled to any benefit by virtue of subsection (2) of this section, that benefit shall be deemed to be a superannuation benefit for the purpose of the definition of “service” in subsection (1) of section 40 of the Act of 1937, whether or not any payment has been made to him on account thereof.

(5) For the purposes of section 16 of the Local Government Superannuation Act 1953 and of any rules made thereunder, 1953 c. 25. a person entitled to a superannuation benefit by virtue of subsection (2) of this section shall be deemed to cease to hold his employment on the day immediately preceding the day on which that benefit first becomes payable to him and a superannuation benefit as aforesaid shall be deemed to be such a superannuation allowance or benefit as is referred to in subsection (1) of the said section 16.

(6) In this section words and expressions to which meanings are assigned by the Act of 1937 have the same respective meanings and—

“contributor” means a contributor to the fund as respects whom the council are the employing authority;

“pensionable age” in relation to any person means the earliest age at which, if he were to remain a contributor without a break of service, he would, on ceasing to hold

PART X
—cont.

his employment, become entitled to superannuation benefits by reason of having otherwise than under this section attained such age and completed such period of service as is prescribed in the Local Government Superannuation Acts 1937 to 1953 or the Local Government Superannuation (Benefits) Regulations 1954 as the case may be;

“superannuation benefit” includes any benefit which is or may be granted in pursuance of the Local Government Superannuation Acts 1937 to 1953 or the regulations made thereunder or in pursuance of any local Act or scheme or local Act scheme.

Reserve funds. 84.—(1) (a) The Corporation may (if they think fit) establish a reserve fund in respect of any undertaking, department or service of the Corporation from which revenue is derived by setting aside such an amount as they may from time to time think reasonable and (unless the amounts so set aside are applied in any other manner authorised by any enactment) investing the same in statutory securities until the fund so provided amounts to the maximum for the time being prescribed by the Corporation.

(b) Any income arising from the investment of the moneys in the reserve fund in manner provided by this subsection shall be carried to and form part of the general rate fund and an amount equivalent to such income shall be credited to the reserve fund.

(2) The reserve fund established under this section may in respect of the undertaking, department or service to which it relates be applied—

- (a) in making good any deficiency at any time happening in the income of the Corporation from the undertaking, department or service; or
- (b) in meeting any extraordinary claim or demand at any time arising against the Corporation in respect of the undertaking, department or service; or
- (c) in or towards the payment of the cost of renewing, improving or extending any works, buildings, machinery, plant or conveniences forming part of the undertaking, department or service or otherwise for the benefit thereof;

and so that if the fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

(3) Resort may be had to the reserve fund established under this section although such fund may not at the time have reached or may have been reduced below the prescribed maximum.

(4) If and when the Corporation establish a reserve fund under this section in respect of any such undertaking, department or service as aforesaid any moneys standing to the credit of any reserve fund or contingency or depreciation fund provided by the Corporation in respect of that undertaking, department or service and in existence at the date of the passing of this Act shall be carried to and form part of the reserve fund established under this section in respect of that undertaking, department or service.

85. In its application to the Corporation, subsection (3) of section 1 of the Local Government (Miscellaneous Provisions) Act 1953 shall have effect as if for the words "statutory securities" there were substituted the words "the manner in which the mayor, aldermen and burgesses of the borough of Bootle are empowered to invest the superannuation fund maintained by them under Part I of the Local Government Superannuation Act 1937 or, in the case of a fund applicable wholly or partly for the redemption of debt, in statutory securities".

Modification of Local Government (Miscellaneous Provisions) Act 1953 c. 26. 1937 c. 68.

PART XI

MISCELLANEOUS

86. The Corporation may acquire for exhibition in the borough or for use as a feature in connection with any development or redevelopment scheme carried out or being carried out by them works of sculpture or other objects of artistic, scientific or historical interest and may provide for the renovation, renewal, replacement or recasting of any such works or objects so acquired or otherwise in their possession or care.

Acquisition and repair of sculptures, etc.

87. The Corporation may publish or contribute to the publication of any work of scholarship having reference to the borough or its neighbourhood.

Publication of works of scholarship.

88.—(1) For the purpose of conveying books, documents, papers and other material from any premises belonging to the Corporation to any other premises the Corporation may lay pipes, ducts and other works and apparatus—

Power to lay pipes, etc., for conveyance of documents.

(a) in, under or over any street, subject however to the provisions of subsection (3) of this section; and

(b) with the consent of every owner and occupier of any land not forming part of a street in, on or over that land;

and may from time to time inspect, repair, alter or renew or may at any time remove any pipe, duct, work or apparatus laid down by them whether by virtue of this section or otherwise.

PART XI
—cont.
1945 c. 42.

(2) The following provisions of the Third Schedule to the Water Act 1945 shall apply with the necessary modifications to the laying down, erection, inspection, repair, alteration, renewal or removal of pipes, ducts, works and apparatus under this section:—

Section 22 (Power to break open streets);

Section 25 (Protection for railway companies, navigation authorities, tramway undertakers, &c.);

Section 27 (Remedies where undertakers fail to comply with foregoing requirements);

Section 28 (Application of Part VI to verges and streets and highways not maintainable at the public expense); and

Section 93 (Protection for works of navigation authorities and for catchment boards and railways).

(3) For the purpose of such application, the Corporation shall be deemed to be the undertakers and the limits of supply shall be deemed to be the borough.

Microfilming
of documents.

89.—(1) The Corporation may make and retain microfilm recordings of documents of the Corporation.

(2) Notwithstanding anything contained in any enactment, the Corporation may destroy any documents of the Corporation, other than minute books, of which they have made and retained microfilm recordings:

Provided that—

(a) the Corporation shall not under this section destroy records deposited with them under the Public Records Act 1958, or acquired or accepted by them under section 2 of the Local Government (Records) Act 1962; and

(b) the Corporation shall afford a right of access for the public to a microfilm recording of a document which has been destroyed in pursuance of this section equal to the right of access, if any, of the public to the document so destroyed.

(3) An enlargement of a microfilm recording of a document made in pursuance of this section shall be deemed for all purposes to be a copy of that document.

(4) Notwithstanding anything contained in any enactment or any rule of law, an enlargement of a microfilm recording of a document which has been destroyed in pursuance of this section shall be receivable in evidence for any purpose for which the

1958 c. 51.
1962 c. 56.

document would have been receivable in any proceedings in any court in England or Wales if the town clerk certifies that—

PART XI
—cont.

- (a) the document has been destroyed; and
- (b) a microfilm recording of the document has been made; and
- (c) the enlargement is an enlargement of that microfilm recording.

(5) In this section unless the context otherwise requires—

“ document ” means the whole or part of a register, book, map, plan or other document and includes a notice, licence, certificate, scheme or order made, passed or granted by the council or any committee of the council;

“ microfilm recording ” means a reproduction of a document on film which is a product of photography or any process akin to photography and is in general beyond legibility with the naked eye.

90. At any time after a period of six years from the date of the receipt by the Corporation of an application made to the Corporation for a decision, determination, grant, consent, agreement, approval or permission, the Corporation may destroy any documents received by them in connection with the application: Destruction of documents connected with applications.

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

91.—(1) Notwithstanding anything in Part IV of the Act of 1933, or in any other enactment, the council may from time to time by resolution determine that the office, style or title of any officer of the Corporation shall be that specified in the resolution instead of that specified in the Act of 1933 or in any other enactment, and anything done by an officer as holding the office, or in the style or title specified in the resolution, shall be valid and effectual for all purposes as it would have been had it been done by the officer in the office and holding the style or title specified in the Act of 1933. Power to change titles of officers.

(2) As from the date of the passing of any resolution by the council pursuant to subsection (1) of this section, any reference (whether specific or general) in any enactment or document to the office or title of an officer to whom the resolution relates shall be construed as if the office or title specified in the resolution were substituted for the office or title specified in that enactment or document.

PART XI

—cont.

Compensation
for injury to
or death of
employees.

92.—(1) The Corporation may pay compensation—

- (a) to any of their employees who sustains an injury in the course of his employment; or
- (b) to a dependant of any of their employees who, in the course of his employment, dies or sustains an injury resulting in death.

(2) Any compensation payable under this section may be paid either—

- (a) by way of a lump sum; or
- (b) by way of periodical payments of such amounts and payable at such times and for such periods as the Corporation may from time to time determine having regard to all the circumstances of the case.

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

Insurance of
certain
voluntary
assistants.

93.—(1) The Corporation may enter into a contract with any person whereby, in consideration of payments made by way of premium or otherwise by the Corporation, that person undertakes to pay to the Corporation such sums as may be provided in the contract in the event of any voluntary assistant meeting with a personal accident, whether fatal or not, while he is engaged as such, or suffering any disease or sickness, whether fatal or not, as a result of being so engaged.

(2) Any sum received by the Corporation under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by the Corporation to, or to the personal representatives of, the voluntary assistant who suffered the accident, disease or sickness in respect of which the sum is received.

1774 c. 48.

(3) The provisions of the Life Assurance Act 1774 shall not apply to any such contract, but any such contract shall be deemed for the purposes of the Insurance Companies Act 1958 to be a policy of insurance upon the happening of personal accidents, disease or sickness.

1958 c. 72.

(4) In this section “voluntary assistant” means a person who, at the request of the Corporation, or an authorised officer of the Corporation, performs any service or does anything, otherwise than for profit or reward, for the purposes of, or in connection with, the carrying out of any of the functions of the Corporation.

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

PART XI
—cont.

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

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

(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;

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.

95.—(1) In this section—

Provision of entertainments in parks, etc.

“entertainments” includes amusements, pyrotechnic displays, illuminations, exhibitions, displays, miniature railways, model villages and other models and other attractions;

“park” means a park, pleasure ground, recreation ground or open space.

(2) The Corporation may enclose or set apart any part of a park provided by them or under their management and control and may on the part so enclosed or set apart provide entertainments and construct such buildings and execute such works as may be necessary or expedient for the purpose:

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

(a) enclose or set apart any part of a park for the purpose of providing pyrotechnic displays or illuminations except during a period beginning half an hour before sunset on any day and ending at the ordinary time for opening the park on the following day; or

(b) enclose or set apart for the purpose of providing any entertainments other than pyrotechnic displays or illuminations any part of a park exceeding one-tenth of the area thereof or 1 acre whichever is the greater.

PART XI
—cont.

(3) The Corporation may either—

- (a) themselves manage any entertainments provided under this section, making such reasonable charges therefor or admission thereto as they think fit; or
- (b) let the entertainments, or the part of a park enclosed or set apart for the purpose of entertainments, for such consideration and on such terms and conditions as they think fit.

(4) Any lessee or tenant of the Corporation under subsection (3) of this section shall have the like powers of providing entertainments and constructing buildings and executing works and of making reasonable charges for use or admission as are conferred upon the Corporation by this section.

(5) Any expenditure incurred by the Corporation under the powers of this section (excluding capital expenditure but including loan charges) less the net amount of the receipts, if any, of the Corporation in respect of the exercise of those powers shall, for the purposes of determining whether any, and if so what, expenditure may be incurred in any year under subsection (3) of section 132 of the Local Government Act 1948 (which limits the expenditure of a local authority under that section), be taken into account as if it was expenditure under the said section 132.

(6) Nothing contained in this section shall empower the Corporation to create or permit a nuisance.

(7) No power conferred upon the Corporation by any of the provisions of this section shall be exercised in such a manner—

- (a) as to be at variance with an express trust subject to which land or a building is held, managed or controlled by the Corporation, without an order of the High Court, or of the Charity Commissioners, or of the Secretary of State, or, where the trust instrument reserves to the donor, or any other person, the power to vary the trust, without the consent of the donor or that other person; or
- (b) as to contravene a covenant or condition subject to which a gift or lease of land or a building has been accepted by, or granted to, the Corporation, without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

Unauthorised
games on
school
playing
fields.

96.—(1) If without the authority in writing of the appropriate authority any person takes part in any game of cricket, football, hockey or netball, or any other such organised game, on any land forming part of a playground or playing field under the control of or maintained by the Corporation as the local education authority, he shall be liable on summary conviction to a fine not exceeding ten pounds:

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

PART XI
—cont.

(2) Any person found taking part in or causing or encouraging other persons to take part in any such game as aforesaid on any such playground or playing field without authority as aforesaid may be removed from the playground or playing field by any person duly authorised in that behalf by the Corporation.

(3) Nothing in subsection (2) of this section shall prejudice or affect the powers of the police or the powers of a peace officer or the Corporation or their servants under section 61 of the Malicious Damage Act 1861.

1861 c. 97.

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

1944 c. 31.

97.—(1) A police constable may within the borough enter upon and search any vehicle upon or in which there shall be reason to suspect that any thing stolen or unlawfully obtained may be found and also any person who may be reasonably suspected of having or conveying in any manner any thing stolen or unlawfully obtained.

Power of
police to
search.

(2) The powers of this section shall not be exercised with respect to licensed pawnbrokers or their servants, apprentices or agents in a licensed pawnbroker’s shop.

(3) Section 126 (Penalty on persons having property suspected to have been stolen) of the Bootle Corporation Act 1890 is hereby repealed.

1890 c. ccxix.

98. On 1st January, 1971, section 7 (Saving for jurisdiction of Liverpool and county magistrates over docks in Bootle) of the Bootle-cum-Linacre (Borough Boundary) Act 1873 shall be and is hereby repealed.

1873 c. xcii.

PART XII

GENERAL

99. The following provisions of the Bootle Corporation Act 1959 so far as the same are applicable in that behalf shall, with

Application
of provisions
of Bootle
Corporation
Act 1959.

1959 c. xli.

PART XII
—cont.

any necessary modifications, extend and apply to the exercise of the powers of this Act in the same manner as if those provisions were re-enacted in this Act, namely:—

Section 133 (Local inquiries);

Section 137 (Appeals).

Confirming
authority for
byelaws.

100. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Secretary of State.

For protection
of Mersey
Docks and
Harbour
Board.

101. For the protection of the Mersey Docks and Harbour Board (in this section referred to as “the dock board”) the following provisions shall unless otherwise agreed in writing between the Corporation and the dock board apply and have effect:—

(1) In this section—

“the dock estate” means the present or future docks, basins, locks, cuts, entrances, graving docks, quays, piers, warehouses, sheds, roads, lands and other works belonging to or under the management of the dock board and situate in the borough and within the ring ownership boundary;

“the ring ownership boundary” means the boundary within which are included all lands belonging to or for the time being held by the dock board and not separated from a dock by land in other ownership or by a road repairable by the inhabitants at large:

(2) Section 30 (Licence to erect scaffolding) of this Act shall not extend or apply in relation to any street within the dock estate:

(3) Nothing in section 41 (Reduction of noise from the use of air-powered tools and compressors) of this Act shall extend or apply to any air-powered tool or mobile air compressor used on the dock estate:

(4) The following provisions of this Act shall not extend or apply to any premises on the dock estate:—

Section 44 (Coffee bars, clubs, etc., open after 11 p.m. or before 5 a.m.);

Section 45 (Securing of unoccupied buildings);

Section 50 (Consent to storage of flammable material); PART XII
—cont.

Section 52 (Stack not to contain room, etc.);

Section 53 (Power of entry for inspection, etc.):

(5) Section 48 (Touting, hawking, etc.) of this Act shall not extend or apply to the dock estate:

(6) Nothing in section 59 (Parts of buildings used for storage of flammable substances) or section 63 (Prescription of signs to be used on certain buildings) of this Act shall extend or apply to any building on the dock estate:

(7) Nothing in section 60 (Oil-fired boilers) of this Act or any byelaws made thereunder shall extend or apply to the installation of any oil-burning equipment in any building on the dock estate.

102. For the protection of the undertakers the following provisions shall, unless otherwise agreed in writing between the Corporation and the undertakers, apply and have effect:— For protection of certain statutory undertakers.

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

“ apparatus ” means—

(a) any electric line or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the generating board or the electricity board; 1882 c. 56.

(b) mains, pipes and other apparatus belonging to or maintained by the Gas Council or the gas board;

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

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

“ operational land ” in relation to statutory undertakers means land which is used for the purpose of carrying on their undertaking and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held for the purpose of the carrying on of statutory undertakings;

PART XII
—cont.

“ the undertakers ” means—
the generating board;
the electricity board;
the Gas Council;
the gas board;

or any of them, as the case may be:

- (2) Nothing in the following sections of this Act shall relieve the Corporation from liability for damage caused by them to any apparatus in the exercise of the powers of the said sections and the said powers shall be so exercised as not to render unreasonably inconvenient the access to any apparatus or operational land:—

Section 29 (Decorations in streets);

Section 33 (Power to provide moving footways):

- (3) Before the Corporation grant any licence under section 30 (Licence to erect scaffolding) of this Act they shall (except in case of emergency) give at least seven days' notice to any of the undertakers concerned of their intention to do so and on granting any such licence shall attach thereto such conditions as the undertakers may within the said period of seven days require to secure that the person to whom such licence is granted shall comply with the reasonable requirements of the undertakers for the protection of any apparatus or for securing access to such apparatus or operational land of the undertakers:
- (4) Nothing in section 63 (Prescription of signs to be used on certain buildings) of this Act shall authorise the Corporation to require the undertakers to affix any sign, symbol or notice to any building on operational land:
- (5) (a) Any difference which may arise between the Corporation and the undertakers under this section shall be determined by arbitration;
- (b) In settling any difference under this section, the arbitrator shall have regard to any duty or obligation which the undertakers may be under in respect of any apparatus and may, if he thinks fit, require the Corporation to execute any temporary or other works so as to avoid, so far as is reasonably possible, interference with any purpose for which the apparatus is used.

Arbitration.

103. In arbitrations under a provision of this Act mentioned in the first column of the following table the reference shall be to a single arbitrator to be appointed by agreement between the parties, or, in default of agreement, to be appointed by the

person mentioned in the second column of that table on the application of any party after giving notice in writing to the other party or parties:—

Provision of Act	Person appointing arbitrator
Section 11 (Works for provision of heat) ...	The President of the Institution of Electrical Engineers.
Section 15 (Power to lay down or erect electric lines, etc.)	The President of the Institution of Civil Engineers.
Section 27 (For protection of Liverpool and Crosby Corporations)	The Secretary of State.
Section 88 (Power to lay pipes, etc., for conveyance of documents)	The President of the Institution of Civil Engineers.
Section 102 (For protection of certain statutory undertakers)	The President of the Institution of Civil Engineers.

104.—(1) In this Act “the appointed day” means such day as may be fixed by resolution of the council subject to and in accordance with the provisions of this section. The appointed day.

(2) Different days may be fixed under this section for the purpose of different provisions of this Act.

(3) 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 this Act coming into operation as from that day;

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

(4) Either—

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

(5) Where any provision of this Act coming into operation on the day fixed by resolution under this section requires the licensing or registration of a person carrying on any business, or of premises used for any purpose, it shall be lawful for any person who—

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

PART XII
—cont.

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

1959 c. xli.

to continue to carry on that business, or 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 subsection (2) of section 137 (Appeals) of the Bootle Corporation Act 1959 as extended and applied to the exercise of the powers of this Act.

Liability of
directors, etc.

105.—(1) Where an offence under any of the provisions of this Act mentioned in subsection (2) of this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) The provisions hereinbefore referred to are the following:—

Section 30 (Licence to erect scaffolding);

Section 43 (Registration of tattooists);

Section 44 (Coffee bars, clubs, etc., open after 11 p.m. or before 5 a.m.);

Part VII (Fire precautions);

Part VIII (Hackney carriages);

Part IX (Window cleaners).

(3) In this section “director” in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body.

Restriction on
right to
prosecute.

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

Protection of
members and
officers from
personal
liability.

1875 c. 55.

107.—(1) 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 references in that section to a member of a local authority included reference to a member of a committee or a sub-committee of a local authority.

(2) Section 138 (Protection of members and officers from personal liability) of the Bootle Corporation Act 1959 shall have effect as if the following were added thereto:—

“ and as if references in that section to a member of a local authority included reference to a member of a committee of a local authority ”.

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

Application of general provisions of Act of 1936.

(2) The sections of the Act of 1936 mentioned in Part II of the said schedule shall have effect as if references therein to that Act included references to Part IV (Streets and buildings), Part V (Public health) and Part VI (Public order and public safety) of this Act.

(3) The section of the Act of 1936 mentioned in Part III of the said schedule shall have effect as if references therein to that Act included references to the following sections of this Act, that is to say:—

- Section 31 (Buildings and structures over highways);
- Section 35 (Repair of damaged houses);
- Section 36 (Boundary walls);
- Section 39 (Maintenance of and access to bulk refuse containers);
- Section 41 (Reduction of noise from the use of air-powered tools and compressors);
- Section 42 (Expenses of executing demolition orders);
- Section 43 (Registration of tattooists);
- Section 45 (Securing of unoccupied buildings);
- Section 46 (Disposal of dangerous containers);
- Section 59 (Parts of buildings used for storage of flammable substances);
- Section 60 (Oil-fired boilers);
- Section 63 (Prescription of signs to be used on certain buildings).

109. 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.

Section 108.

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1925 c. 22.

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Bootle Corporation Act 1970

CHAPTER lxxx

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