

Torbay Corporation Act 1971

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ELIZABETH II



1971 CHAPTER xxxiii

An Act to re-enact with amendments and to extend certain local enactments in force in the county borough of Torbay; to make better provision for the health, local government, improvement and finances of that borough; to confer further powers upon the mayor, aldermen and burgesses of that borough; and for other purposes.
[14th July 1971]

WHEREAS—

(1) By virtue of the Torbay Order 1966 (hereinafter referred to S.I. 1967/136. as “the Order of 1966”) the county borough of Torbay was constituted on the 1st April, 1968, so as to consist of an area shown by a continuous red line on the boundary map referred to in article 4 of the Order of 1966 and being—

(a) the greater part of the area of the borough of Torquay;

- (b) the greater part of the area of the urban district of Paignton and part of the area of the urban district of Brixham; and
- (c) parts of the parishes of Coffinswell and Kerswell in the rural district of Newton Abbot and parts of the parishes of Churston Ferrers and Marldon in the rural district of Totnes;

as they existed immediately before the 1st April, 1968:

(2) Numerous local enactments were in force in parts of the said area and by article 40 of the Order of 1966 it was provided that the provisions of any such enactments should continue to apply to those parts of that area except that certain specified enactments were extended to apply to the whole of the county borough of Torbay as constituted by the Order of 1966 (hereinafter referred to as "the borough"):

(3) It was further provided by the said article 40 that all the said local enactments should on the 31st December, 1971, cease to have effect:

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

(5) It is expedient at the same time to extend and enlarge in various respects the powers of the mayor, aldermen and burgesses of the borough (hereinafter referred to as "the Corporation") and to make better provision in regard to the health, local government, improvement and finances of the borough:

(6) It is expedient that the Torquay Cemetery Company should be empowered to transfer their undertaking to the Corporation and that the Corporation should be empowered to purchase the undertaking by agreement:

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

(8) The provisions of this Act cannot be effected without the authority of Parliament:

1933 c. 51. (9) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and

with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

1. This Act may be cited as the Torbay Corporation Act 1971. Short title.

2.—(1) Save as otherwise expressly provided, the provisions of this Act shall come into force on 1st September, 1971. Commence-
ment of Act.

(2) As from the passing of this Act the provisions set out in Schedule 1 to this Act shall come into force.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Streets.

Part IV.—Public health.

Part V.—Public order and safety.

Part VI.—Fire precautions.

Part VII.—Control of clubs and cafés.

Part VIII.—Hackney carriages, etc.

Part IX.—Finance.

Part X.—Superannuation.

Part XI.—Management.

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Division of
Act into
Parts.

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

(2) In this Act unless otherwise expressly enacted or unless the subject or context otherwise requires the following expressions have the meanings hereby respectively assigned to them:—

“ the Act of 1847 ” means the Town Police Clauses Act 1847; 1847 c. 89.

“ 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.

PART I

—*cont.*

1946 c. 49.

1957 c. 56.

1959 c. 25.

1960 c. 16.

1961 c. 33.

1962 c. 38.

1965 c. 56.

1967 c. 76.

1968 c. 73.

“ the Act of 1946 ” means the Acquisition of Land (Authorisation Procedure) Act 1946;

“ the Act of 1957 ” means the Housing Act 1957;

“ the Act of 1959 ” means the Highways Act 1959;

“ the Act of 1960 ” means the Road Traffic Act 1960;

“ the Act of 1961 ” means the Land Compensation Act 1961;

“ the Act of 1962 ” means the Town and Country Planning Act 1962;

“ the Act of 1965 ” means the Compulsory Purchase Act 1965;

“ the Act of 1967 ” means the Road Traffic Regulation Act 1967 as printed pursuant to section 133 of the Transport Act 1968;

“ apparatus ” has the meaning assigned to it by section 167 (For protection of certain statutory undertakers) of this Act;

“ the appointed day ” has the meaning assigned to it by section 151 (The appointed day) of this Act;

“ the borough ” means the county borough of Torbay;

“ bulk refuse container ” means a container of not less than one cubic yard nominal capacity, designed or adapted to be emptied of refuse 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 acting by the council;

“ the council ” means the council of the borough;

“ the electricity board ” means the South Western Electricity Board;

“ enactment ” includes an enactment in this Act or in any general or local Act and any orders, byelaws, scheme or regulations for the time being in force within the borough;

“ existing enactments ” means the local enactments which are repealed by section 160 (Repeals) of this Act;

“ the gas board ” means the South Western Gas Board;

- “ the generating board ” means the Central Electricity Generating Board; PART I
—cont.
- “ land ” includes buildings, land covered by water and any rights over land;
- “ magistrates’ court ” has the same meaning as in the Magistrates’ Courts Act 1952; 1952 c. 55
- “ operational land ” in relation to statutory undertakers other than the Post Office means land which is used for the purpose of the carrying on of 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 and, in relation to the Post Office, has the same meaning as in paragraph 93 (4) of Schedule 4 to the Post Office Act 1969; 1969 c. 48.
- “ public service vehicle ” has the same meaning as in section 117 of the Act of 1960;
- “ the river authority ” means the Devon River Authority;
- “ seashore ” includes any bank, barrier, dune, beach, flat or other land adjacent to the foreshore;
- “ the statutory undertakers ” means the electricity board, the gas board, the Gas Council, the generating board, the water undertakers and the Post Office or any of them as the case may be;
- “ street ” includes any highway, including a highway over a bridge, and any road, lane, footpath, footway, square, court, alley or passage whether a thoroughfare or not, and includes any part of a street;
- “ telegraphic line ” has the same meaning as in the Telegraph Act 1878; 1878 c. 76.
- “ town clerk ” means the town clerk of the borough;
- “ the water undertakers ” means the South West Devon Water Board.

(3) 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 I
—cont.Application
of Part I of
Act of 1965.

5.—(1) Part I of the Act of 1965 (except section 4, section 24 (5), section 27 and paragraph 3 (3) of Schedule 3 thereof), in so far as it is applicable for the purposes of this Act and is not inconsistent with the provisions thereof, shall apply to the compulsory acquisition of land under this Act as it applies to a compulsory purchase to which Schedule 1 to the Act of 1946 applies and as if this Act were a compulsory purchase order under the Act of 1946.

1845 c. 18.

(2) The Lands Clauses Consolidation Act 1845 shall not apply to the acquisition of land under this Act.

PART II

LANDS

*A. Acquisition of cemetery undertaking*Interpretation
of this Part
of Act.

6. In this and the two following sections of this Part of this Act—

1948 c. 38.

“the company” means the Torquay Cemetery Company or such company as is registered by the Torquay Cemetery Company under Part VIII of the Companies Act 1948;

“the date of transfer” means the date on which the undertaking is transferred to the Corporation pursuant to section 7 (Purchase by Corporation of undertaking) of this Act;

“the undertaking” means the undertaking of the company as existing on the date of transfer including—

(a) the cemetery, crematorium and all lands buildings, premises, apparatus, furniture, fittings, working stock and monuments then belonging to the company;

(b) all policies of insurance, investments, securities, book debts, bank balances and cash then in the hands of the company or in the hands of their bankers, agents or servants;

(c) all books of account, papers and other documents relating to the undertaking not required by the company for the purpose of liquidation;

(d) all other the real and personal property then belonging to the company; and

(e) any liabilities or obligations of the company relating to its undertaking.

7.—(1) The Corporation may purchase and the company may (notwithstanding anything contained in any other Act or in the memorandum and articles of association of the company) sell the undertaking to the Corporation on such terms and conditions as may be agreed.

PART II
—cont.

Purchase by Corporation of undertaking.

(2) As from the date of transfer the Corporation shall be deemed to have acquired the undertaking under the Public Health (Interments) Act 1879.

1879 c. 31.

8.—(1) On the date of transfer the Torquay Cemetery Acts 1852 to 1940 shall be repealed in so far as they empower the company to carry on its cemetery and crematorium undertaking.

Repeal of Torquay Cemetery Acts 1852 to 1940 with savings.

(2) Notwithstanding anything in subsection (1) of this section, section 59 (Disturbances and nuisances in cemetery) of the Cemeteries Clauses Act 1847 shall continue to apply to the Torquay Cemetery as if that subsection had not been enacted and shall be read and construed as if the words “or cremating” were inserted therein after the word “burying”.

1847 c. 65.

(3) In the said provisions of the Cemeteries Clauses Act 1847 the expression “the cemetery” shall continue to mean the Torquay cemetery and the expression “the company” shall mean the Corporation.

B. Burial grounds and cemeteries

9. Notwithstanding the repeal by this Act of the existing enactments, the burial grounds, cemeteries and crematoria vested in the Corporation immediately before the commencement of this Act shall continue vested in the Corporation and may be held, used and enjoyed by them.

Existing burial grounds, etc., to be continued.

10.—(1) The powers of the Corporation in relation to a burial ground maintainable by them shall include power—

Extension of power to maintain burial grounds.

(a) to put, and keep, in order any memorial therein;

(b) to level any grave therein;

(c) to remove the whole or any part of a memorial therein;

(d) to alter the position of any such memorial.

(2) Before exercising a power conferred by paragraph (b), (c) or (d) of the foregoing subsection the Corporation shall—

(a) publish a notice of their intention to do so once in each of two successive weeks in a local newspaper circulating in the borough, with an interval between the dates of publication of not less than six clear days;

(b) display a notice thereof in a conspicuous position in the burial ground; and

PART II
—cont.

(c) serve a notice thereof upon the owner of the grave, or upon a relative of a deceased person whose remains are interred therein, if after reasonable inquiry the name and address of the owner, or of a relative of such a person, can be ascertained.

(3) Each of the notices shall—

(a) contain brief particulars of the Corporation's proposals, and specify an address at which full particulars of the proposals can be obtained, unless the brief particulars are of proposals incapable of further statement;

(b) specify the date on which it is intended that the Corporation will begin to carry out the proposals, which shall be not earlier than the fourteenth day after the date of the later of the two publications, or than the twenty-first day after the date on which the notice in the burial ground is first displayed, or, where notice is required to be served, than the twenty-first day after the date of service whichever is the latest; and

(c) state the effect of the next following subsection.

(4) If notice of objection to a proposal, and of the ground thereof, is given to the Corporation before the date specified under paragraph (b) of the last foregoing subsection, that proposal shall not be carried out without the consent of the Secretary of State, unless the notice is withdrawn.

(5) The Corporation may put to such use as they think appropriate, or destroy, any memorial removed under this section, unless it is claimed and removed by the person claiming it or some person acting on his behalf within three months after the date of the earlier of the two publications of the notice required by paragraph (a) of subsection (2) of this section, or, where notice has been served under paragraph (c) thereof, after the date of such service, whichever is the later.

(6) Where a memorial is removed by the Corporation under this section, the Corporation may erect at their own expense, in substitution, a memorial of a value not exceeding twenty-five pounds.

(7) The Corporation shall cause a record to be made of each memorial taken from the burial ground under this section containing—

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

(b) if it is intended to preserve the memorial, a statement showing where it has been taken to;

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

(8) Nothing in the foregoing provisions of this section shall relieve the Corporation from any obligation to which they are subject to obtain for any work a faculty or licence of a consistory court.

PART II
—cont.

Subsections (2) to (4) of this section shall not have effect in relation to any work for which the Corporation obtain such a faculty or licence; and subsection (5) thereof shall not have effect in relation to any memorial for whose removal such a faculty or licence was obtained.

11.—(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.

For protection
of Common-
wealth War
Graves
Commission.

(2) In relation to any burial ground to which the provisions of section 10 (Extension of power to maintain burial grounds) of this Act apply and in which there are situated any Commonwealth war graves relating to the war of 1914 to 1921 or to the war of 1939 to 1947 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 said section 10;

(b) give written notification to the Commission of their intention to apply for a faculty or licence of a consistory court for the purposes of exercising a power conferred by paragraph (b), (c) or (d) of subsection (1) of the said section 10;

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 said section 10 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

PART II
—cont.

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 said section 10 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.

C. *Parks and recreation grounds*

Existing parks, etc., to continue vested in Corporation.

12. Notwithstanding the repeal by this Act of the existing enactments, the parks, recreation grounds and pleasure grounds vested in or belonging to the Corporation immediately before the commencement of this Act shall continue vested in the Corporation and may be held, used and enjoyed by them.

Power to close recreation grounds.

13.—(1) The Corporation may, when the whole or any part of a recreation ground described in subsection (2) of this section is set apart for any special purpose, close the same or such part thereof against the public and may demand and take or permit to be demanded and taken such reasonable sums as the Corporation decide for the exclusive occupation of a recreation ground or any such part thereof or for the admission of persons, vehicles, goods and things into a recreation ground or part thereof so used or set apart and may exclude therefrom all persons, vehicles, goods and things unless payment be made of the reasonable sum demanded:

Provided that not more than one-half of the total area of all the recreation grounds vested in the Corporation shall be set apart at one and the same time.

(2) In this section—

“recreation ground” means—

- (a) the recreation ground at Rathmore Road, Torquay, Plainmoor, Torquay, and the Golf Course, Petitor, Torquay, and

(b) any other recreation ground in respect of which the Corporation may from time to time decide to exercise the powers of this section during the period 1st May to 30th September in any year;

PART II
—cont.

“special purpose” means the use, either gratuitously or for payment, by any person or company for sport or recreational purposes.

14.—(1) If without the consent 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 guilty of an offence.

Unauthorised games on school playing fields.

Provided that no person shall be convicted under this section unless it is proved that at the material time notices warning persons of their liability under this section were posted so as to be readily seen by members of the public at every entrance to the playground or playing field (as the case may be) as appear to the court to be proper.

(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 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.

D. General

15. Notwithstanding the repeal by this Act of the existing enactments, the land vested in or belonging to the Corporation immediately before the commencement of this Act shall continue vested in the Corporation and may be held, used and enjoyed by them.

Existing land of Corporation to continue vested in them.

16. In respect of land acquired by the Corporation under any enactment for the benefit, improvement or development of the borough and not since allocated for any statutory purpose, section 165 of the Act of 1933 shall have effect with the omission of the words “and which is not required for the purpose for which it was acquired or is being used”.

Disposal of land.

PART II

—cont.

Agreements
with adjoining
owners.

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

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

Compulsory
acquisition of
easements.

18.—(1) The Corporation by means of an order made by the Corporation and submitted to and confirmed by the appropriate Minister may be authorised to create in favour of the Corporation in or over any land which under any enactment the Corporation may be authorised to acquire compulsorily any easement or other right in or over or in relation to such land which, in the opinion of the appropriate Minister, is essential to the full enjoyment or use of any buildings owned or occupied by the Corporation for the purposes of any of their undertakings, powers or duties.

(2) The appropriate Minister shall not confirm any order under this section unless he determines that the easement or right can be created without material detriment to the land in or over or in relation to which it is proposed to be created or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house.

(3) The Act of 1946 shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of the Act of 1946 and as if—

(a) the expression “compulsory purchase of land” in the Act of 1946 included the creation of such easement or right as is mentioned in subsection (1) of this section; and

(b) paragraphs 9 and 10 of Schedule 1 to the Act of 1946 applied to the creation of such easement or right as is mentioned in the said subsection (1) whether it is created in, over or under any land to which either of those paragraphs relates or in, over or under any other land in which the person entitled to the benefit of the paragraph has an easement or other right which if it were land would be land to which the paragraph relates.

(4) No such easement or right as is mentioned in subsection (1) of this section shall be deemed part of a house, building or manufactory or of a park or garden belonging to a house within subsection (1) of section 8 of the Act of 1965.

(5) In this section “the appropriate Minister” means the Minister of the Crown having power to authorise the compulsory purchase of the land for the enjoyment or use of which the easement or other right is required or who would have had such power if such land were not already owned by the Corporation.

19. In its application to the borough, section 24 of the Caravan Sites and Control of Development Act 1960 shall be amended to enable the Corporation to acquire by agreement land outside the borough for the purposes of the said section 24.

Amendment of section 24 of Caravan Sites and Control of Development Act 1960.

20.—(1) The Corporation shall control and manage the special lands in accordance with the provisions set out in Schedule 2 to this Act:

1960 c. 62. Provisions relating to special lands.

Provided that the powers conferred by this section on the Corporation shall not, without the consent of the Secretary of State, be exercisable in respect of any ancient monument being such a monument as is referred to in either sub-paragraph (i) or sub-paragraph (ii) of paragraph (b) of subsection (1) of section 15 of the Ancient Monuments Act 1931.

1931 c. 16.

(2) (a) The Secretary of State may on the application of the Corporation by order amend the provisions referred to in subsection (1) of this section.

(b) An order under this subsection shall be made by statutory instrument (which shall be subject to annulment) and contain such supplemental or incidental provisions as appear to the Secretary of State to be expedient.

(3) In this section “special lands” means the Cockington lands, the Northern Coastal lands, the Torre Abbey lands, and any other lands from time to time held in connection therewith, together with all buildings and structures erected or constructed thereon.

21.—(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 manner in which that land is to be developed and 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;

PART II
—cont.

- (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 or relating to the provision or maintenance of roads required for the purposes of that development;
- (f) any other related or consequential matters.

1925 c. 22.

(2) (a) An agreement entered into under the foregoing 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 as a local land charge for the purposes of the Land Charges Act 1925, 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 foregoing 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 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 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 foregoing 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.

PART II
—cont.

22.—(1) (a) The Corporation may use for such time as they may think fit lands and buildings within the borough for use as a terminal or terminals for hovercraft, hydrofoil vessels and similar craft or vessels, and may erect or adapt on any lands, and may maintain and manage buildings, structures, slipways and other works for use in connection with such hovercraft, hydrofoil vessels and similar craft or vessels, and may make reasonable charges in respect of the use of such works.

Power to provide facilities for hovercraft, hydrofoil vessels, etc.

(b) The Corporation may at any such terminal provide such plant, facilities, appliances and conveniences as may be requisite or expedient for the operation, equipment, maintenance, repair and use of such hovercraft, hydrofoil vessels and similar craft or vessels.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, the Corporation may exercise the following powers at any terminal provided by them in accordance with the provisions of subsection (1) of this section—

(a) they may provide and maintain parking places, cloak-rooms, waiting rooms, refreshment rooms, shelters, offices, information centres and displays, lavatories, conveniences and other similar accommodation;

(b) they may make reasonable charges for the use of, or let on hire to any person any accommodation so provided, or any building or structure;

(c) they may make regulations as to the use of such facilities.

(3) In this section—

“hovercraft” has the same meaning as in the Hovercraft Act 1968;

1968 c. 59.

“hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils.

(4) Nothing in this section shall exempt the Corporation from the provisions of section 9 of the Harbours Act 1964 in relation to the works authorised by this section.

1964 c. 40.

23.—(1) The Corporation may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired by the Corporation under any enactment with respect to his reinstatement.

Power to reinstate owners or occupiers of property.

(2) Any such agreement may provide for the exchange of land, and for that purpose the Corporation may pay or receive money for equality of exchange.

PART II
—cont.

Provision of substituted sites.

24. The power of the Corporation to purchase land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners and occupiers of land that may be acquired under any enactment.

Power to provide, carry on and let conference centre and other buildings.

25.—(1) The Corporation may, on any lands in the borough of which for the time being they may be the owners, erect and hold, furnish, equip, maintain, insure, carry on and charge for admission to a multi-purpose hall, or conference or entertainment centre with all necessary and suitable offices, reading rooms, anterooms, waiting rooms, refreshment rooms, kitchens, cloak-rooms, lavatories, conveniences and appurtenances all of which are in this section included in the expression “ conference centre ”.

(2) The Corporation may from time to time let or lease the conference centre for such term at such rent and under such covenants and conditions and with and subject to such rights, powers, privileges, reservations and authorities as the Corporation may think fit.

Information as to occupiers of land on which caravans are stationed.
1960 c. 62.

26.—(1) The Corporation, for the purpose of ascertaining whether or not an offence has been committed under section 1 of the Caravan Sites and Control of Development Act 1960, may by notice in writing, signed by the town clerk or his authorised deputy, require the owner or reputed owner of any land in the borough on which a caravan is stationed or any person who, either directly or indirectly, receives rent in respect of such land, to state in writing the name and address of the occupier of such land, and any person who, having been required by the Corporation in pursuance of this section to give to them any information, wilfully fails to give that information within twenty-eight days of being so required, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence.

(2) In this section—

“ caravan ” has the meaning assigned to it by subsection (1) of section 29 of the said Act;

“ occupier ” has the meaning assigned to it by subsection (3) of section 1 of the said Act.

Provisions as to illuminations.

27.—(1) Subject to the provisions of this section the Corporation may—

(a) provide or arrange, on such terms and conditions as they may think fit, for the provision of illuminations in, on, over or across any building or place (with the consent of the owner or occupier thereof), or over or across any street in the borough;

(b) illuminate any inscription which has been set up of the name of any street in the borough.

(2) The provisions of section 45 of the Public Health Act 1961 shall in their application to the borough extend and apply to such apparatus as may be required for the purposes of this section as if they had been mentioned in that section. 1961 c. 64.

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

(a) to affix any inscription or attachments forming part of any such sign to—

(i) a building for the time being included in a list published by the Secretary of State under any enactments for the time being in force with respect to ancient monuments without the consent of the Secretary of State; or

(ii) a building for the time being included in a list of buildings of special architectural or historic interest compiled by the Secretary of State under section 32 of the Act of 1962, not being a building to which paragraph (i) of this subsection applies, without the consent of the Secretary of State;

(b) to provide, maintain or operate any illumination—

(i) which hinders or is likely to hinder the interpretation of any railway signal or is likely to render more hazardous the use of any railway or any traffic sign as defined by section 54 of the Act of 1967; or

(ii) unless it is so provided, maintained and operated 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, or electric lines and works (including works for the lodging therein of such lines and works) as respectively defined in the Electric Lighting Act 1882 and belonging to or maintained by the electricity board or the generating board. 1882 c. 56.

(4) In this section—

“attachments” includes lamps, brackets, pipes, electric lines or other apparatus;

“building” includes a structure and a bridge or aqueduct over a street;

“owner”—

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

PART II
—cont.

(b) in relation to any other building, has the same meaning as in the Act of 1936; and

“owned” shall be construed accordingly;

“place” includes a garden, park or promenade.

Entry on
land for
certain
purposes.

28.—(1) Whenever it becomes necessary for the Corporation, or any of their officers, servants, contractors or workmen, to enter, examine or lay open any land for the purpose of making plans, surveying, measuring, taking levels or making trial holes, and the owner or occupier of such land refuses to permit the same to be entered upon, examined or laid open for the purposes aforesaid or any of them, the Corporation may, after notice to such owner or occupier, apply to the magistrates' court for an order under this section.

(2) If sufficient cause is shown for the application the court may make an order accordingly, and on such order being made the Corporation, or any of their officers, servants, contractors or workmen, may at all reasonable times between the hours of nine in the forenoon and six in the afternoon enter, examine or lay open the land mentioned in such order for such of the said purposes as are therein specified without being subject to any action or molestation for so doing:

Provided that, except in case of emergency, no entry shall be made or works commenced under this section unless at least twenty-eight days' notice or such longer period as the magistrates' court may decide of the intended entry and of the object thereof be given to the occupier of the land intended to be entered.

(3) The Corporation shall at their own expense make good and restore to its former condition any land laid open by them, or their officers, servants, contractors or workmen, and shall make good, to the reasonable satisfaction of the owner or occupier of the land entered, all damage or loss sustained by him in consequence of such entry, examination or laying open, and any dispute as to the amount of damage or loss so sustained as aforesaid shall, in default of agreement, be assessed by the Lands Tribunal.

(4) If any statutory undertaker refuses to permit any of their operational land, or the British Railways Board refuse to permit any land belonging to them and used primarily for the purposes of their undertaking or the river authority refuse to permit any land belonging to or used by them for the purposes of any of their functions to be entered upon, examined or laid open for any of the purposes mentioned in subsection (1) of this section,

application under that subsection shall not be made to the magistrates' court but any question arising as to whether permission for any such land to be so entered upon, examined or laid open is unreasonably withheld shall be determined by arbitration, and if the arbitrator shall determine that such permission is unreasonably withheld, the Corporation shall have the like powers of entering, examining and laying open the said land for the purposes for which permission was refused and be under the same liabilities as under an order of the court made under subsection (2) of this section.

PART II
—cont.

(5) If any person who in compliance with the provisions of this section or an order made thereunder is admitted into a factory or workplace discloses to any person or makes personal use of any information obtained by him in the factory or workplace with regard to any manufacturing process or trade secret he shall, unless such disclosure or personal use was made in the performance of his duty, be guilty of an offence.

(6) Before making a trial hole in any land in exercise of the powers of this section, the Corporation shall give to the gas board, the Gas Council, the electricity board and the generating board not less than fourteen days' notice specifying the situation of the land in which it is proposed to make the trial hole and shall comply with any reasonable requirements of the gas board, the Gas Council, the electricity board and the generating board for the protection of any apparatus situated in such land.

29. The Corporation may place or authorise any person or persons to place seats, shelters or chairs in any footway, esplanade, promenade, park, recreation ground or pleasure ground, foreshore or other public place in the borough for the use of the public and may if they think fit charge or allow such person or persons to charge a reasonable sum for the use of chairs and may make byelaws for placing and regulating the design and use of seats, shelters and chairs and for preventing damage thereto:

Power to
provide and
let chairs.

Provided that—

- (1) this section shall not authorise the placing of any seats, shelters or chairs in any footway so as to cause a substantial interference with the reasonable use thereof by the public or a nuisance to the owners or occupiers of premises in the vicinity thereof;
- (2) for the purposes of section 7 of the Telegraph Act 1878 (which makes provision as to work done in the execution of certain undertakings which involves alteration in telegraphic lines) any work done pursuant to an authorisation under this section shall be deemed to be work done in the execution of an undertaking authorised

1878 c. 76.

PART II
—cont.

by an Act of Parliament and any person authorised under this section to do work shall be deemed to be the undertaker.

PART III

STREETS

A. Improvement and protection of streets

Enforcement
of improve-
ment line.
1925 c. 71.

30.—(1) In the case of a street in relation to which an improvement line has been prescribed under section 72 of the Act of 1959 or section 33 of the Public Health Act 1925, the Corporation may, for the purpose of avoiding obstruction to the view of persons using the street or other inconvenience or unsightliness arising from irregularity of the boundary of the street, by notice require the owner of any building which, or any part of which, was beyond or in front of the improvement line at the time when the line was prescribed, to demolish, set back or alter the said building within such reasonable time as may be specified in the notice, not being less than six months from the date of the service of the notice, so that it shall not project beyond or in front of the improvement line.

(2) (a) If, within twenty-eight days of the date of the service by the Corporation on any person of a notice under subsection (1) of this section, that person serves a counter-notice on the Corporation objecting to any of the requirements specified in the notice and stating the reasons for his objection, the notice shall not take effect unless it is confirmed by the Lands Tribunal, either without modifications or subject to such modifications as the tribunal may determine.

(b) The tribunal shall not confirm a notice under subsection (1) of this section if it appears to them that—

- (i) the notice is not justified by the terms of subsection (1) of this section;
- (ii) the Corporation have refused unreasonably to approve the execution of works alternative to those required by the notice, or the works so required are otherwise unreasonable in character or extent or are unnecessary; or
- (iii) the time specified in the notice within which the works are to be executed is not reasonably sufficient for the purpose;

and, in a case within sub-paragraphs (ii) and (iii) of this paragraph, that it would not be equitable to modify the notice.

(c) Without prejudice to the provisions of paragraph (b) of this subsection, the tribunal shall not confirm a notice under subsection (1) of this section where it appears to them that—

- (i) any requirement in the notice cannot be complied with without material detriment to the interest of the person

on whom the notice is served in the building to which the notice relates, or the land on which it is situated, or any adjoining land in which that person has an interest; and

- (ii) that person is able and, in the circumstances of the case, willing to sell the building to the Corporation, with or without adjoining lands, on terms not less favourable to the Corporation than those on which they could have acquired the building under a compulsory purchase order made under section 214 (which authorises the acquisition of lands for the improvement of streets) of the Act of 1959 and the Act of 1946.

(d) Where a notice under subsection (1) of this section has been confirmed by the tribunal it shall have effect as from the date on which the Corporation serve on the owner of the building to which it relates a copy of the notice as so confirmed.

(3) For the purpose of complying with any notice under subsection (1) of this section, the owner may, notwithstanding anything in any lease or other agreement, enter upon any land or building affected by any requirement of the notice and carry out the work required by the notice.

(4) (a) Where a building is demolished, set back or altered in compliance with a notice under subsection (1) of this section, any owner or tenant thereof may recover from the Corporation compensation for the damage or loss sustained by him in consequence of the compliance, and the amount of the compensation shall, in case of dispute, be determined by the tribunal.

(b) Rules 2 to 4 of the rules set out in section 5 (which provides rules for the valuation on a compulsory acquisition) of the Act of 1961 shall apply to the calculation of compensation under this subsection in so far as it is calculated by reference to the depreciation of the value of the interest of the owner or tenant in the building.

(5) In determining the amount of the compensation payable under this section to the owner or tenant of a building in a case where—

- (a) he has an interest in land abutting on so much of the improvement line as, immediately before the service of the notice under subsection (1) of this section, intersected, or abutted on, the building or land occupied in connection therewith; and
- (b) the value of his said interest is enhanced by reason of the widening or improvement of the street;

the amount of the enhancement in value shall be set off against the compensation.

PART III
—cont.

(6) Where compensation is payable under this section in right of an interest in land which is subject to a mortgage—

- (a) the compensation payable in respect of the depreciation of the value of that interest shall be assessed as if the interest were not subject to the mortgage;
- (b) a claim for any such compensation may be made by any mortgagee of the interest, but without prejudice to the making of a claim by the person entitled to the interest;
- (c) no compensation under this section shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage); and
- (d) the compensation payable in respect of the interest which is subject to the mortgage shall be paid to the mortgagee, or, if there is more than one mortgagee, to the first mortgagee, and shall in either case be applied by him as if it were proceeds of sale.

(7) Any person who fails to comply with a notice under this section—

- (a) shall be guilty of an offence; and
- (b) the Corporation may do all such things as may be necessary to comply with the notice and recover the cost of so doing from that person.

(8) In this section “building” includes a structure.

Retaining
walls.

31.—(1) In this section “retaining wall” means a wall which—

- (a) serves, or is intended to serve, as a support for earth or other material on one side only; and
- (b) does not form part of a permanent building;

and this section applies to any length of a retaining wall, being a length—

- (i) any cross-section whereof is wholly or partly within twelve feet of a street in the borough; and
- (ii) which is at any point of a greater height than six feet above the level of the ground at the boundary of the street nearest that point.

(2) After the passing of this Act no length of a retaining wall to which this section applies shall be erected otherwise than in accordance with plans, sections and specifications approved by the Corporation; and any person who erects any such length of a wall in contravention of this subsection shall be guilty of an offence.

(3) Any person aggrieved by the refusal of the Corporation to approve any plans, sections and specifications submitted to them in pursuance of the last foregoing subsection may appeal to a magistrates' court.

(4) If any length of a retaining wall to which this section applies—

- (a) is in such disrepair as to be liable to endanger persons using the street; or
- (b) having been erected before the passing of this Act or erected in contravention of subsection (2) of this section, is so constructed as to be liable as aforesaid;

the Corporation may by notice to the owner or occupier require him to execute such work as may be necessary to prevent its being liable as aforesaid.

(5) The provisions of this section shall not apply to a retaining wall erected—

- (a) on land belonging to the British Railways Board so long as that land is used by the Board primarily for the purpose of their undertaking;
- (b) by the river authority in connection with the exercise of any of their functions.

32.—(1) (a) Any person who erects, or permits to be erected, over the footway of a street in the borough, being a highway maintainable at the public expense, an awning which—

- (i) projects over any part of the footway which is less than two feet from the carriageway; or
- (ii) obscures a traffic sign from the view of persons driving or riding vehicles on the carriageway;

shall be guilty of an offence.

(b) An awning that can be folded up or rolled up without being dismantled shall be treated for the purposes of this subsection as being in its extended position.

(2) If an awning over such a footway is dangerous or inconvenient to the public, the Corporation may by notice require the owner or occupier of the premises to which the awning is appurtenant to carry out such work as may be necessary to remove the danger or inconvenience.

(3) In this section—

“awning” includes a blind, shade or other covering and the supports thereof; and

“traffic sign” has the meaning assigned to it by section 54 of the Act of 1967.

PART III
—cont.Conditional
consent under
section 146
of Act of
1959.

33.—(1) Where the Corporation determine to give a consent under section 146 of the Act of 1959 (which makes provision for the regulation of the deposit of things and the making of excavations in streets) to the temporary deposit of building materials, rubbish or other things in a street, or to the making of a temporary excavation in a street, they may attach thereto such reasonable conditions as they think fit, but shall attach such conditions as may be required to secure that the person to whom the consent is given complies with the reasonable requirements of—

- (a) the statutory undertakers or the British Railways Board for the protection of any apparatus belonging to, or maintained by, them in the street or for securing access to such apparatus;
- (b) the river authority for the protection of any works, apparatus or appliances belonging to or maintained by them in the street or for securing access to such works, apparatus or appliances.

(2) Where it appears to the Corporation that any statutory undertaker, the British Railways Board or the river authority may be concerned by an application for a consent under the said section 146, they shall, before determining to give the consent, give due notice of the application to such undertaker, board or authority and take into consideration any representations which may, within such reasonable time specified in the notice, be made to them by such undertaker, board or authority.

(3) A person aggrieved by any conditions so attached to a consent given under the said section 146 may appeal to a magistrates' court.

(4) Subsection (4) of the said section 146 shall apply in relation to a contravention of any condition so attached to a consent given under that section as it applies to a contravention of the provisions of subsection (3) of that section.

Carriage-
crossings over
verges, etc.

34.—(1) Where planning permission has been given, or has been deemed to have been given, pursuant to the Act of 1962, to a means of access which involves the construction of a carriage-crossing across a verge, ditch or footway to land adjacent to any highway in the borough, the Corporation may at any time after the development has commenced give notice to the owner or occupier of the premises that they propose to construct the carriage-crossing.

(2) Where the Corporation give notice under the foregoing subsection, the provisions of section 155 (Carriage-crossings over

footways) of the Act of 1959 shall apply to the construction of the carriage-crossing subject to any necessary modifications, and for the purposes of such application the Corporation shall be deemed to be the appropriate authority and the notice shall be deemed to be a notice given for the purposes of paragraph (a) of subsection (1) of the said section 155.

PART III
—cont.

35.—(1) No person shall mix or deposit mortar, cement, plaster or any like substance in any street in the borough being a highway maintainable at the public expense, or in any street therein constructed under the powers in that behalf contained in the Act of 1957, the Act of 1959, or the Act of 1962, or an enactment repealed by any of those Acts, or in any part of a private street being a part that drains into a gully, drain or sewer for the maintenance of which the Corporation are responsible, except upon such board or in such receptacle as will protect the street from such mortar, cement, plaster or substance and will prevent it from being washed into any gully, drain or sewer: Mixing of mortar, etc., in streets.

Provided that this section shall not apply to the mixing or depositing in any street of any substance for the purposes of making up, maintaining, reinstating, repairing, altering or improving such street or any bridge over or under the same.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

36.—(1) This section applies to any excavation made after the passing of this Act on any land in the borough within 30 feet from any highway maintainable at the public expense where any part of the excavation will, within the said distance of 30 feet, meet a plane drawn downwards in the direction of the excavation at an angle of 45 degrees to the horizontal from the line formed by the intersection of the plane of the level of the base of the foundations of the highway with the vertical plane of the boundary of the highway nearest to the excavation, but does not apply to any excavation made in the course of carrying out works for the purposes of or in connection with apparatus of the statutory undertakers. Excavations near highways.

(2) Any person who makes, or executes works for the making of, an excavation to which this section applies shall take, in connection with the making of the excavation, or the execution of such works, such steps as may be necessary to prevent the withdrawal of support (whether vertical or lateral) for the highway, and if the making of any such excavation, or the execution of works for the making of any such excavation, causes the withdrawal of support as aforesaid for the highway so that, for the

PART III
—cont.

purpose of removing danger so caused, it is reasonably necessary to restrict or prohibit the use of the highway by pedestrians or vehicles, or by vehicles of any particular class or description (not being vehicles of excessive weight to which section 62 of the Act of 1959 applies), the person responsible for the making of the excavation or the execution of such works as aforesaid shall, without prejudice to any obligation or liability to which he or any other person may be subject apart from this section, be guilty of an offence under this section:

Provided that in any proceedings for an offence under this section it shall be a defence to prove that all practicable steps were taken to prevent the withdrawal of support.

Exemption
for river
authority
from last
foregoing
section.

37.—(1) The provisions of the last foregoing section shall not apply to an excavation made by the river authority for the purpose of any of their functions and in respect of which the following conditions are fulfilled:—

- (a) not less than twenty-eight days before commencing the excavation plans are submitted by the river authority to the Corporation for their reasonable approval;
- (b) the excavation is not commenced until the plans have been approved in writing by the Corporation or settled by arbitration:

Provided that if the Corporation do not within twenty-eight days after the submission to them of any such plans signify to the river authority in writing their disapproval thereof they shall have been deemed to have approved thereof; and

- (c) the excavation is carried out in accordance with the plans approved, or deemed to have been approved or settled by arbitration.

(2) In this section “plans” includes sections and particulars.

Contravention
due to
default of
other person.

38.—(1) Where a contravention by any person of section 36 (Excavations near highways) of this Act constitutes an offence under this Act, and is due to an act or default of another person, then, whether proceedings are taken against the first-mentioned person or not, that other person may be charged with and convicted of that offence, and shall be liable on conviction to the same punishment as might have been imposed on the first-mentioned person if he had been convicted of the offence.

(2) Where a person who is charged with an offence under this Act in respect of a contravention of a provision to which this section applies proves to the satisfaction of the court—

PART III
—cont.

- (a) that he exercised all due diligence to secure that the provision in question would not be contravened; and
- (b) that the contravention was due to the act or default of another person;

the first-mentioned person shall, subject to the next following subsection, be acquitted of the offence.

(3) A person shall not, without the leave of the court, be entitled to rely on the defence provided by subsection (2) of this section unless, not later than seven clear days before the date of the hearing, he has served on the Corporation a notice in writing giving such information identifying, or assisting in the identification of, the other person in question as was then in his possession.

39.—(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) Any person who wilfully removes or damages a flag-pole, pylon, socket or slot erected or provided under this section shall be guilty of an offence.

40.—(1) After the passing of this Act no part of any building (including the foundations) shall except with the consent of the Corporation be constructed so as to extend under the footway of any street in the borough at a less depth than six feet below the surface of such footway. Restriction
on buildings
under
footways.

(2) The giving of consent by the Corporation shall not relieve the owner or occupier of the building from any liability to any statutory undertaker to which he would have been subject if this section had not been enacted.

(3) Any person aggrieved by the withholding of a consent under subsection (1) of this section may appeal to the magistrates' court.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

PART III
—cont.

(5) Where any person is convicted of an offence under subsection (1) of this section the court by which he was convicted may order him within such time as may be fixed by the order to remove or alter the part of the building so that it no longer contravenes the provisions of this section; and if he fails to comply with the order—

- (a) he shall be guilty of a continuing offence; and
- (b) the Corporation, after giving him notice of their intention so to do, may remove the part of the building concerned and recover from him the expenses incurred by them in so doing:

Provided that he shall not be guilty of an offence for any day after that on which the Corporation have given him notice of their intention to remove the part of the building.

(6) Nothing in this section shall extend or apply to the construction of any building (not being a house or building to be used as offices) by—

- (a) the statutory undertakers or the British Railways Board in the exercise of any of their statutory powers;
- (b) the river authority in the exercise of any of their functions.

Buildings and
structures over
highways.

41.—(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 or part thereof 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:

Provided that—

- (a) 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 public notice of the proposal by advertisement in 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;
- (b) 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 street which is the only means of vehicular access to any operational land of the generating board or the electricity board, the Corporation shall give notice of the proposal to the board concerned and shall take into consideration any written objections or representations in respect of such proposal which may be made by the board 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 or part thereof 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) A person on whom a notice under subsection (2) of this section is served who fails to comply, within twenty-eight days from the date of the service of the notice on him, with a requirement of the notice, shall be guilty of an offence.

(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 the person on whom the notice was served.

(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

PART III
—cont.

(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 the Act of 1962 for the time being apply.

(8) Nothing in a licence granted under this section shall authorise any interference with apparatus of any statutory undertaker except with the consent of that undertaker.

(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.

Licence to
erect
scaffolding.

42.—(1) As from the appointed day in the borough 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 hereinafter in this section referred to as “scaffolding”) in, upon or over any highway in the borough if he has previously obtained a licence from the Corporation and complies with such terms and conditions as may be laid down in the licence granted to him:

Provided that the Corporation shall only be entitled to refuse a licence on the grounds that the scaffolding would cause an avoidable or unreasonable obstruction of such 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 a scaffolding projecting over the footway of a highway but not over the carriageway if no part thereof is less than eight feet above the level of the footway measured vertically.

(3) Any person offending against the provisions of this section or contravening the terms or conditions of any licence granted to him shall be guilty of an offence.

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

PART III
—cont.

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

43.—(1) The Corporation may expunge or remove any picture, letter, sign or other mark painted or otherwise inscribed or affixed upon the surface of a highway in the borough or upon a tree, structure or works on or in a highway contrary to paragraph (cc) of subsection (1) of section 117 of the Act of 1959. Defacing of road surface, etc.

(2) The court by which a person is convicted of an offence under the said section 117 may, whether or not it imposes a fine, by order require him to pay to the Corporation any expenses incurred by them in re-erecting, restoring or reinstating a traffic sign, milestone or direction post pulled down, damaged or obliterated contrary to paragraph (c) of subsection (2) of the said section or incurred by them under subsection (1) of this section.

44.—(1) Subject to the provisions of this section the Corporation shall have power in any street vested in them or on any land acquired by them for the construction or improvement of any such street or for preventing the erection of buildings detrimental to the view from the street— Protection of trees, grass verges and gardens.

- (a) to plant trees or shrubs or place containers in which to grow trees or shrubs;
- (b) to attach containers for plants to posts or standards provided by the Corporation or, with the consent of the owner thereof, to any other posts or standards;
- (c) to lay out any grass verge, garden or space;
- (d) to provide guards or fences, and otherwise do anything expedient for the maintenance or protection of any such tree, shrub, container, grass verge, garden or space;
- (e) to cut down any such tree or shrub, to remove any such container, guard or fence and to alter the nature of any such grass verge, garden or space or enlarge or diminish the area thereof;
- (f) by notice to prohibit persons from entering upon, or causing or permitting horses, cattle, vehicles or caravans

PART III
—cont.

to enter upon, any grass verge laid out under this section and maintained in an ornamental condition or mown, or any garden or space so laid out;

- (g) by notice to prohibit the playing of any game on any such grass verge, garden or space as aforesaid which is likely to cause damage thereto:

Provided that any such notice as is referred to in paragraph (f) or paragraph (g) of this subsection shall not apply to—

- (a) the owner or occupier of or any person residing in any premises fronting or abutting on any such street causing or permitting any such vehicle to enter or leave those premises; or
- (b) the temporary crossing of a grass verge, garden or space during building operations if means satisfactory to the Corporation be taken to protect such grass verge, garden or space from injury and for the convenience of pedestrians; or
- (c) the temporary use of any vehicle on a grass verge, garden or space by the statutory undertakers in the exercise of the rights of such undertakers with respect to any apparatus (including the placing of apparatus).

(2) Where any grass verge, garden or space which does not form part of a street and which has been provided by the Corporation in pursuance of the Act of 1957, or by a housing association in pursuance of arrangements made with the Corporation under that Act, or any enactment repealed by that Act, is maintained in an ornamental condition or mown, the Corporation may exercise the power contained in paragraph (f) or paragraph (g) of subsection (1) of this section.

(3) Any such notice as is referred to in paragraph (f) or paragraph (g) of subsection (1) of this section shall be conspicuously posted on, or in proximity to, the grass verge, garden or space to which it relates.

(4) (a) Any person (except in a case of emergency) who contravenes a notice so posted in pursuance of the said paragraph (f) or any person who contravenes a notice so posted in pursuance of the said paragraph (g) shall be guilty of an offence and the court may order the payment of such further amount as appears reasonable compensation for any damage caused by such contravention to such grass verge, garden or space, which last-mentioned amount shall be paid to the Corporation.

(b) Subsection (1) of section 41 of the Administration of Justice Act 1970 shall apply to an order referred to in this subsection as if a reference to this section was included as a case specified in Part I of Schedule 9 to the said Act of 1970.

(5) Section 82 of the Act of 1959 shall cease to apply to highways vested in the Corporation or to any such land as is referred to in subsection (1) of this section; and anything done by the Corporation under that section or under section 1 of the Roads Improvement Act 1925 with respect to such highways or land before the passing of this Act shall be deemed to have been done under this section. 1925 c. 68.

PART III
—cont.

(6) Nothing in this section shall affect the duty of the Corporation to provide a footway or grass or other margins under section 67 or section 70 of the Act of 1959.

(7) (a) Where the Corporation carry out works under any enactment relating to private street works, they may, with the consent of the owners of premises fronting, adjoining or abutting on the part of the street in which the works are carried out, exercise the powers conferred by this section in that part; and the expenses incurred in so doing shall be deemed part of the expenses of carrying out the works.

(b) The reference in this subsection to the consent of the owners of the said premises is a reference to the consent of the majority of them where the rateable value of the premises owned by the persons consenting is greater than the rateable value of the rest of the said premises.

(8) In subsection (2) of this section “verge” includes any lands situated between two carriageways or any part of a street which is not a carriageway, footway or cycle track.

B. Private streets

45.—(1) In this and the next succeeding section of this Act—
 “the code of 1892” has the same meaning as in Part IX of the Act of 1959; and
 “street works” means works executed or authorised to be executed under the provisions of the code of 1892.

Application of code of 1892 to parts of public street.

(2) Where in the borough it appears to the Corporation as street works authority that a new street has been formed by reason of additions made to an existing footpath, bridlepath or other right of way maintainable at the public expense (not being or comprising a carriageway within the meaning of the Act of 1959) otherwise than by the giving up for the purpose by the Corporation of lands owned by them, the Corporation may, notwithstanding anything in the code of 1892, carry out street works in respect of such street or any part of such street and apportion the expenses thereof on the premises fronting, adjoining or abutting on such street or such part thereof as if no part of the said street was so maintainable.

PART III
—cont.

(3) Save in a case falling within the provisions of subsection (2) of this section for the purposes of any apportionment of the expenses of carrying out street works in part of a street where any other part of that street consists of a highway maintainable at the public expense, premises fronting, adjoining or abutting on the street shall, if the Corporation so resolves, be deemed to front, adjoin or abut on the part of the street which is not so maintainable.

(4) Where in consequence of any order or orders made under sections 159 or 166 of the Act of 1959 any land is added to an existing highway maintainable at the public expense, such land, if so resolved by the Corporation, shall for the purposes of the code of 1892 in the borough be deemed to be a street not maintainable at the public expense and the Corporation may apportion the whole or any portion of the expenses of any street works carried out in respect of such street or any part of such street on the premises of which such land formed part immediately prior to its addition to the highway as aforesaid:

Provided that such expenses shall not include any expense which subsection (4) of section 163 of the Act of 1959 requires to be borne by the Corporation.

Recovery of
street works
charges where
owner
unknown.

46.—(1) Where any street works in the borough have been completed by the Corporation but the Corporation are unable to recover the amount due from the owner of any premises or otherwise under the code of 1892 by reason of the fact that such owner is unknown and cannot after diligent inquiry made when the said amount becomes due and at reasonable intervals thereafter be found, the Corporation may at any time after the expiration of twelve years from the date when the said amount becomes due apply to the county court and that court may, on the receipt of such application and on being satisfied that the provisions of this subsection have been complied with, make an order vesting the said premises in the Corporation absolutely, and thereupon the Corporation may appropriate the said premises subject to and in accordance with the provisions of section 163 of the Act of 1933 as if the said premises were land which was not required for the purpose for which it was acquired.

(2) Where the county court makes an order under subsection (1) of this section, the Lands Tribunal shall, for the purpose of determining the value of the said premises, nominate one of their members selected in accordance with subsection (6) of section 1 (Establishment and jurisdiction of Lands Tribunal) and section 3 (Procedure, appeals, costs and fees) of the Lands Tribunal Act 1949, and the member nominated shall determine the same accordingly and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof and the

Corporation shall thereupon deposit a sum equal to the amount of such valuation after deduction of the amount of the final apportionment in respect of the said premises with interest thereon for a period of six years at the rate of 5 per cent. per annum, or at such other rate as may have been fixed by order of the Secretary of State under section 212 (Rate of interest on expenses recoverable under local Act) of the Act of 1959, together with all costs and expenses reasonably incurred by the Corporation.

PART III
—cont.

(3) Any sum to be deposited under subsection (2) of this section shall be deposited in accordance with section 9 of the Act of 1965, as if it were a sum awarded to be paid to an owner who cannot be found and as if the Corporation were the promoters of an undertaking and such sum shall be applied in accordance with that Act.

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

47. Section 130 of the Act of 1959 (which relates to the prevention of soil, etc., being washed into streets) shall have effect in its application to the borough as if in subsection (1) after the words “at the public expense” there were inserted the words “or a private street communicating with such a highway,”.

Amendment
of section 130
of Act of 1959.

C. General

48.—(1) For the purpose of—

(a) making any new street; or

(b) providing a parking place for vehicles under section 28 of the Act of 1967;

Temporary
stoppage of
streets.

the Corporation may break up and for any reasonable time stop up, divert and interfere with any street in the borough and divert the traffic therefrom and prevent persons using it:

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

(i) so as to deprive foot-passengers bona fide going to or from any building or land in the street of reasonable access to the building or land; or

(ii) so as to obstruct, or interfere with, the access to, or exit from, any station or depot of any railway, or passenger road transport undertakers or the pier authorised by the Paignton Pier Act 1874.

1874 c. xlvii.

PART III
—cont.

(2) When considering the question of exercising their powers under this section the Corporation shall have regard to the existence of alternative routes suitable for the traffic which will be affected.

(3) The provisions of Schedule 3 to the Act of 1967, so far as applicable, shall apply in respect of the exercise by the Corporation of the powers of this section as they apply in respect of the making by a highway authority of an order under section 12 of that Act.

Adjustment of
boundaries of
estates in
connection
with streets.

49.—(1) Where a plan and sections of a new street deposited with the Corporation in pursuance of new street byelaws are approved by them, they may, for the purpose of securing the proper laying out or development of any estate through which the street is to run, by notice require that such provision shall be made—

- (a) for adjusting and altering the boundaries of the estate, and any other estate adjacent or near thereto, and for effecting exchanges of land in connection therewith; and
- (b) for the removal, modification or imposition of covenants, restrictions and conditions attaching to the land comprised in the estate, or any such other estate;

as may be necessary or desirable having regard to the line and layout of the new street.

(2) The notice shall be given to the owners of all the estates affected thereby.

(3) The powers conferred by subsection (1) of this section may also be exercised on the approval of a plan for the widening of an existing street or for the widening or adaptation of a road, footpath or way so as to form a new street.

(4) The provision so to be made and the terms and conditions upon which it is to be made shall, failing agreement between the Corporation and the persons interested in the respective estates, be referred to and determined by a single arbitrator to be appointed by agreement between the parties, or, in default of agreement, by the Secretary of State.

(5) An agreement or award made under this section may provide for the payment of money by the Corporation; but no such award shall provide for the payment of money by any other person without his consent.

(6) An award made under this section shall operate to effect any adjustment or alteration of boundaries or exchange of land, and any removal, modification or imposition of covenants, restrictions and conditions attaching to any land, which may be provided for by the award, and shall be duly stamped accordingly.

(7) The costs and expenses of any arbitration under this section shall, unless and except in so far as the award may otherwise provide, be paid by the Corporation.

PART III
—cont.

(8) Any land or money received by any person in respect of an adjustment or alteration of boundaries or exchange of land under this section shall be held by him subject to the same trust, if any, as the land exchanged therefor.

(9) Any land received by any person as aforesaid shall also be held subject to the same covenants, restrictions and conditions, if any, so far as the same are applicable, as the land exchanged therefor; and any such covenants, restrictions or conditions shall be deemed to be applicable unless otherwise provided in an agreement or award made under this section.

(10) The Corporation may purchase land by agreement for the purposes of this section and, until they dispose of the land or appropriate it for any other purpose, may manage the land in such manner as they think fit.

(11) In this section "estate" includes any parcel of land.

50.—(1) No person (other than a person selling, offering or exposing for sale or depositing for sale any food, goods, provisions, articles or things at any market or fair for which a toll, stallage or rent is payable) shall provide, erect, place or use any shed, hut, shelter, booth, shop, stall or other erection whether on wheels or not or any vehicle or any container used with or without a stall on the verge of any road to which this section applies or on any common land, unenclosed moorland or other unenclosed land of whatsoever description adjacent to, and within 15 yards of, a road to which this section applies, for the purpose of selling, offering, depositing or exposing for sale any food, goods, provisions, articles or things whatsoever other than newspapers.

Sale of food
and articles
on verges, etc.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

(3) (a) This section applies to any road or part of a road in the borough to which the Corporation may by order apply this section.

(b) Before making an order under this subsection the Corporation shall cause to be published once in each of two successive weeks in a local newspaper circulating in the borough a notice stating the general effect of the intended order and stating that within a period specified in the notice (not being less than twenty-eight days from the first publication of the notice) any person may object to the application by sending notice of his objection and of the grounds thereof to the town clerk.

PART III
—cont.

(c) If, before the expiration of the period specified in the notice, any objection to the application is received by the town clerk, the Corporation shall consider any such objection before making the order.

(4) Nothing in this section shall apply to—

(a) any shed, hut, shelter, booth, shop, stall or other erection or any vehicle or container provided, erected or placed on private property by or with the consent of the owner of such property;

(b) any building erected or work constructed with the consent of the Secretary of State in pursuance of section 194 of the Law of Property Act 1925, or of any other statutory provision or any scheme made pursuant to a statute; or

(c) the sale of food, goods, provisions, articles or things from a vehicle when in use solely for the purpose of itinerant trading with the occupants of premises adjoining any road, verge, common land or other land to which this section applies.

(5) In this section—

(a) the expression “container” includes any basket, pail, tray, package or receptacle of any kind whether open or closed;

(b) the expression “private property” does not include common land;

(c) the expression “vehicle” means a vehicle of any description, whether drawn or propelled by mechanical power or not.

1925 c. 20.

Power to
regulate
traffic.

51.—(1) The powers conferred by section 21 (Power to make orders for preventing obstruction in the streets during public processions, etc.) of the Act of 1847 shall, within the borough, extend to enable the Corporation, by resolution in relation to days appointed for the Torquay Regatta to direct the passage and stoppage of vehicles along or in Victoria Parade, Torquay and to direct particular routes to be taken, for particular descriptions of traffic in or in place of Victoria Parade and to prohibit the passage or stoppage of particular vehicles through or in Victoria Parade at certain hours.

(2) It shall be lawful for the Corporation on such occasions to cause barricades to be erected across Victoria Parade and to continue the same for such time as specified by resolution, and for the purpose of the erection of such barricades the Corporation may construct, place and maintain in or under the surface of Victoria Parade such sockets or slots as may in their opinion be necessary or convenient.

(3) Before exercising any of the powers conferred by the foregoing provisions of this section in respect of a street upon which a service of stage carriages or express carriages is operated the Corporation shall give to the traffic commissioners and to the holders of the road service licence under which that service is authorised at least forty-eight hours' notice of their intention so to do, and shall consult with them as to any measures necessary to maintain the service.

(4) The Corporation may, by resolution, during the period 1st April to 30th September in any year, prohibit the use of all motor vehicles within the meaning of the Act of 1960, in The Esplanade, Paignton, or in any part thereof and for such period as the Corporation are of the opinion is expedient thereby enabling the public to use The Esplanade as a pedestrian circulation space or precinct.

(5) Where the terms of such resolution under the foregoing subsections apply to any road, the Corporation shall forthwith take such steps as are necessary to secure—

- (a) the erection on or near the road of traffic signs in such positions as the Corporation may consider requisite for the purpose of securing that adequate information as to the effect of the resolution is given to persons using the road; and
- (b) where the resolution contains provisions for suspending or altering temporarily the application of a previous Traffic Regulation Order made by the Corporation under powers contained in the Act of 1967, the temporary covering of existing traffic signs as the Corporation may consider requisite for the purpose of avoiding confusion of users of the road or the continuance of traffic signs in incorrect positions.

(6) Notice of the passing of a resolution under the foregoing subsections describing the order shall be published in one or more newspapers circulating within the borough and shall be placed on boards to be fixed in a prominent part of the road to which the resolution applies.

(7) Any person who wilfully removes any such barricade or any part thereof or who offends against any such order shall be guilty of an offence.

52.—(1) In this Part of this Act—

- “excavation” includes the demolition of any part of a building or structure situate below ground level;
- “new street byelaws” has the meaning assigned to it by subsection (4) of section 157 of the Act of 1959;

Interpretation
of Part III
of Act.

PART III
—cont.

“ structure ” means a wall (not being a wall forming part of a permanent building), fence, hoarding or similar erection;

and subject to section 4 (Interpretation) of this Act, words and expressions to which meanings are assigned by sections 294 and 295 of the Act of 1959 have the same respective meanings unless there be something in the subject or context repugnant to such construction.

(2) For the purposes of this Part of this Act the erection of a building shall be deemed to have begun at the time when the clearing of a site or the excavation for the foundations thereof, whichever is the earlier, began.

PART IV

PUBLIC HEALTH

A. Community health

Research into matters concerning social conditions, etc.

53. The Corporation may undertake investigations and research into matters affecting the borough relating to—

- (a) social or economic conditions; or
- (b) health or hygiene;

and may contribute by grants or otherwise towards the cost of similar investigations and research undertaken by other bodies or persons.

Special provisions as to registration of nursing homes.

54.—(1) The Corporation may effect the registration of any person in respect of a nursing home under Part VI of the Act of 1936 subject to such conditions (to be specified in the certificate of registration) as the Corporation consider appropriate for securing—

- (a) that the number of patients accommodated in the nursing home and in particular rooms in the nursing home at any one time does not exceed such number as may be specified in the certificate of registration;
- (b) that the rooms occupied or to be occupied by patients in the nursing home are suitable in all respects for such patients;
- (c) that a person with such qualifications as may be specified by the Corporation, being not less than those possessed by a registered medical practitioner or a qualified nurse, or in the case of a maternity home a certified midwife, is in charge of the nursing home and of the persons employed thereat and is resident in the nursing home;

- (d) that the nursing home is adequately staffed both as respects the number and as respects the qualifications and experience of the persons employed thereat and adequately equipped with suitable fittings, furniture and equipment;
- (e) that the person carrying on the nursing home shall take all reasonable steps to satisfy the Corporation that their requirements as to staffing qualifications and experience of staff are being complied with;
- (f) that the premises, fittings, furniture and equipment used in connection with the nursing home are adequately maintained;
- (g) that the patients received in the nursing home are under medical supervision and receive adequate medical and nursing care;
- (h) that there are adequate arrangements for feeding patients received in the nursing home and that an adequate and suitable diet is provided for them;
- (i) that records are kept in relation to the patients received in the nursing home containing such particulars as may be specified by the Corporation, including in particular record cards for each patient with details of nursing care and times of medical visits.

(2) Any person aggrieved by a condition subject to which registration is effected under subsection (1) of this section may appeal to a magistrates' court and on any such appeal the court may confirm, reverse or vary such condition.

(3) If any condition imposed by or under subsection (1) of this section is not complied with the person carrying on the nursing home shall be guilty of an offence, and without prejudice to the foregoing provision the power of the Corporation to cancel registration under section 188 (Cancellation of registration) of the Act of 1936 shall include power to cancel the registration on the ground that any such condition has not been complied with.

(4) A person authorised under section 191 (Inspection of nursing homes) of the Act of 1936 to inspect a nursing home, being a medical practitioner, may visit and interview in private any patient in the nursing home—

- (a) for the purpose of investigating any complaint as to his treatment made by or on behalf of the patient; or
- (b) in any case where the person so authorised has reasonable cause to believe that a patient is not receiving proper care;

PART IV
—cont.

and may examine the patient in the nursing home in private and may require the production of and inspect any medical records relating to the treatment of the patient in the nursing home. The patient may require that any such interview or examination shall be conducted in the presence of one other person nominated by him.

1959 c. 72.

(5) This section shall not apply to a mental nursing home within the meaning of Part III of the Mental Health Act 1959.

Social
rehabilitation.

55.—(1) For the purpose of rehabilitating any family (hereafter in this section referred to as “a special family”) residing in the borough which or any member of which requires special treatment to fit them or him to be useful members of the community the Corporation may—

- (a) either within or without the borough provide, equip, staff and maintain training centres for the accommodation and training of special families or any member thereof;
- (b) employ persons specially skilled by experience or training in the subject of social rehabilitation (hereafter in this section referred to as “special home visitors”) to give advice or training to special families in their homes;
- (c) supply to any special family such furniture, fittings and conveniences as the Corporation may think fit and for that purpose buy furniture, fittings and conveniences.

(2) Instead of themselves providing training centres and employing special home visitors the Corporation may make arrangements with any voluntary organisation for the provision by that organisation of training centres or for the employment by them of special home visitors as aforesaid and may make contributions towards the expenses of any such voluntary organisation as aforesaid.

(3) The Corporation may recover from any person to whom any furniture, fittings or conveniences have been supplied under paragraph (c) of subsection (1) of this section such charges (if any) as having regard to the cost of the furniture, fittings or conveniences the Corporation may determine whether generally or in the circumstances of any particular case.

1948 c. 29.

1948 c. 43.

1970 c. 42.

(4) For the purposes of the National Assistance Act 1948, the Children Act 1948, and the Local Authority Social Services Act 1970, a person in accommodation provided by the Corporation under this section without the borough shall be deemed to be ordinarily resident in the area, if any, in which he was ordinarily resident immediately before he was admitted to such accommodation whether or not he in fact continues to be ordinarily resident in that area.

B. General

PART IV
—cont.

56. Section 81 of the Act of 1936 in its application to the borough shall be extended so as to empower the Corporation to make byelaws prescribing the times and the days of the week during which trade refuse may be set fire to or burned in yards or gardens.

Byelaws as to burning of refuse.

57.—(1) As from the appointed day, no person shall deposit in a dustbin or other receptacle used for the reception of house refuse or trade refuse which is to be removed by or on behalf of the Corporation, or in a receptacle provided by the Corporation under paragraph (a) of subsection (1) of section 76 of the Act of 1936—

Restriction on use of dustbins, etc.

- (a) any refuse of a liquid or partially liquid character;
- (b) any corrosive or explosive substance; or
- (c) any similar matter in such a state or condition that injury to the health of the employees of the Corporation may be caused thereby.

(2) As from the appointed day, no person shall use any dustbin provided by the Corporation (being a dustbin so provided for the removal of house refuse) for any purpose other than the deposit of refuse for removal by, or on behalf of, the Corporation.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence.

58. 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.

59.—(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, and to provide and maintain to the satisfaction of the Corporation such means of access from a street 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.

Maintenance of and access to bulk refuse containers.

(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.

PART IV
—cont.

(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 reference to “paragraph (f)” there were inserted the words “or paragraph (g)”.

Means of
access for
removal of
refuse, etc.

60. Section 55 of the Act of 1936 shall in its application to the borough have effect as if the following subsections were substituted for subsections (1) and (2) thereof:—

“(1) (a) Where plans for the erection or extension of a building are, in accordance with building regulations, deposited with a local authority, the local authority shall reject the plans, unless it is shown to them that—

(i) satisfactory means of access can, and will, be provided from the building to a street for the purpose of the removal of refuse; and

(ii) the method of storage of refuse, together with the related facilities to be provided, are adequate:

Provided that this subsection shall not apply in relation to buildings erected in accordance with plans and specifications approved by the Secretary of State in connection with housing operations to which section 145 of the Act of 1957 applies.

(b) Any question arising under this subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether any means of access or refuse storage accommodation proposed to be provided can be provided and ought to be accepted by the authority as satisfactory may on the application of that person be determined by a magistrates' court.

(c) In this section ‘refuse storage accommodation’, in relation to a building, means accommodation for the storage of dustbins or other refuse containers containing or intended to contain the refuse arising from the use or occupation of the building.

(2) (a) It shall be unlawful for any person except with the consent of the Corporation to close or obstruct so as to interfere with the removal of the refuse the means of access by which refuse is removed from any building, and the Corporation in giving their consent may impose such conditions as they think fit with respect to the improvement of any alternative means of access, or the substitution of other means of access.

(b) Any person who contravenes the provisions of this subsection shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding twenty pounds and to a further fine not exceeding two pounds for each day on which the offence continues after conviction thereof."

61.—(1) The Corporation may make byelaws for regulating the tipping of spoil and refuse in the borough and for prohibiting the use of any spoil or refuse tip in the borough so as to be a nuisance to the occupiers of premises in the neighbourhood thereof.

Tipping of
spoil and
refuse.

(2) Byelaws made by virtue of this section may—

(a) contain provisions for imposing on persons offending against the byelaws fines not exceeding one hundred pounds for each offence and in the case of an offence continuing after the date of conviction a further fine not exceeding ten pounds in respect of each day on which the offence continues;

(b) provide that any spoil or refuse tip placed, kept or used in breach of the byelaws shall be a statutory nuisance for the purpose of Part III of the Act of 1936.

(3) No byelaw under this section shall extend to regulating or controlling the tipping of spoil or refuse by—

(a) the British Railways Board or by the statutory undertakers for the purposes of their respective undertakings;
or

(b) the river authority in the exercise of any of their functions.

62. The prohibition on the sorting over or disturbing of material in subsection (3) of section 76 of the Act of 1936 shall apply in respect of material deposited in any place in the borough used by a local authority for the deposit of refuse, whether provided by the Corporation or not.

Control of
refuse tips.

63.—(1) If a magistrates' court is satisfied upon a complaint by the Corporation that any smoke, gas or vapour from a chimney, flue or pipe of a building or structure forming part of, or within the curtilage of, a house in the borough is prejudicial to the health of any of the inhabitants of the borough or a

Power to order
alteration of
domestic
chimneys

PART IV
—cont.

nuisance, the court may make an order requiring the owner of the chimney, flue or pipe, within such time as may be specified in the order—

- (a) to cause it to be raised to a height so specified; or
- (b) to cause such other means for remedying the cause of complaint to be adopted as the court thinks fit:

Provided that the court shall not make an order under this section unless it is satisfied that the work to be done in pursuance of the order need not involve an expenditure exceeding fifty pounds.

(2) Any person who fails to comply with an order made under this section shall be guilty of an offence.

PART V

PUBLIC ORDER AND SAFETY

Life-saving
equipment of
Corporation.

64.—(1) No person (except in the execution of some act which he has lawful authority to perform) shall remove or otherwise interfere with any life-saving equipment vested in the Corporation within the borough.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

1961 c. 64.

(3) In its application to the borough, section 81 of the Public Health Act 1961 shall apply to life-saving equipment vested in the Corporation.

Regulation of
bathing.

65. Section 231 of the Act of 1936 shall have effect in its application to the borough as if in subsection (1) after paragraph (f) there were added the following paragraph:—

“(g) prohibit bathing or attempting to bathe during such periods as the Corporation shall cause to be displayed in a conspicuous manner on the seashore, promenade or parade, by means of flags or other means, notices that bathing in the sea or attempting to bathe therein is prohibited on account of danger.”

Byelaws with
respect to
swimming
baths and
bathing pools.

66. Section 233 of the Act of 1936 shall have effect in its application to the borough and the Corporation as if for the proviso to subsection (1) there were substituted the following proviso:—

“Provided that this section shall not empower the local authority to make byelaws—

- (a) for regulating the conduct of persons resorting to or for the prevention of accidents in any swimming

bath or bathing pool which is not open to the public and for, or in connection with, the use of which no charge is made; or

- (b) for securing the purity of the water in or for ensuring the adequacy and cleanliness of the accommodation at any swimming bath or bathing pool within the curtilage of a school or of a private dwelling-house.”

PART V
—cont.

67.—(1) The Corporation may—

- (a) cleanse the seashore within the borough and the adjoining land (including land below the level of mean low-water springs) by removing therefrom oil or any mixture containing oil or any other polluting, offensive or injurious substance which may have been deposited thereon by the action of any tidal or other waters; and

- (b) for the purpose of preventing the pollution of the seashore within the borough and such adjoining land as aforesaid by any substance as aforesaid spray or cause to be sprayed with chemicals or other substances any tidal or other waters, and may do any other thing or take any other measure which in their opinion is likely to achieve that purpose.

Protection of
seashore and
adjoining land
from
pollution.

(2) Nothing in this section or done thereunder shall prejudice or affect the operation of the Sea Fisheries Regulation Act 1966, 1966 c. 38. the Salmon and Freshwater Fisheries Acts 1923 to 1965, the Rivers (Prevention of Pollution) Acts 1951 to 1961, or the Oil in Navigable Waters Acts 1955 to 1971, or any byelaws from time to time in force made under any of those Acts, or permit the doing of any act which would have been unlawful by virtue of the provisions of the said Acts or of any such byelaw if this section had not been enacted.

(3) In this section “oil” has the same meaning as in the Oil in Navigable Waters Act 1955.

1955 c. 25.

68.—(1) A stationary internal combustion engine shall not be used in the borough unless an effectual silencer is provided and used on the exhaust of the engine.

Silencers for
internal
combustion
engines.

(2) If any person uses such an engine in contravention of the foregoing subsection, or causes or permits such an engine to be so used, the Corporation may give him notice that the engine is being or has been so used; and if, after the lapse of such time from the service of the notice as may be reasonably sufficient for remedying the cause of complaint, he uses the engine as aforesaid, or causes or permits it to be so used, he shall be guilty of an offence.

PART V
—cont.

(3) An authorised officer of the Corporation shall have the right in respect of any premises which he has entered in pursuance of the powers conferred by section 287 of the Act of 1936 as amended by this Act to inspect and test any silencer on the exhaust of such an engine found on the premises, and for that purpose to require the silencer to be taken off, and any expenses incurred under this subsection by such an officer may be recovered by the Corporation from the occupier of the premises if there is found on the premises such an engine which is not provided with an effectual silencer on the exhaust thereof.

1954 c. 70.

(4) Nothing in this section shall apply to an internal combustion engine used below ground in a mine within the meaning of the Mines and Quarries Act 1954.

Safety of
stands.

69.—(1) As from the appointed day no person shall commence to erect in the borough a stand capable of affording seating or standing accommodation for twenty or more persons at any one time unless he has given notice to the Corporation of his intention to do so, accompanied by a plan and section of the stand and such further particulars as the Corporation may reasonably require, and the Corporation have approved the erection of the stand under this section.

(2) Within five weeks from the receipt of such a notice from any person the Corporation may give him notice that they approve the erection of the stand, but only subject to—

- (a) such modifications of the plan, section and particulars submitted to them; and
- (b) compliance with such requirements as to maintenance and otherwise;

as may be specified in the notice, being modifications and requirements which appear to the Corporation to be necessary for securing the stability of the stand and protection against fire, and generally for securing the safety of persons to be accommodated thereon.

(3) If a notice given under subsection (1) of this section states the period for which it is proposed that the stand will remain erected, the Corporation shall have regard to that statement in considering what modifications and requirements are to be specified in a notice under subsection (2) of this section, but may by the last-mentioned notice require that the stand shall be pulled down and removed within such time from the expiration of that period as may be specified in the notice, or such further time as the Corporation may allow.

(4) The Corporation may at any time within the said five weeks give notice that they approve the erection of the stand in

accordance with the plan, section and particulars submitted to them; and, if within the said five weeks the Corporation have not given notice under subsection (2) of this section, they shall be deemed for the purposes of this section to have so approved the erection of the stand.

(5) Any person aggrieved by a requirement or other decision of the Corporation under this section may appeal to the magistrates' court.

(6) Any person who—

(a) commences to erect in contravention of subsection (1) of this section a stand capable of affording seating or standing accommodation for twenty or more persons at any one time; or

(b) erects such a stand otherwise than in accordance with a plan, section and particulars submitted to the Corporation under the said subsection (1), or, if notice has been given of any modifications under subsection (2) of this section, otherwise than in accordance with the said plan, section and particulars as modified by the notice; or

(c) being the owner or occupier of such a stand erected otherwise than as aforesaid, allows twenty or more persons to be on the stand at any one time; or

(d) being the owner or occupier of such a stand, fails to comply with any requirement imposed by a notice under subsection (2) or subsection (3) of this section;

shall be guilty of an offence:

Provided that nothing in this subsection shall apply to a stand the erection whereof was commenced before the appointed day.

(7) The provisions of this section shall not apply to a stand erected by the proprietor of a travelling circus, roundabout or amusement fair for the purposes of his business as such.

(8) In this section "stand" includes a structure, but does not include a building, or extension of a building, to which building regulations are applicable.

70.—(1) No procession shall pass through the streets of the borough unless written notice stating the route by which, and the date and time on and at which, it will pass has been delivered

Notice of
street
processions.

PART V
—cont.

at the office of the town clerk, and at the principal police station in the borough, by midday on the day next but one before the date stated, treating as not an intervening day a Sunday, Christmas Day, Good Friday, bank holiday or day appointed for public thanksgiving or mourning.

(2) If a procession passes through the streets of the borough in contravention of the foregoing subsection, or by a route, or at a time, other than that stated in the notice delivered with respect thereto under that subsection, any person organising or conducting the procession shall be guilty of an offence.

(3) In this section “procession” means any public or ceremonial procession or any walk organised by or for the benefit of a charity, or any circus procession or procession of wild animals:

Provided that nothing in this section shall apply to a public or ceremonial procession habitually held.

Securing of
unoccupied
buildings.

1961 c. 65.

71.—(1) Where the Corporation have under section 16 of the Act of 1957 accepted an undertaking that a house or building will not be used for human habitation or where—

- (a) by a closing order made under section 17, 18, 26 or 35 of the Act of 1957 or section 26 of the Housing Act 1961 the Corporation have ordered any house or building, or any part thereof, to be closed; or
- (b) 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
- (c) a house or building in the borough is unoccupied for a period exceeding six weeks;

the Corporation may, if the house or building is not effectively secured so as to prevent entry into the house or building 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, themselves do such things in relation to the house or building, or the part thereof (as the case may be), as are reasonably required effectively to secure the house or building so as to prevent entry.

(2) A notice shall not be given under subsection (1) of this section in any case where the Corporation have approved the use for any purpose of any premises which have been ordered to be closed so long as the premises are used for that purpose.

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

PART V
—cont.

(4) 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.

72.—(1) If it appears to the Corporation that for the prevention of danger to persons generally or of damage to property any tree in the borough should be removed, cut or felled, the Corporation may serve a notice on the owner or occupier of the premises on which such tree is growing or situated requiring him within twenty-one days to remove, cut or fell the tree or execute such other works as the Corporation may consider necessary to prevent the danger.

Removal,
etc., of
dangerous
trees.

(2) The provisions of section 276 (Power of local authority to sell certain materials) of the Act of 1936 are applied for the purposes of this section and shall have effect as if the expression “materials” included timber.

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

Provided that for the purposes of such application the said section 290 shall have effect as if—

(a) for paragraph (a) of subsection (3) thereof there were substituted the following paragraph:—

“(a) that the notice or requirement is unreasonable;”; and

(b) in subsection (6) thereof the words after “in so doing” were omitted.

73.—(1) Where any lost or uncollected property is contained in a package, bag or other receptacle, the Corporation may cause such receptacle to be opened and the contents examined, if they deem it necessary to do so, for the purpose either of identifying and tracing the owner of the property or of ascertaining the nature of its contents.

Disposal of
lost and
uncollected
property.

(2) If any lost or uncollected property within three months of coming into the custody of the Corporation be not proved to the reasonable satisfaction of the Corporation to belong to any claimant, it shall thereupon vest in the Corporation:

PART V
—cont.

Provided that any lost or uncollected property which is of a perishable nature and any lost property the custody of which involves unreasonable expense or inconvenience may, notwithstanding that it has not vested in the Corporation under this section, be disposed of at such time and in such manner as the Corporation may think fit, and, if it is sold, the proceeds of sale shall vest in the Corporation at the expiration of three months from the date on which the property came into their custody.

(3) Where any lost property becomes vested in the Corporation in pursuance of this section, the Corporation may, if they think fit, deliver to the person, whether an employee of the Corporation or not, who placed the lost property in the custody of the Corporation, the whole or any part of such property or of the estimated value thereof in cash.

(4) This section shall, in the case of uncollected property placed in the custody of the Corporation on express terms inconsistent with the rights of the Corporation under this section, have effect subject to those terms.

(5) In this section—

the expression “lost property” means any property coming into the custody of the Corporation, after being left on or in any premises occupied by the Corporation to which the public have access; and

the expression “uncollected property” means any property deposited in any cloakroom or parcels store provided by the Corporation for the use of the public in which there is exhibited a notice containing a statement to the effect of subsections (1) and (2) of this section.

Protection of
dangerous
ponds and
excavations.

74.—(1) Where there is on any land in the borough a pond, well, mineshaft, quarry or other excavation which, by reason of its being unfenced or inadequately fenced or otherwise inadequately protected, constitutes a source of danger to children or other persons, the Corporation may pay, or contribute to the payment of, any expenses incurred in the execution, by any person who has the right to do so, of any works of repair, protection or enclosure which may be required to obviate the danger:

Provided that, in the case of any such excavation in respect of which any person may, under section 144 of the Act of 1959 or section 151 of the Mines and Quarries Act 1954, be required to execute works to obviate the danger, the Corporation shall only pay, or contribute to the payment of, the expenses of executing such works where they are satisfied that it would be

unreasonable in the circumstances of the case for such person to be required to bear the expense, or the whole of the expense (as the case may be), of executing such works.

PART V
—cont.

(2) If in the case of any such pond, well, mineshaft, quarry or other excavation as aforesaid on any land in the borough—

- (a) the Corporation are unable, after making reasonable inquiry, to ascertain the name and address of the owner or occupier of the land; or
- (b) the Corporation have, by notice given to the owner or occupier of the land, requested the execution of such works of repair, protection or enclosure as they may consider necessary to obviate the danger and, despite an offer made by the Corporation to pay or contribute to the payment of any expenses incurred by the owner or occupier in the execution of such works, the works are not executed within such reasonable time thereafter as may be necessary for the purpose;

the Corporation may, subject to the provisions of subsection (3) of this section, themselves execute such works at their own expense.

(3) (a) Where, in a case referred to in paragraph (b) of subsection (2) of this section, the Corporation propose themselves to execute works on any land they shall, before carrying the proposal into effect, serve notice on the owner or occupier of the land specifying the place where they propose to execute such works and the nature of the works proposed and the period, which shall not be less than twenty-eight days, within which notice of objection to the proposal may be sent in writing to the Corporation, and including notice of the right of appeal under paragraphs (b) and (c) of this subsection.

(b) The Corporation shall consider any notice of objection sent to them by the owner or occupier of the land within the period so specified and give notice of their decision on the objection to the person by whom it was made.

(c) If that person is aggrieved by the decision of the Corporation he may, within twenty-one days after receiving notice thereof, appeal to a magistrates' court, and the court shall have power to make such order in the matter as it considers reasonable.

(4) If in pursuance of subsection (2) of this section, or of an order of a court made under paragraph (c) of subsection (3) of this section, the Corporation themselves execute works of repair, protection or enclosure on any land, they shall, unless otherwise agreed in writing between the Corporation and the owner or occupier of the land and unless otherwise provided in any such order of the court, maintain those works.

PART VI

FIRE PRECAUTIONS

Firemen's switches for luminous tube signs and ventilation systems.

1963 c. 41.

75.—(1) In this section “ apparatus ” means—

- (a) apparatus consisting of luminous tube signs designed to work at a voltage normally exceeding six hundred and fifty volts, or other equipment so designed, and of the transformers required to raise the voltage so as to operate the signs or equipment, not being apparatus which is inside a building and is attended while in operation;
- (b) except in relation to premises which are subject to the operation of the Offices, Shops and Railway Premises Act 1963 or any regulation or order made thereunder, apparatus consisting of an electrically operated ventilation system other than any local ventilation system for a particular process in premises with an area exceeding 10,000 square feet.

(2) As from the appointed day apparatus in the borough to which this section applies shall be provided with a cut-off switch (on the low-voltage side of the transformer, if any); and the switch shall be so placed, and coloured or otherwise marked, as to satisfy such reasonable requirements as the Corporation may impose to secure that it shall be readily accessible to, and recognisable by, firemen.

(3) Not less than twenty-eight days before work is begun to install apparatus to which this section applies, the consumer shall give notice to the Corporation showing where the cut-off switch is to be placed and how it is to be coloured or otherwise marked.

(4) Where apparatus to which this section applies has been installed before the appointed day, the consumer shall, not less than fourteen days before the appointed day, give notice to the Corporation—

- (a) in the case of apparatus already provided with a cut-off switch (on the low-voltage side of the transformer, if any), showing where the switch is placed and how it is coloured or otherwise marked;
- (b) in the case of apparatus not already provided with such a cut-off switch as aforesaid, showing where the switch is to be placed and how it is to be coloured or otherwise marked.

(5) Where notice has been given to the Corporation as required by subsection (3) or subsection (4) of this section, the proposed, or, as the case may be, actual, position, colouring or marking of the switch shall be deemed to satisfy the requirements of the Corporation unless, within fourteen days from the date of the service of the notice, the Corporation have served on the consumer a counter-notice stating that their requirements are not satisfied.

(6) A cut-off switch which complies with the regulations of the Institution of Electrical Engineers for a fireman's emergency switch shall for the purposes of this section be deemed to satisfy the requirements of the Corporation.

(7) A person aggrieved by a counter-notice served by the Corporation under subsection (5) of this section may appeal to the magistrates' court; and the court, if it allows the appeal, shall order the cancellation of the counter-notice.

(8) The owner or the occupier of premises where apparatus is installed which does not comply with subsection (2) of this section shall be guilty of an offence.

(9) A person who fails to give notice as required by subsection (3) or subsection (4) of this section shall be guilty of an offence.

(10) The provisions of this section shall not affect the requirements of the Electricity Supply Regulations 1937, or any regulations that may be made under section 60 of the Electricity Act 1947.

1947 c. 54.

(11) This section shall not apply to apparatus installed on or in premises, or any part of premises, in respect of which a licence under the Cinematograph Acts 1909 and 1952 is for the time being in force:

Provided that where any luminous tube sign to which, but for this subsection, this section would apply is proposed to be fitted on or in any such premises, the owner or occupier thereof shall, before such apparatus is fitted, give notice under subsection (3) of this section to the Corporation informing them of the position in which it is proposed to place the cut-off switch.

76.—(1) Subject to the provisions of subsection (3) of this section where plans for the erection of a building are in accordance with building regulations deposited with the Corporation, the Corporation shall reject the plans if they show—

Building plans: access for fire brigade.

(a) that the building will not be provided with such means of access by the fire brigade as are necessary to enable a fire in the building to be effectively fought; or

(b) that the building will interfere with the means of access by the fire brigade to a neighbouring building to such an extent as to render those means insufficient to enable a fire in the neighbouring building to be effectively fought.

(2) Subject as aforesaid where plans for the extension of a building are in accordance with building regulations deposited with the Corporation, the Corporation shall reject the plans if they show—

(a) that the extension will be such as to affect the adequacy of the means of access by the fire brigade to the building

PART VI
—cont.

and that the building as extended will not be provided with such means of access by the fire brigade as are necessary to enable a fire in the building to be effectively fought; or

- (b) that the extension will interfere with the means of access by the fire brigade to a neighbouring building to such an extent as to render those means insufficient to enable a fire in the neighbouring building to be effectively fought.

(3) This section shall not apply in relation to the erection or extension of a building in pursuance of a planning permission given under the Act of 1962.

(4) In this section “access by the fire brigade” means access by members of one or more fire brigades and their appliances and references to a neighbouring building are, in relation to a neighbouring building for the erection, alteration or extension of which plans have been passed, references to the neighbouring building as erected, altered or extended in accordance with those plans.

(5) 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.

(6) Any question arising under this section between the Corporation and the person by whom, or on whose behalf, plans are deposited as to whether the Corporation ought to pass the plans may, on the application of that person, be determined by the magistrates’ court.

Prescription
of signs, etc.,
to be used
on certain
buildings.

77.—(1) The Corporation may in relation to any substance likely to involve special hazard to persons engaged in normal duties of fire fighting—

- (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 to persons so engaged;
- (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 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) Any person who fails to comply with the requirements of the Corporation under this section shall be guilty of an offence.

78. If it appears to the Corporation that for the purpose of preventing fire or explosion in any such building in the borough as amended by section 86 (Means of ingress to and egress from certain buildings) of this Act or for the purpose of preventing injury or danger to persons resorting thereto—

PART VI
—cont.
Preventing fire in public or other buildings.

- (a) the apparatus or fittings for lighting or heating the building require alteration; or
- (b) the arrangement of the chairs and seating requires alteration; or
- (c) any floor requires strengthening in order to prevent overloading; or
- (d) any of the materials from which any fireplaces, flues, chimney vents or other like parts of such building are constructed are unsuitable;

the Corporation may by notice require the owner or occupier of the building to make such provision in regard to the matters aforesaid as may be necessary:

Provided that—

- (i) for the purposes of this section any fireplace, flue, chimney vent or other like part of such building which complies with building regulations for the time being in force made under section 4 of the Public Health Act 1961 shall not be deemed to have been constructed of unsuitable materials; 1961 c. 64.
- (ii) this section shall not apply to premises in respect of which a licence under Part IV of the Public Health Acts Amendment Act 1890 or the Cinematograph Acts 1909 and 1952 or the Theatres Act 1968 is for the time being in force; 1890 c. 59. 1968 c. 54.
- (iii) this section shall not apply to premises which are subject to the Factories Act 1961 or the Offices, Shops and Railway Premises Act 1963, or any regulation or order made thereunder. 1961 c. 34. 1963 c. 41.

79.—(1) As from the appointed day any person intending to install 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-burning equipment.

(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 are made for preventing or reducing danger from fire.

PART VI
—cont.

(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 placing of any oil-burning equipment notwithstanding that it does not comply with the appropriate specifications 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 byelaws.

(5) (a) Any person who 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 shall be guilty of an offence.

(b) Any person who contravenes any byelaw made under subsection (2) of this section 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 five pounds for each day on which he so uses it.

- (6) (a) In this section—

“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;

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

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

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

(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.

(7) 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 a private dwelling-house not comprised in a block of flats; or

(c) the installation of any oil-burning equipment in any building in respect of which a licence under the Cinematograph Acts 1909 and 1952 is for the time being in force; 1909 c. 30.
or 1952 c. 68.

(d) the installation of any oil-burning equipment by the British Railways Board, the generating board, the electricity board 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 other than buildings used as a railway station.

PART VI

—cont.

1961 c. 34.

1963 c. 41.

(8) 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 Offices, Shops and Railway Premises Act 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.

Underground
parking
places.

80.—(1) Where plans of any proposed work deposited with the Corporation in pursuance of building regulations include proposals for the construction, alteration or extension of an underground parking place or the alteration of a building for use as an underground parking place the Corporation may, notwithstanding anything in section 64 of the Act of 1936, reject the plans unless there are put before them such proposals as appear to them to be satisfactory for preventing or reducing danger from fire or explosion being proposals relating to all or any of the following matters:—

- (a) the construction of the underground parking place and the approaches thereto and the materials to be used in such construction;
- (b) the means of ventilation of the underground parking place;
- (c) the electrical and mechanical and heating equipment in the underground parking place;
- (d) the provision of a satisfactory emergency lighting system in connection with the underground parking place;
- (e) fire protection, fire alarms and fire-fighting equipment and appliances in connection with the underground parking place;
- (f) the means of ingress to and egress from the underground parking place including illuminated exit signs;
- (g) the provision of adequate means for preventing flammable substances from being admitted to any drainage system forming part of the underground parking place;
- (h) the means of access to the underground parking place for fire brigade appliances and personnel.

(2) Subsection (2) of section 64 and subsections (2) to (5) of section 65 of the Act of 1936 shall have effect as if this section were a section of that Act.

(3) If any question arises between the Corporation and a person who has executed or proposes to execute any work—

- (a) whether the work is such as is mentioned in subsection (1) of this section; or

(b) whether the Corporation ought to have treated as satisfactory any proposal put before them in pursuance of the said subsection;

that question may, on the application of that person, be referred to the Secretary of State for determination, and the Secretary of State shall determine any question submitted to him under paragraph (a) of this subsection or, as the case may be, may direct the Corporation to treat as satisfactory the said proposal or the said proposal as modified by him.

(4) If, after plans of any underground parking place have been passed by the Corporation in consequence of any proposals made under subsection (1) of this section, it appears to the Corporation that any such proposal has not been carried into effect or is not being observed or any equipment or appliances provided in accordance with the plans is not being maintained, the Corporation may by notice to the owner or occupier of the underground parking place prohibit its use as an underground parking place until the proposal has been carried into effect or is being observed.

(5) Any person on whom a notice has been served under subsection (4) of this section who uses the underground parking place or permits it to be used as an underground parking place without giving effect to, or securing the observance of, any proposal specified in the notice shall be guilty of an offence.

81.—(1) Without prejudice to the provisions of section 80 (Underground parking places) of this Act, the Corporation may, by notice to the owner or occupier of any underground parking place in the borough which is first brought into use after the passing of this Act, require compliance with such conditions as to the use of the underground parking place as may be specified in the notice for the purpose of preventing or reducing danger from fire or explosion therein, and, in the case of any underground parking place as aforesaid in respect of which plans are not deposited with the Corporation in pursuance of building regulations, the Corporation may, by notice to the owner or occupier thereof, require him to comply with such conditions as aforesaid and with such other conditions with regard to the matters specified in paragraphs (b) to (h) of subsection (1) of the said section 80 as the Corporation think fit.

Further provision as to underground parking places.

(2) Any person on whom a notice under this section has been served, who fails to comply with any requirements specified in the notice, shall be guilty of an offence.

(3) A person on whom a notice under this section has been served may within twenty-one days of the service of the notice

PART VI
—cont.

appeal to the Secretary of State on the ground that any requirement specified in the notice is not justified by this section or is unreasonable in character or extent or is unnecessary.

(4) If so required by any such person the Corporation shall deliver to him a certificate signed by the town clerk stating the grounds on which the Corporation have made any requirement under this section, and, where such person appeals to the Secretary of State against such requirement, the certificate shall be submitted by him to the Secretary of State at the same time that notice of appeal is given, or as soon as possible after the receipt by such person of the certificate.

(5) On consideration of any such appeal the Secretary of State may, if he thinks fit, confirm, modify, alter or annul any requirement made by the Corporation under this section.

Interpretation
and powers
of entry for
purposes of
last two
foregoing
sections.
1928 c. 32.

82.—(1) In the last two foregoing sections the expression “underground parking place” means a building or part of a building (other than a building or part of a building in respect of which a licence issued by the Corporation or the Secretary of State under section 2 or section 3 of the Petroleum (Consolidation) Act 1928 is in force, or a building or part of a building to which regulations made by the Secretary of State under section 10 of that Act apply) which provides waiting space or storage space, either alone or in addition to any other facility or service, for motor cars or other vehicles and of which any part of the floor is situated more than 4 feet below the surface of the ground adjoining such building or part of a building.

(2) 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 the last two foregoing sections shall be provisions which it is the duty of the Corporation to enforce.

Provision of
means of
escape from
fire in
certain
buildings.

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

- (a) in paragraph (a) of subsection (4) of that section the words “in whole or in part used as a flat or flats” were substituted for the words “let in flats”;
- (b) in paragraph (b) of subsection (4) of that section the words “boarding school” were omitted and the words “old persons’ home” were inserted after the words “children’s home”; and
- (c) in paragraph (c) of subsection (4) of that section the word “school” were inserted after the word “shop” and the words “for persons employed on the premises” were omitted.

(2) (a) The Corporation may by notice require the person having control of a building to which the said section 60, as amended by subsection (1) of this section, applies (other than a house divided into flats) to maintain and keep unobstructed such means of escape as are specified in the notice and, he who fails to do so shall be guilty of an offence.

PART VI
—cont.

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

- (i) that the requirement is not justified by the terms of this subsection;
- (ii) that there has been some 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.

84.—(1) Where plans of a building or of an alteration or extension of a building are in accordance with building regulations deposited with the Corporation, and the building, or, as the case may be, the building as altered or extended, will be a building to which this section applies, the Corporation may reject the plans unless they show that the building, or, as the case may be, the building as altered or extended, will be—

Fire precautions in certain large buildings.

- (a) provided with all such means of escape therefrom in case of fire as may be reasonably required; and
- (b) fitted with automatic fire alarms and a fire extinguishing system or with 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 (Means of escape in case of fire) of the Factories Act 1961 applies or to buildings to which section 59 (Exits, entrances, etc., in the case of certain public and other buildings) of the Act of 1936 applies, or to premises to which the Offices, Shops and Railway Premises Act 1963 applies or to premises to which building regulations imposing requirements as to the provision of means of escape in case of fire apply; 1961 c. 34. 1963 c. 41.
- (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 (Safety provisions in case of fire) of the said Act of 1961 applies or to premises to which section 34 (Fire alarms) of the said Act of 1963 applies, nor so far as it relates to the provision of a fire extinguishing system, shall the said

PART VI
—cont.

paragraph apply to a factory to which subsection (1) of section 51 (Fire fighting) of the said Act of 1961 applies or to premises to which the said Act of 1963 applies.

(2) The person proposing to erect, alter or extend or cause to be erected, altered or extended any building to which 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.

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

(a) may refuse to approve them; or

(b) may approve them subject to such conditions (if any) as they think fit;

in either of which cases they shall give to the person who deposited the particulars notice stating their reasons for refusal or for the imposition of conditions. If within that period the Corporation fail to give such notice they shall be deemed to have approved the said particulars.

(4) (a) If any building to which this section applies contravenes any of the requirements of paragraphs (a) or (b) of subsection (1) of this section the Corporation, without prejudice to their right to take proceedings for penalties in respect of the contravention, may by notice require the person erecting, altering or extending or causing to be erected, altered or extended the building, 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.

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

(6) Any person aggrieved by a requirement of the Corporation or a condition subject to which approval of particulars is given by the Corporation or a refusal by the Corporation to approve particulars under subsections (1) or (3) of this section may appeal to the magistrates' court.

(7) This section applies to any building or proposed building or part of a building in the borough of a cubic content exceeding 250,000 cubic feet being a building which is within Group IV

(office), Group V (shop), Group VI (factory), or Group VIII (storage and general) contained in the Building Regulations 1965 unless it is divided by compartment walls or compartment floors constructed in accordance with building regulations, in such a manner that no division of a building or proposed building, or part of a building, is of a cubic content exceeding 250,000 cubic feet, but does not apply to any building—

PART VI
—cont.

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

Provided that this section shall not apply to a building erected before the passing of this Act unless and until after the passing of this Act a structural alteration or extension is made in or to the building or a material change (as defined in subsection (2) of section 62 of the Act of 1936) takes place in the purposes for which the building is used.

(8) 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.

85.—(1) Within the borough unless the Corporation consent no building shall be erected with a storey or part of a storey at a greater height than 80 feet if the area of the building exceeds 10,000 square feet:

Further precautions against fire in certain high or large buildings.

Provided that the Corporation shall not withhold consent under this subsection if—

- (a) they are satisfied that, having regard to the proposed use to which the building is to be put, proper arrangements will be made and maintained for preventing or reducing danger from fire in the building;
- (b) or the building, being a shop or department store to which the British Standard Code of practice known as CP3: Chapter IV: Part 2 (1968) or the code for the time being in force applies, will, when erected, comply with the recommendations of that part of that code of practice relating to the planning, construction and equipment of such a building.

(2) In giving their consent under this section the Corporation may attach thereto conditions relating to the provision and maintenance of proper arrangements for preventing or reducing danger from fire in the building or part of the building.

PART VI
—cont.

(3) Any person who is aggrieved by a decision of the Corporation under this section to withhold consent or to attach conditions to a consent may within twenty-one days from the receipt of notification of the decision appeal to the magistrates' court.

(4) Any person who contravenes the provisions of subsection (1) of this section or any condition attached to a consent given under this section shall be liable to a fine not exceeding fifty pounds and if—

- (a) that person after conviction of the contravention; or
- (b) any other person after notice of the conviction has been served on him by the Corporation;

uses the building without the consent of the Corporation or in contravention of any condition attached to a consent given under this section he shall be liable to a fine not exceeding ten pounds for each day on which he so uses it.

(5) The measurement of the height of any such building or part of a building as is mentioned in this section shall be calculated in accordance with the provisions of the Building Regulations 1965.

(6) Nothing in this section shall apply to any building exempted from the provisions of Part II of the Act of 1936 with respect to building regulations by paragraph (a) or paragraph (c) of section 71 of that Act.

Means of
ingress to
and egress
from certain
buildings.

86.—(1) Section 59 of the Act of 1936 in its application to the borough shall have effect as if—

- (a) in paragraph (b) of subsection (5) thereof the words “sale room” were inserted after the word “warehouse” and as if the word “ten” were substituted for the word “twenty”;

Provided that nothing in this section shall apply to premises in respect of which there is a justices' licence for the sale of intoxicating liquor for consumption on the premises or to premises in respect of which a licence under the Cinematograph Acts 1909 and 1952 is for the time being in force; and

- (b) in paragraph (d) of the said subsection (5) the words “and any premises used for giving instruction in dancing” were added at the end of that paragraph:

Provided that nothing in this subsection shall apply to premises which are subject to the Offices, Shops and Railway Premises Act 1963, or any regulation or order made thereunder.

(2) The provisions of subsection (2) of the said section 59 in its application to the borough shall be construed so as to enable the Corporation to require that such first-aid fire appliances as the Corporation deem necessary shall be installed in premises to

1909 c. 30.
1952 c. 68.

1963 c. 41.

which the said section applies other than premises in respect of which a licence under the Cinematograph Acts 1909 and 1952 is for the time being in force:

PART VI
—cont.

Provided that any notice served by the Corporation under the said subsection (2) requiring the installation of first-aid fire appliances may be served on the owner or the occupier of the building.

(3) The provisions of subsection (2) of this section shall cease to apply in relation to any premises to which the Factories Act 1961 or the Offices, Shops and Railway Premises Act 1963 applies on the coming into force in relation to those premises of regulations made under those Acts and relating to the same subject-matter as the said subsection. 1961 c. 34.
1963 c. 41.

87.—(1) Any duly authorised fire brigade officer of the Corporation (on producing, if so required, some duly authenticated document showing his authority) may at all reasonable times enter upon, inspect and examine any premises in the borough used by a club registered under the Licensing Act 1964 as regards any matter affecting fire risks or the provision or maintenance of adequate fire-fighting equipment or appliances; but the town clerk shall not so authorise a fire brigade officer unless in his opinion special reasons exist making it necessary that the premises should be inspected in relation to any matter affecting fire risks. Fire precautions in registered clubs.
1964 c. 26.

(2) Any person obstructing a fire brigade officer in the exercise of the power conferred by this section shall be guilty of an offence.

88. Nothing in the foregoing sections of this Part of this Act shall affect the operation of the Fire Services Acts 1947 to 1959 or the Factories Act 1961 or any regulations or orders made thereunder. Saving for Fire Services Acts and Factories Act.

89.—(1) The Corporation may arrange for—

Instructions, lectures, etc., on questions relating to fire services.

(a) the publication of information on questions relating to fire services, fire fighting and precautions for avoiding the occurrence of fires in the borough;

(b) the delivery of lectures and addresses and the holding of discussions on such questions; and

(c) the display of pictures, cinematograph films or models or the holding of exhibitions relating to such questions.

(2) The Corporation may prepare, or join in, or contribute to the cost of, the preparation of, pictures, films, models or exhibitions relating to such questions to be displayed or held whether within or outside the borough.

PART VII

CONTROL OF CLUBS AND CAFÉS

Interpretation
of this Part
of Act.

90.—(1) In this Part of this Act—

“night café” means—

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

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

but does not include any premises—

(i) in respect of which there is in force for the time being—

(A) 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 Corporation under the Private Places of Entertainment (Licensing) Act 1967;

1967 c. 19.

(C) a licence for the public performance of stage plays or a cinematograph exhibition;

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

(iii) so long as they are being used by a club which is subject to the provisions of the Licensing Act 1964 or a club provided or maintained by the Corporation;

(iv) so long as they are being used exclusively and bona fide 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) for the purpose of a gymnasium or swimming bath or of playing badminton, fives, racquets, squash, bingo, tombola, ten-pin bowling, billiards, chess, dominoes, bridge, whist or any game similar to any of those games; or

(v) so long as they are being used exclusively and bona fide as a canteen forming part of a factory or office which is subject to the Factories Act 1961 or the Offices, Shops and Railway Premises Act 1963:

PART VII
—cont.

1961 c. 34.
1963 c. 41.

“registered” means registered with the Corporation under this section, and “registration” shall be construed accordingly;

“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 section 94 (Offences in connection with conduct of night cafés) of this Act applies;

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

(2) For the purposes of a resolution relating to a specified drug the provisions of subsections (2) and (3) of section 151 (The appointed day) of this Act shall (with any necessary modifications) apply to any such resolution and the date fixed thereby.

91.—(1) Subject to the provisions of this Part of this Act, on and after the appointed day no premises in the borough shall be used, whether occasionally or not, for the purposes of a night café unless they are registered. Registration of premises.

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

- (a) the premises are not structurally suitable for the purpose;
- (b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of adjacent properties;
- (c) the persons concerned or intended to be concerned in the conduct or management of the premises as a night café, are such that young persons resorting to the premises are likely to be depraved or corrupted;
- (d) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;
- (e) the premises are not safe for such use or the means of heating the premises are not safe;
- (f) proper precautions against fire on the premises have not been taken;

PART VII
—cont.

- (g) satisfactory means of escape in case of fire and adequate fire-fighting appliances have not been provided on the premises; or
- (h) the applicant has, within the period of five years immediately preceding the date of the application to the Corporation, been convicted of an offence under subsection (3) of this section, section 93 (Powers of entry for inspection, etc.) or section 94 (Offences in connection with conduct of night cafés) of this Act;

and shall refuse to register or renew the registration of any premises for use as a night café if they are satisfied that a disqualification order is for the time being in force under section 100 of the Licensing Act 1964 or subsection (4) of section 11 of the Late Night Refreshment Houses Act 1969 in respect of the premises or of any person concerned or intended to be concerned in the conduct or management of the premises as a night café.

1964 c. 26.
1969 c. 53.

(3) (a) The Corporation may, on registering or renewing the registration of any premises for use as a night café, impose conditions as to—

- (i) the maintenance of 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, sanitation and ventilation of the premises;
- (iv) the maintenance in safe condition of the premises and of means of heating the premises.

(b) Any person concerned in the conduct or management of a night café 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 guilty of an offence:

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 in question was complied with, he shall be acquitted of the offence under this paragraph.

(4) Before registering any premises for use as a night café under this section the Corporation shall consider—

- (i) the suitability of the premises for such use having regard to the matters referred to in paragraphs (a), (f) and (g) of subsection (2) of this section; and

- (ii) the conditions (if any) that should be imposed in relation to such matters if the premises are to be registered for such use;

PART VII
—cont.

and the Corporation shall consider those matters before renewing the registration of the premises if in the opinion of the Corporation there has been any material change in the circumstances affecting those matters or any of them.

(5) The Corporation may at any time revoke the registration of any premises on any ground upon which, pursuant to subsection (2) of this section, they are authorised or required to refuse to register or renew the registration of those premises, or if they are satisfied that any condition imposed under subsection (3) of this section has not been complied with.

(6) An application for registration or renewal of registration of any premises 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, the persons concerned or intended to be concerned in the conduct or management of the premises and the manner in which the premises are proposed to be used as the Corporation may reasonably require;

and the applicant shall supply such plans of the premises as the Corporation may reasonably require, and any application made or plans supplied to the Corporation as aforesaid shall on delivery become the property of the Corporation.

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

(8) (a) Any person making application for registration or renewal of registration of any premises under this section shall give public notice of the application (identifying the premises) in such form as the Corporation may prescribe—

- (i) by displaying the notice on or near the premises, in a place where it can conveniently be read by the public, for fourteen days beginning with the date of the application; and

PART VII
—cont.

- (ii) by advertisement in a local newspaper circulating in the borough not later than seven days after the date of the application;

and any person who fails to give any such notice as is required by this paragraph shall be guilty of an offence.

(b) Any person objecting to an application for registration or renewal of registration of any premises under this section shall give notice in writing of his objection to the Corporation and shall serve a copy of such notice upon the applicant, stating in general terms the grounds of the objection, not later than twenty-one days after the date of the application, and when considering the application the Corporation shall take such objection into account.

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

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

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

Saving for
existing
night cafés.

92. It shall be lawful for any person who—

- (a) immediately before the appointed day was using any premises as a night café; and
(b) had before that day duly applied for the registration of those premises under the last foregoing section;

to continue to use those premises as a night café until he is informed of the decision with regard to his application.

93.—(1) (a) Any duly authorised officer of the Corporation (on producing, if so required, some duly authenticated document showing his authority), or any police officer, may at all reasonable times enter upon, inspect and examine any premises used, or which he has reasonable cause to believe are used, as a night café or intended to be so used, and may do all such things as are reasonably necessary for the purpose of ascertaining—

PART VII
—cont.

Powers of entry for inspection, etc.

- (i) whether there is, or has been, in or in connection with the premises, any contravention of the provisions of this Part of this Act or of any condition imposed under the powers of section 91 (Registration of premises) of this Act; or
- (ii) whether or not circumstances exist which would authorise the Corporation to take any action under this Part of this Act.

(b) Any person who wilfully obstructs any person acting in the exercise of his powers under this subsection shall be guilty of an offence.

(2) 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 the foregoing subsection as they apply to entry into premises for the purposes of subsection (1) of that section.

94. If a night café is conducted in a disorderly manner, or has been habitually used for an unlawful purpose or for indecent displays or as a resort of criminals or prostitutes, or if any drug to which the Drugs (Prevention of Misuse) Act 1964 or the Dangerous Drugs Act 1965 applies, or any specified drug, is sold, supplied or otherwise distributed on the premises by a person to any other person resorting thereto, any person concerned in the conduct or management of the night café and any other person who knew or had reasonable cause to suspect that the premises were so used or so conducted as aforesaid or let the premises or otherwise made the premises available to any person by whom an offence in connection with such use has been committed or that such sale, supply or distribution was taking place on the premises shall be guilty of an offence:

Offences in connection with conduct of night cafés.
1964 c. 64.
1965 c. 15.

Provided that nothing in this section shall apply to the administration of a drug or a specified drug for the purposes of medical treatment or in accordance with the directions of a medical practitioner registered pursuant to the Medical Act 1956.

1956 c. 76.

95. Notwithstanding the reference in subsection (1) of section 90 (Interpretation of this Part of Act) of this Act to the hours of eleven o'clock in the evening and five o'clock in the

Application of Late Night Refreshment Houses Act 1969.

PART VII
—cont.

1969 c. 53.

morning, where premises are for the time being registered with the Corporation under section 91 (Registration of premises) of this Act 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 the hours of ten o'clock in the evening and five o'clock in the morning or, if an earlier hour than five o'clock in the morning is for the time being prescribed for the closing of the premises in a condition imposed under subparagraph (v) of paragraph (a) of subsection (3) of the said section 91, such earlier hour, and the provisions of the said Act shall apply accordingly.

As to
exemption
of certain
premises.

96.—(1) If in the opinion of the council it becomes unnecessary that premises of any particular class or description should remain subject to the provisions of this Part of this Act, they 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 such provisions, and the provisions of subsections (2) and (3) of section 151 (The appointed day) of this Act shall (with any necessary modifications) apply to any such resolution and the date fixed thereby.

(2) If in the opinion of the council after the date so fixed by any such resolution, having regard to any relevant circumstances any particular premises exempted from the provisions of this Part of this Act by virtue of such a resolution should again become subject to the said provisions, they may by a further resolution determine that those premises shall again become subject to the said provisions as from a date to be fixed by such further resolution, and the provisions of subsections (2) and (3) of the said section 151 shall (with any necessary modifications) apply to any such further resolution and the date fixed thereby.

PART VIII

HACKNEY CARRIAGES, ETC.

Interpretation
of this Part
of this Act.

97. In this Part of this Act, unless the subject or context otherwise requires—

“hackney carriage” has the same meaning as in the Act of 1847, but does not include a public service vehicle;

“motor vehicle” has the same meaning as in the Act of 1960;

“the prescribed distance” has the same meaning as in section 171 of the Public Health Act 1875;

1875 c. 55.

“ private hire vehicle ” has the meaning assigned to it by section 101 (Provisions as to motor vehicles let for hire) of this Act.

PART VIII
—cont.

98.—(1) No person shall cause or permit any vehicle other than a hackney carriage to wait on any stand for hackney carriages during any period for which that stand has been appointed or is deemed to have been appointed by the Corporation under the provisions of this Act.

Prohibition of other vehicles on hackney carriage stands.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

(3) Nothing in this section shall be deemed to make it an offence for a public service vehicle driver on a stage carriage or express carriage route to stop his vehicle on a stand or part thereof for so long as may be necessary solely for the taking up or setting down of passengers.

99.—(1) Any person who exhibits or permits to be exhibited in the borough 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 shall be guilty of an offence.

Misleading signs on motor vehicles.

1962 c. 13.

(2) Without prejudice to the generality of the provisions of subsection (1) of this section, any person who exhibits or permits to be exhibited in the borough 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 ” shall be deemed to have contravened the provisions of that subsection.

Provisions as to hackney carriages.

100. The provisions of Schedule 3 to this Act shall apply to the hackney carriages licensed by the Corporation.

101.—(1) The Corporation may make byelaws for applying in the borough with such consequential modifications as may be provided for in the byelaws, any of the provisions of—

Provisions as to motor vehicles let for hire.

(a) sections 37 to 67 of the Act of 1847 as they apply with respect to hackney carriages and their proprietors and drivers; and

(b) any byelaws made by the Corporation and in force with respect to such carriages, proprietors and drivers;

to every private hire vehicle and their proprietors and drivers.

(2) In this section “ private hire vehicle ” means a motor vehicle not being a vehicle licensed under the provisions of the Act of 1847, with respect to hackney carriages, standing or plying

PART VIII
—cont.

for hire in the borough notwithstanding that such vehicle stands or plies for hire from private premises only and whether or not it is on view to the public and which is kept for the purpose of being let out for hire with a driver for the carrying of passengers in such circumstances that it does not require to be licensed under the said provisions, but does not include—

- (a) a vehicle which is kept and used ordinarily for the purpose of being let out for hire by the day or for longer periods of hire;
- (b) a vehicle kept by any person in connection with any business carried on by him as a funeral director or undertaker and used wholly or mainly in connection with that business; or
- (c) a public service vehicle.

PART IX

FINANCE

Power to borrow.

102.—(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 five 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.

Existing borrowing powers continued.

103.—(1) (a) All statutory borrowing powers under any enactment repealed by this Act which have been exercised before the commencement of this Act and all existing securities of the Corporation granted, issued or created thereunder shall be deemed to have been exercised, granted, issued or created under this Act and the provisions of this Act shall apply thereto notwithstanding anything in any enactment, order, deed, mortgage or other document to the contrary.

(b) Nothing in section 38 of the Interpretation Act 1889 shall affect the repeal of the said enactments or shall continue in force any of the provisions of the repealed enactments relating to such borrowing powers. PART IX
—cont.
1889 c. 63.

(2) All statutory borrowing powers under any enactment repealed by this Act which were in force immediately before, but had not been exercised before the commencement of this Act, shall (notwithstanding the repeal by this Act of such enactment) continue to be in force and to have effect as fully and effectually as if this Act had not been passed.

(3) The provisions of Part IX of the Act of 1933 shall extend and apply to money borrowed, or to be borrowed, in the exercise of the statutory borrowing powers referred to in this section as if it were borrowed under Part IX of that Act, but no consent of a sanctioning authority shall be necessary if, under the repealed enactment, such consent has been given or is not required.

(4) All sums borrowed by the Corporation before the commencement of this Act under any statutory borrowing power referred to in subsection (1) of this section and not repaid before the commencement of this Act and all sums which may after the commencement of this Act be borrowed by them under any statutory borrowing power referred to in subsection (2) of this section shall, notwithstanding the repeal of any Act by or under which such statutory borrowing power was created or authorised, be repaid within the respective periods within which they are required to be repaid by or under that Act.

104. In addition to the modes of borrowing prescribed by the Act of 1933 or any other enactment, the Corporation may raise money— Power to
raise money
by issue
of bills.

- (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 “Torbay Corporation bills” (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:

PART IX
—cont.

- (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 Corporation 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) amending or revoking 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:
- (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 six hundred thousand pounds; or
 - (ii) one-fifth of the amount of the estimated gross rate income of the Corporation 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:

In this section—

“gross rate income” means the gross rate income as used in the determination of the product of a rate of one 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.

105. 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. Power to raise money by issue of bearer bonds.

106.—(1) Any method by which the Corporation are empowered by any enactment (including the last two foregoing sections) 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. Power to raise money abroad.

(2) (a) 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.

(b) 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).

107. Section 7 of the Local Government (Financial Provisions) Act 1963 and Schedule 1 to that Act in their application to the Corporation shall have effect as if the following provisions were substituted for paragraph 1 in that schedule:— Amendment of power to issue bonds. 1963 c. 46.

“ 1.—(a) Subject to the provisions of sub-paragraph (b) of this paragraph bonds issued under this Act shall—

- (i) bear interest at such rate as the Corporation may determine at the time of the issue of the bonds;
- (ii) be issued for such period as the Corporation may determine being not less than a period of one year.

(b) For the purposes of sub-paragraph (a) of this paragraph—

- (i) bonds issued to and held continuously by building societies and persons and bodies of such other

PART IX
—cont.

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;

- (ii) a bond 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 be repaid upon the death of the holder or in any other case for the purpose of relieving hardship to the holder.”.

Closing of
registers.

108.—(1) The Corporation may close any transfer books or the registers of transfers of authorised securities (other than stock) during the whole of the period of thirty days, or any shorter consecutive period, next before the date on which interest on the authorised securities to which such transfer book or register relates is payable.

(2) The persons who, on the date on which the transfer book or register is closed, are entered therein as holders of any security of the class to which such transfer book or register relates, shall be entitled to the interest next payable thereon.

Interest and
dividends
by post.

109.—(1) The Corporation may give notice by post to the registered holder of an authorised security that they intend to send interest or dividends on the security to him by post if he does not object; and, unless the registered holder within fifteen days after the date of service of the notice notifies the Corporation that he objects, the Corporation may from time to time send orders for the payment of interest and dividend warrants to him by post at the address in the register.

(2) If the registered holder of an authorised security notifies the Corporation that he wishes interest or dividends on the security to be sent to another person at an address specified in the notice, the Corporation may from time to time send orders for the payment of interest, or dividend warrants, to that person by post at that address.

(3) For the purposes of this section the Corporation may treat as the registered holder of an authorised security that one of the joint holders of the security who is first named in the register, or such other of them as the joint holders may in writing direct.

(4) The posting by the Corporation of an order for the payment of interest, or a dividend warrant, in pursuance of this section shall discharge the Corporation from any obligation to deliver the order or warrant to the holder of the security.

(5) An order or warrant sent by post in pursuance of this section shall be deemed a cheque; and the Corporation shall in relation thereto be deemed a banker within the meaning of the Bills of Exchange Act 1882.

PART IX
—cont.

1882 c. 61.

(6) In this section “ authorised security ” means any mortgage or other security that the Corporation are for the time being authorised to grant or issue, but does not include stock or bonds.

110. If any money is payable by the Corporation to any employee (other than wages or salary) or creditor or the holder of any authorised security and the person entitled to such payment is a minor, the receipt of the guardian shall be a sufficient discharge to the Corporation. Receipt in case of minors, etc.

111.—(1) Where the holder of an amount of any authorised security occupies an office or official position, his official description may be entered in the register in lieu of his name and where in relation to an amount of an authorised security of any description any such official description is so entered, an instrument of transfer and an instrument containing directions with respect to the payment of interest on that amount shall if executed by the person for the time being occupying that office or position be as effectual as if his name were entered as the holder of that amount. Designation of holders of authorised securities in register.

(2) Notwithstanding anything in subsection (1) of this section, the Corporation shall not be required—

(a) to enter in the register any designation or description which appears to them unreasonably long or elaborate; or

(b) to enter in the register both the name of a holder of an authorised security and any such official description as could under subsection (1) of this section be so entered in lieu of his name.

(3) Where the official description in the register is that of trustee, the official description so entered shall not constitute notice of any trust for the purposes of section 209 of the Act of 1933.

(4) In this section “ register ” means the register of any authorised security kept by or on behalf of the Corporation.

112.—(1) The Corporation may at any time create a reserve fund in respect of any undertaking, department or service of the Corporation from which revenue is derived by setting aside such Reserve funds.

PART IX
—cont.

an amount as they may from time to time think reasonable and accumulating the same until the fund so provided amounts to the maximum for the time being prescribed by the Corporation, not exceeding a sum equal to one-fifth of the aggregate capital expenditure on the undertaking, department or service or such higher sum as may be approved by the Secretary of State.

(2) The reserve fund provided 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 providing, renewing, improving or extending any works, buildings, machinery, vehicles, plant or conveniences, and equipment and appliances in connection therewith, office machinery, furniture, fittings and appliances 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 provided under this section although such fund may not at the time have reached or may have been reduced below the prescribed maximum.

(4) All moneys for the time being standing to the credit of a reserve fund shall (in so far as those moneys are not for the time being required for the purposes of the fund) be invested in any security in which the Corporation are for the time being authorised by any enactment to invest moneys.

(5) 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 provided under this section in respect of that undertaking, department or service.

113.—(1) The Corporation may establish a fund to be called “the insurance fund” with a view to providing a sum of money which shall be available for making good all such losses, damages, costs and expenses as may from time to time be specified in a resolution of the council (in this section referred to as “the specified risks”).

PART IX
—cont.

General
insurance
fund.

(2) The establishment of an insurance fund under this section shall not prevent the Corporation from insuring in one or more insurance office against the whole or any part of all or any of the specified risks.

(3) When the insurance fund shall amount to the prescribed amount as hereinafter defined the Corporation shall discontinue the appropriations to the fund under subsection (4) of this section but if the fund is at any time reduced below the prescribed amount the Corporation shall recommence and continue such appropriations until the fund be restored to the prescribed amount and if at any time the Corporation reduce the prescribed amount so that there are more moneys in the insurance fund than the sum so prescribed, such moneys shall be transferred to the general rate fund, and, if any sums shall have been appropriated from the housing revenue account, or from the fund or moneys of any undertaking or service under the said subsection (4) to the housing revenue account or, as the case may require, to the fund or moneys of the undertaking or service, in such proportions as the Corporation consider equitable and any moneys so transferred to the general rate fund shall be apportioned between the several accounts of that fund in such proportions as the Corporation consider equitable.

(4) The Corporation may from time to time appropriate to the insurance fund such sums as they think fit from the appropriate account in the general rate fund or (in the case of an undertaking or service the accounts of which do not form part of the general rate fund) from the fund or moneys of that undertaking or service and, if they think fit, from the housing revenue account and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking or service of the Corporation which if the specified risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance:

Provided that any payments by contribution from the housing revenue account shall not exceed the proportion of the total yearly payments which in the opinion of the Corporation properly relates to the specified risks arising from the purposes for which that account is kept.

PART IX
—cont.

(5) (a) All moneys for the time being standing to the credit of the fund shall be invested in statutory securities, and the interest and other annual proceeds received by the Corporation in respect of such investments shall be carried to the general rate fund.

(b) The Corporation shall in every financial year, so long as the fund is less than the prescribed amount, carry to the credit of that fund out of the revenue moneys of the general rate fund an amount equal to the interest and other annual proceeds carried to the general rate fund in pursuance of the last foregoing paragraph.

(c) If and so long as the insurance fund amounts to the prescribed amount the interest and other annual proceeds received by the Corporation in respect of or on investments forming part of the insurance fund and carried to the general rate fund may be apportioned in the accounts of the Corporation between the several undertakings or services liable to contribute to the insurance fund, or (in the case of an undertaking or service the accounts of which do not form part of the general rate fund) transferred to the fund or moneys of that undertaking or service, in such shares or proportions as may be equitable.

(6) For the purposes of this section the Corporation may, if they deem it expedient, include in the specified risks, risks of accident to any teacher, caretaker or other person employed in any voluntary school in the borough.

(7) (a) The insurance fund shall be applied to meet any losses, damages, costs or expenses sustained by the Corporation in respect of the specified risks in the order of the dates on which such losses, damages, costs or expenses become ascertained, and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses, damages, costs or expenses, the Corporation may, with the sanction of the Secretary of State, borrow at interest under and subject to the provisions of Part IX of the Act of 1933 such sums of money as will be necessary to make up the deficiency.

(b) The amounts of the annual charges in respect of interest on and repayment of principal of any sums so borrowed and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the general rate fund or, as the case may require, out of the fund or moneys of the undertaking or service and charged in the accounts of the Corporation under the separate headings or divisions in respect of such undertakings or services of the Corporation, and in such proportions as the Corporation may determine having regard to the risks through which such deficiencies arise.

(8) In the event of the insurance fund ceasing to be required to meet losses, damages, costs and expenses in respect of the

specified risks, the insurance fund may be carried to and form part of any capital fund established by the Corporation under section 1 of the Local Government (Miscellaneous Provisions) Act 1953, or (if the Corporation so determine) shall be applied in such other manner as the Secretary of State may approve towards the discharge of any debt of the Corporation or otherwise for any purpose for which capital money may properly be applied.

PART IX
—cont.

1953 c. 26.

(9) In this section—

“ insurance office ” means—

- (i) an insurance company; or
- (ii) an underwriter being a member of an association of underwriters;

“ prescribed amount ” means such sum as may from time to time be prescribed by the council; and

“ statutory securities ” means any securities in which trustees are for the time being authorised by law to invest trust moneys or in which the Corporation are authorised to invest moneys forming part of the superannuation fund maintained by them.

114.—(1) If, in respect of any financial year, the revenue and the investment income (if any) of any undertaking of the Corporation shall together exceed the moneys expended or applied by the Corporation in respect of that undertaking properly chargeable to revenue, the Corporation may, in respect of that year, apply out of the general rate fund a sum not exceeding the amount of such excess in any of the following ways or to any of the following purposes:—

Application
of revenue of
undertakings.

- (a) the reduction of capital moneys borrowed for the purposes of the undertaking;
- (b) in providing, renewing, improving or extending any works, buildings, machinery, plant or conveniences for the purposes of, or forming part of, the undertaking, or in payment of any expenses in respect of the undertaking which might otherwise have been defrayed out of capital moneys;
- (c) in providing working capital for the undertaking;
- (d) in exercise of the powers of the Corporation under section 112 (Reserve funds) of this Act of establishing and maintaining a reserve fund in respect of the undertaking.

(2) In this section the expression “ investment income ” in relation to an undertaking means so much of the income received

PART IX
—cont.

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

Power to advertise advantages of borough.

115.—(1) The Corporation may incur expenditure in advertising and making known the advantages, facilities and amenities afforded by the borough as a tourist centre, place of architectural, historical or cultural interest or holiday resort in any manner which the Corporation may think fit and without prejudice to the generality of the foregoing provisions of this section they may for that purpose—

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

1931 c. 17.
1936 c. 48.

(2) Any expenditure under this section shall be separate from and additional to the expenditure, if any, of the Corporation under the Local Authorities (Publicity) Act 1931 or the Health Resorts and Watering Places Act 1936.

Provisions as to entertainments.
1948 c. 26.

116.—(1) The Corporation may make byelaws for securing good and orderly conduct during any entertainment provided or arranged by the Corporation under the provisions of section 132 of the Local Government Act 1948.

(2) Any person who contravenes any byelaw made under this section shall be guilty of an offence.

(3) Subsections (3), (4) and (5) of section 132 of the said Act of 1948 (which relate to the limitation of expenditure and the powers relating to the borrowing of money for the purposes of that section) shall cease to apply to the council.

Expenses of public ceremonies, entertainment, etc.
1956 c. 36.

117.—(1) The Corporation may make reasonable payments for or in connection with the arrangement and conduct of ceremonies relative to or arising out of any statutory functions of the Corporation.

(2) The Local Authorities (Expenses) Act 1956 shall have effect in its application to the Corporation as if in paragraph (b) of section 1 thereof, after the words “distinguished persons”, there were inserted the words “residing in or”.

Recovery of rates from certain owners.

118.—(1) Where the owner of any hereditament has agreed with the occupier thereof that the owner shall pay the general rate charges on such hereditament, the owner shall be liable to pay to the Corporation so much of any payment in respect of rent received by him from the occupier as shall represent the proportion of rate included in such payment and so much of such payment may on proof of such agreement be recovered by

the Corporation from the owner in the same manner and subject to the same conditions under and subject to which rates are recoverable from occupiers of rated hereditaments. The remedy of the Corporation under this section shall be in addition and without prejudice to their other remedies for the recovery of rates.

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

(3) This section shall not apply to any hereditaments to which section 55 (Rating of, and collection of rates by, owners) of the General Rate Act 1967 applies by virtue of a resolution of the 1967 c. 9. Corporation.

119. For the purposes of section 61 (Recovery of rates from tenants and lodgers) of the General Rate Act 1967, the rates due from the person rated for any hereditament within the borough shall be deemed to be in arrear if such rates are not paid within two months after lawful demand in writing has been made for the same.

As to recovery of rates from tenants and lodgers.

120. Notwithstanding anything contained in any other enactment—

Collection and recovery of water rates, rents or charges.

(a) any water rate, rent or charge payable to the Corporation as agent for the water undertakers by any person in respect of a supply of water to any premises in the borough may be demanded and collected together with the general rate payable by that person;

(b) in respect of premises within the borough the same book may be used for the water rates, rents or charges and the general rate;

(c) any such water rate, rent or charge may (without prejudice to any other right or remedy of the Corporation) be recoverable in the same manner and subject to the same provisions as apply to the recovery of the general rate.

121. Notwithstanding anything in any enactment or in any rule of law or otherwise to the contrary where it is agreed between the Corporation and a person at any time entitled to any mortgage granted by the Corporation to extend the time for the repayment of the principal moneys secured by such mortgage or to alter the rate of interest payable by the Corporation on the principal moneys so secured and not repaid, or both, to extend such time and to alter such rate of interest, effect may be given thereto by an endorsement in writing under the hands of such person (or in the case of a corporate body, by the duly authorised representative of that body) and of the town clerk or his duly authorised representative endorsed on the deed by which such mortgage was

Modification of mortgages by endorsement under hand.

PART IX
—cont.

originally granted, and the provisions of any such endorsement shall be deemed to be incorporated in the said deed and shall, as from the date specified in such endorsement, operate and take effect accordingly.

PART X

SUPERANNUATION

Interpretation
and com-
mencement of
this Part.
1937 c. 68.
1953 c. 25.

122.—(1) In this Part of this Act except as otherwise expressly provided or unless the context otherwise requires—

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

“the Act of 1953” means the Local Government Superannuation Act 1953;

“death grant” and “transfer value” have in relation to a contributor the meanings assigned to them respectively by the Regulations of 1954;

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

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

“the principal Acts” means the Local Government Superannuation Acts 1937 to 1953;

“the Regulations of 1954” means the Local Government Superannuation (Benefits) Regulations 1954;

“return of contributions” in relation to a person who has ceased to be a contributor includes any sum paid to or in respect of him by way of interest on the amount of the contributions returned to him;

“superannuation benefits” includes any benefit which is or may be granted in pursuance of the principal Acts or the regulations made thereunder or in pursuance of any local Act or scheme or local Act scheme;

and other expressions to which meanings are assigned by the Act of 1937 have the same respective meanings for the purposes of this Part of this Act.

(2) Without prejudice to the provisions of sections 123 (Extension of section 18 of Act of 1953), 126 (Power to require designated sums to be paid to trustees) and 127 (Transfers of employment) of this Act, the provisions of the principal Acts and the regulations made thereunder shall apply and have effect in relation to a person who is a contributor on or after the date of the coming into force of this Part of this Act subject to the extensions, modifications and applications of the said Acts and regulations contained in this Part of this Act.

(3) This Part of this Act shall come into force on the appointed day.

123.—(1) Subsection (1) of section 18 of the Act of 1953 shall extend and apply in relation to the widow or any qualifying dependant of a person (in this section referred to as “the deceased contributor”) who dies on or after the appointed day, and within one year after ceasing to hold an employment in which he was a contributor as it applies in relation to the widow or other dependant of an employee who dies while in the employment of the Corporation.

PART X
—cont.
Extension of
section 18 of
Act of 1953.

(2) In this section—

“qualifying dependant” means a dependent widower or a dependent child of the deceased contributor;

“dependent widower” means, in relation to a female deceased former contributor, a person who was the husband of the deceased contributor at the time of her death and who is permanently incapacitated and is shown to the satisfaction of the Corporation to have been wholly or mainly dependent on her;

“dependent child” means a person who is for the time being in his period of childhood and full-time education, who—

(a) is a legitimate child of the deceased contributor other than a child born more than twelve months after the date on which the deceased contributor ceased to hold his employment; or

(b) is an adopted child of the deceased contributor other than a child adopted after the termination of the deceased contributor’s last marriage or on or after the date referred to in the foregoing sub-paragraph; or

(c) is an illegitimate child of the deceased contributor other than a child born after the termination of the deceased contributor’s last marriage or more than twelve months after the date referred to in sub-paragraph (a) of this definition; or

(d) not being a person such as is referred to in sub-paragraphs (a), (b) or (c) of this definition, is the child of any person who was a wife or is the widow or dependent widower of the deceased contributor other than a child born or adopted after the termination of the marriage of such person to the deceased contributor or on or after the date referred to in sub-paragraph (a) of this definition:

Provided that—

(i) no person such as is referred to in sub-paragraph (c) or (d) of this definition shall be deemed to be a dependent child unless he was, in the opinion

PART X
—cont.

of the Corporation, wholly or mainly dependent on the deceased contributor at the time of the death of such deceased contributor; and

(ii) no female person shall be deemed to be a dependent child as respects any period during which she is married or is cohabiting with a man as his wife.

(3) (a) A person shall be deemed for the purposes of this section to be in his period of childhood and full-time education—

- (i) while he is under the age of sixteen years; or
- (ii) while he is receiving full-time instruction at any university, college, school or other educational establishment; or
- (iii) during any period approved by the Corporation for the purposes of this paragraph in which he is undergoing training for any trade, profession or vocation:

Provided that unless the Corporation otherwise direct he shall not be deemed to satisfy the condition specified in the foregoing sub-paragraph (a) (ii) or sub-paragraph (a) (iii) unless there has up till then been no time since he attained the age of sixteen years when he did not satisfy one or other of those conditions.

(b) As respects any period during which neither of the conditions specified in the foregoing sub-paragraph (a) (ii) or sub-paragraph (a) (iii) of this subsection is satisfied the Corporation may direct either—

- (i) that the period shall be disregarded for the purposes of the proviso to sub-paragraph (a) of this subsection; or
- (ii) that the period shall be so disregarded and that the whole or any part of that period shall also be treated for the purposes of this section as part of his period of childhood and full-time education.

Gratuities
to non-
teaching staff
in voluntary
schools.

124. For the purposes of section 18 of the Act of 1953, as applied to the Corporation, a person employed in a voluntary school in the borough, otherwise than as a teacher, shall be deemed to be employed by the Corporation, and the Corporation may grant to or in respect of any such person a gratuity in accordance with the provisions of the said section 18 as amended by the last foregoing section.

Benefits in
certain cases
of premature
retirement.

125.—(1) Where, after the coming into force of this Part of this Act, the employment of a contributor 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 contributor 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.

PART X
—cont.

(2) Where, after the coming into force of this Part of this Act, a contributor 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—

- (i) where a person has become entitled to superannuation benefits 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 benefits 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 superannuation benefits by virtue of subsection (2) of this section, dies before any payment on account of such benefits 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 contributor.

(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 allowance 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 Act of 1953 and of any rules made thereunder, a person entitled to superannuation benefits 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 those benefits first become payable to him and a superannuation benefit as aforesaid shall be deemed to be such superannuation benefits or benefit as is referred to in subsection (1) of the said section 16.

(6) In this section "pensionable age" in relation to any person means the earliest age at which, if he were to remain a

PART X
—cont.

contributor without a break of service, he would, on ceasing to hold 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 principal Acts or the regulations made thereunder.

Power to
require
designated
sums to be
paid to
trustees.

126.—(1) A contributor may at any time by notice in writing to the Corporation, given in such form as the Corporation may approve, direct that the provisions of this section shall apply to the amount (if any) which would otherwise be payable to his estate by way of death grant, and that any such amount (hereafter in this section and in Schedule 4 to this Act referred to as “the designated sum”) instead of being paid to his estate shall be paid to such responsible persons (not being less than two nor more than four in number and hereafter in this section and in the said Schedule 4 referred to as “the trustees”) as shall be appointed for that purpose by the Corporation, to be held upon the trusts and with and subject to the powers and provisions in force under the said Schedule 4 at the date of such direction.

(2) Any direction given in accordance with this section shall be effective and the designated sum shall accordingly be paid to the trustees and shall be held by them upon the trusts and with and subject to the powers and provisions in force under the said Schedule 4 at the date of such direction.

(3) The trusts, powers and provisions set out in the said Schedule 4 may from time to time be varied by resolution of the Corporation but so that the trusts, powers and provisions as so varied shall only apply in relation to directions received by the Corporation after the making of such variations.

(4) Any direction given by a contributor under this section shall be irrevocable and binding on such contributor and his estate and all persons interested therein.

(5) In this section and in the said Schedule 4 “contributor” includes any person who on or after the date of the coming into force of this Part of this Act is a contributor to the fund, and “former contributor” shall be construed accordingly.

Transfers of
employment.

127.—(1) The Corporation may, in accordance with the provisions of a scheme made by them for the purposes of this section—

(a) as respects any contributor who ceases or has ceased to hold employment under the Corporation in order to enter an employment (in this paragraph referred to as the “new employment”) in relation to which interchange arrangements are not for the time being in force, if that contributor so desires, in lieu of making any such payment to him from the fund as is referred to in section 10

of the Act of 1937 (or, where such a payment has been made, if it is repaid to the fund by the contributor), either—

PART X
—cont.

(i) make from the fund in respect of him a payment by way of a transfer value to the body or persons responsible for administering any superannuation scheme in connection with the new employment; or

(ii) subject to such consequential provisions as may be prescribed in the scheme, award to or in respect of him superannuation benefits calculated by reference to the service which he was entitled to reckon at the date when he ceased to hold his employment under the Corporation:

Provided that no benefit shall be paid to a person by virtue of this sub-paragraph before such date as may be prescribed under the scheme; and

(b) as respects any person who enters or has entered into employment under the Corporation from an employment in relation to which interchange arrangements are not for the time being in force, receive any payment made by or in respect of him to the fund, whether by way of transfer value or otherwise, and shall confer on him by virtue of such payment such rights under the principal Acts and the regulations made thereunder as may be prescribed under the said scheme.

(2) A scheme made under this section shall be of no effect unless it has been approved by the Secretary of State and the Secretary of State may approve any such scheme either with or without modifications after consultation with such organisations as are, in his opinion, representative of the interests concerned.

(3) A scheme made under this section may be amended or revoked by a subsequent scheme.

(4) Any body or persons responsible for administering a superannuation scheme in connection with an employment as respects which interchange arrangements are not for the time being in force may make any amendments or modifications of that superannuation scheme that may be desirable to facilitate the operation of any scheme made by the Corporation under this section.

(5) Where any provision of the principal Acts or the regulations made thereunder which has effect in relation to a contributor contains a reference to a transfer value, such reference shall be deemed (as may be appropriate) to include a reference to

PART X
—cont.

any such payment by way of a transfer value as is referred to in sub-paragraph (i) of paragraph (a) of subsection (1) of this section or to such payment by way of a transfer value or otherwise as is referred to in sub-paragraph (b) of that subsection.

1948 c. 33.

(6) In this section “interchange arrangements” means any arrangements, whether by virtue of rules made under section 2 of the Superannuation (Miscellaneous Provisions) Act 1948 or by virtue of any other enactment apart from this section, providing for the preservation of superannuation rights following a change of employment.

Transfer of
certain sums
from
fund.

128.—(1) If a contributor 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 rate fund 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 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, 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:

1965 c. 51.

Provided that 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.

Exclusion of
certain
remuneration
and service for
superannuation
purposes.
1967 c. 12.

129.—(1) Subject to the provisions of subsection (4) of this section, subsection (2) of this section applies to employees—

(a) who are contributory employees; or

(b) who are employed in reckonable service within the meaning of the Teachers’ Superannuation Act 1967; or

(c) who are firemen participating in a scheme for the time being in force under section 26 of the Fire Services Act 1947; or

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—cont.

1947 c. 41.

(d) who by virtue of the provisions of the Superannuation (Policy and Local Government Schemes) Interchange Rules 1948 to 1970 are not subject to the provisions of the principal Acts;

and who are employed whole-time by the Corporation, a magistrates' court committee, the managers or governors of a voluntary school, a local valuation panel or any voluntary organisation, undertakers or other body approved by the Secretary of State the employees of which participate in the benefits of the fund.

(2) The salary, wages, fees and other payments paid or made (whether before or after the passing of this Act) to an employee to whom this subsection applies in respect of any part-time employment (not being employment the duties of which may be performed during the hours which such employee is normally required to devote to his ordinary whole-time employment) by the Corporation or any other authority or body the employees of which participate in the benefits of the fund—

(a) as an instructor or other employee performing duties at, or for the purposes of, an evening institute or for the purposes of evening classes; or

(b) as a warden of, or other employee performing duties at, or for the purposes of, a youth centre; or

(c) as a civil defence instructor; or

(d) in any other capacity for the performance of duties which are not duties which he may be called upon to perform in his ordinary whole-time employment;

shall not be remuneration within the meaning of the principal Acts or of any other enactment affecting the fund, and the service of any such contributory employee in any such part-time employment shall not be reckoned as service for any of the purposes of those Acts.

(3) Where, before the passing of this Act, any person to whom subsection (2) of this section applies has paid any contribution or contributions to the fund which would not have been so paid if this section had been in force when such contribution or contributions were made, the Corporation shall repay to such person a sum equal to the amount of such contribution or

PART X
—cont.

contributions, together with compound interest thereon calculated to the date of repayment at the rate of three pounds per centum per annum with half-yearly rests.

(4) Subsection (2) of this section shall not apply to any such person as is referred to in subsection (3) of this section unless within six months after the passing of this Act he gives notice in writing to the Corporation that the said subsection (2) is to apply to him, whereupon that subsection shall apply to him as if this Act had come into force on the date of the receipt by the Corporation of such notice.

As to proof of continued existence of pensioners.

130. Notwithstanding anything in the Local Government Superannuation Acts 1937 to 1953, the Corporation shall not be required to make any payment by way of superannuation allowance or pension under those Acts or under the Pensions (Increase) Acts or any other superannuation, pension, compensation or other such payment under any statutory authority to or for the benefit of any person unless satisfactory proof is given to the Corporation in such manner and at such times as they may from time to time require of the continued existence of such person.

PART XI

MANAGEMENT

As to grants of burial licences and certificates of registration.

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

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

(b) any licence granted by the Corporation;

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

(2) For the purposes of—

(a) subsection (1) of this section; and

(b) any certificate of registration issued by the Corporation;

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.

132. The Corporation may within or outside the borough provide and maintain, or contribute to the cost of providing and maintaining, recreational, social and welfare facilities for their employees, and the Corporation may—

PART XI
—cont.

Recreational and other facilities for employees.

- (i) erect and maintain buildings;
- (ii) make such charges as they think fit for the use of facilities provided under this section;
- (iii) make regulations for the management of such buildings.

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

Microfilming of documents.

(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; 1958 c. 51. and 1962 c. 56.
- (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 document would have been receivable in any proceedings in any court in England or Wales if the town clerk certifies that—

- (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—

- (a) “document” means the whole or part of a register, book, map, plan or other document and includes a

PART XI
—cont.

notice, licence, certificate, scheme or order made, passed or granted by the council or any committee of the council;

(b) “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.

Inspection of plans relating to applications.

134. For the avoidance of doubt it is hereby declared that the Corporation or their duly authorised officer may on being requested to do so produce, for inspection by any person who satisfies them or their duly authorised officer that he has a genuine interest therein, any plans or drawings which have been lodged or deposited with them in connection with any application made to the Corporation pursuant to any enactment for a decision, determination, grant, consent, agreement, approval or permission.

Destruction of documents connected with applications.

135. 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:

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.

Information as to identity of drivers.

136. Section 85 of the Act of 1967 shall, in its application to offences committed within the borough, have effect as if the following subsection was substituted for subsection (1) thereof:—

1967 c. 69.

“(1) This section applies to any offence under Part III of the Civic Amenities Act 1967 or under any of the foregoing provisions of this Act except an offence against any of the following provisions, that is to say, sections 9 (9), 17 (5), 31 (5) (in its application to England and Wales), 77 (7) and 80 (8).”

Information centres.
1948 c. 26.

137. The powers of the Corporation under section 134 of the Local Government Act 1948 shall extend to any information concerning the borough and its neighbourhood.

Delegation of powers to committees and sub-committees.

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

(2) A committee lawfully authorised by the council to exercise any powers of the council under any enactment may, subject to any direction of the council, appoint such sub-committees consisting either wholly or partly of members of the committee as the committee think fit and, subject as aforesaid, may delegate with or without restrictions or conditions any of their functions to a sub-committee so appointed.

(3) A sub-committee appointed under this section (other than a sub-committee of a committee for regulating and controlling the finance of the council or of the borough) may include persons who are not members of the council:

Provided that—

- (a) a majority of the members of any such sub-committee shall be members of the council; and
- (b) whenever at any meeting of any such sub-committee the members present thereat do not include a majority of members of the council, any decision of the sub-committee shall have no effect unless it is confirmed by the committee.

(4) Nothing in this section shall authorise the appointment of a sub-committee for any purpose for which any committee of the council are authorised to appoint a sub-committee under any other enactment.

(5) The provisions of this section shall not operate to permit the council to delegate the power to levy, or issue a precept for, a rate or to borrow money.

139.—(1) Notwithstanding anything contained in paragraph 3 of Part V of Schedule 3 to the Act of 1933, or in any other enactment or rule of law to the contrary, the minutes of the proceedings or meetings of the council, or of any committee or sub-committee thereof, may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed and each leaf comprising those minutes being initialled at the same meeting or the next ensuing meeting of the council, or as the case may be, at the same or any subsequent meeting of the committee or sub-committee by the person presiding thereat:

As to minutes of council meetings, etc.

Provided that if a meeting of the council is held not later than ten days after a previous meeting of the council, the minutes of that previous meeting may be signed and each leaf comprising those minutes initialled at the next but one ensuing meeting of the council.

(2) Any minutes purporting to be signed as provided by subsection (1) of this section shall be received in evidence without further proof.

PART XI
—cont.Data
processing
equipment.

140. The Corporation may provide data preparation and data processing services for any local authority, statutory or other body or person or permit any such authority, body or person to use equipment for those purposes installed by the Corporation, and for those purposes the Corporation may perform all such other acts as may be necessary or convenient and may make such charges as may be agreed for the use of the said equipment.

Power to
require
information
as to
ownership
of premises.

141.—(1) The Corporation may for the purpose of enabling them to perform any of their functions under—

- (a) any enactment in force at the passing of this Act which authorises the Corporation to acquire land compulsorily;
- (b) any enactment mentioned in Schedule 5 to this Act; and
- (c) this Act and any local enactment in force at the passing of this Act which authorises the Corporation to serve notice upon the owner or occupier of lands or premises requiring the execution by such owner or occupier of works on such lands or premises or which authorises the Corporation to execute works on lands or premises within the borough;

require—

- (i) the occupier and any person having an interest in any premises in the borough, and any person who either directly or indirectly receives rent in respect of such premises to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest in those premises whether as freeholder, mortgagee, lessee or otherwise or the name and address of any person known to him to receive either directly or indirectly the rent in respect of those premises; and
- (ii) any person who has sold or otherwise disposed of, leased or let any premises in the borough to state in writing the name and address of the person to whom he has sold or otherwise disposed of, leased or let those premises.

(2) Any person who having been required by the Corporation in pursuance of this section to give to them any information fails to give that information, or knowingly makes any misstatement in respect thereof, shall be guilty of an offence.

(3) For the purposes of this section the expression “interest” includes any legal estate or interest in the premises or in any rentcharge issuing out of those premises.

(4) The provisions of any of the enactments referred to in paragraph (b) of subsection (1) of this section which contain

power to require information as to the ownership of premises shall cease to apply to the Corporation in so far as they relate to the same subject-matter as this section.

PART XI
—cont.

142.—(1) Any power conferred on an officer of the Corporation by or under any enactment to enter upon and inspect any building or works in course of construction shall include a power to use, free of expense, for the purpose of the entry or inspection, any ladders, scaffolding and plant in or about the building or works.

Power to use ladders, etc., for entry or inspection.

(2) The builder of, or contractor for, any building or works or any person employed by him in or about any building or works who—

(a) refuses to give to such an officer all reasonable assistance in the exercise of the powers conferred by this section; or

(b) otherwise obstructs such an officer in the exercise of those powers;

shall be guilty of an offence.

143.—(1) Where an officer employed by the Corporation, other than the town clerk, has given a general notice to the town clerk which, if the officer had been a member of a council, would have been deemed to be a sufficient disclosure of his interest in any contract or proposed contract by virtue of section 76 (4) of the Act of 1933, he shall be deemed for the purposes of section 123 of that Act to have given notice to the Corporation of his pecuniary interest in that contract or proposed contract.

Disclosure by officers of Corporation of interest in contracts.

(2) The town clerk shall record in a book to be kept for the purpose particulars of any notice given under the preceding subsection, and the book shall be open at all reasonable hours to the inspection of any member of the council.

(3) Where the town clerk records in the said book a statement of matters concerning himself which, if he had been any other officer employed by the Corporation, might have been the subject of a notice under subsection (1) of this section, that record shall have the same effect for the purposes of section 123 of the Act of 1933 as a notice under subsection (1) of this section.

144.—(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 council shall be that specified in the resolution instead of that specified in the Act of 1933 or in any other enactment and any thing 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.

PART XI
—cont.

(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.

As to breach of conditions of consent of Corporation.

145. Where, under any enactment, the Corporation give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose, any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences, equivalent to the execution of the work or the doing of the act or thing without the required consent.

Notice of alteration of rents without notice to quit.

1968 c. 42.

146.—(1) Section 12 of the Prices and Incomes Act 1968 (which enables a local authority to increase the rent payable to the authority for houses let on a weekly or other periodical tenancy whose rents fall to be carried to the authority's housing revenue account without the tenancy being terminated) shall—

1958 c. 42.

- (a) apply to all houses within the meaning of the Housing (Financial Provisions) Act 1958 belonging to the Corporation; and
- (b) as so applied, extend to a reduction as well as to an increase of rent.

(2) Accordingly the said section 12 shall, as it applies to the Corporation as a local authority within the meaning of that section, have effect as if in subsection (1)—

- (a) the words “on a weekly or other periodical tenancy” were omitted;
- (b) after the word “increased” there were inserted the words “or reduced”; and
- (c) after the word “increase” there were inserted the words “or reduction”;

and as if in subsection (4) for the definition of “local authority houses” there were substituted the words “‘local authority houses’ are houses belonging to the local authority” and after the word “increase” there were inserted the words “or reduction”.

PART XII

GENERAL

Confirming authority for byelaws.

147. 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.

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

PART XII
—cont.

Local
inquiries.

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

(3) In this section “Minister of the Crown” has the same meaning as in the Ministers of the Crown (Transfer of Functions) Act 1946.

1946 c. 31.

149. 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.

Restriction
on right to
prosecute.

150.—(1) Section 300 of the Act of 1936 shall apply to appeals to the magistrates’ court under this Act; and sections 301 and 302 of that Act shall apply accordingly.

Appeals.

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

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

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

- (i) no proceedings shall be taken in respect of any failure to execute the work, or take the action, nor shall the Corporation themselves execute the work or take the action; and
- (ii) that person may carry on that business, and use those premises for that purpose.

151.—(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.

PART XII
—cont.

(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 the page, or part of the 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 a day fixed by resolution under this section requires the 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

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

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 150 (Appeals) of this Act.

Saving for trusts, etc.

152. No power conferred upon the Corporation by the following provisions of this Act, namely:—

Section 16 (Disposal of land);

Section 132 (Recreational and other facilities for employees);

shall be exercised in such a manner—

(a) as to be at variance with a 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

PART XII
—cont.

- (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.

153.—(1) In proceedings under any enactment, a document purporting to be certified by the town clerk as a copy of a resolution passed, order made or report received by the council or a committee thereof on a specified date, shall be evidence that that resolution, order or report was duly passed, made or received by the council or committee on that date. Evidence of proceedings, appointments, etc.

(2) In proceedings under any enactment, a document purporting to be certified as aforesaid as a copy of the appointment of, or of an authority given to, an officer of the council or a committee thereof on a specified date shall be evidence that that appointment was duly made, or that that authority was duly given, by the council or committee on that date.

(3) In this section “ officer ” includes a servant and an agent.

(4) Section 286 of the Act of 1936, as applied by, or incorporated in, any other enactment, shall cease to apply to the council and its committees.

154.—(1) Where an offence under the sections of this Act mentioned in Schedule 6 to this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, 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. Liability of directors, etc.

(2) In the foregoing subsection, “ 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.

155.—(1) Any person guilty of any of the offences against the provisions of this Act specified in column 1 of Part I of Schedule 7 to this Act shall be liable on summary conviction to a fine not exceeding the maximum specified in column 2 of Part I of the Penalties for offences against Act.

PART XII
—cont.

said schedule opposite to such offence, or to imprisonment for a period not exceeding the maximum specified in column 3 of Part I of the said schedule opposite to such offence.

(2) Any person guilty of any of the offences against the provisions of this Act specified in column 1 of Part II of Schedule 7 to this Act shall be liable on summary conviction to a fine not exceeding the maximum specified in column 2 of Part II of the said schedule opposite to such offence or where the contravention in respect of which a person is convicted of an offence against this Act is continued after conviction, the person shall be liable on summary conviction to a further fine not exceeding the maximum specified in column 3 of Part II of the said schedule opposite to such offence for each day or part of a day during which the contravention is shown to have been continued.

(3) Any person guilty of an offence against the provisions of this Act not hereinbefore specified or specified in Schedule 7 to this Act shall be liable on summary conviction to a fine not exceeding twenty pounds.

Application
of general
provisions of
Act of 1936.

156.—(1) The sections of the Act of 1936 mentioned in Part I of Schedule 8 to this Act shall have effect as if references therein to that Act included references to this Act.

(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 section 27 (Provisions as to illuminations), and also to the following Parts of this Act, that is to say:—

- Part III (Streets);
- Part IV (Public health);
- Part V (Public order and safety);
- Part VI (Fire precautions).

(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 30 (Enforcement of improvement line);
- Section 54 (Special provisions as to registration of nursing homes);
- Section 57 (Restriction on use of dustbins, etc.);
- Section 58 (Provision of bulk refuse containers by Corporation);
- Section 59 (Maintenance of and access to bulk refuse containers);
- Section 60 (Means of access for removal of refuse, etc.);

- Section 61 (Tipping of spoil and refuse);
- Section 62 (Control of refuse tips);
- Section 63 (Power to order alteration of domestic chimneys);
- Section 67 (Protection of seashore and adjoining land from pollution);
- Section 68 (Silencers for internal combustion engines);
- Section 69 (Safety of stands);
- Section 71 (Securing of unoccupied buildings);
- Section 72 (Removal, etc., of dangerous trees);
- Section 74 (Protection of dangerous ponds and excavations);
- Section 101 (Provisions as to motor vehicles let for hire).

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

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

158. In arbitrations under this Act the reference shall be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of any party (after giving notice in writing to the other party or parties) except as hereinbefore provided by the President of the Institution of Civil Engineers.

Arbitration.

159.—(1) The provisions of any Act or order to which this section applies which immediately before 1st April, 1968, affected any area comprised as from that date in the borough, otherwise than in relation to property held on a charitable trust, shall, notwithstanding sub-paragraphs (a) and (b) of paragraph (1) of article 40 of the Torbay Order 1966, continue to apply to such area, and any reference therein to any area of local government shall in such application be construed as a reference to the borough.

Continuance of certain enactments.
S.I. 1967/136.

(2) This section applies to—

- (a) any local Act, other than an Act confirming a provisional order, the Bill for which was not promoted by a local authority;
- (b) any Act confirming a provisional order made on the application of any body other than a local authority;

PART XII
—cont.

(c) any order made on such application which was subject to special Parliamentary procedure;

and for the purposes of this subsection “local authority” means—

- (i) the council of a county, an urban district or a rural district;
- (ii) the municipal corporation of any borough, acting by the council of that borough;
- (iii) any commissioners, trustees or other persons invested by any local Act with powers of town government and rating; or
- (iv) any local board constituted in pursuance of the Public Health Act 1848, the Local Government Act 1858, the Local Government (1858) Amendment Act 1861, and the Local Government Amendment Act 1863.

1848 c. 63.
1858 c. 98.
1861 c. 61.
1863 c. 17.

(3) This section shall not extend to any provision repealed by this Act or by any other Act passed during the same session of Parliament as this Act.

Repeals.

160. The enactments specified in Schedule 9 to this Act are (in so far as they are not already repealed) hereby repealed to the extent mentioned in that schedule.

Saving for
Babbacombe
Cliff Light
Railway
Orders 1923
and 1951.
S.I. 1967/136.

161. Notwithstanding anything in article 40 of the Torbay Order 1966 the Babbacombe Cliff Light Railway Orders 1923 and 1951 shall apply and have effect as if—

- (a) those Orders had been re-enacted in this Act; and
- (b) references therein to “the borough”, “the Corporation” and “the Council” had the respective meanings assigned to those expressions in section 4 (Interpretation) of this Act.

Exchange
control.
1947 c. 14.

162. It shall not be lawful to exercise the powers conferred by any of the provisions of this Act except in compliance with the Exchange Control Act 1947.

Transitional
provisions.

163. The transitional provisions contained in Schedule 10 to this Act shall have effect in relation to the repeals effected by this Act.

Crown rights.

164. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing

herein contained authorises the Corporation to take, use or in any manner interfere with, any land or hereditaments or any rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

165. Section 220 of the Act of 1962 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Act as if it had been passed during that session; and accordingly the Town and Country Planning Acts 1962 to 1968 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

Saving for Town and Country Planning Acts.

166. Nothing in this Act shall affect the application to any operation of sections 34 to 36 (which require the consent of the Board of Trade or the Secretary of State to certain operations and contain other provisions for the safety of navigation) of the Coast Protection Act 1949.

Saving for Coast Protection Act 1949.

1949 c. 74.

167. For the protection of the statutory undertakers the following provisions shall, unless otherwise agreed in writing between the Corporation and the statutory 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) electric lines 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 or other apparatus belonging to or maintained by the Gas Council or the gas board;
- (c) telegraphic lines belonging to or used by the Post Office;

PART XII
—cont.

(d) mains, pipes or other apparatus belonging to or maintained by the water undertakers;

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;

“ position ” includes depth;

“ postal packet ” means a letter, postcard, reply postcard, newspaper, printed packet, sample packet or parcel and every packet or article transmissible by post and includes a telegram:

- (2) Notwithstanding the closure of a recreation ground or any part thereof under the powers of section 13 (Power to close recreation grounds) of this Act or the control or management of the special lands or such part thereof as the case may be under the powers of section 20 (Provisions relating to special lands) of this Act the statutory undertakers shall be at liberty at all times to enter the said recreation ground or special lands, with any necessary vehicles, free of charge, for the purposes of placing, inspecting, repairing, maintaining, renewing or removing any apparatus in the said recreation ground or special lands:
- (3) Nothing in section 30 (Enforcement of improvement line) of this Act shall apply to any building or structure of the statutory undertakers either which is erected on operational land of the Post Office or which is used by the statutory undertakers for or in connection with the generation, transforming, switching, distribution or regulation of electricity, for or in connection with the manufacture, distribution or storage of gas or for or in connection with the use by them as a pumping station, treatment works or reservoir for water except with the consent of the statutory undertakers which shall not be unreasonably withheld:
- (4) Nothing in section 31 (Retaining walls) of this Act shall apply to any retaining wall erected on operational land of the statutory undertakers:
- (5) Nothing in the following sections of this Act shall relieve the Corporation or any person acting with the consent of or on the requirement of 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 obstruct or render unreasonably inconvenient the access to any apparatus or operational land:—

PART XII
—cont.

- Section 29 (Power to provide and let chairs);
- Section 39 (Decorations in streets);
- Section 44 (Protection of trees, grass verges and gardens);
- Section 48 (Temporary stoppage of streets);
- Section 51 (Power to regulate traffic):

- (6) Before the Corporation determine to give any consent under section 40 (Restriction on buildings under footways) or give any licence under section 42 (Licence to erect scaffolding) of this Act they shall (except in the case of emergency) give at least seven days' notice to the statutory undertakers of their intention to do so and on giving any such consent or licence shall attach thereto such conditions as the statutory undertakers may within the said period of seven days require to secure that the person to whom such consent or licence is granted shall comply with the reasonable requirements of the statutory undertakers for the protection of any apparatus or for securing access to such apparatus or operational land of the statutory undertakers:
- (7) Nothing in section 44 (Protection of trees, grass verges and gardens) of this Act shall affect the rights of the statutory undertakers with respect to any apparatus (including the placing of apparatus) in any grass verge or garden:
Provided that in exercising such rights the statutory undertakers shall not cause or permit, except in the case of necessity, vehicles to enter upon any such verge which is maintained in an ornamental condition or mown, or any garden:
- (8) Notwithstanding anything in section 49 (Adjustment of boundaries of estates in connection with streets) of this Act, the statutory undertakers shall not under the provisions of that section be required to adjust or alter the boundaries of or exchange any operational land except with their consent, which shall not be unreasonably withheld:
- (9) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 48 (Temporary stoppage of streets) of this Act or the prohibition of the passage or stoppage of vehicles along or the prohibition

PART XII
—cont.

of the use of motor vehicles on Victoria Parade, Torquay or The Esplanade, Paignton under the powers of section 51 (Power to regulate traffic) of this Act—

(a) the Post Office shall be at liberty at all times to enter upon any street or Victoria Parade, Torquay, or The Esplanade, Paignton as aforesaid with any necessary vehicles for the purpose of conveying, receiving, collecting, despatching or delivering postal packets; and

(b) the statutory undertakers shall be at liberty at all times to execute and do all such works and things in, under or upon any street or Victoria Parade, Torquay or The Esplanade, Paignton as aforesaid as may be necessary for placing, inspecting, repairing, maintaining, renewing or removing any apparatus and to enter upon any street or Victoria Parade, Torquay or The Esplanade, Paignton as aforesaid for those purposes or any of them with any necessary vehicles:

- (10) In exercising the powers conferred by subsection (3) of section 68 (Silencers for internal combustion engines) of this Act in relation to any premises occupied by or being constructed for the statutory undertakers and used or intended to be used by them in connection with the generation, manufacture, pumping, storage or supply of electricity, gas or water an authorised officer of the Corporation shall conform to such reasonable requirements of the statutory undertakers in the interest of safety and for preventing interference with any process carried on in such premises:
- (11) The provisions of section 69 (Safety of stands) of this Act shall not apply to any stand used by the statutory undertakers on operational land for the purposes of their undertaking:
- (12) (a) When the Corporation give any notice under subsection (1) of section 71 (Securing of unoccupied buildings) of this Act they shall within seven days give to the statutory undertakers a copy of such notice;
- (b) Nothing in the said section 71 shall prejudice the right of the statutory undertakers to enter upon any premises in the 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 statutory undertakers in exercising such powers of entry in respect of any premises

required to be secured under the said section 71 shall ensure that the premises are not left less secure by reason of the entry:

PART XII
—cont.

- (13) Nothing in section 77 (Prescription of signs, etc., to be used on certain buildings) of this Act shall authorise the Corporation to require the electricity board or the generating board to affix to any building on operational land any sign, symbol or notice:
- (14) (a) Any difference which may arise between the Corporation and the statutory 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 statutory 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 may be reasonably possible, interference with any purpose for which the apparatus is used.

168. The costs, charges and expenses preliminary to and of and incidental to the preparation of and the application for and the obtaining and passing of this Act shall be paid by the Corporation. Costs of Act.

SCHEDULES

Section 2.

SCHEDULE 1

PROVISIONS OF ACT TO WHICH SECTION 2 OF THIS ACT APPLIES

- Section 20 (Provisions relating to special lands);
- Section 29 (Power to provide and let chairs);
- Section 56 (Byelaws as to burning of refuse);
- Section 61 (Tipping of spoil and refuse);
- Section 65 (Regulation of bathing);
- Section 66 (Byelaws with respect to swimming baths and bathing pools);
- Section 79 (Oil-burning equipment);
- Section 101 (Provisions as to motor vehicles let for hire);
- Schedule 3, paragraph 16 (Byelaws as to hackney carriages).

Section 20.

SCHEDULE 2

PROVISIONS RELATING TO SPECIAL LANDS

1. The Corporation may exercise the following powers with respect to the Cockington lands, the Northern Coastal lands and the Torre Abbey lands and the buildings and structures erected or constructed thereon (all of which lands and buildings are in this Schedule referred to as "the said lands" and "the said buildings"), that is to say, the Corporation may—

- (a) provide public amenities and facilities for sport, entertainment and physical recreation;
- (b) close the said lands and the said buildings against the public and charge the public for admission to, and use of, amenities, sports and facilities provided by them, and any tenant or lessee of the Corporation shall have the same powers;
- (c) hire caterers and may erect or permit the erection of such accommodation as the caterers consider necessary; and the Corporation may, or any other person appointed by them in that behalf may, apply for and hold licences for the sale of beer or intoxicating liquors for the purposes of this paragraph;

(d) let for such term not exceeding twenty-one years and subject to such terms and conditions as they may think fit the whole or any part of the said lands and the said buildings for sport or for purposes of recreation or they may let to any organisation any of the facilities or amenities provided for sport or recreational purposes;

(e) exercise in respect of the said lands and the said buildings any powers conferred upon the Corporation which relate to public walks, pleasure grounds, open spaces or playing fields;

(f) grant any easements or privileges on the said lands and pull down and remove any building thereon;

(g) set apart for such periods and on such terms and conditions as they think fit, the whole or any part of the said lands and the said buildings for the use or benefit of the public:

Provided that the Corporation shall during such periods exhibit at each entrance to the lands so used a notice specifying for what purpose the land is to be so used and for what period of time it may be used;

(h) construct and maintain streets, roads and sewers on any part of the said lands and may, if they think fit, dedicate any such street as a public highway or use any part of the said lands for the widening and improvement of a highway:

Provided that the Corporation shall not in connection with any garages provided by them themselves undertake repairs to or the rendering of services for motor vehicles (other than vehicles belonging to the Corporation and used in the public service) or the supply of fuel or spare parts for use in or in connection with such vehicles.

2. The Corporation may exchange any part of the said lands for any other lands in the neighbourhood of those lands and the lands thus gained shall be deemed to be part of the said lands.

3. In addition, with respect to the Cockington lands, the Corporation may—

(a) erect buildings and construct roads on any portion of the said lands which is coloured blue on the signed plan referred to in section 4 (Interpretation) of the Torquay Corporation Act 1934;

1934 c. lxxii.

(b) grant building leases on the said portion of such lands;

(c) provide and charge for the use of camping sites:

Provided that the Corporation shall not under the powers of this paragraph develop any portion of the said lands in any manner that infringes any then existing legal rights of any owner, lessee or occupier of adjoining lands.

SCH. 2
—cont.

4. Notwithstanding anything contained in this Schedule the Corporation shall not lay out, develop or use the Cockington lands otherwise than in accordance with the terms of—

- (a) the lease of the said lands made 26th August, 1933, between Richard Herbert Mallock of the first part, Cockington Trust Limited of the second part and the Corporation of the third part;
- (b) any deed or instrument already or which may at any time hereafter be entered into between the owners for the time being of the Cockington Estate and the Corporation affecting the Cockington lands; or
- (c) any conveyance of the said lands to the Corporation pursuant to the terms of the said lease.

Section 100.

SCHEDULE 3

PROVISIONS AS TO HACKNEY CARRIAGES, ETC.

Fixing of fares
for hackney
carriages.

1.—(1) The Corporation may fix the rates or fares, as well for time as distance, to be paid in respect of hackney carriages plying for hire within the prescribed distance by means of a table (hereinafter in this paragraph referred to as “a table of fares”) made in accordance with the provisions of this paragraph.

(2) (a) Where the Corporation make a table of fares, they shall publish in at least one newspaper circulating in the borough a notice setting out the table of fares and specifying the period, which shall not be less than fourteen days from the date of the first publication of the notice, within which and the manner in which objections to the table of fares can be made.

(b) A copy of the notice referred to in paragraph (a) of this sub-paragraph shall for the period of fourteen days from the date of the first publication thereof be deposited at the office of the town clerk and shall at all reasonable hours be open to public inspection without payment.

(3) If no objection to a table of fares is duly made within the period specified in the notice referred to in sub-paragraph (2) of this paragraph, or if all objections so made are withdrawn, the table of fares shall come into operation on the date of the expiration of the period specified in the notice or the date of the withdrawal of the objection or, if more than one, the last objection, whichever is the later.

(4) If objection is duly made as aforesaid and is not withdrawn, the table of fares shall be of no effect unless and until it is confirmed by the Secretary of State and before confirming a table of fares the

Secretary of State may, if he thinks fit, cause a local inquiry to be held into the same and after considering the report of the person who held the inquiry, may confirm the table of fares with or without modification.

SCH. 3
—cont.

(5) A table of fares made under this paragraph shall have effect for the purposes of the Act of 1847 as if included in byelaws made by the Corporation under section 68 of that Act.

(6) On the coming into operation of a table of fares made under this paragraph, any byelaws made by the Corporation for fixing the rates and fares under section 68 of the Act of 1847, or any table of fares previously made under this paragraph, shall cease to have effect.

(7) Section 252 of the Act of 1933 shall extend and apply to a table of fares made under this paragraph as it applies to byelaws made by the Corporation.

2.—(1) For the purposes of their functions under the Act of 1847, the Corporation may from time to time appoint stands for hackney carriages for the whole or any part of a day in any street in the borough and, with the consent of the owner, on any land not forming part of a street.

Stands for
hackney
carriages.

(2) Before appointing any stand for hackney carriages in exercise of the powers of this paragraph, the Corporation shall give public notice of the proposal by advertisement in a 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.

(3) Nothing in this paragraph shall empower the Corporation to appoint any such stand so as unreasonably to prevent access to any premises or in any station of the British Railways Board except with their consent.

(4) Any byelaws made by the Corporation before the passing of this Act for fixing stands of hackney carriages under section 68 of the Act of 1847 shall cease to have effect, but any stands fixed by such byelaws shall be deemed to have been appointed under this paragraph.

(5) The Corporation shall not under the powers of this paragraph appoint a stand in such a position as to interfere with access to any premises of passenger road transport operators except with their consent, and in deciding the position of stands the Corporation shall have regard to the position of any bus stops for the time being in use.

3.—(1) If a hackney carriage or a private hire vehicle licensed by the Corporation under the Act of 1847 is transferred to a person other than the proprietor or part proprietor whose name is specified in the

Transfer of
hackney
carriages, etc.

SCH. 3
—cont.

licence for the hackney carriage or vehicle, the proprietor or part proprietor shall within seven days after such transfer give notice thereof in writing to the Corporation specifying the name and surname of the person to whom the hackney carriage or vehicle has been transferred and the licence shall be deemed to be revoked if the Corporation disapprove the transfer of the licence to that person:

Provided that the Corporation shall not disapprove the transfer of a licence to a person except upon the ground that he is not a fit and proper person to hold such a licence.

(2) Any person aggrieved by the refusal of the Corporation under this paragraph may appeal to a court of quarter sessions.

(3) Any proprietor or part proprietor who fails to give notice to the Corporation as provided by sub-paragraph (1) of this paragraph shall be guilty of an offence.

Recovery of
costs of
inspections.

4. The cost not exceeding two pounds for inspection incurred by the Corporation in carrying out inspections of vehicles for the purpose of determining whether licences should be granted therefor under the Act of 1847 shall, if the council so resolve, be recoverable from the proprietors thereof.

Fees for
driver's
licences.

5. In its application to the borough, section 46 of the Act of 1847 shall have effect as if for the words "one shilling" there were substituted the words "one pound for the first licence and five shillings for any succeeding licence".

Suspension
and
revocation of
proprietor's
licences.

6.—(1) Notwithstanding anything in the Act of 1847, the Corporation may suspend or revoke the licence of a proprietor of a hackney carriage or a private hire vehicle on the ground of the unfitness of the hackney carriage or vehicle or for any other reasonable cause, and where the Corporation suspend or revoke such a licence under this sub-paragraph they shall give to any such proprietor notice of the grounds on which the licence has been suspended or revoked.

(2) Any such proprietor aggrieved by a decision of the Corporation under sub-paragraph (1) of this paragraph may appeal to a court of quarter sessions.

Suspension
and revocation
of driver's
licences.

7.—(1) Notwithstanding anything in the Act of 1847, the Corporation may suspend or revoke the licence of a driver of a hackney carriage or a private hire vehicle on the ground that he has since the granting of the licence been convicted of an offence involving dishonesty, indecency or violence or for any other reasonable cause.

(2) Any such driver aggrieved by a decision of the Corporation under sub-paragraph (1) of this paragraph may appeal to a court of quarter sessions.

Fitness of
hackney
carriages, etc.

8. Any person acting on behalf of the Corporation and authorised in writing by the town clerk shall have power at all reasonable times to inspect any hackney carriage in the borough and any private hire

vehicle in the borough which is for the time being licensed by the Corporation under the Act of 1847 for the purpose of ascertaining its fitness, and if he is not satisfied of the fitness of the hackney carriage or vehicle or of the accuracy of its taximeter he may by notice in writing require the proprietor of the hackney carriage or vehicle to make it or its taximeter available for further inspection at such reasonable time and place as may be specified in the notice and suspend the licence of the proprietor until such time as he is so satisfied or the expiration of a period of two months, whichever shall first occur.

SCH. 3
—cont.

9. Notwithstanding anything in the Act of 1847, the Corporation shall not grant a licence to act as driver of a hackney carriage or a private hire vehicle to any person under the age of twenty-one years.

Minimum age
for drivers.

10. The Corporation may require any applicant for a licence to drive a hackney carriage or a private hire vehicle—

Fitness of
drivers.

(a) to produce a certificate signed by a registered medical practitioner to the effect that he is physically fit to be the driver of a hackney carriage or such a vehicle; and

(b) whether or not such a certificate has been produced, to submit to examination by a registered medical practitioner selected by the Corporation as to his physical fitness to be the driver of a hackney carriage or such a vehicle.

11. Any person who, within the prescribed distance, on completion of the hire of a hackney carriage licensed by the Corporation under the Act of 1847, refuses to pay any fare lawfully due from him shall be guilty of an offence.

Penalty on
persons
refusing to
pay fare.

12. Notwithstanding anything in section 43 of the Act of 1847, any licence granted by the Corporation in respect of a hackney carriage or a private hire vehicle shall, if the Corporation think fit, remain in force for such period exceeding one year, but not exceeding three years, from the date of such licence as they may determine:

Corporation
may extend
period of
hackney
carriage
licences, etc.

Provided that nothing in this paragraph shall affect the powers of the Corporation to suspend or revoke such a licence.

13. No person shall be entitled to drive a motor vehicle licensed by the Corporation as a hackney carriage or vehicle let for hire unless the Corporation are satisfied of his ability to drive such a vehicle and for that purpose the Corporation may require him to provide facilities for a practical test of his ability to drive.

Tests for
drivers of
hackney
carriages.

14.—(1) The Corporation may require any taximeter or other similar apparatus used or intended to be used on any hackney carriage regularly plying for hire within the borough to be tested and inspected and they may also require any taximeter or other similar apparatus to be re-tested and re-inspected at such reasonable intervals of time as the Corporation may prescribe and no such taximeter or other similar apparatus shall be used or be continued in use unless the same be certified to register correctly, and the expenses of such testing and certificate, not exceeding one pound in any one year, shall be borne by the owner of the hackney carriage.

Inspection and
certification of
taximeters.

SCH. 3
—cont.

(2) The Corporation shall issue a certificate in respect of any taximeter found by them to register correctly, and such certificate shall be dated with the date upon which such taximeter was last tested and inspected.

(3) Any person using a taximeter or other similar apparatus which is not so certified, or failing to submit the same for testing and inspection at such reasonable intervals of time as aforesaid, shall be guilty of an offence.

Construction
of motor
hackney
carriages to
be approved
by Corporation.

15.—(1) The Corporation may, as a condition of their licensing any motor hackney carriage, require that the construction of such hackney carriage, as at the date when the licence was granted, shall not be altered without the approval of the Corporation while the licence is in force.

(2) Any person altering the construction of a motor hackney carriage in contravention of the provisions of this paragraph shall be guilty of an offence and the court may in addition order the suspension of the licence for such motor hackney carriage.

Byelaws as to
hackney
carriages.

16. The power to make byelaws conferred upon the Corporation by section 68 of the Act of 1847 shall be extended so as to include power to make byelaws for all or any of the following purposes, that is to say:—

- (a) for the examination and inspection of hackney carriages at such times and places as may be prescribed in such byelaws;
- (b) for the cessation of user of a hackney carriage which at any time fails in any way to comply with the requirements of the byelaws respecting the fitness of hackney carriages for public hire;
- (c) for regulating the conduct of passengers in hackney carriages.

Section 126.

SCHEDULE 4

SETTING OUT THE TRUSTS, POWERS AND PROVISIONS UPON, WITH AND SUBJECT TO WHICH THE DESIGNATED SUM IS TO BE HELD IN PURSUANCE OF A DIRECTION GIVEN BY A CONTRIBUTOR UNDER SECTION 126 (POWER TO REQUIRE DESIGNATED SUMS TO BE PAID TO TRUSTEES) OF THIS ACT

The trustees shall stand possessed of the designated sum to which a contributor has directed that section 126 (Power to require designated sums to be paid to trustees) of this Act should apply and the income thereof upon the trusts and with and subject to the following powers and provisions, that is to say:—

- (1) During the period of twenty-one years from the death of the former contributor the trustees may pay or apply the designated sum and the income thereof or any part thereof respectively to or for the benefit of all or any one or more exclusively of the other or others of the following persons:—
 - (a) the widow or widower of such former contributor;

(b) the grandparents of such former contributor and the grandparents of the widow or widower of such former contributor and the grandparents of any previous or deceased wife or husband of such former contributor;

(c) the issue of such former contributor;

(d) any other issue of any of the grandparents referred to in sub-paragraph (b) of this paragraph; and

(e) the person or persons (if any and whether of full age or not) to whom such former contributor has at any time put himself in loco parentis or of whose person or property such former contributor has at any time been guardian;

in such shares and in such manner as the trustees shall in their absolute discretion from time to time determine and so that the trustees may if they think fit pay any sum to the parent or guardian of any infant to be applied for the benefit of such infant without seeing to the application thereof.

- (2) In addition to the powers conferred on them by virtue of the foregoing paragraph (1), during the said period of twenty-one years the trustees may at any time pay or apply the designated sum and the income thereof or any part thereof respectively to or for the benefit of any person who in the opinion of the trustees was wholly or in part dependent on the earnings of such former contributor at his death in such manner as the trustees shall in their absolute discretion think fit.
- (3) Subject as aforesaid, the designated sum and the income thereof or so much thereof respectively as shall not have been paid or applied under the powers conferred by the foregoing provisions of this Schedule shall be paid to such person or persons (other than the Crown, the Duchy of Lancaster or the Duke of Cornwall) as would at the death of such former contributor have become entitled thereto under the Administration of Estates Act 1925, as amended by the Intestates' Estates Act 1952, or any statutory modification or re-enactment thereof in force at the death of such former contributor if such former contributor had died possessed thereof intestate and domiciled in England and solvent and so that such persons if more than one shall take in such shares and manner in which they would have taken under the provisions of the said Act or Acts and subject to the conditions therein contained. 1925 c. 23.
1952 c. 64.
- (4) In this Schedule the expressions "grandparent" and "issue" shall be construed as if the step-child, adopted child or illegitimate child of any person was that person's child, and "issue" includes issue in any degree.

Section 141.

SCHEDULE 5

ENACTMENTS MENTIONED IN SECTION 141 OF THIS ACT

1875 c. 55.	Public Health Act 1875.
1890 c. 59.	Public Health Acts Amendment Act 1890.
1907 c. 53.	Public Health Acts Amendment Act 1907.
1925 c. 71.	Public Health Act 1925.
1930 c. 44.	Land Drainage Act 1930.
1936 c. 49.	Public Health Act 1936.
1937 c. 40.	Public Health (Drainage of Trade Premises) Act 1937.
1957 c. 56.	Housing Act 1957.
1960 c. 62.	Caravan Sites and Control of Development Act 1960.
1961 c. 48.	Land Drainage Act 1961.
1961 c. 64.	Public Health Act 1961.
1961 c. 65.	Housing Act 1961.
1964 c. 56.	Housing Act 1964.
1967 c. 9.	General Rate Act 1967.

Section 154.

SCHEDULE 6

SECTIONS OF ACT TO WHICH SECTION 154 OF THIS ACT APPLIES

Section 35	(Mixing of mortar, etc., in streets);
Section 41	(Buildings and structures over highways);
Section 42	(Licence to erect scaffolding);
Section 50	(Sale of food and articles on verges, etc.);
Section 91	(Registration of premises);
Section 93	(Powers of entry for inspection, etc.);
Section 94	(Offences in connection with conduct of night cafés);
Section 98	(Prohibition of other vehicles on hackney carriage stands);
Section 99	(Misleading signs on motor vehicles);
Section 100	(Provisions as to hackney carriages).

SCHEDULE 7

Section 155.

MAXIMUM PENALTIES FOR OFFENCES AGAINST ACT

PART I

1 Provision of Act contravened	2 Maximum fine	3 Maximum period of imprisonment
Subsection (5) of section 28 (Entry on land for certain purposes)	£100	3 months
Subsection (1) (c) of section 91 (Registration of premises)	£200	3 months
Subsection (3) (b) of section 91 (Registration of premises)	£200	3 months

PART II

1 Provision of Act contravened	2 Maximum fine	3 Maximum daily fine
Subsection (6) of section 30 (Enforcement of improvement line)	£100	
Subsection (2) of section 36 (Excavations near highways)	£100	
Subsection (5) of section 40 (Restriction on buildings under footways)	—	£5
Subsection (3) of section 41 (Buildings and structures over highways)	£20	£5
Subsection (3) of section 42 (Licence to erect scaffolding)	£10	£2
Subsection (2) of section 50 (Sale of food and articles on verges, etc.)	£20	
Subsection (2) of section 63 (Power to order alteration of domestic chimneys)	£50	£5
Subsection (2) of section 68 (Silencers for internal combustion engines)	£50	

SCH. 7
—cont.

1	2	3
Provision of Act contravened	Maximum fine	Maximum daily fine
Subsection (6) of section 69 (Safety of stands) ...	£100	£2
Subsection (8) of section 75 (Firemen's switches for luminous tube signs and ventilation systems)	£50	
Subsection (2) of section 77 (Prescription of signs, etc., to be used on certain buildings)	£50	£5
Subsection (5) of section 80 (Underground parking places)	£100	
Subsection (2) of section 81 (Further provision as to underground parking places)	£100	
Subsection (5) of section 84 (Fire precautions in certain large buildings)	£50	

Section 156.

SCHEDULE 8

SECTIONS OF ACT OF 1936 APPLIED

PART I

SECTIONS APPLIED GENERALLY

Section	Marginal note
271	Interpretation of "provide".
283	Notices to be in writing; forms of notices, &c.
288	Penalty for obstructing execution of Act.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.

PART II

SECTIONS APPLIED TO SECTION 26 AND PARTS III, IV, V AND VI OF THIS ACT

SCH. 8
—cont.

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Power of local authority to sell certain materials.
289	Power to require occupier to permit works to be executed by owners.
290	Provision as to appeals against, and the enforcement of, notices requiring execution of works.
291	Certain expenses recoverable from owners to be a charge on the premises: Power to order payment by instalments.
292	Power to make a charge in respect of establishment expenses.
293	Recovery of expenses, &c.
294	Limitation of liability of certain owners.
295	Power of local authority to grant charging orders.
299	Inclusion of several sums in one complaint, &c.
329	Saving for certain provisions of the Land Charges Act, 1925.

1925 c. 22.

PART III

SECTION APPLIED TO SECTIONS 30, 54, 57 TO 63, 67 TO 69, 71, 72, 74 TO 79, 84 TO 87 AND 101 OF THIS ACT

Section	Marginal note
287	Power to enter premises.

Section 160.

SCHEDULE 9

ENACTMENTS REPEALED

Session and chapter	Title or short title	Extent of repeal
27 & 28 Vict. c. 83	The Local Government Supplemental Act 1864 (No. 2)	The Tormoham Provisional Order 1864.
39 & 40 Vict. c. cciii	Local Government Board's Provisional Orders Confirmation (Bilbrough, &c.) Act 1876	The Tormoham Provisional Order 1876.
40 & 41 Vict. c. lxxvii	Local Government Board's Provisional Orders Confirmation (Altrincham, &c.) Act 1877	The Torquay Provisional Order 1877.
45 & 46 Vict. c. lxii	Local Government Board's Provisional Orders Confirmation (No. 4) Act 1882	The Torquay Provisional Order 1882.
49 & 50 Vict. c. cxix	Torquay Harbour and District Act 1886	Sections 1 to 6, sections 12 to 104, sections 106 to 121, First, Second, Third, Fourth, Fifth and Sixth Schedules.
61 & 62 Vict. c. cclvii	Paignton Improvement Act 1898	The whole Act.
3 Edw. 7 c. cvi	Torquay Corporation Water Act 1903	Sections 44 to 56, First Schedule.
1 & 2 Geo. 5 c. liv	Paignton Urban District Council Act 1911	Sections 1 to 4, sections 37 to 90, the Schedule.
11 & 12 Geo. 5 c. lx	Ministry of Health Provisional Orders Confirmation (No. 4) Act 1921	The Paignton Order 1921.
13 & 14 Geo. 5 c. cii	Torquay Corporation Act 1923	Sections 1 to 82, sections 133 to 173, First, Second, Third and Fourth Schedules.
15 & 16 Geo. 5 c. xxxvii	Ministry of Health Provisional Orders Confirmation (No. 2) Act 1925	The Paignton Order 1924.

Session and chapter	Title or short title	Extent of repeal
16 & 17 Geo. 5 c. lxx	Paignton Urban District Council Act 1926	Sections 1 to 4, sections 48 to 82, sections 84 to 92, sections 95 to 112 and section 114.
17 & 18 Geo. 5 c. lxxxv	Torquay Corporation Act 1927	Sections 1 to 4, sections 28 to 50 and sections 52 and 53.
18 & 19 Geo. 5 c. xx	Ministry of Health Provisional Order Confirmation (Torquay Extension) Act 1928	The whole Act.
20 & 21 Geo. 5 c. clii	Ministry of Health Provisional Orders Confirmation (Torquay and Weymouth and Melcombe Regis) Act 1930	The Torquay Provisional Order 1930.
22 & 23 Geo. 5 c. lvi	Ministry of Health Provisional Order Confirmation (Paignton) Act 1932	The whole Act.
24 & 25 Geo. 5 c. lxxii	Torquay Corporation Act 1934	Sections 1 to 3, section 4 (except the definition of "telegraphic line" in subsection (2) thereof), sections 5 to 17, sections 40 to 56, sections 78 to 124 and sections 126 and 127.
1 Edw. 8 and 1 Geo. 6 c. xciii	Torquay Corporation Act 1937	Sections 1 to 20, sections 37 to 46, sections 49 and 50 and sections 52 to 59, the Schedule.
10 & 11 Geo. 6 c. xxiv	Ministry of Health Provisional Order Confirmation (Torquay) Act 1947	The whole Act.
9 & 10 Eliz. 2 c. xlv	Devon County Council Act 1961	So much as applies to the borough.
13 & 14 Eliz. 2 c. xxix	Devon County Council Act 1965	So much as applies to the borough.

Section 163.

SCHEDULE 10

TRANSITIONAL PROVISIONS

(1) Notwithstanding the repeals effected by this Act—

- (a) all existing bonds, mortgages, annuities, stock or other securities granted, payable or created under any of the repealed enactments shall continue valid and available for all purposes and for and against all parties, and the holders of all such bonds, mortgages, annuities, stock or other securities shall be in the like position and entitled to the like powers, rights and remedies as if this Act had not been passed and as if article 40 of the Torbay Order 1966 had ceased to have effect;
- (b) all acts, works, matters and things before the commencement of this Act done or commenced under the powers of the repealed enactments, or any of them, and which were at the commencement of this Act valid and available or in progress and all existing notices, notices to treat, agreements, awards, conveyances, contracts, covenants, deeds, instruments, leases, obligations, rights and remedies shall be and continue valid and available for all purposes, and for and against all parties, and may be continued, enforced and completed as if this Act had not been passed and as if article 40 of the Torbay Order 1966 had ceased to have effect;
- (c) all actions, arbitrations, prosecutions and proceedings by, with or against the Corporation by reason of any matter or thing done before the commencement of this Act in execution of or in relation to the repealed enactments or any of them may be continued, commenced or prosecuted by or against the Corporation as if this Act had not been passed and as if article 40 of the Torbay Order 1966 had ceased to have effect;
- (d) any enactment in the repealed enactments which altered or prescribed the boundaries of the borough or of any district, parish, ward, electoral division or other area or which abolished any such area or which enacted provisions consequent upon any such alteration shall continue to have effect as if this Act had not been passed and as if article 40 of the Torbay Order 1966 had ceased to have effect;
- (e) all existing byelaws, rules, regulations, orders and licences shall continue in force until repealed, altered or revoked under the provisions of this Act or until their expiration, and may be enforced in like manner and with the same penalties as if made for like purposes respectively under the provisions of this Act;
- (f) all rates, rents, tolls and other sums at the commencement of this Act due or accruing due to the Corporation may be collected and recovered by the Corporation as if this Act had not been passed and as if article 40 of the Torbay Order 1966 had ceased to have effect;

S.I. 1967/136.

(g) all books and documents which under any of the repealed Acts or otherwise would have been receivable in evidence shall be receivable in evidence as if this Act had not been passed and as if article 40 of the Torbay Order 1966 had ceased to have effect. SCH. 10
—cont.
S.I. 1967/136.

(2) The mention of particular matters in this schedule shall not be held to prejudice or affect the general application of section 38 of the Interpretation Act 1889. 1889 c. 63.



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FOR C. H. BAYLIS, C.B.

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