



City of London (Various Powers) Act 1971

CHAPTER lxi

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II

PUBLIC HEALTH

3. Emission of sulphur gases from furnaces.
4. Amendment of section 4 of City of London (Various Powers) Act 1954.
5. Application of general enactments.

PART III

PORT HEALTH

6. Interpretation for Part III of Act.
7. Application of provisions of Health Services and Public Health Act 1968 to port health authority.

PART IV

EPPING FOREST

8. Interpretation for Part IV of Act.
9. Regulation of horse-riding in Epping Forest.
10. Penalties under enactments relating to Epping Forest.

PART V

MISCELLANEOUS

11. Tower Bridge.
12. Penalties under market byelaws.
13. Refuse and litter bins in streets.
14. Amendment of City of London (Various Powers) Act 1967.
15. Costs of Act.

ELIZABETH II



1971 CHAPTER lxi

An Act to make further provision with respect to public health and the prevention of air pollution in the city of London; the port health jurisdiction of the Corporation of London; the regulation of Epping Forest; Tower Bridge, London; the City of London Markets; and for other purposes. [5th August 1971]

WHEREAS it is expedient—

- (1) That the emission of sulphur gases from furnaces in the city of London should be restricted and prevented and that further provision should be made with respect to the prevention of air pollution:
- (2) That diseases occurring in the Port of London should be notified to the Corporation of London as port health authority for the Port and further provision should be made with respect to the jurisdiction of the Corporation as the port health authority:
- (3) That provision should be made for the better protection of Epping Forest as an open space for the recreation and enjoyment of the public, including provision for the regulation of horse-riding in the Forest:
- (4) That the Corporation should be relieved of certain obligations under the Corporation of London (Tower Bridge) Act 1885, that fines which may be imposed under byelaws relating to the City of London Markets should be increased, that further provision be made with respect to litter bins and walkways, and that the other provisions contained in this Act should be enacted:

1885 c. cxcv.

And whereas the objects of this Act cannot be attained without the authority of Parliament:

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

Short title.

1. This Act may be cited as the City of London (Various Powers) Act 1971.

Interpretation.

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

“city” means the city of London;

“contravene” includes fail to comply;

“Corporation” means the mayor and commonalty and citizens of the city acting by the common council;

“enactment” includes an enactment in this Act or in any general or local Act and any order, byelaw, regulation, rule, scheme or other instrument made under any Act for the time being in force;

“functions” includes powers and duties;

“town clerk” means the town clerk of the city and includes any person duly appointed to discharge temporarily the duties of that officer.

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

PART II

PUBLIC HEALTH

Emission of sulphur gases from furnaces.

3.—(1) Subject to the provisions of this section, no furnace installed on or after the 1st January, 1972, in any building, or on any land, in the city shall be used to burn sulphurous fuel, and if a furnace is used in contravention of this subsection, the occupier of the building or land shall be guilty of an offence.

- (2) For the purpose of subsection (1) of this section—
- (a) the installation of a furnace shall include any alteration of an existing furnace to increase the combustion capacity thereof; and
 - (b) where the installation of a furnace has been begun, or is carried out in pursuance of an agreement for the purchase or installation of a furnace entered into, before the 1st January, 1972, the furnace shall be deemed to have been installed before that date.
- (3) Subject to the provisions of this section, as from 1st January, 1987, no furnace shall be used in any building, or on any land, in the city to burn sulphurous fuel, and if a furnace is used in contravention of this subsection, the occupier of the building or land shall be guilty of an offence.
- (4) In any proceedings for an offence under this section, it shall be a defence to prove either—
- (a) that the contravention complained of was necessary for the purpose of the lighting up of a furnace which was cold, and that all practicable steps had been taken to prevent or minimise the emission of sulphur gases; or
 - (b) that the contravention complained of was solely due to the fact that suitable fuel was unobtainable, that the least unsuitable fuel which was available was used, and that all practicable steps had been taken to prevent or minimise the emission of sulphur gases as the result of the use thereof; or
 - (c) that the contravention complained of was due to the combination of both the causes specified in paragraphs (a) and (b) of this subsection and that the other conditions specified in those paragraphs are satisfied in relation to those causes respectively.
- (5) (a) Subsections (1) and (3) of this section shall not apply to the use of a furnace to burn sulphurous fuel if:—
- (i) the furnace is properly operated in accordance with a method for reducing the emission of sulphur approved by the Corporation; or
 - (ii) the furnace is provided with plant for reducing the emission of sulphur which has been approved by the Corporation or which has been installed in accordance with plans and specifications submitted to, and approved by, the Corporation and any such plant is properly maintained and used.
- (b) Where the Corporation determine an application for approval of any method of operation of a furnace, or approval of any plant or plans and specifications of any plant, under paragraph (a) of this subsection, they shall give the applicant a written notification of their decision and, in the case of a decision not to grant approval, shall state the reasons for their decision.

(c) If the Corporation do not, within three months after the making of an application for such an approval, notify the applicant of their decision, they shall be deemed to have notified the applicant, on the expiration of that period, of a decision not to grant approval.

(d) Any person who has applied to the Corporation for an approval under this subsection may, within 28 days after he is notified, or deemed to have been notified, of the decision on his application, appeal to the Secretary of State, and the Secretary of State may give any approval which the Corporation might have given under this subsection having, for the purposes of this subsection, the like effect as an approval by the Corporation.

(6) A person guilty of an offence under this section shall be liable to a fine not exceeding £200, and if that person after conviction of an offence by reason of the use of a furnace in contravention of subsection (1) or subsection (3) of this section, or any other person after notice of the conviction has been served on him by the Corporation, is guilty of a further offence under this section by reason of the use of the same furnace, he shall be liable to a fine not exceeding £400.

1936 c. 49. (7) For the purposes of section 287(1)(a) of the Public Health Act 1936, as applied by this Act, the provisions of this section shall be provisions which it is the duty of the Corporation to enforce.

(8) (a) An authorised officer of the Corporation may, in respect of any premises which he has entered in pursuance of the powers conferred by the said section 287, test samples of any fuel stored on such premises for use in a furnace in order to ascertain whether or not it is a sulphurous fuel.

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

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

(9) (a) For the purpose of enabling the Corporation properly to perform their functions under, and in connection with, this section, they may, by notice in writing served on the occupier of any building or land in the city, require him to furnish to them

within fourteen days or such longer time as may be limited by the notice, such information as to the furnaces in the building or on the land and the fuel burned in those furnaces as they may reasonably require for that purpose.

PART II
—cont.

(b) Any person who, having been duly served with a notice under paragraph (a) of this subsection, fails to comply with the requirements thereof within the time limited, or furnishes any information in reply thereto which he knows to be false in a material particular, shall be guilty of an offence and liable to a fine not exceeding £100.

(10) In this section—

(a) “sulphurous fuel” means oil fuel in which the weight of sulphur and compounds of sulphur calculated as sulphur exceeds such percentage of the weight of the oil, not being less than one per cent, as shall be determined and have effect under subsection (11)(a) of this section; and

(b) any reference to the occupier of a building shall, in relation to any building of which different parts are occupied by different persons, be construed as a reference to the occupier or other person in control of the part of the building in which the relevant furnace is situated.

(11) (a) (i) The Corporation shall, not later than the 1st November, 1971, after consultation with the Secretary of State, determine the percentage which is to have effect on and from the 1st January, 1972, for the purposes of subsection (10)(a) of this section;

(ii) After 1st January, 1972, the Corporation may, after consultation with the Secretary of State, or shall, if so directed by the Secretary of State after consultation with the Corporation, determine that for the percentage determined under subparagraph (i) above there shall be substituted a percentage not less than one per cent, and the substituted percentage so determined shall, in accordance with the following provisions of this subsection, have effect as from the expiration of such period as may be so determined, not being less than one month, from the date of the first publication of notice of the determination under paragraph (c) of this subsection.

(b) A determination made under paragraph (a)(ii) of this subsection may be varied by a determination made in like manner. but—

(i) a determination so made in accordance with a direction given by the Secretary of State shall not be varied without the prior consent of the Secretary of State; and

(ii) in the case of a determination which substitutes a lower percentage for a percentage having effect for the time

PART II
—cont.

being by virtue of a previous determination made under this subsection, the date on which the lower percentage shall have effect shall be the expiration of a period not less than twelve months from the date of the first publication of notice of the determination.

(c) On the making of a determination for the purposes of subsection (10)(a) of this section or under this subsection, the Corporation shall give notice of the determination by publication in a newspaper circulating in the city and in such other manner as the Secretary of State may direct stating the percentage so determined (including a concise statement of the effect of the determination having regard to the provisions of subsections (1) and (3) of this section) and the date on which the determination shall have effect.

(d) A copy of a resolution of the Court of Common Council by which such a determination is made by the Corporation for the purposes of this section, and which is expressed to be passed after consultation with, or in accordance with the directions of, or with the consent of, the Secretary of State (as the case may be), certified by the town clerk to be a true copy of the resolution shall be evidence of the making of the determination in accordance with the terms of the resolution, and either a copy of a newspaper containing any such notice as is referred to in paragraph (c) of this subsection, or a photostatic or other reproduction certified by the town clerk to be a true reproduction of a page, or part of a page, of any such newspaper bearing the date of its publication and containing the notice, shall be evidence of the publication of the notice and of the date of the publication.

Amendment
of section 4 of
City of
London
(Various
Powers) Act
1954.
1954 c. xxvii.

4.—Section 4 (Prohibition of emission of smoke in city) of the City of London (Various Powers) Act 1954 shall be amended as follows—

in subsection (2) for the words “ten pounds” there shall be substituted the words “fifty pounds” and for the words “five pounds” there shall be substituted the words “ten pounds”;

for subsection (11) there shall be substituted the following—

“(11) For the purposes of this section—

the execution of works includes the provision, alteration or adaptation of fixtures, fittings and appliances;

any reference to the occupier of any premises shall be construed as a reference to the occupier or other person in control of the premises; and

“premises” means any land or building or part thereof; and

“smoke” includes soot, ash, grit or gritty particles.”

5.—The following enactments in the Public Health Act 1936 shall apply and have effect for the purposes of section 3 (Emission of sulphur gases from furnaces) of this Act as if references in those enactments to that Act included a reference to the said section—

PART II
—cont.

Application of general enactments. 1936 c. 49.

Section 283 (Notices to be in writing; forms of notices etc.);

Section 287 (Power to enter premises);

Section 288 (Penalty for obstructing execution of Act);

Section 289 (Power to require occupier to permit works to be executed by owner);

Section 296 (Summary proceedings for offences);

Section 328 (Powers of Act to be cumulative);

Section 341 (Power to apply provisions of Act to Crown property).

PART III

PORT HEALTH

6.—In this Part of this Act, unless the context otherwise requires—

Interpretation for Part III of Act.

“Act of 1968” means the Health Services and Public Health Act 1968;

1968 c. 46.

“local authority”, “local health authority” and “notifiable disease” having the same meanings as in Part III of the Act of 1968;

“port health district” means the Port of London, as defined in section 89 (1) of the London Government Act 1963, as amended by section 31 (Extension of port health district for port of London) of the City of London (Various Powers) Act 1965, and the whole of any wharf, and of the area within the gates of any dock, and the buildings thereon respectively, which form part of, or abut on, the Port as so defined;

1963 c. 33.

1965 c. xxxix.

“vessel” includes a hovercraft within the meaning of the Hovercraft Act 1968.

1968 c. 59.

7.—(1) The provisions of Part III (notifiable diseases and food poisoning) of the Act of 1968 shall apply in relation to the port health district as if the common council as port health authority for that district were a local authority and the said provisions were specified in Part I of Schedule 1 to the London Port Health Authority Order 1965 made under section 41(1) of the London Government Act 1963; and, as so applying in relation to the port health district—

Application of provisions of Health Service and Public Health Act 1968 to port health authority.

PART III
—cont.

- (a) the provisions of section 48 of the Act of 1968 relating to the sending of certificates giving information of cases of notifiable disease or food poisoning shall have effect so as to require information to be given, and a copy of any such certificate to be sent to the medical officer of health of the port health district, in any case where a patient came from a vessel lying within the port health district; and
- (b) the provisions of section 50 of the Act of 1968 requiring the payment of prescribed fees for certificates duly sent under the said section 48 shall have effect so as to authorise the payment of such fees to medical practitioners for copies of certificates sent by them to the medical officer of health of the port health district.

1936 c. 49.

(2) Notwithstanding the provisions of section 4 of the Public Health Act 1936 (restricting the discharge of functions by local authorities within port health districts), nothing in this section shall derogate from the functions, rights and liabilities of any local authority or any local health authority of any area wholly or partly comprised within the port health district.

PART IV

EPPING FOREST

Interpretation
for Part IV
of Act.
1878 c. ccxiii.

8.—In this Part of this Act—

“Act of 1878” means the Epping Forest Act 1878;

“Conservators” means the Corporation acting as the Conservators of Epping Forest, and includes the Corporation so acting by the Epping Forest Committee under and in accordance with the provisions of section 31 (Epping Forest Committee) of the Act of 1878;

“superintendent” means the officer appointed by the Conservators as the superintendent of Epping Forest, and includes any person duly appointed to discharge temporarily the duties of that officer.

Regulation of
horse-riding
in Epping
Forest.

9.—(1) If, in the opinion of the Conservators it is necessary to do so to preserve the natural aspect of Epping Forest, or to prevent the injury or disfigurement thereof, or to protect the use of the Forest as an open space for the recreation and enjoyment of the public, they may from time to time, by notices or direction signs posted at such places in the Forest as they think fit, restrict or prohibit the riding or exercising of horses in the Forest, or any part or parts of the Forest, except upon any way laid out by the Conservators in pursuance of their powers under section 33 (General powers of Conservators) of the Act of 1878 and for the time being designated and marked by them as suitable for the riding or exercising of horses.

(2) Any way in the Forest designated as suitable for the riding or exercising of horses shall be marked in such manner as shall, in the opinion of the Conservators, be necessary to give notice of the designation.

PART IV
—cont.

(3) A designation of a way as suitable for the riding or exercising of horses may from time to time be varied or rescinded by the Conservators.

(4) (a) The Conservators may authorise the superintendent to exercise any of their functions under the foregoing provisions of this section in accordance with such directions as they may give.

(b) An authorisation under this subsection shall be made by resolution and may be given subject to such restrictions or conditions as may be specified in the resolution, and any such authorisation may be withdrawn at any time by the Conservators without prejudice to anything previously done by the superintendent thereunder.

(5) If any person, without the authority of the Conservators, contravenes a notice or direction sign posted in pursuance of subsection (1) of this section he shall be liable to a fine not exceeding £20.

(6) Nothing in this section shall authorise the Conservators to restrict or prohibit the lawful use of any bridleway to which Part IV of the National Parks and Access to the Countryside Act 1949 applies shown on the definitive or revised map (as the case may be) operative under that Part of the said Act of 1949 for any area of the County of Essex which includes any part of Epping Forest.

1949 c. 97.

(7) In this section “horse” includes a pony, mule or ass.

10.—(1) Section 36 (Power to make byelaws) of the Act of 1878, as amended by section 34 (Amendment of section 36 of the Epping Forest Act 1878) of the City of London (Various Powers) Act 1963, shall have effect as if, in paragraph (xiii) of the said section 36, for the words “ten pounds” there were substituted the words “twenty pounds”; and the byelaws in force under the said section 36 and under section 17 (Byelaws for protection of deer) of the City of London (Various Powers) Act 1959 shall have effect as if the maximum penalty which may be imposed on summary conviction of an offence under those byelaws were a fine not exceeding £20 and, in the case of a continuing offence, a further fine of £5 for each day on which the offence is continued after conviction thereof, instead of the maximum penalties therein specified.

Penalties under enactments relating to Epping Forest. 1878 c. ccxiii. 1963 c. xxxiv.

1959 c. xlix.

(2) Section 44 (Penalty for assaulting constables) of the Act of 1878 shall have effect as if for the words “five pounds” therein there were substituted the words “twenty pounds”.

PART V

MISCELLANEOUS

Tower Bridge.

1885 c. cxcv.

11.—(1) (a) Notwithstanding the provisions of section 29 (Tower Bridge to be opened for navigation of vessels notwithstanding any delay of the land traffic occasioned thereby) of the Corporation of London (Tower Bridge) Act 1885, the Corporation shall only be required to open Tower Bridge for the purpose of providing passage for the navigation of any vessel, upon the receipt, by the bridge master or other officer of the Corporation for the time being having charge of the bridge, of not less than twenty-four hours' notice that passage for the navigation of the vessel is required, and at or about the time stated in the notice as the intended time of passage.

(b) Section 11 (Manner of construction of Tower Bridge) of the said Act of 1885 shall be amended as follows:—

In subsection (3) for the words from “and the Corporation” to the end of the subsection there shall be substituted the words “in accordance with the provisions of section 29 (Tower Bridge to be opened for navigation of vessels notwithstanding any delay of the land traffic occasioned thereby) of this Act and the Corporation shall provide and maintain such machinery for opening the Tower Bridge as may be required for compliance with that section and subsection (1) (a) of section 11 (Tower Bridge) of the City of London (Various Powers) Act 1971”.

(c) (i) The period of twenty-four hours mentioned in paragraph (a) of this subsection may be varied by order made, by statutory instrument and in accordance with the following provisions of this paragraph, by the Secretary of State on the application of the Corporation, or of any person appearing to the Secretary of State to be affected by the provisions of the said paragraph, or of any person or body of persons appearing to the Secretary of State to represent the interests of such persons.

(ii) Before making application for an order under this paragraph the applicant shall give notice, by publication in a newspaper circulating in the city and in such other newspapers as may be required by the Secretary of State, and, if so required by the Secretary of State, in such other manner as he may specify, stating the proposed variation and specifying a period, not less than 28 days from the first publication of the notice, during which objections may be made in writing to the Secretary of State and shall, in the case of an application made by a person other than the Corporation, not later than the date of the publication of the notice in a newspaper, serve a copy of the notice upon the Corporation.

(iii) If any objection is duly made to the Secretary of State and is not withdrawn he may, before making the order, cause a public local inquiry to be held. PART V
—cont.

(iv) If the Secretary of State makes an order under this paragraph the Corporation shall, as soon as may be after the making of the order, publish a notice in a newspaper circulating in the city and in such other newspapers as may be required by the Secretary of State, stating the variation effected by the order, and the order shall come into operation on such date, not less than 28 days after the first publication of the notice, as may be specified in the said notice.

(v) An order made under this paragraph may be varied by an order made in like manner.

(vi) Either a copy of any newspaper containing any such notice as is referred to in subparagraph (iv) above or a photostatic or other reproduction certified by the town clerk to be a true reproduction of a page, or part of a page, of any such newspaper, bearing the date of its publication and containing any such notice, shall be evidence of the publication of the notice and of the date of the publication.

(vii) An order made under this paragraph shall be subject to special parliamentary procedure.

(d) The Secretary of State may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this subsection, and subsections (2) to (5) of section 290 of the Local Government Act 1933 shall apply in relation to any such inquiry. 1933 c. 51.

(2) (a) To the intent that the Corporation shall be relieved of the obligation to provide and maintain a tug upon the River Thames for the purpose of assisting vessels and barges navigating the Upper Pool, the enactments specified in paragraph (b) of this subsection are hereby repealed:

Provided that, until the completion of the new London Bridge authorised by the London Bridge Act 1967, the Corporation shall, if and so long as they are required to do so by the Port of London Authority, provide and maintain a tug upon the River Thames between the Shadwell entrance to the London Docks and London Bridge. 1967 c. i.

(b) The enactments hereinbefore referred to are the following:—

In the Corporation of London (Tower Bridge) Act 1885— 1885 c. cxcv.
Section 54 (Corporation to provide and maintain a steam tug in the Upper Pool);

In the City of London (Various Powers) Act 1961— 1961 c. xxviii.
Section 43 (Amendment of section 54 of Corporation of London (Tower Bridge) Act, 1885).

PART V
—cont.Penalties
under
market
byelaws.

1846 c. cccxvi.

1875 c. lix.

1879 c. cii.

1902 c. clxv.

12.—(1) Each of the following enactments shall have effect as if for the words “five pounds” therein there were substituted the words “twenty pounds”:

Billingsgate Market Act 1846—

Section 15 (Power of enforcing bye-laws by penalties);

London Central Markets Act 1875—

Section 29 (Penalties in bye-laws);

Leadenhall Market Act 1879—

Section 21 (Penalties in bye-laws);

City of London (Spitalfields Market) Act 1902—

Section 17 (Penalties in bye-laws);

and the byelaws in force under the enactments specified in subsection (2) of this section shall have effect as if the maximum penalty which may be imposed on summary conviction of an offence under those byelaws were a fine not exceeding £20 instead of the maximum penalty therein specified.

(2) The enactments hereinbefore referred to under which byelaws are in force are—

Billingsgate Market Act 1846—

Section 12 (Mayor Aldermen &c. to make bye-laws and appoint officers &c. for the regulation of the Market);

London Central Markets Act 1875—

Section 27 (Power to make bye-laws &c.);

Leadenhall Market Act 1879—

Section 18 (Power to make bye-laws &c.);

City of London (Spitalfields Market) Act 1902—

Section 16 (Power to make bye-laws &c.).

Refuse and
litter bins
in streets.
1961 c. 64.

1900 c. ccxxviii.

13.—(1) For the purpose of the provision and maintenance of receptacles for refuse or litter in any street or public place under section 51 of the Public Health Act 1961, the Corporation shall have power, notwithstanding the provisions of subsection (5) of the said section 51, to affix any such receptacles to the external wall of any building fronting any street, and the provisions of section 53 (Power to affix apparatus for public lighting to external walls of buildings fronting streets) of the City of London (Various Powers) Act 1900 shall apply in relation to the affixing of any such receptacles as it applies to the affixing of brackets, wires, pipes, lamps and apparatus for the public lighting of streets.

(2) Nothing in this section shall authorise the Corporation to affix any receptacle—

- (a) to a building without the consent of the owner of the building; or, PART V
—cont.
- (b) to 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, or in a list of buildings of special architectural or historic interest compiled by him under section 32 of the Town and Country Planning Act 1962, without the consent of the Secretary of State. 1962 c. 38.

Provided that, where in the opinion of the Corporation a consent required under paragraph (a) of this subsection to the affixing of a receptacle to a building is unreasonably withheld, they may apply to the magistrates' court who may either allow the affixing of the receptacle subject to such conditions, if any, as the court thinks fit, or disallow the affixing of the receptacle.

14.—Section 13 (Policing of city walkways) of the City of London (Various Powers) Act 1967 shall be amended as follows:— Amendment
of City of
London
(Various
Powers)
Act 1967.
1967 c. xlii.

after the word "walkway" there shall be inserted the words
 " , and any lifts, escalators, travelators or other facilities
 by means of which the public may have access to a city
 walkway,".

15.—The costs, charges and expenses preliminary to, and of and incidental to, the preparing, obtaining and passing of this Act shall be paid by the Corporation out of the city's cash and out of the general rate of the city in such proportions as the Corporation may deem just. Costs of Act.



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