

ELIZABETH II



1982 CHAPTER iv

An Act to re-enact with amendments and to extend certain local enactments in force within the county of Avon; to confer further powers on the County Council of Avon and local authorities in the county; to make further provision with regard to the environment, local government, improvement, health and finances of the county; and for other purposes. [22nd March 1982]

WHEREAS by virtue of the Local Government Act 1972 1972 c. 70. (hereinafter referred to as "the Act of 1972") the county of Avon (hereinafter referred to as "the county") was constituted on 1st April 1974 so as to consist of an area comprising the following districts described by reference to administrative areas existing immediately before the passing of the Act of 1972:—

The district of Northavon—

In the administrative county of Gloucestershire—

the rural district of Sodbury, except the parish of Alderley;

in the rural district of Thornbury, the parishes of Almondsbury, Alveston, Aust, Charfield, Cromhall,

Falfield, Hill, Oldbury-upon-Severn, Olveston, Patchway, Pilning and Severn Beach, Rangeworthy, Rockhampton, Thornbury, Tortworth and Tytherington:

The city of Bristol—

The county borough of Bristol:

The district of Kingswood—

In the administrative county of Gloucestershire—

the urban districts of Kingswood and Mangotsfield;
the rural district of Warmley:

The district of Woodspring—

In the administrative county of Somerset—

the borough of Weston-super-Mare;
the urban districts of Clevedon and Portishead;
the rural district of Long Ashton;

in the rural district of Axbridge, the parishes of Banwell, Bleadon, Butcombe, Churchill, Congresbury, Hutton, Kewstoke, Locking, Puxton, Wick St. Lawrence, Winscombe and Wrington, so much of the parishes of Blagdon and Burrington as lies north of the boundary determined by the order made by the Secretary of State under paragraph 6 of Part III of Schedule 1 to the Act of 1972 and so much of the parish of Loxton as lies north of the line for the time being of the centre of the river Axe;

Steep Holme Island:

The district of Wansdyke—

In the administrative county of Somerset—

the urban district of Keynsham and Norton-Radstock;
the rural district of Bathavon;

in the rural district of Clutton, the parishes of Cameley, Chelwood, Chew Magna, Chew Stoke, Clutton, Farmborough, Farrington Gurney, High Littleton, Hinton Blewett, Nempnett Thrubwell, Norton Malreward, Paulton, Publow, Stanton Drew, Stowey-Sutton and Timsbury and so much of the parishes of Compton Martin, East Harptree, Ubley and West Harptree as lies north of the boundary determined by the order made by the Secretary of State under paragraph 6 of Part III of Schedule 1 to the Act of 1972;

the unannexed area adjacent to the urban district of Keynsham:

The city of Bath—

The county borough of Bath:

And whereas numerous local enactments were in force in parts of the said area and by section 262 of the Act of 1972 it was provided that, subject to certain modifications, certain local statutory provisions should continue to apply to the area, things or persons to which or to whom they applied before 1st April 1974:

And whereas it was further provided by the said section 262 that certain local statutory provisions should cease to have effect at the end of 1984:

And whereas it is expedient that certain of the said enactments should be re-enacted with amendments and applied to the whole of the county:

And whereas it is expedient at the same time to extend and enlarge in various respects the powers of the County Council of Avon and local authorities in the county:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

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

And whereas in relation to the promotion of the Bill for this Act the requirements of section 239 of the Act of 1972 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.—(1) This Act may be cited as the County of Avon Act 1982. Citation and commencement.
 (2) Section 22 (Registration of hawkers of food and their premises) of this Act and so much of section 61 (Repeals) of this Act as repeals section 44 of the Bristol Corporation Act 1950 and section 154 of the Gloucestershire County Council Act 1956 in so far as that section relates to the county shall come into operation on the expiration of three months after the passing of this Act and the remainder of this Act shall come into operation on 1st April 1982. 1950 c. lx.
1956 c. xl.

2.—(1) In this Act, unless the context otherwise requires— Interpretation.
 “ the Act of 1936 ” means the Public Health Act 1936; 1936 c. 49.

PART I

—cont.

1946 c. 49.

1955 c. 16

(4 & 5 Eliz. 2).

1961 c. 64.

1967 c. 76.

1971 c. 78.

1972 c. 70.

1976 c. 57.

1980 c. 66.

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

“ the Act of 1955 ” means the Food and Drugs Act 1955;

“ the Act of 1961 ” means the Public Health Act 1961;

“ the Act of 1967 ” means the Road Traffic Regulation Act 1967;

“ the Act of 1971 ” means the Town and Country Planning Act 1971;

“ the Act of 1972 ” means the Local Government Act 1972;

“ the Act of 1976 ” means the Local Government (Miscellaneous Provisions) Act 1976;

“ the Act of 1980 ” means the Highways Act 1980;

“ the appointed day ” has the meaning assigned to that expression by section 3 of this Act;

“ the Bath council ” means the Bath City Council;

“ the Bristol council ” means the City Council of Bristol;

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

“ the county ” means the county of Avon;

“ the county council ” means the county council of the county;

“ daily fine ” means a fine for each day on which an offence is continued after conviction thereof;

“ district ” means a district in the county;

“ district council ” means the council of a district;

“ footpath ” has the meaning given by section 329 of the Act of 1980;

“ footway ” has the meaning given by section 329 of the Act of 1980;

“ local authority ” means the county council or a district council;

“ officer ” includes servant;

“ owner ” has the meaning given by section 329 of the Act of 1980;

“statutory undertakers” means the Bristol Waterworks Company, the British Gas Corporation, British Telecommunications, the Central Electricity Generating Board, the Midlands Electricity Board, the Southern Electricity Board, the South Western Electricity Board and the water authority, or any of them, as the case may be;

“street” has the meaning given by section 329 of the Act of 1980;

“the water authority” means the Severn-Trent Water Authority and the Wessex Water Authority or either of those authorities;

“the Woodspring council” means the Woodspring District Council.

(2) Any reference in this Act to a proper officer shall, in relation to any purpose and any local authority or area, be construed as a reference to an officer appointed for that purpose by that authority or for that area, as the case may be.

(3) Any reference in this Act to a Part not otherwise identified is a reference to that Part of this Act.

3.—(1) In this Act “the appointed day” in relation to section 22 (Registration of hawkers of food and their premises) of this Act means such day (not earlier than three months after the passing of this Act) as may be fixed for the purposes of that section in accordance with subsection (2) below by resolution of the district council. Appointed day.

(2) The district council shall publish in a newspaper circulating in the district notice—

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

(b) of the general effect of the said section 22;

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

(3) A photostatic or other reproduction certified by the proper officer to be a true reproduction of a page, or part of a page, of any newspaper being a page or part bearing the date of its publication and containing the notice mentioned in subsection (2) above shall be evidence of the publication of the notice and of the date of publication.

PART II

HIGHWAYS

4.—(1) Subject to the modifications specified in subsection (2) below, section 213 of the Act of 1971 (power for local authorities Highway amenities.)

PART II
—cont.

to provide facilities for recreation or refreshment in certain highways) shall in the county apply to—

- (a) footpaths;
- (b) subways constructed under section 69 of the Act of 1980;
- (c) bridges constructed under section 70 of that Act; and
- (d) roads the use of which by vehicular traffic is prohibited by a traffic regulation order made under section 1 of the Act of 1967;

as it applies to a highway in relation to which an order has been made under section 212 (2) of the Act of 1971.

(2) The modifications referred to in subsection (1) above are—

- (a) the omission from section 213 (1) of the words “ giving effect to the order or of ”;
- (b) the substitution in section 213 (3) (a), for the words “ the order under section 212 of this Act was made ”, of the words “ the powers were exercised ”;
- (c) the substitution in section 213 (3) (d), for the words from “ permitted ” to the end, of the words “ lawful; or ”;
- (d) the substitution in section 213 (5), for the words “ consulted the highway authority (if different) and ” of the words “ obtained the consent of the highway authority (if different) and consulted ”.

(3) For the purpose of subsection (1) (d) above, use by vehicular traffic is prohibited where the prohibition applies to the whole width of the road and is so prohibited notwithstanding that the traffic regulation order permits certain vehicles or classes of vehicle to use the road or permits vehicles or classes of vehicle to use the road at certain times or on certain days or during certain periods.

(4) In section 213 (2) of the Act of 1971 as it has effect in the county the power to provide facilities for recreation or refreshment includes power, subject to subsections (6) and (7) below, to permit their provision by any person on such conditions as the competent authority think fit:

Provided that, except where such facilities are provided on land belonging to the competent authority, the authority shall only make such charge for permission to provide such facilities as will reimburse the authority for their reasonable expenses in connection with granting their permission; but this provision

shall not prejudice the right of the authority to require payment in respect of, or indemnities against, claims, liabilities and obligations arising by reason of—

PART II
—cont.

- (a) the provision of such facilities and costs incurred by the authority in connection therewith; and
- (b) the removal or alteration of such facilities when required by the authority.

(5) Nothing in this section shall be taken to relieve any person from liability for damage caused by him to any apparatus belonging to or maintained or used by statutory undertakers.

(6) Where a competent authority propose—

- (a) to exercise the powers of section 213 of the Act of 1971 to provide facilities in any footpath or any such road as is mentioned in subsection (1) (d) above; or
- (b) to consider an application for permission to provide facilities for recreation or refreshment pursuant to subsection (4) above for more than twenty-eight days in a calendar year;

they shall give notice of their proposal or, as the case may be, the application, specifying the nature of the facilities and the place where it is proposed that they be provided and the period, not less than six weeks after giving the notice, during which representations regarding their proposal or, as the case may be, the application may be made to them:

Provided that notice shall not be required where the application is for renewal of permission previously given.

(7) Notice for the purpose of subsection (6) above shall be given—

- (a) by fixing the notice in a conspicuous position at or near the place where it is proposed to provide the facilities; and
- (b) by serving the notice on the occupier of any premises appearing to the competent authority to be likely to be affected by the facilities, addressed to him by name or, if his name is not known, by delivering the notice at the premises addressed to him as "The Occupier".

(8) The competent authority shall not proceed with any proposal to exercise any such powers, or to grant any such permission, as are mentioned in subsection (6) above until they have taken into consideration all representations made in accordance with that subsection.

(9) The competent authority shall take such steps as they think necessary for affording to any organisation appearing to them to represent the interests of persons trading in shop premises which

PART II
—cont.

may be affected by the provision of facilities under this section an opportunity to make representations to the authority about any such proposal as is mentioned in subsection (6) above.

(10) A competent authority shall not exercise the powers of section 213 of the Act of 1971 so far as extended by this section in relation to any highway belonging to or repairable by, or any operational land or disused railway belonging to, the British Railways Board except with the consent of that board, which consent shall not be unreasonably withheld and any question whether consent is unreasonably withheld shall be determined by arbitration.

**Control of
verges.**

5.—(1) The highway authority may by notice prohibit, either entirely or at such times or on such days as may be specified in the notice, either of the following things:—

- (a) allowing horses or cattle to enter land to which this section applies;
- (b) driving or riding a vehicle on such land.

(2) The land to which this section applies is—

- (a) land provided by the highway authority and mown or otherwise maintained in an ornamental condition;
- (b) land accessible from a highway being land provided by a person, other than the highway authority and laid out, used, mown or maintained as aforesaid:

Provided that notice shall not be given in respect of land such as is mentioned in paragraph (b) above, except with the consent of the person concerned or his representatives.

(3) A prohibition under subsection (1) (b) above shall not extend to going on or in a vehicle—

- (a) in the course of building operations; or
- (b) by statutory undertakers or the British Railways Board where reasonably necessary for the exercise of their statutory powers:

Provided that the exemption afforded by paragraph (a) above shall be conditional upon means being taken to the satisfaction of the highway authority to minimise injury to the land and to protect persons on the land.

(4) For the purposes of this section notice shall be given by displaying it in a conspicuous position on or near the land to which it relates.

(5) Notice of a prohibition contained in subsection (1) (b) above if it relates to a grass verge forming part of or adjoining a highway used by motor vehicles (as defined in section 99 of the Act of 1967)

shall be indicated by such traffic sign as shall be prescribed in regulations made by the Secretary of State under the powers contained in sections 54 and 55 of the Act of 1967 or be specially authorised on behalf of the Secretary of State.

(6) A person who without reasonable excuse contravenes a notice given under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(7) Where land to which a prohibition contained in subsection (1) (a) or (b) above applies forms part of a highway, the rights of the public over the highway, except rights of grazing cattle and horses, shall be subject to the prohibition; but, subject as aforesaid, nothing in this section shall—

- (a) limit any right of way, public or private, over land;
- (b) restrict the exercise by any person of any statutory right to enter upon land.

PART III

PUBLIC ENTERTAINMENTS, ORDER AND SAFETY

6.—(1) A district council may, after consultation with the fire authority, make byelaws with regard to structures to which this section applies for the purpose of securing protection against fire and the safety of persons resorting thereto, including byelaws for securing—

Byelaws with regard to certain temporary structures.

- (a) the provision of safe and adequate means of ingress to and egress from the structure;
- (b) the provision of first-aid fire-fighting equipment;
- (c) the provision of proper and sufficient passages or gangways in the structure and between the structure and another building or structure;
- (d) the stability of the structure;
- (e) the proper arrangement of any seating accommodation to be provided in the structure.

(2) (a) An authorised officer of the district council or any officer of the fire authority, in either case on producing, if so required, a duly authenticated document showing his authority, or any police constable, may at all reasonable times enter upon, inspect and examine any structure to which this section applies and any land giving access thereto for the purpose of ascertaining whether there is, or has been, in or in connection with the structure, a contravention of the provisions of any byelaw made under this section.

PART III
—cont.

(b) Subsections (2), (3) and (4) of section 287 of the Act of 1936 shall apply in respect of entry to a structure and any land giving access thereto for the purposes of this subsection as they apply to entry to premises for the purpose of subsection (1) of that section.

(3) This section applies to any tent, marquee or other similar structure which is erected in a district and to which the public are admitted, whether with or without any charge for admission, for the purposes of or in connection with any fair, show, exhibition, game, sport or athletic or other contest or public entertainment or any political, religious or other public meeting:

Provided that this section shall not apply to any tent, marquee or structure erected for the purposes of or in connection with a pleasure fair as defined by section 75 of the Act of 1961.

Parking
places:
safety
requirements.

7.—(1) This section applies to a parking place comprising or within a building which provides—

(a) parking space for more than three motor vehicles, being a space of which any part of the floor is situated more than 1.2 metres below the surface of the ground adjoining any wall of the building; or

(b) parking space for more than twenty motor vehicles;

not being in either case a parking place for motor vehicles for the use only of the occupants of a single private dwelling-house.

(2) Where—

(a) plans of any proposed work are deposited with a district council in accordance with building regulations; and

(b) the plans show that the proposed work will include or consist of the construction, extension or alteration of a building for the purpose of using all or part of it as a parking place to which this section applies;

the district council shall reject the plans unless they are satisfied after consultation with the fire authority and, in a case where a licence under the Petroleum (Consolidation) Act 1928 will be required in respect of the building, after consultation with the licensing authority under that Act (if not the fire authority), that they may properly consent to the construction, extension or alteration of the building, either unconditionally, or subject to compliance with any conditions, specified in their consent, with respect to the matters mentioned in subsection (3) below for preventing or reducing danger from fire or other danger to life.

(3) The conditions subject to compliance with which plans may be passed under subsection (2) above are conditions with respect to the following matters relating to the parking place:—

- (a) construction of the vehicular approaches;
- (b) means of access for fire brigade appliances and personnel;
- (c) means of ingress and egress, including the provision of appropriate signs;
- (d) means of ventilation;
- (e) safety of electrical, mechanical and heating equipment;
- (f) provision of an emergency lighting system;
- (g) fire protection, fire alarms and fire-fighting equipment and appliances; and
- (h) prevention of the admission to drains of flammable substances.

PART III
—cont.

(4) If the district council consent to the construction, extension or alteration of a building subject to compliance with conditions with respect to any of the matters specified in subsection (3) above, they may impose a requirement that the building shall not be used for the parking of vehicles until the conditions have been complied with.

(5) Section 64 (2) and section 65 (2) to (5) of the Act of 1936 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of the Act of 1936.

(6) Any person aggrieved by the action of the district council under subsection (2) or (4) above in rejecting plans, or in imposing any conditions, may appeal to the Secretary of State.

(7) If any conditions, subject to compliance with which plans have been passed under subsection (2) above or under any corresponding statutory provision repealed by this Act, are not being complied with, the district council may by notice to the owner or occupier of the parking place prohibit its use for the parking of vehicles until those conditions have been complied with.

(8) If it appears to the district council, after consultation with the fire authority, that any building or part of a building in the district—

- (a) has been first brought into use after the commencement of this Act as a parking place to which this section applies;
- (b) has been so brought into use in circumstances in which no notice had to be given, or plans, sections, specifications or written particulars deposited, in accordance with building regulations; and

PART III
—cont.

(c) is not so constructed or equipped that, if plans of the work consisting of, or including, the parking place had been deposited under subsection (2) above, the district council would have given their consent under that subsection without specifying conditions with respect to any of the matters specified in paragraphs (b) to (h) of subsection (3) above;

they may, for the purpose of preventing or reducing danger from fire or other danger to life, by notice to the owner or occupier of the parking place, require compliance with—

- (i) such conditions with respect to any of those matters as may be specified in the notice; and
- (ii) for the purpose of restricting the use of the parking place until those conditions have been complied with, such other conditions as may be so specified.

(9) The provisions of Part XII of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under subsection (8) above as if—

- (a) references in those provisions to that Act included reference to this subsection;
- (b) for the reference in section 290 of the Act of 1936 to the court there were substituted reference to the Secretary of State; and
- (c) in section 290 (6) the words from “and without prejudice” to the end were omitted.

(10) Any person on whom notice is served under subsection (7) above in respect of any parking place owned or occupied by him, who uses the parking place or permits it to be used for the parking of vehicles in contravention of the notice, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(11) Any person on whom notice is served under subsection (8) above in respect of any parking place owned or occupied by him, who contravenes any requirement specified in the notice, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(12) For the purposes of section 287 (1) (a) of the Act of 1936 as applied by this Act, the provisions of this section shall be provisions which it is the duty of the fire authority as well as the district council to enforce.

(13) (a) In the case of a building in respect of which a licence under section 2 or 3 of the Petroleum (Consolidation) Act 1928, is in force or in respect of which application for such a licence has

been made before deposit of such plans as are referred to in subsection (2) above, no conditions shall be specified under this section in respect of any matter which may be regulated by such a licence.

(b) Subject to paragraph (a) above, where plans in respect of any building have been passed subject to compliance with conditions specified under this section, no conditions shall be attached to any licence in respect of that building under section 2 or 3 of the said Act of 1928 which conflict with the conditions so specified.

8.—(1) In the interests of persons resorting to any park, pleasure ground or open space under their management and control a local authority may set apart an area (not exceeding the prescribed area) of the park, pleasure ground or open space for use for the parking of vehicles and provide parking places and facilities in connection therewith. Provision of parking places in parks, etc.

(2) Subsection (1) above shall not affect any trust, covenant or other restriction to which the park, pleasure ground or open space is subject.

(3) A local authority shall have power to make reasonable charges for the use of any facilities provided by them under this section, and may make arrangements for any such facilities to be provided by some other person, including arrangements authorising that person to make reasonable charges.

(4) In this section “the prescribed area” means—

- (a) where the total area of the park, pleasure ground or open space does not exceed 4 hectares, one-eighth of that area;
- (b) where such area exceeds 4 hectares but does not exceed 6 hectares, one-half hectare;
- (c) in any other case, one-twelfth of such area.

(5) A local authority shall consult the British Railways Board before exercising the powers of subsection (1) of this section in relation to an area of any park, pleasure ground or open space which is situated upon, across or over or within 15 metres (measured in any direction) from any railway of that board.

(6) For the purposes of this section Clifton and Durdham Downs in the city of Bristol shall be deemed to be under the management and control of the Bristol council.

9.—(1) Where it appears to a district council that a building in their district is, by reason of damage to the building, not secured against entry by trespassers and that the occupier of the Protection of damaged buildings.

PART III
—cont.

building is absent from the building, the district council may do such things as are reasonably required to render the building secure and recover from the owner or occupier the expenses reasonably incurred by them in so doing.

(2) The district council shall not exercise their powers under subsection (1) above without the consent of the owner or occupier of the building unless, having regard to all the circumstances, it is not reasonably practicable to communicate with him within a reasonable time.

(3) Nothing in this section shall apply to premises to which section 8 of the Act of 1976 applies (unoccupied houses subject to closing orders or undertakings against use for human habitation).

PART IV

STREET TRADING

Designation
of streets and
interpretation
of Part IV.

10.—(1) For the purpose of controlling street trading in any district the district council may, by resolution passed in accordance with this Part, designate any street in the district—

- (a) as a prohibited street, that is to say, a street in which street trading is unlawful; or
- (b) as a licensed traders' street, that is to say, a street in which street trading is unlawful except by a person holding a street trader's licence granted to him under this Part.

(2) A designation made under subsection (1) above may be varied or rescinded by resolution and the provisions of this Part shall apply to any such resolution to vary or rescind the designation of a prohibited street or licensed traders' street as they apply to the resolution for the original designation.

(3) In this Part—

- “ container ” includes any thing other than a stall used for the display of any thing;
- “ licensee ” means the holder of a street trader's licence;
- “ stall ” includes a barrow or other vehicle;
- “ street trading ” means selling or offering or exposing for sale any thing in a street.

(4) References in this Part to application for, or grant of, a street trader's licence include references to application for, or grant of, the renewal of a street trader's licence and cognate expressions shall be construed accordingly.

11.—(1) Where the district council propose to pass a resolution under this section to designate any street in the district as a prohibited street or licensed traders' street, they shall publish notice of their proposal containing a draft of the resolution—

- (a) by sending it to the highway authority and the chief officer of police;
- (b) by advertisement in a newspaper circulating in the district; and
- (c) by posting it in a conspicuous position at each end of every street referred to in the draft.

(2) The notice shall state that objections to the proposed resolution may be made in writing to the district council before such day, not earlier than twenty-eight days after the district council have complied with subsection (1) above, as may be specified in the notice.

(3) The district council shall, after taking into consideration objections made as provided in subsection (2) above—

- (a) pass a resolution in terms of the draft; or
- (b) pass a resolution in terms of the draft with modifications, but not so as to add any street to those referred to in the draft nor so as to designate as a prohibited street any street which in the draft was to be designated as a licensed traders' street; or
- (c) proceed no further on the draft resolution:

Provided that—

- (i) they shall not include in the resolution any street belonging to, or maintainable by, the British Railways Board without the consent of that board; and
- (ii) they shall not designate any street as a licensed traders' street without the consent of the highway authority.

(4) Where the district council have passed a resolution under subsection (3) above they shall publish notice of it in the manner required by subsection (1) above for notice of the draft.

(5) A notice published as required by subsection (4) above shall state the day, not less than twenty-eight days after the district council have complied with that subsection, on which the designations made by the resolution are to take effect; and different days may be stated for different streets.

12.—(1) The applicant for a street trader's licence shall—

- (a) state his name and address, the place or places in which, the days on which and the time at which, he applies to trade and what he applies to sell;
- (b) describe the stall or container that he proposes to use in his trade;

PART IV
—cont.

Resolution
to prohibit
or control
street
trading.

Application
for licence.

PART IV
—cont.

(c) give the district council such other information as they may reasonably require; and

(d) except on application for the grant of the renewal of a street trader's licence, supply two identical photographs of the applicant.

(2) (a) The applicant shall with his application pay such reasonable fee to cover the expense of the district council in dealing with such applications as the district council may by resolution prescribe.

(b) The district council may dispense with, or reduce, a fee payable under this subsection.

(3) The district council may grant the application, or refuse it, or grant it with modifications relating to the place, the days on and times at which the applicant may trade, the nature of the trade or the use of a stall or container.

(4) The grounds upon which the district council may refuse the application or grant it with modifications are that—

(a) the applicant is unsuitable by reason of misconduct or incapacity;

(b) there is not enough space for street trading as specified in the application without undue inconvenience to persons using the street;

(c) in the case of renewal, the applicant has failed to avail himself, or avail himself to a reasonable extent, of the rights conferred by the licence that he holds.

(5) Before exercising the powers conferred by subsection (3) above to refuse the application or grant it with modifications, the district council shall serve on the applicant not less than fourteen days' notice of their proposal to exercise them and of their grounds for doing so; and if they propose to exercise those powers on the ground specified in subsection (4) (a) above, the notice shall include particulars of the misconduct or incapacity alleged.

(6) If the applicant, within seven days of service on him of a notice under subsection (5) above, requires the district council to give him an opportunity to be heard in support of his application, the district council shall, before exercising the power conferred by subsection (3) above, to refuse the application or grant it with modifications, give him an opportunity to be heard by a committee or sub-committee of the district council.

(7) Unless, within eight weeks after an application has been duly made under this section, the district council have served notice under subsection (5) above, they shall be deemed to have granted the application.

(8) The district council shall notify the applicant of their decision on his application as soon as may be after the proceedings required by subsections (5) and (6) above have been concluded; and, without prejudice to section 52 (Suspension of proceedings pending appeal) of this Act, until such notification the applicant, in the case of renewal, may continue to trade in accordance with his former licence, notwithstanding that it may have expired.

PART IV
—cont.

(9) If the district council refuse the application, or grant it with modifications, they shall in the notice under subsection (8) above state the grounds upon which they have done so.

13. A street trader's licence shall specify—

Contents of
street
trader's
licence.

- (a) the name and address of the licensee;
- (b) the place on which the trading may take place;
- (c) what the licensee may sell and the days on which and the times at which he may trade;
- (d) the limitation, if any, of the size and number of any stalls or containers that he may use for trading and any other limitation of the design of such stalls or containers;
- (e) what obligations, if any, are imposed on the licensee to keep the place at which he trades and its vicinity free of litter and refuse;
- (f) the charges, if any, that are leviable under section 19 (Charge for street cleansing) of this Act; and
- (g) any other reasonable requirements of the district council, including a requirement that the stalls or containers allowed by the licence shall display the licensee's name or the number of his licence or both.

14.—(1) Subject to subsection (2) below, a street trader's licence shall be for such period, not exceeding twelve months, specified in the licence as the district council may determine.

Duration,
revocation
and variation
of licences.

(2) The district council may—

- (a) revoke a licence during its currency on the ground that—
 - (i) the licensee has become unsuitable by reason of misconduct or incapacity; or
 - (ii) the licensee has failed to avail himself, or to avail himself to a reasonable extent, of his licence; or
- (b) modify a licence during its currency, so that it is valid for a place, day or time, or for trade of a nature, or for the use of a stall or container, other than that specified in the licence.

PART IV
—cont.

(3) Subsections (5), (6), (8) and (9) of section 12 (Application for licence) of this Act shall apply to the exercise of powers conferred by subsection (2) above as they apply to the power to refuse an application for a street trader's licence or to grant it with modifications; and for that purpose shall have effect as if—

- (a) for references to the applicant and the refusal of his application, or the grant of his application with modifications, there were substituted references to the licensee and the revocation of his licence, or the modification of his licence;
- (b) for the references to subsection (3) of the said section 12, there were substituted references to subsection (2) above;
- (c) for the reference to subsection (4) (a) of that section there were substituted a reference to subsection (2) (a) (i) above;
- (d) in subsection (6) the words "in support of his application" were omitted;
- (e) in subsection (8) the words "on his application" and the words from "and, without prejudice" to the end were omitted.

Part IV
appeals.

15. A person—

- (a) who has applied for a street trader's licence and whose application has been refused or has been granted with modifications; or
- (b) whose street trader's licence has been revoked or has been modified;

may appeal to a magistrates' court; and on any such appeal the court may order directions for giving effect to its decision but shall not direct the granting of a licence with modifications, or the restoring of it with modifications more onerous than the modifications appealed against.

**Disqualifi-
cation of
young
persons.**

16. A street trader's licence granted by the district council to a person who has not attained the age of 17 shall be of no effect.

**Employment
of
assistants.
1975 c. 72.**

17. Subject to any enactment relating to the employment of children as defined in section 107 (1) of the Children Act 1975, a licensee may employ, to assist him at the stall or container used for street trading, any assistant or any other licensee.

18. A district council shall take such steps as they think necessary for affording to any recognised organisation representative of street traders (and to any street trader or other interested party who is not a member of any such organisation) an opportunity to make representations with regard to the nature of the limitations and obligations or other provisions of street traders' licences and to related matters.

PART IV
—cont.

Consultation
with traders,
organisations,
etc.

19. The district council may charge a licensee such sums to cover the expenses of the district council in collecting refuse, street cleansing and providing other services for the administration of street trading under this Part, as the district council may by resolution prescribe; and such charges may—

Charge for
street
cleansing.

- (a) be incorporated in the fee payable under subsection (2) of section 12 (Application for licence) of this Act; or
- (b) be recoverable from the licensee as a simple contract debt.

20. A person who—

Offences
under
Part IV.

- (a) engages in street trading in a prohibited street;
 - (b) without a street trader's licence, or contrary to the provisions of such a licence, engages in street trading in a licensed traders' street;
 - (c) on land within six metres of a prohibited street or a licensed traders' street, sells or offers or exposes for sale any thing;
 - (d) in support of, or in opposition to, an application for a street trader's licence, or in opposition to, or in support of, a proposal to revoke or modify such a licence, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular; or
 - (e) engages in street trading and, being requested by a proper officer of the district council producing his authority or a constable to give his name and address, fails to do so;
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

21.—(1) Nothing in this Part shall—

Savings for
Part IV.

- (a) prohibit a person from acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871; 1871 c. 96.
- (b) prohibit the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 (street collections); 1916 c. 31.
- (c) prohibit the doing of anything on land by the owner or occupier of the land or by any person with the consent of the owner or occupier;

PART IV
—cont.

- (d) prohibit the doing of anything on land forming part of a highway by the owner or occupier of land fronting that part;
- (e) prohibit the selling, or the offering or exposing for sale, of any thing to persons on premises fronting on, or adjacent to, a street, whether the trading takes place on those premises or in that part of the street on which the premises front or to which they are adjacent;
- (f) prohibit the provision of facilities for recreation or refreshment under section 213 (2) of the Act of 1971, as amended by section 4 (Highway amenities) of this Act;
- (g) in the case of a highway in respect of which a control order is in force under section 7 of the Act of 1976, regulate the sale of any thing as respects which the control order provides that the order is not to apply to it.

(2) Nothing in this Part shall prohibit the sale, or the offering or exposure for sale, of newspapers or periodicals in a street if the following conditions are satisfied:—

- (a) that nothing except newspapers or periodicals or both is sold or offered or exposed for sale;
- (b) that no stall or container is used which—
 - (i) stands on any part of the carriageway of the street; or
 - (ii) exceeds two metres in its vertical, or one metre in any horizontal, dimension.

(3) Nothing in this Part shall prohibit the sale or offering or exposure for sale of any thing in a market or fair held in pursuance of any statute, royal licence, royal charter or letters patent, or as of right from time immemorial.

PART V

PUBLIC HEALTH

Registration of hawkers of food and their premises.

22.—(1) As from the appointed day in any district—

- (a) no person shall for private gain sell, offer or expose for sale in a district any food from a stall or container unless he is registered by the district council;
- (b) no premises in a district shall be used as storage accommodation for any food intended for sale for private gain from a stall or container unless the premises are registered by the district council.

(2) Any person who contravenes subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

PART V
—cont.

(3) (a) An application for a person to be registered under this section shall be made by himself and an application for premises to be so registered shall be made by the owner or occupier or intending owner or occupier thereof.

(b) Any such application shall be accompanied by such particulars as to the applicant or the premises, as the case may be, and otherwise, as the district council may reasonably require, including particulars as to any vehicle, receptacle or stand to be used by the applicant.

(c) On application for registration under this section the district council shall register the applicant and, if the application specifies premises, those premises, and shall issue to the applicant a certificate of registration.

(4) The district council shall keep a register of the persons and premises registered under this section.

(5) This section shall not apply to—

(a) the sale or offer or exposure for sale of food by a person in an open shop, or to the use by any person in connection with such a shop, of any premises as storage accommodation for food intended for sale;

(b) the sale or offer or exposure for sale of food by a dairyman registered under regulations in force under Part II of the Act of 1955, or having effect by virtue of section 136 (2) of and Schedule 12 to that Act as if they had been made under the said Part II or to any dairy so registered;

(c) the sale or offer or exposure for sale of food by any person at any market owned by a district council or at any charter, prescriptive or statutory market not so owned for which such person has paid a toll, stallage or rent, or to the use of any premises in any such market as storage accommodation for food intended for sale by any such person at such market;

(d) any premises registered under section 16 of the Act of 1955 or used as a theatre, cinematograph theatre, music hall or concert hall or used as a canteen or refreshment room in or in connection with and for persons employed at a place of work, or to any person in respect of the sale or offer or exposure for sale of any food in any such premises;

PART V
—cont.

(e) the sale or offer or exposure for sale from land used for agriculture or horticulture of the produce of that land.

(6) In this section—

“ container ” includes any basket, pail, tray, box or other receptacle of any kind, whether open or closed;

“ food ” does not include any substance contained in containers of such materials and so closed as to exclude all risk of contamination;

“ premises ” means a building or part of a building and any forecourt, yard or place of storage used in connection with the building;

“ stall ” includes any stand, mobile canteen, vehicle (whether movable or not) or barrow from which food is sold.

Touting,
hawking,
photographing,
etc.

23.—(1) A district council may designate, in accordance with subsection (5) below, any of the following places, or any part of such places, in the district as places to which this section applies for any of the purposes of subsection (2) below:—

(a) a public off-street car park, recreation ground, garden or other park, pleasure ground or open space under the management and control of a local authority;

(b) a street or esplanade, parade, promenade, drive or way to which the public commonly have access, whether or not as of right;

(c) the seashore:

Provided that the district council shall not designate—

(i) for the purpose of subsection (2) (b) below, any street which is a licensed traders' street or a prohibited street under Part IV (Street trading) of this Act or any highway specified in a control order under section 7 of the Act of 1976; or

(ii) for the purposes of subsection (2) (c) (ii) below, any street.

(2) Any person who, in a place designated under this section—

(a) importunes any person by touting for an hotel, lodging house, restaurant or other place of refreshment, for a shop, for a theatre or other place of amusement or recreation, for a hackney carriage or other conveyance or for a ship or boat; or

(b) without the consent of the district council or in breach of any condition subject to which the council's consent is given, hawks, sells or offers or exposes for sale any thing; or

(c) without the consent of the district council or in breach of any condition subject to which the council's consent is given—

(i) purports to photograph any person by way of trade or business; or

(ii) offers or exposes for hire any vehicle, chair or seat or any animal to ride;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(3) The conditions of consent referred to in subsection (2) (b) and (c) above include conditions as to the times or period for which the consent is valid and the payment for the consent of such reasonable fee to cover the expense of the district council in dealing with applications for such consents as the council may by resolution prescribe; and, subject to any condition as to the period for which the consent is valid, any such consent may be revoked by notice to the person to whom the consent was given.

(4) A person aggrieved by—

(a) the withholding by the district council of consent referred to in subsection (2) (b) or (c) above;

(b) the conditions subject to which the council give such consent; or

(c) the revocation of such consent under subsection (3) above;

may appeal to a magistrates' court, which may dismiss or allow the appeal or may vary any conditions imposed by the council:

Provided that, where conditions have been so imposed, the court shall not vary any such condition so as to make the conditions more onerous than those imposed by the district council.

(5) (a) Before designating any place for any of the purposes of subsection (2) above the district council shall give notice of their proposal by advertisement in a newspaper circulating in the district, and by posting it in the places to which it relates, stating that objections to the proposal may be made to the proper officer of the council within a time, not less than twenty-eight days after the giving of the notice, specified in the notice.

(b) After taking into consideration any objections made in accordance with paragraph (a) above, the district council may by resolution designate as places to which this section applies for any of the purposes of subsection (2) above all or any, or any part, of the places specified in the notice given under that paragraph.

(6) A resolution under subsection (5) (b) above shall come into force on such day as shall be specified by a notice given in the

PART V
—cont.

same manner as a notice given under subsection (5) (a) above, being a day not less than twenty-eight days after the day on which the notice is given under this subsection.

(7) Nothing in subsection (2) (b) and (c) above shall apply to the hawking, selling or offering or exposing for sale of any thing or the taking of any photograph at any place forming part of the undertaking of the Weston-super-Mare Pier Company.

(8) This section shall not prohibit—

(a) the doing of anything on land by the owner or occupier of the land, or by any person with the consent of the owner or occupier, or the doing of anything on land forming part of a highway by the owner or occupier of land fronting that part;

(b) the selling or offering or exposing for sale of any thing to persons on premises fronting on, or adjacent to, a place designated under this section, whether on those premises or in that part of any highway on which the premises front or to which they are adjacent;

(c) the taking of a photograph for the purpose of making it available for publication in a newspaper or periodical if the photographer is employed as such by or on behalf of the owner or publisher of a newspaper or periodical, or carries on a business which consists in, or includes, selling or supplying photographs for such publication;

and the district council shall not withhold their consent under subsection (2) (b) above to the selling or offering or exposing for sale by any person of newspapers and periodicals except on the ground that their consent has already been given to a sufficient number of other persons.

(9) Before giving consent under this section to the hawking, selling or offering or exposing for sale of any thing in a highway, the district council shall consult the highway authority.

(10) In this section the expression “hackney carriage or other conveyance” does not include a public service vehicle as defined in section 1 of the Public Passenger Vehicles Act 1981.

1981 c. 14.

**Paving of
yards and
passages.**

24.—(1) Where any court or yard is appurtenant to, or any passage gives access to, industrial premises in any district as well as to a house or houses the district council may exercise the powers of section 56 of the Act of 1936 (paving and draining of courts, yards and passages) in respect of any such industrial premises as if they were a house.

1975 c. 68.

(2) In this section “industrial” shall be construed in accordance with the Industry Act 1975.

25.—(1) This section applies to any building operation, including any work of demolition or the cleansing of any building or structure, which is either carried out in the open air or carried out in such circumstances that dust from the operation is emitted into the open air.

PART V
—cont.
Dust, etc.,
from building
operations.

(2) Except as provided in subsection (6) below, a district council may give notice to any person carrying out, or controlling the carrying out of, an operation to which this section applies in their district requiring him, within such time as is specified in the notice, to take such reasonably practicable steps as are so specified to reduce the emission of dust from the operation.

(3) In considering what steps are reasonably practicable for the purposes of subsection (2) above, the district council shall have regard, amongst other matters, to the requirements of safety and safe working conditions, any relevant provisions of any code of practice approved under section 16 of the Health and Safety at Work etc. Act 1974 and to the financial implications. 1974 c. 37.

(4) Any person aggrieved by a notice under subsection (2) above may appeal to the county court and the judge may make such order, either confirming or quashing or varying the notice, as he thinks fit but shall not so vary the notice that it is more onerous than the notice given by the district council.

(5) (a) Subject to any order made on appeal under subsection (4) above, any person who fails to comply with a notice under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

(b) In any proceedings under this subsection it shall be a defence to show that the quantity of dust emitted into the open air was not materially greater than would have been emitted if the notice had been complied with.

(6) (a) If, before the carrying out of any operation to which this section applies, the person who intends to carry it out applies to the district council for their consent to the operation giving particulars of—

- (i) the operation and the method by which it is to be carried out; and
- (ii) the steps proposed to be taken to reduce the emission of dust from the operation;

and the district council consider that, on the carrying out of the operation in accordance with the application, they would not serve a notice under subsection (2) above in respect of that operation, the district council may give their consent to the operation for the purposes of this section, either unconditionally or subject to such conditions as may be specified in the consent.

PART V
—cont.

(b) In acting under this subsection the district council shall have regard to the matters specified in subsection (3) above.

(c) If the district council do not, within 21 days from the receipt of an application under this subsection, give to the applicant a consent, with or without conditions, which is acceptable to the applicant, he may appeal to the county court.

(d) On any appeal under this subsection the judge may make such order either confirming the refusal of the consent or varying any conditions subject to which the consent has been given or ordering the giving of the consent with or without conditions as he thinks fit but shall not so vary any conditions that they are more onerous than those specified by the district council.

(7) In this section “dust” includes chemicals in solution and grit.

(8) Nothing in this section shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the Health and Safety at Work etc. Act 1974.

1974 c. 37.

Amendment
of section 18
of Act of 1961.

26. In its application to a district section 18 of the Act of 1961 (repair of drains and sewers) shall have effect as if in subsection (1)—

(a) for the words “fifty pounds” in both places where they occur there were substituted the words “two hundred and fifty pounds”;

(b) for the words “two pounds” there were substituted the words “twenty-five pounds”.

PART VI

SUPERANNUATION

Special
provision
as to super-
annuation of
certain
members of
Port of
Bristol
Authority
police force.

27.—(1) In the case of any sergeant or constable being a member of the police force maintained by the Bristol council in connection with their dock undertaking and being also a pensionable employee of the Bristol council (hereinafter in this section referred to as “a police officer”) the age of compulsory retirement shall be sixty years instead of sixty-five years.

(2) The county council may on the retirement from service of any police officer who has attained the age of sixty years and on the retirement from service of any police officer under the age of sixty years who on ceasing to hold his employment is incapable of discharging efficiently the duties of that employment by reason of permanent ill-health or infirmity of mind or body by specific

resolution direct that such number of years (not exceeding ten) as the county council shall by such resolution specify be added to the actual number of years of reckonable service of such police officer for the purpose of calculating his pension and retiring allowance.

PART VI
—cont.

(3) Any pension or retiring allowance granted under this section which would not otherwise have been granted or any addition to a pension or retiring allowance resulting from a resolution passed under this section shall be repaid to the superannuation fund maintained by the county council by the Bristol council.

PART VII

BATH PROVISIONS

Parks, recreation grounds and open spaces

28. In this Part and in Schedule 1 to this Act "the city" means the city of Bath. Interpretation of Part VII.

29. The provisions of Schedule 1 to this Act shall have effect in relation to the parks and recreation grounds mentioned therein. As to certain parks and recreation grounds in Bath.

30. The Bath council shall continue to be responsible for the care, management and control of the lands in the city comprising 0.405 hectare or thereabouts and known as Mount Beacon Common in all respects as if they had undertaken such care, management and control in accordance with the provisions of section 9 of the Open Spaces Act 1906. Mount Beacon Common. 1906 c. 25.

Miscellaneous

31.—(1) In this section "qualified passenger" means a passenger who is the holder of a valid ticket of admission to the Pump Room, the Roman Baths, the Roman Museum and the Assembly Rooms in the city or any of them which has been issued by the Bath council. Provision of transport service between Pump Room and Assembly Rooms.

(2) The Bath council may enter into arrangements with any person operating services of stage carriages in the city for the provision by that person of services for the carriage of qualified passengers between the Pump Room and the Assembly Rooms in the city on such terms and conditions as the Bath council may think fit.

32.—(1) In this section—

"backway" means any lane, footpath, alley or passage (not being a highway maintainable at the public expense) Making up and widening of backways.

PART VII
—cont.

whether a thoroughfare or not, which affords a secondary means of access to and is fronted by any premises in the city and includes part of a backway;

“fronting”, “front”, “the private street works code” and “street works” have the meanings assigned to those expressions by section 203 of the Act of 1980.

(2) Where not less than two-thirds in number of the owners of land having a frontage on a built-up backway have between them more than two-thirds of the aggregate length of all the frontages on both sides of the backway and by notice request the appropriate authority to exercise their powers under this section for the purpose of providing or improving vehicular access to such land by means of the backway, the appropriate authority may resolve to execute street works in the backway and, if they think fit, to widen the backway and subject to the provisions of this section, one-third of the expenses incurred by the appropriate authority in executing street works in the backway or in widening the backway and in acquiring any land for any such widening shall be borne by the appropriate authority and two-thirds of the said expenses shall be apportioned between the premises fronting the backway:

Provided that where the appropriate authority so resolve with respect to a part only of the backway (not being a part extending for the whole of the length of the backway) the proportion of the said expenses to be apportioned shall be apportioned only between the premises fronting the length of the backway which constitutes or comprises that part.

(3) For the purposes of this section—

- (a) a backway shall be deemed to be built up if the aggregate length of the frontages of the buildings on both sides of that backway constitutes at least one-half of the aggregate length of all the frontages on both sides of that backway;
- (b) the frontage of a building on a backway shall be deemed to be the frontage that the building itself and any land occupied with the building and for the purposes thereof has on the backway.

(4) In ascertaining the number of owners requisite for the purposes of making a valid request to the appropriate authority under subsection (2) above, joint owners shall be treated as one owner.

(5) The following provisions of the Act of 1980, namely subsections (3), (4), (5) and (6) of section 205, section 206, subsections (1) and (2) of section 207, sections 208 to 217, sections 231 and 233 and sections 235 to 237 shall extend and apply for the purposes of this section as if the execution of street works in the

backway and any widening of the backway were street works which the appropriate authority have resolved to execute under the private street works code and those provisions shall accordingly have effect with any necessary modifications including the substitution of "backway" for "private street" and "appropriate authority" for "street works authority":

PART VII
—cont.

Provided that for the purposes of such application—

(a) subsection (2) of the said section 207 shall have effect as if the following paragraph were inserted at the end thereof:—

"(c) the extent to which the owners or occupiers of any premises have agreed to dispose of land forming part of those premises to the appropriate authority for the widening of the backway at a price or for a consideration which is less than the value which that land if sold in the open market by a willing seller might have been expected to realise.";

(b) paragraph (f) of subsection (1) of the said section 208 shall have effect as if the following words were inserted at the end thereof:—

"or the extent to which the owner or occupier of premises has agreed to dispose of land forming part of those premises to the appropriate authority for the widening of the backway at a price or for a consideration which is less than the value which that land if sold in the open market by a willing seller might have been expected to realise."

(6) The provisions of section 228 of the Act of 1980 shall extend and apply for the purposes of this section in relation to any backway in which street works have been executed.

(7) The appropriate authority may, for the purpose of effecting the widening of any backway which is intended to become a highway maintainable at the public expense, agree with any person having power in that behalf for the dedication of land adjoining the backway as part of the highway.

(8) (a) The appropriate authority may by means of an order made by them and submitted to the Secretary of State and confirmed by him be authorised to purchase land in the city compulsorily for the purpose of widening any backway under the provisions of this section.

(b) 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 that Act.

PART VII
—cont.

(9) The powers conferred by this section shall not be exercised with respect to any backway situated outside the city or with respect to any backway which is fronted by any premises situated outside the city.

1950 c. 39.

(10) The provisions of Part II of, and Schedule 4 to, the Public Utilities Street Works Act 1950 shall apply in relation to the carrying out of any works under or in pursuance of this section as if such works were works executed for road purposes within the meaning of paragraph (a) of subsection (1) of section 21 of that Act and were of a kind referred to in that section and as if any apparatus belonging to or maintained by statutory undertakers which is affected thereby were in a street or controlled land.

(11) The appropriate authority for the purposes of this section means the county council or the Bath council, but the Bath council shall not exercise the powers conferred by this section except after consultation with the county council.

For
protection
of baths and
springs.

33.—(1) In this section—

“the deposited plan” means the plan marked “County of Avon—Hot baths and springs in Bath” and prepared in triplicate, one copy of which has been deposited in the office of the Clerk of the Parliaments, one in the Private Bill Office of the House of Commons and one in the office of the proper officer of the Bath council;

“protected area A” means the lands shown edged green on the deposited plan;

“protected area B” means the lands shown edged blue on the deposited plan, not being land within protected area A;

“protected area C” means the lands shown edged red on the deposited plan, not being land within protected area A or protected area B.

(2) This section applies to the following operations, that is to say:—

(a) the opening, digging, sinking or deepening of any pit or well;

(b) the opening or working of any mine or quarry; and

(c) the making of any excavation or opening by drilling or otherwise.

(3) Any person who without the consent of the Bath council carries out an operation to which this section applies to a depth exceeding—

- (a) within protected area A, 5 metres;
- (b) within protected area B, 15 metres;
- (c) within protected area C, 50 metres;

PART VII
—cont.

below the surface of the natural ground shall (without prejudice to any other remedy) be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(4) A copy of the deposited plan shall be available at all reasonable times for inspection by the public without charge at the office of the proper officer of the Bath council.

(5) The Bath council may refuse their consent under subsection (3) above if in their opinion the operation to which this section applies is likely to cause injury to or affect any of the hot baths or springs belonging to the Bath council:

Provided that if any difference arises between the Bath council and any person whether any of the said hot baths or springs is likely to be injured or affected such difference shall be determined by a geologist to be agreed upon between the parties or, failing such agreement, by a geologist to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

(6) (a) If it appears to a magistrates' court on complaint by or on behalf of the Bath council that any person is carrying on an operation to which this section applies within protected area A, B or C or is about to carry on such an operation in such a manner as to cause injury to or affect any of the hot baths or springs belonging to the Bath council the court may (and in cases to which subsection (3) above applies notwithstanding any such consent or determination as is hereinbefore referred to) make an order requiring such person within the period therein prescribed to discontinue the carrying on of that operation and if any such pit, well, mine, quarry, excavation or opening has been made to fill it up and remedy any injury done to any of the said hot baths or springs.

(b) Any person who without reasonable excuse fails to comply with any such order shall be liable to a fine not exceeding £1,000 and to a daily fine not exceeding £100.

(c) It shall be lawful for the Bath council upon the expiration of the prescribed period to enter upon any lands where such excavation or opening shall have been made and to fill it up and remedy any injury that may have been done to any of the hot baths or springs of the Bath council and the Bath council may recover summarily any expenses incurred reasonably by them in so doing from the person who shall have failed to comply with the order.

PART VII
—cont.

(7) (a) The provisions of this section shall not prevent the British Railways Board, the British Gas Corporation, the Central Electricity Generating Board or the South Western Electricity Board (each of which is in this subsection referred to as “the undertakers”) from duly carrying out any powers in connection with their railway undertaking, gas undertaking or electricity undertaking (as the case may be) conferred upon them by Parliament before the passing of this Act:

Provided that if the undertakers shall in the exercise of such powers interfere with or encounter any hot springs they shall forthwith give notice in writing thereof to the Bath council who shall thereupon have the right to inspect at all reasonable times the works of the undertakers and the hot springs interfered with or encountered thereby and the undertakers shall with all possible despatch and to the reasonable satisfaction of the Bath council carry out such works as shall be reasonably required by the Bath council for the preservation of such springs and for protecting the same from injury or interference and any expense reasonably incurred by the undertakers in so doing which would not have been incurred by them except for the provisions of this subsection shall be repaid to the undertakers by the Bath council.

(b) Any question arising between the Bath council and the undertakers under the provisions of this subsection shall be determined by arbitration.

(8) An authorised officer of the Bath council on producing, if so required, a duly authenticated document showing his authority, may at all reasonable times enter upon any lands where there is reason to believe that any pit, well, mine, quarry, excavation or opening is intended to be, is being or has been opened, sunk, used or made whereby any of the hot baths and springs of the Bath council may be or might have been endangered, injured, destroyed or affected for the purpose of inspecting them and making such examination as he considers necessary.

(9) Subsections (2), (3) and (4) of section 287 of the Act of 1936 shall apply in respect of entry to lands for the purposes of this section as they apply to entry to premises for the purpose of subsection (1) of that section.

(10) Except in a case of emergency, the powers conferred by subsection (6) (c) and subsection (8) above shall not be exercised within the district of Wansdyke except after consultation with the Wansdyke District Council.

Loans in
respect of
protected
buildings.

34.—(1) In this section—

“protected building” means any such dwelling-house or other building in the city or part thereof as was immediately before the passing of this Act included in the schedule—

(a) as having been erected before the year 1820;
and

(b) as being (either by itself or in conjunction with other dwelling-houses or buildings) of historic interest or of architectural interest or beauty;

PART VII
—cont.

“ the schedule ” means the schedule prepared and published in accordance with subsection (3) of section 24 (For preventing alteration of certain buildings) of the Bath Corporation Act 1937 as altered from time to time in 1937 c. cxvii. pursuant of subsection (4) of that section.

(2) The Bath council may advance money to the owner or occupier of any protected building for the purpose of assisting such owner or occupier in the maintenance or repair or restoration thereof or improvements therein on such terms as may be agreed, including, without prejudice to the generality of the foregoing, a term fixing the rate of interest, if any, that shall be charged on the money so advanced.

35. In its application to the city, section 4 (Highway amenities) of this Act shall have effect as if, in paragraph (a) of subsection (1), after the word “ footpaths ” there were inserted the words “ and the footways described in Schedule 2 to this Act ”. Extension of section 4.

PART VIII

BRISTOL PROVISIONS

36.—(1) In this section “ the Act of 1861 ” means the Clifton and Durdham Downs (Bristol) Act 1861. Clifton and Durdham Downs.

(2) The Act of 1861 shall continue to have effect and section 262 (9) of the Act of 1972 shall not apply to that Act. 1861 c. xiv.

(3) Notwithstanding anything in the Act of 1861 the Bristol council may expend in any one year in carrying that Act into execution any sum or sums not exceeding the equivalent of the product of a rate of $\frac{1}{2}$ p in the pound as estimated or calculated for the purposes of section 12 of the General Rate Act 1967 and the provisions of the said Act of 1967 with respect to the raising and expenditure of the sum thereby authorised to be raised and expended in any one year shall extend and apply to the raising and expenditure for the purposes of the Act of 1861 of any sums under the powers of this section. 1967 c. 9.

(4) (a) The Downs Committee constituted under section X (Appointment of a Committee) of the Act of 1861 shall continue to have power to appropriate so much of Durdham Down as they were authorised by the Bristol Order 1931 to appropriate for the purposes of the provision of dressing-rooms with washing facilities and sanitary conveniences for the use of persons engaged 1931 c. lxxxii.

PART VIII
—cont.

in games, recreation and exercise on Clifton Down and Durdham Down and to enclose such land so far as may be necessary for such purposes.

(b) The Bristol council may on the part of Durdham Down so appropriated provide, for the purposes mentioned in paragraph (a) above, buildings and all suitable furniture, fittings and conveniences.

(c) The Bristol council may make reasonable charges for the use of any such buildings, furniture, fittings and conveniences and the income arising from such charges shall be applied by the Bristol council in carrying the Act of 1861 into execution.

(d) Section V (Council to make Bye-laws) of the Act of 1861 shall be deemed to include power to make byelaws for regulating the use of any such buildings, furniture, fittings and conveniences.

(e) Section VII (Transient Offenders) of the Act of 1861 shall not apply to any byelaws made in pursuance of paragraph (d) above but any such byelaws may provide for the removal from such a building of any person infringing any such byelaw by any proper officer of the Bristol council or a constable.

Change of
name of
Bristol Royal
School and
Workshops for
the Blind.
1832 c. xxxix.
1960 c. 1.

37.—(1) In this section the expression “the institution” means the body corporate incorporated under the Act 2 & 3 Will. 4 chapter xxxix under the name of “The President Vice-presidents Treasurer and Members of The Bristol Asylum or School of Industry for the Blind” whose name was changed by section 38 of the Bristol Corporation Act 1960 to “The Bristol Royal School and Workshops for the Blind”.

(2) From and after the passing of this Act the name of the institution shall be changed from “The Bristol Royal School and Workshops for the Blind” to “Bristol Royal Society for the Blind”.

(3) The change of name shall not affect any rights or obligations of the institution or render defective any legal proceedings by or against the institution and any legal proceedings that might have been continued or commenced against the institution by its former name may be continued or commenced against the institution by its new name.

(4) Any devise or bequest which would take effect in favour of The President, Vice-presidents, Treasurer and Members of The Bristol Asylum or School of Industry for the Blind or The Bristol Royal School and Workshops for the Blind under the will of any person whether dying before or after the passing of this Act and which may not have then taken effect shall be deemed to have been made to Bristol Royal Society for the Blind and shall take effect in favour of Bristol Royal Society for the Blind as fully and effectually as it would have taken effect in favour of The President, Vice-presidents, Treasurer and Members of The Bristol Asylum

or School of Industry for the Blind or The Bristol Royal School and Workshops for the Blind if this Act had not been passed.

PART VIII
—cont.

(5) The provisions of this section may be amended or repealed by a scheme made by the Charity Commissioners under section 18 of the Charities Act 1960.

1960 c. 58.

38. Sections 14 to 16 of the Bristol Corporation Act 1920 and sections 22 to 25 of the Bristol Corporation Act 1960 shall continue to have effect and section 262 (9) of the Act of 1972 shall not apply to them.

Saving for certain
Bristol
enactments.
1920 c. clii.
1960 c. 1.

PART IX

WOODSPRING PROVISIONS

39. In this Part—

Interpretation
of Part IX.

“ Knightstone Bay ” means so much of Weston Bay as lies eastward of an imaginary line drawn from the western end of Knightstone Jetty to the western end of the Grand Pier and northward of the said Grand Pier;

“ the seashore ” means the foreshore in the district of Woodspring so far as it is for the time being vested in or leased to the Woodspring council and the sands and wastes in and adjacent to that district for the time being belonging to or vested in the Woodspring council;

“ Uphill Wharf ” means the wharf set out and allotted as and for a public wharf by an Award dated 30th September 1818 of the Commissioners appointed by an Act of Parliament passed in the fifty-third year of the reign of King George 3 intituled “ An Act for inclosing Lands in the Parish of Uphill, in the County of Somerset ” and the land forming an extension thereof and used in connection therewith;

1813 c. cii.

“ vessel ” includes any ship, boat, barge, wherry, lighter or craft of any kind.

40.—(1) The Woodspring council may provide in Knightstone Bay mooring buoys, moorings and other apparatus and conveniences for vessels. Moorings.

(2) The Woodspring council may demand, take and recover in respect of any vessel using any of the mooring buoys, moorings or other apparatus or conveniences provided by them under this section such reasonable charges as they think fit.

41.—(1) The Woodspring council may make byelaws for all or any of the following purposes:—

Byelaws as to
Knightstone
Bay and
Uphill Wharf.

(a) for regulating or prohibiting the mooring of vessels in Knightstone Bay and for prescribing the pattern of mooring buoys, moorings, and other apparatus and conveniences;

PART IX
—cont.

(b) for regulating the use of Uphill Wharf, including byelaws—

(i) for regulating the time at which and the manner in which any vessel shall lie at the wharf and its position, mooring or unmooring, placing and removal whilst thereat;

(ii) for the good order and government of vessels whilst at or near the wharf;

(iii) for requiring the removal of obstructions from the wharf and keeping the same clear:

Provided that the Woodspring council shall not exercise the powers of this section in any manner which shall prevent registered boatmen or licensed boatmen from exercising their respective callings.

(2) The confirming authority for the purposes of section 236 of the Act of 1972 shall be the Secretary of State.

(3) In this section—

“licensed boatmen” means boatmen or other persons assisting in the charge or navigation of pleasure boats and pleasure vessels for the time being licensed by the Woodspring council;

“registered boatmen” means owners, skippers and hands of fishing boats for the time being registered under Part IV of the Merchant Shipping Act 1894.

1894 c. 60.

Saving for Royal National Life-boat Institution.

42. Nothing in the foregoing provisions of this Part shall empower the Woodspring Council to prohibit the use without payment by lifeboats of the Royal National Life-boat Institution of any moorings provided by the Woodspring Council in Knightstone Bay when the conditions of weather or tide are such as to preclude the use of the slipway adjoining the Old Pier.

Powers over seashore.

43. The Woodspring council may construct and maintain on the seashore such promenades, walls and other works as they think necessary for the improvement or protection of the sea front:

Provided that the Woodspring council shall not exercise the powers of this section in respect of any part of the foreshore which is leased to them except in accordance with the terms of the relevant lease.

Control of removal of sand, etc., from seashore.

44.—(1) If any person takes from the seashore any sand, gravel, shingle, rock, soil or other material without the consent of the Woodspring council he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) Subsection (1) above shall not apply to any area of the seashore in relation to which an order is for the time being in force under section 18 of the Coast Protection Act 1949.

PART IX
—cont.
1949 c. 74.

45.—(1) In this section “the drive” means the carriage drive at Weston-super-Mare vested in the Woodspring council and known as Marine Parade.

Marine
Parade
byelaws.

(2) The Woodspring council may make byelaws regulating or controlling the traffic using the drive and without prejudice to the generality of the foregoing may make byelaws—

- (a) prescribing the nature of the traffic which may use the drive and the hours during which traffic of any particular description shall not be entitled to use it; and
- (b) preventing the use of the drive by any heavy vehicles or vehicles likely to cause damage to the surface thereof or to cause nuisance or annoyance to other users thereof or to residents in premises adjacent thereto.

(3) The confirming authority for the purposes of section 236 of the Act of 1972 shall be the Secretary of State.

(4) Nothing in any byelaw made under this section shall prejudice or affect the right of any statutory undertakers to use the drive in the exercise of their statutory powers.

PART X

MISCELLANEOUS

46. Section 126 of the Housing Act 1974 shall have effect in the county as if—

Extension
of section 126
of Housing
Act 1974.
1974 c. 44.

- (a) for subsection (1) (which applies that section to the case where a principal council and a person having an interest in land in their area become parties to an instrument under seal executed for the purpose of securing the carrying out of works on that land or of facilitating the development of that land or of other land in which that person has an interest) there were substituted the following subsection:—

“(1) The provisions of this section shall apply if a principal council (in the exercise of their powers under section 111 of the Local Government Act 1972 or otherwise) and a person having an interest in land in their area become parties to an instrument under seal which—

1972 c. 70.

- (a) is executed for the purpose of securing the carrying out of works on, or facilitating the development of, that land or otherwise in connection with that land; or

PART X
—cont.

(b) is executed for the purpose of facilitating the development of other land in which that person has an interest; or

(c) (whether or not falling within paragraphs (a) or (b) above) grants any right to that person over other land in that area.”;

(b) in paragraph (a) of subsection (2) (which deals with the case where the instrument contains a covenant on the part of that person to carry out any works or do any other thing in relation to that land) the words from “being a covenant” to “that land” were omitted;

(c) in subsection (3) (breach of covenant) the words from “as a result” to “on or” were omitted and after the word “done” in paragraph (a) there were inserted the words “or to remedy anything which the covenant requires not to be done”.

Disposal of
lost and
uncollected
property.

47.—(1) If any lost or uncollected property within three months of coming into the custody of the local authority be not proved to the reasonable satisfaction of the local authority to belong to any claimant it shall thereupon vest in the local authority:

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 local authority under this section be destroyed or disposed of at such time and in such manner as the local authority may think fit and if it is sold the proceeds of sale shall vest in the local authority at the expiration of three months from the date on which the property came into their custody.

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

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

(4) This section shall not apply to any uncollected property—

(a) deposited in any cloakroom, parcels store or market storeroom unless there is exhibited in the room or store a notice containing a statement of the effect of subsections (1) and (2) above;

(b) which is subject to the Public Service Vehicles (Lost Property) Regulations 1978.

PART X
—cont.
S.I. 1978/1684.

(5) In this section—

“lost property” means any property including money coming into the custody of the local authority after being left on or in any premises occupied by the local authority to which the public have access in circumstances where the owner is not known; and

“uncollected property” means—

(a) any property deposited in any cloakroom or parcels store provided by the local authority for the use of the public; or

(b) any containers deposited in any market store-room provided by the local authority.

PART XI

GENERAL

48. A 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 and section 250 (2) to (5) of the Act of 1972 shall apply to any such inquiry.

Local inquiries.

49. Where under any provision of this Act the consent of a local authority to the carrying on of any business or to the use of premises for any purpose is required as from an appointed day, it shall be lawful for any person who—

Saving for conduct of business or use of premises.

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

(b) had before that day duly applied for the consent required by that provision;

to continue to carry on that business, or, as the case may be, to use those premises for that purpose, until he is notified of the decision with regard to his application, and if the decision is adverse, during such further time as is provided under section 52 (Suspension of proceedings pending appeal) of this Act.

50. Sections 300 to 302 of the Act of 1936 shall apply in respect of appeals to a magistrates' court under this Act.

Appeals to magistrates' court.

51.—(1) On an appeal to the Secretary of State under subsection (6) of section 7 (Parking places: safety requirements) of this Act, the Secretary of State may at his discretion afford to the appellant and the local authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

Appeals to Secretary of State.

PART XI
—cont.

(2) On determining any such appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination.

(3) Where the Secretary of State gives a decision in proceedings on any such appeal, the appellant or the local authority may appeal to the High Court against the decision on a point of law.

(4) At any stage of the proceedings on any such appeal the Secretary of State may state any question of law arising in the course of proceedings in the form of a special case for the decision of the High Court; and a decision of the High Court on a case stated by virtue of this subsection shall be deemed to be a judgment of the court within the meaning of section 16 of the Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment or order of the High Court).

(5) In this section “decision” includes a direction, and references to the giving of a decision shall be construed accordingly.

1981 c. 54.

Suspension of
proceedings
pending
appeal.

52. Where a requirement, refusal or other decision of a local authority 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 a person to carry on any undertaking, trade or business which he was lawfully carrying on immediately before the requirement, refusal or decision was made or, but for this section, came into effect, or to use premises for any purpose for which they were lawfully then used;

then until the time for appealing has expired or, if an appeal is lodged, until it 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 to take the action, nor shall the local authority themselves execute the work or take the action; and

(ii) the person may continue to carry on the undertaking, trade or business, or to use the premises for that purpose.

Arbitration.

53. Where under this Act any question is to be determined by arbitration, then, unless otherwise provided, the question shall be referred to, and settled by, a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

PART XI

—cont.

Restriction on
right to
prosecute.Crown
rights.

54. The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by or under this Act by any person other than a party aggrieved, a local authority or a constable.

55.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises a local authority to take, use, enter upon or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

(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; 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.

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered necessary or appropriate.

(3) Nothing in this section shall prejudice or affect any statutory powers of a local authority to carry out code-regulated works within the meaning of the Public Utilities Street Works Act 1950 in any highway vested in, or maintained by, the Secretary of State. 1950 c. 39.

56.—(1) Where an offence under this Act or against any byelaw made under 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, a 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 the offence. Liability of directors, etc.

(2) Where the affairs of a body corporate are managed by its members subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

57. Any person who intentionally obstructs any officer of a local authority acting in execution of this Act, or of any byelaws made thereunder, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200. Penalty for obstruction.

PART XI

—cont.

Defence of
due diligence.

58.—(1) In proceedings for an offence under any provision of this Act mentioned in subsection (2) below or under any byelaws made thereunder it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) The provisions referred to in subsection (1) above are the following:—

Section 6 (Byelaws with regard to certain temporary structures);

Section 7 (Parking places: safety requirements);

Paragraphs (a) to (c) of section 20 (Offences under Part IV);

Section 22 (Registration of hawkers of food and their premises);

Section 23 (Touting, hawking, photographing, etc.);

Section 25 (Dust, etc., from building operations);

Section 41 (Byelaws as to Knightstone Bay and Uphill Wharf);

Section 45 (Marine Parade byelaws).

(3) If in any case the defence provided under subsection (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying, or assisting in the identification of, that other person.

Application of
general
provisions of
Act of 1936.

59.—(1) The sections of the Act of 1936 mentioned in Schedule 3 to this Act, shall have effect as if references therein to that Act included references to this Act.

(2) Section 287 of the Act of 1936 (powers of entry) shall have effect as if references therein to that Act included a reference to the following provisions of this Act:—

Section 7 (Parking places: safety requirements);

Section 9 (Protection of damaged buildings);

Section 22 (Registration of hawkers of food and their premises);

Section 25 (Dust, etc., from building operations):

Provided that, before entry on any operational railway line of the British Railways Board in pursuance of any of those provisions of this Act and of the said section 287 as it has effect by virtue

of this section, not less than twenty-four hours' notice of intended entry shall, except in case of emergency, be given to that board and that any person entering on any such railway line in pursuance of that notice or in any such emergency shall comply with the reasonable requirements of the British Railways Board for the protection of their undertaking.

PART XI
—cont.

60. In the Health and Safety at Work etc. Act 1974—

- (a) subsection (5) of section 62 (repeal or modification of certain enactments by building regulations) shall apply to any enactment in this Act and to any provision of a byelaw (or other instrument of a legislative character) made under it as that subsection applies to any enactment mentioned therein;
- (b) subsection (1) of section 80 (repeal or modification of certain provisions by regulations) shall apply to any provision of this Act and to any regulation and byelaw made under it as that subsection applies to any provision mentioned in subsection (2) of the said section 80.

Saving for
Health and
Safety at
Work etc.
Act 1974.
1974 c. 37.

61.—(1) The Acts specified in Schedule 4 to this Act are hereby repealed to the extent specified in that Schedule.

Repeals.

(2) The Bath (Amendment of Local Enactments) Order 1952 is hereby revoked.

S.I. 1952/1424.

(3) The saving provisions contained in Schedule 5 to this Act shall have effect.

SCHEDULES

Section 29.

SCHEDULE 1

PARKS AND PLEASURE GROUNDS IN BATH

Interpretation.

1. In this Schedule—

“the blue lands” means the lands in the city shown edged blue on the deposited plan and formerly known as High Common, Ring Common and Lower Common;

“the brown lands” means the lands in the city shown edged brown on the deposited plan and known as Sydney Gardens;

“the deposited plan” means the plan marked “County of Avon-Bath Recreation Grounds” and prepared in triplicate, one copy of which has been deposited in the office of the Clerk of the Parliaments, one in the Private Bill Office of the House of Commons and one in the office of the proper officer of the Bath council;

“the green lands” means the lands in the city shown edged green on the deposited plan;

“the red lands” means the lands in the city shown edged red on the deposited plan and known as Royal Victoria Park, Royal Avenue and Gravel Walk Lawn.

Lands to be retained for public resort and recreation.

Byelaws, etc.

1879 c. lxii.

1875 c. 55.

2. Subject to the provisions of this Schedule the blue lands, the brown lands and the red lands shall be held in perpetuity by the Bath council as parks or places of public resort and recreation.

3. The Royal Victoria Park and any other lands acquired under the Bath Act 1879 for public walks shall be deemed to be held by the Bath council under section 164 of the Public Health Act 1875.

Powers of management and letting.

4.—(a) The Bath council may fix and from time to time vary the days during which the whole or any part of the public parks or gardens known as the Royal Victoria Park, Royal Avenue, Lower Common, Middle Common, High Common and Sydney Gardens, shall be open to the public and may close the same or any part or parts thereof and any public footpaths or rights of way thereover for the purpose of granting the use of the whole or any part of those parks or gardens or any of them either gratuitously or for payment to any public charity or institution or for an entertainment of any nature:

Provided that—

- (i) no part of any of the said parks or gardens shall be closed under this paragraph on any bank holiday, or on Christmas Day or Good Friday, or on a day appointed for public thanksgiving or mourning, if the area to be closed, when added to the area of any other park, garden or pleasure-ground or part thereof closed to the public, would exceed one-quarter of the total area of all the parks, gardens or pleasure-grounds belonging to the Bath council;

- SCH. 1
—cont.
- (ii) the Bath council may enclose or permit or allow to be enclosed any part of the said parks or gardens which is closed to the public under this paragraph;
- (iii) while any part of the parks or gardens known as the Royal Victoria Park and the Middle Common is closed to the public under this paragraph the Bath council may without prejudice to the provisions of section 8 (Provision of parking places in parks, etc.) of this Act utilise any other part of those parks or gardens for the purpose of providing such parking places as may appear to them to be desirable and to make or permit or allow to be made such reasonable charges for the use of such parking places as they may think fit;
- (iv) notwithstanding anything in any enactment, the Bath council may from time to time authorise the admission to any part of the parks or gardens known as the Royal Victoria Park and the Middle Common of any vehicle which may be required for the purposes of or in connection with the provision of an entertainment mentioned in this paragraph;
- (v) the Bath council may at any time close to the public any part of the parks or gardens known as the Royal Victoria Park and the Middle Common for the purpose of the marshalling of vehicles, persons or animals about to take part in processions, carnivals and other entertainments taking place elsewhere in the city;
- (vi) the powers conferred by this sub-paragraph shall be so exercised as not to obstruct or render less convenient, so far as reasonably practicable, the access to any telegraphic line (as defined in the Telegraph Act 1878) belonging to or used by British Telecommunications. 1878 c. 76.

(b) The Bath council may from time to time either manage, cultivate or maintain the said lands or let the same subject to such rent or rents and to such covenants, restrictions and agreements and for such terms as they think proper:

Provided that any such lease or agreement shall contain a covenant or agreement on the part of the lessee that the premises let to him shall be properly managed, cultivated and maintained for the purpose of public resort and recreation and in accordance with the byelaws from time to time applicable thereto.

(c) The Bath council may contribute towards any of the expenses of management of any part of any lands leased by them under this section.

5. No buildings shall be erected upon any part of the blue lands, the brown lands or the red lands except in substitution for existing buildings or for the enlargement of existing buildings and except lodges, kiosks, greenhouses, hot-houses or ornamental or other buildings in connection with the use of any of the said lands for the purpose of any sport or recreation from time to time permitted by the Bath council thereon or otherwise in connection with their use as public walks, pleasure-grounds or allotments. Restriction on buildings to be erected.

6. The Bath council may sell or lease the whole or part of the green lands. Powers of disposal of certain lands.

Section 35.

SCHEDULE 2

FOOTWAYS IN THE CITY OF BATH TO WHICH SECTION 35 OF THIS ACT APPLIES

(1) So much of the footway on the northern side of the carriageway of South Parade as lies between (a) an imaginary line drawn straight from the south-western corner of the premises known as No. 1 South Parade to the nearest point on the said carriageway and (b) the wall forming the eastern boundary of South Parade.

(2) So much of the footway on the southern side of the carriageway of North Parade and on the western side of the carriageway of Terrace Walk as lies between (a) an imaginary line drawn straight from the north-eastern corner of the premises known as No. 2 Terrace Walk to the nearest point on the carriageway of Terrace Walk and (b) an imaginary line drawn straight from the north-eastern corner of the premises known as No. 6 North Parade to the nearest point on the carriageway of North Parade.

(3) So much of the footway on the northern and eastern sides of the Abbey Church of St. Peter and St. Paul as lies between (a) an imaginary line drawn straight from the point at which the line of the eastern face of the premises known as No. 13 Cheap Street if projected in a northerly direction would meet the carriageway of Cheap Street to the point at which the line of the said eastern face if projected in a southerly direction would meet the northern boundary of the said Abbey Church and (b) an imaginary line drawn straight from the north-western corner of the premises known as No. 7 Orange Grove to the nearest point on the carriageway of Orange Grove.

(4) So much of the footway at the southern end of Old Bond Street as lies between (a) an imaginary line drawn straight from the point at which the line of the southern face of the premises known as No. 10 Old Bond Street if projected in an easterly direction would meet the carriageway of Burton Street to the point at which the line of the said southern face if projected in a westerly direction would meet the face of the premises known as No. 12 Old Bond Street and (b) the carriageway of Upper Borough Walls.

(5) So much of the footway at the northern end of Old Bond Street as lies between (a) an imaginary line drawn straight from the north-eastern corner of the premises known as No. 17 Old Bond Street to the nearest point on the carriageway of Old Bond Street and (b) an imaginary line drawn straight from the point at which the line of the northern face of the premises known as No. 5 Old Bond Street if projected in an easterly direction would meet the carriageway of Burton Street to the point at which the line of the said northern face if projected in a westerly direction would meet the face of the premises known as No. 15 Old Bond Street.

(6) So much of the footway on the northern side of the carriageway of George Street as lies between (a) an imaginary line drawn straight from the south-western corner of the premises known as No. 1 Edgar Buildings to the nearest point on the said carriageway and (b) an

imaginary line drawn straight from the south-eastern corner of the premises known as No. 9 Edgar Buildings to the nearest point on the said carriageway.

SCH. 2
—cont.

(7) So much of the footway on the north-western side of the carriageway of Argyle Street as lies between (a) an imaginary line drawn straight from the southern corner of the premises known as No. 1 Argyle Street to the nearest point on the said carriageway and (b) an imaginary line drawn straight from the eastern corner of the premises known as Argyle Congregational Church to the nearest point on the said carriageway.

(8) So much of the footway on the south-easterly side of the carriageway of Argyle Street as lies between (a) an imaginary line drawn straight from the northern corner of the premises known as No. 9 Argyle Street to the nearest point on the said carriageway and (b) an imaginary line drawn straight from the western corner of the premises known as No. 17 Argyle Street to the nearest point on the said carriageway.

SCHEDULE 3

Section 59.

SECTIONS OF ACT OF 1936 APPLIED TO THIS ACT

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.
283(1)	Notices to be in writing; forms of notice, &c.
285	Service of notices, &c.
291	Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.
341	Power to apply provisions of Act to Crown property.

SCHEDULE 4

Section 61.

ENACTMENTS REPEALED

Chapter	Short title	Extent of repeal
42 & 43 Vict. c. lxii.	Bath Act 1879.	The whole Act.
50 & 51 Vict. c. cvii.	Weston-super-Mare Improvement Act 1887.	Section 83 (Commissioners may control removal of rock beach sand &c.).
60 & 61 Vict. c. lxxiv.	Local Government Board's Provisional Orders Confirmation (No. 9) Act 1897.	The Bath Order (No. 2) 1897.

SCH. 4
—cont.

Chapter	Short title	Extent of repeal
4 Edw. 7. c. ccxxiii.	Bristol Corporation Act 1904.	Section 67 (Increasing amount authorised to be expended under Clifton and Durdham Downs (Bristol) Act 1861).
10 Edw. 7 & 1 Geo. 5. c. lxxxviii.	Local Government Board's Provisional Orders Confirmation (No. 14) Act 1910.	The Bath Order (No. 2) 1910.
4 & 5 Geo. 5. c. clxvi.	Weston-super-Mare Urban District Council Act 1914.	Section 90 (Defining seashore); Section 91 (Powers over seashore); and Section 119 (As to traffic along Marine Parade carriage drive).
15 & 16 Geo. 5. c. xciii.	Bath Corporation Act 1925.	Section 92 (Closing of certain parks &c.); and Section 226 (For better protection and preservation of baths and springs).
16 & 17 Geo. 5. c. xcix.	Bristol Corporation Act 1926.	Section 90 (As to repair of private drains); Section 110 (Registration of street traders); and Section 183 (Increase of annual expenditure under Clifton and Durdham Downs (Bristol) Act 1861).
20 & 21 Geo. 5. c. clxxx.	Bristol Corporation (No. 2) Act 1930.	Section 98 (Prohibition of vehicles &c. on grass margins).
21 & 22 Geo. 5. c. lxxxii.	Ministry of Health Provisional Orders Confirmation (Bristol and Leicester) Act 1931.	The Bristol Order 1931.
24 & 25 Geo. 5. c. xciv.	Weston-super-Mare Urban District Council Act 1934.	Section 135 (Interpretation for purposes of Part X of Act); Section 136 (Moorings); Section 137 (Byelaws as to Knightstone Bay and Uphill Wharf); Section 138 (Saving for Royal National Life-boat Institution); and Section 154 (Prohibition of touting hawking &c. on esplanades seashore &c.).
26 Geo. 5 & 1 Edw. 8. c. xxxiv.	Ministry of Health Provisional Order Confirmation (Bristol) Act 1936.	The whole Act.

Chapter	Short title	Extent of repeal
1 Edw. 8 & 1 Geo. 6. c. cxvii.	Bath Corporation Act 1937.	Section 24 (For preventing alteration of certain buildings).
11 & 12 Geo. 6. c. xxvi.	Ministry of Health Provisional Order Confirmation (Bristol) Act 1948.	The whole Act.
14 Geo. 6. c. lx.	Bristol Corporation Act 1950.	Section 44 (Registration of hawkers of food and premises); Section 50 (Special provision as to superannuation of certain members of docks police force); Section 53 (Byelaws as to public meetings and gatherings); and Section 67 (Undertakings and agreements to bind successive owners).
4 & 5 Eliz. 2. c. xl.	Gloucestershire County Council Act 1956.	Section 19 (Undertakings and agreements binding successive owners); Section 79 (Parking places in parks etc.); Section 140 (Paving of yards and passages); and Section 154 (Registration of hawkers of food and premises); in so far as those provisions relate to the county.
8 & 9 Eliz. 2. c. l.	Bristol Corporation Act 1960.	Section 35 (Amendment of section 183 of Act of 1926); Section 36 (Amendment of section 50 of Act of 1950); Section 38 (Change of name of Bristol Asylum or School of Industry for the Blind); and Section 40 (Disposal of lost and uncollected property).
1963 c. xxxviii.	Bath Corporation Act 1963.	Section 6 (Undertakings and agreements binding successive owners); Section 14 (Underground parking places); Section 15 (Further provision as to underground parking places);

SCH. 4
—cont.

SCH. 4
—cont.

Chapter	Short title	Extent of repeal
1963 c. xxxviii. —cont.	Bath Corporation Act 1963. —cont.	Section 16 (Interpretation and powers of entry for purposes of last two foregoing sections); Section 29 (Provision of transport service between Pump Room and Assembly Rooms); Section 35 (Mount Beacon Common); Section 36 (Amendment of section 92 of Act of 1925); Section 37 (Disposal of lost and uncollected property); and Section 49 (Amendment of section 24 of Act of 1937).
1967 c. xxxv.	Somerset County Council Act 1967.	Section 8 (Undertakings and agreements binding successive owners) in so far as that section relates to the county.
1972 c. xxii.	Bath Corporation Act 1972.	Section 9 (Making up and widening of backways); Section 10 (Facilities and amenities in pedestrian highways); and Schedule 1.

SCHEDULE 5

Section 61.

SAVING PROVISIONS

1. In so far as anything done under an enactment in force in any area which is repealed by this Act could have been done under any enactment in this Act relating to the same matter in the same area, it shall not be invalidated by the repeal but shall have effect as if done under that last-mentioned enactment.

2. Where an instrument or document refers, either expressly or by implication, to an enactment in force in any area which is repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to any enactment in this Act relating to the same matter in the same area.

3.—(1) Anything begun under an enactment repealed by this Act may be continued under any enactment in this Act relating to the same matter as if begun under that last-mentioned provision.

(2) Where any period of time specified in, or having effect in relation to, an enactment repealed by this Act is current at the date of such repeal, any provision of this Act relating to the same matter shall have effect as if that period began to run under that provision.

4. References in this Act to things done, left undone, suffered or occurring in the past shall, so far as the context requires for the continuity of operation between an enactment in force in any area which is repealed by this Act and any enactment in this Act relating to the same matter in the same area, be construed as including reference to things done, left undone, suffered or occurring before the coming into operation of that provision of this Act.

5. For the purpose of any provision of this Act specifying penalties for a second or subsequent offence, a previous conviction under an enactment repealed by this Act creating the like offence shall be taken as an offence under that provision of this Act.

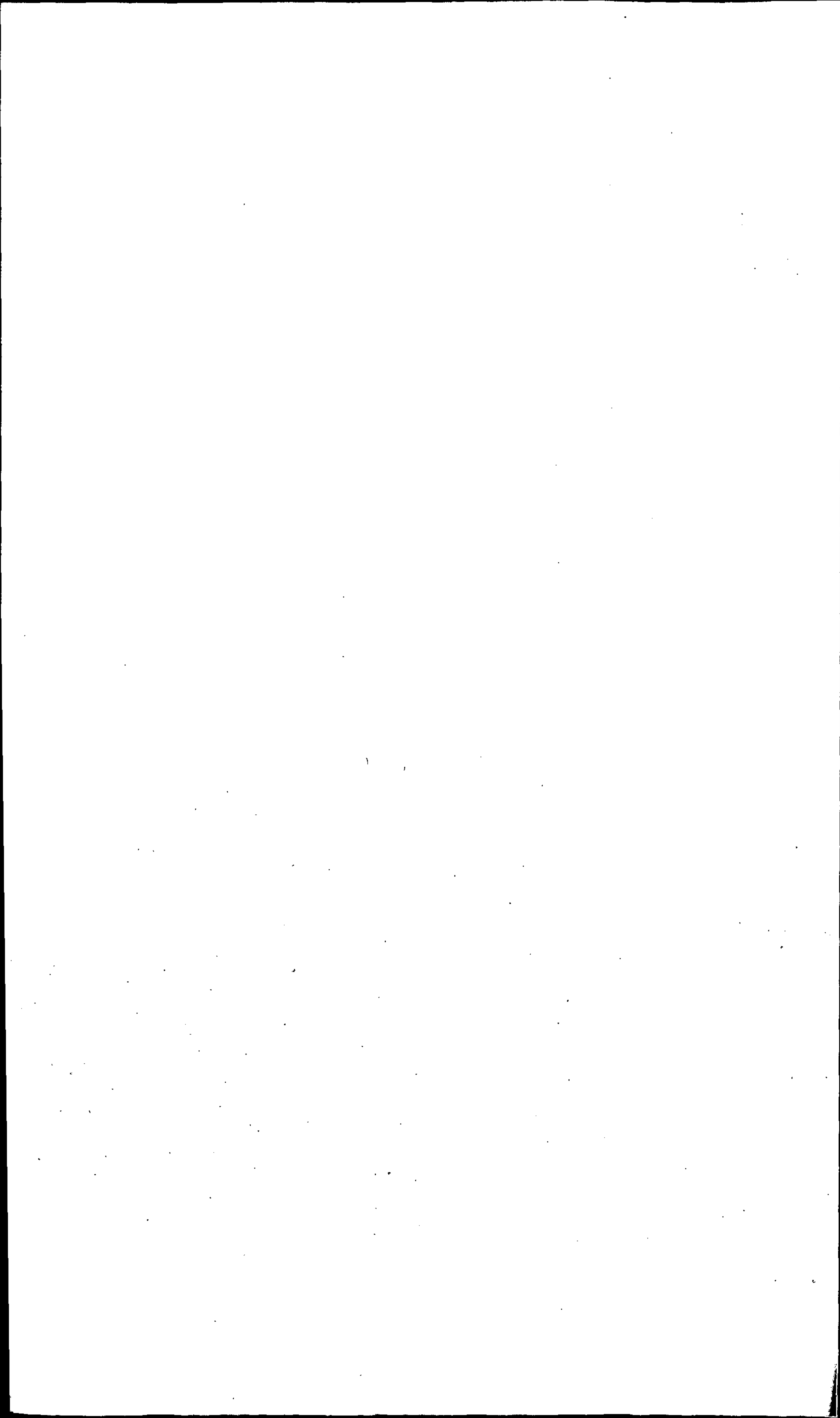
6. The places named or described in section 154 (Prohibition of touting hawking &c. on esplanades seashore &c.) of the Weston-super-Mare Urban District Council Act 1934 shall be deemed to have been designated by the Woodspring council under section 23 (Touting, hawking, photographing, etc.) of this Act. 1934 c. xciv.

7. Nothing in this Act shall affect the operation of section 254 of the Act of 1972.

8. The mention of particular matters in this Schedule shall not be held to prejudice or affect the general application of sections 15, 16 and 17 of the Interpretation Act 1978. 1978 c. 30.

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County of Avon Act 1982

CHAPTER iv

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