

Barnsley Corporation Act, 1956

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An Act to authorise the mayor aldermen and burgesses of the county borough of Barnsley to construct additional waterworks and to acquire lands to extend their limits for the supply of water and to transfer to and vest in the said mayor aldermen and burgesses the water undertaking of the urban district council of Penistone and other works to make further provision with respect to the improvement health and local government of the borough and for other purposes. [2nd August 1956.]

WHEREAS the borough of Barnsley (hereinafter called "the borough") is a county borough under the government of the mayor aldermen and burgesses of the borough (hereinafter called "the Corporation"):

And whereas the Corporation are authorised undertakers for the supply of water and supply water within limits which are described in the Barnsley Local Board Act 1862 and the Barnsley Corporation (Water) Act 1896 and comprise the borough and certain adjacent districts:

And whereas with a view to ensuring that the Corporation shall be and continue to be in a position to meet the demands made upon them for the supply of water it is expedient that the Corporation should be empowered to construct the new works described in this Act and to abstract water by means thereof and to acquire lands for the purpose thereof:

And whereas by section 18 (Restriction on taking waters) of the Barnsley Corporation (Water) Act 1927 the Corporation are restricted as to the quantity of water which they may appropriate from certain streams:

And whereas the demand for water within the limits of supply of the Corporation and for supplies by them of water in bulk has increased is increasing and is likely further to increase:

And whereas it is expedient that notwithstanding the construction of the new works described in this Act the quantity of compensation water which the Corporation are required to discharge into the streams tributary to the river Don should not be varied except as provided in this Act and that the obligations of the Corporation in regard to the discharge of compensation water into the said streams should be varied as mentioned in this Act:

And whereas estimates have been prepared for the purposes hereinafter mentioned and such estimates are as follows:—

	£
For the construction of Work No. 9 by this Act authorised	345,000
For the construction of Work No. 14 by this Act authorised	12,000
For the construction of Work No. 10 by this Act authorised	15,000
For the construction of Work No. 11 by this Act authorised	68,000
For the construction of Works Nos. 8 12 13 15 and 16 by this Act authorised	109,000

And whereas the works included in such estimates are permanent works and it is expedient that the cost thereof should be spread over a term of years:

And whereas the urban district council of Penistone (hereinafter called "the urban district council") have constructed waterworks and are supplying water under the powers of the Public Health Act 1936 in the urban district of Penistone and afford supplies of water in bulk to the urban district council of Darton and the rural district council of Penistone:

And whereas it is expedient that the water undertaking of the urban district council should be transferred to and vest in the Corporation upon the terms prescribed by this Act and that the limits for the supply of water by the Corporation be extended as in this Act provided:

And whereas it is expedient that the powers of the Corporation in relation to the improvement local government and health of the borough and other matters should be enlarged as by this Act provided:

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

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

And whereas in relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been observed:

And whereas plans and sections showing the lines situations and levels of the works authorised by this Act and a book of reference to such plans containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken for the purposes or under the powers of this Act have been duly deposited with the clerk of the county council of the county of the West Riding of York which plans sections and book of reference are in this Act respectively referred to as the deposited plans the deposited sections and the deposited book of reference:

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

PART I

PRELIMINARY

1.—(1) This Act may be cited as the Barnsley Corporation Act 1956. Short and collective titles.

(2) The Acts and Orders mentioned in the First Schedule to the Act of 1923 (except the Barnsley Electric Lighting Order 1890) the Barnsley Corporation (Water) Act 1927 the Barnsley Corporation Act 1937 the Barnsley Corporation Act 1949 the Barnsley Water Order 1952 and this Act may be cited together as the Barnsley Corporation Acts and Orders 1822 to 1956.

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

Division of Act into Parts.

Part I.—Preliminary.

Part II.—Waterworks.

Part III.—Lands.

Part IV.—Supply of water.

Part V.—Streets.

Part VI.—Public health sanitation and buildings.

Part VII.—Food.

Part VIII.—Public order.

Part IX.—Weights and measures.

Part X.—Financial provisions.

Part XI.—Miscellaneous.

Part XII.—General.

PART I
—cont.
Incorporation
of Acts.

3. The following enactments (so far as the same are applicable for the purposes of and are not inconsistent with the provisions of this Act) are hereby incorporated with this Act:—

(a) The Lands Clauses Acts with the following exceptions and modifications:—

(i) section 92 and sections 127 to 133 of the Lands Clauses Consolidation Act 1845 and section 5 of the Lands Clauses Consolidation Acts Amendment Act 1860 are not incorporated with this Act;

(ii) the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be sufficient without the addition of the sureties mentioned in that section;

(iii) the expression “the promoters of the undertaking” shall be construed to mean the Corporation;

(b) Section 16 of the Railways Clauses Consolidation Act 1845 and the provisions of that Act with respect to the temporary occupation of lands near the railway during the construction thereof:

Provided that—

(i) for the purposes of the said provisions the expression “the railway” shall be construed to mean the works authorised by this Act the expression “the centre of the railway” shall be construed to mean the centre line of the dam of the Sledbrook Reservoir (Work No. 9) authorised by this Act and the expression “the company” shall be construed to mean the Corporation;

(ii) any electrical works or apparatus erected or constructed under the said section 16 (as incorporated by this section) shall be so erected or constructed and so maintained and used as to prevent interference with any telegraphic line (as defined by the Telegraph Act 1878) belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line;

(c) The following provisions of the Third Schedule to the Water Act 1945:—

Part I (Interpretation) so far as it relates to the following provisions of the said Third Schedule;

Part II (Works and Lands);

Part IV (Minerals underlying Waterworks);

Part V (Power to Lay Mains &c.);

Part VI (Breaking Open Streets &c.);

In Part XVI (General and Miscellaneous) sections 93 and 94;

Provided that the incorporated provisions of the Third Schedule to the Water Act 1945 shall be read and have effect as if—

(i) in section 2 of the said schedule for the words “the plans submitted to the Minister” there were substituted the words “the deposited plans” and for the words “the said plans” there were substituted the words “the deposited sections”;

(ii) in section 12 of the said schedule for the words “after this section is incorporated with their enactments” there were substituted the words “under the special Act” for the words “all existing pipes or other conduits for the collection passage or distribution of water and underground works belonging to them” there were substituted the words “all such pipes or other conduits or underground works” and as if the words “for the time belonging to them” were omitted;

and for the purposes of the said incorporated provisions the expression “the undertakers” shall be construed to mean the Corporation.

4.—(1) In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith or by sections 90 110 220 and 343 of the Public Health Act 1936 have the same respective meanings unless there be something in the subject or context repugnant to such construction. Interpretation.

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

“Act of 1914” means the Barnsley Corporation Act 1914;

“Act of 1923” means the Barnsley Corporation Act 1923;

“Act of 1927” means the Barnsley Corporation (Water) Act 1927;

“Act of 1933” means the Local Government Act 1933;

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

“Act of 1949” means the Barnsley Corporation Act 1949;

“added limits” means the area described in the First Schedule to this Act;

“borough” means the county borough of Barnsley;

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

“commission” means the British Transport Commission;

“council” means the council of the borough;

PART I
—cont.

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

“day of transfer” means the first day of April nineteen hundred and fifty-seven ;

“food” has the same meaning as in the Food and Drugs Act 1955 ;

“gas board” means the East Midlands Gas Board or the North Eastern Gas Board as the case may be ;

“Lands Clauses Acts” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 by Part V of the Town and Country Planning Act 1947 by the Lands Tribunal Act 1949 and by this Act ;

“medical officer of health” means the medical officer of health of the borough ;

“millowners” has the meaning assigned to that expression by section 3 (Interpretation) of the Act of 1927 ;

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

“Penistone undertaking” means the water undertaking of the Penistone Urban District Council as existing on the day of transfer and includes—

(i) all the lands buildings waterworks water sources of supply machinery mains pipes meters plant spare parts tools apparatus vehicles stores furniture and other real and personal property assets and effects rights powers privileges liabilities and obligations held or used by that council for or in relation to their water undertaking immediately before the day of transfer or to which they were then subject for or in relation to that undertaking ;

(ii) the benefit of all contracts in force on the day of transfer in respect of the said undertaking subject to any obligations thereunder ;

(iii) all registers books of account maps plans specifications engineering reports and other documents relating solely to the said undertaking ;

but does not include—

(iv) any funds money or securities for money of that council whether invested or in hand other than money or securities for money representing the unexpended balance of any sum borrowed by the council for the purposes of their water undertaking and other than money deposited with the council ; or

(v) any liabilities or obligations in respect of any sum borrowed as aforesaid (including a bank overdraft) except as provided by this Act ;

“ public service vehicle ” has the meaning assigned to that expression by section 121 of the Road Traffic Act 1930 ;

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

“ tribunal ” means the Lands Tribunal ;

“ undertaking ” means the water undertaking of the Corporation as from time to time authorised ;

“ West Riding ” and “ West Riding Council ” mean respectively the administrative county of the West Riding of the county of York and the county council of that county.

(3) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied extended amended or varied by or by virtue of any subsequent enactment including this Act.

PART II

WATERWORKS

5. Subject to the provisions of this Act the Corporation may make and maintain in the lines and situations and according to the levels shown on the deposited plans and sections and upon the lands delineated on those plans and described in the deposited book of reference the following works in the West Riding:—

Work No. 8 A line or lines of pipes in the parish of Dunford in the rural district of Penistone commencing by a junction with an existing aqueduct of the Corporation at Wogden Foot and terminating in Work No. 9 ;

Work No. 9 A storage reservoir (to be called “ the Sledbrook Reservoir ”) to be formed by a dam across Sledbrook Dyke in the parish of Dunford ;

Work No. 10 An intake and catchwater by-pass in the parish of Dunford encircling Work No. 9 on the east side ;

Work No. 11 Treatment works in the parish of Dunford ;

Work No. 12 A line or lines of pipes in the parish of Dunford commencing at the Whams Road borehole and pumping station of the Corporation and terminating in Work No. 14 ;

Work No. 13 A line or lines of pipes in the parish of Dunford commencing in the Don Crossing borehole and pumping station of the Corporation and terminating in Work No. 14 ;

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—cont.

Work No. 14 A balancing reservoir in the parish of Dunford ;

Work No. 15 A line or lines of pipes in the parish of Dunford commencing in Work No. 14 and terminating in Work No. 11 ;

Work No. 16 A line or lines of pipes in the parish of Dunford and the urban district of Penistone commencing in Work No. 11 and terminating in a service reservoir of the Corporation at Hoylandswaine.

Period for completion of works.

6. If the works authorised by this Act and shown upon the deposited plans and sections are not completed on or before the first day of October nineteen hundred and sixty-six then as from that date the powers granted by this Act for the making thereof or otherwise in relation thereto shall cease except as to such of them or so much thereof respectively as shall then be completed :

Provided that subject to the provisions of this Act the Corporation may extend enlarge alter reconstruct renew or remove any of the said works as and when occasion may require.

Works to be constructed in connection with Work No. 9.

7.—(1) Before commencing the construction of Work No. 9 authorised by this Act the Corporation shall—

(a) construct Work No. 10 by this Act authorised in such manner and of such capacity that all the water flowing in or into the Sledbrook Dyke shall at all times be diverted by means of the said Work No. 10 round the Sledbrook Reservoir and notwithstanding anything in this Act the Corporation shall thereafter maintain the said Work No. 10 in such manner and in such state or condition as to secure that all such water shall be so diverted ; and

(b) construct and notwithstanding anything in this Act thereafter maintain an aqueduct or catchwater on the western side of the Sledbrook Reservoir in such position and in such manner and of such capacity as to divert into the Sledbrook Dyke at a point below the measuring gauge referred to in paragraph (b) of subsection (1) of section 10 (Compensation water (Sledbrook Reservoir)) of this Act the waters of all springs streams and water-courses and the tributaries thereof on the western side of the said reservoir which would otherwise flow there-into or be intercepted thereby.

(2) Any difference or dispute between the Corporation and the engineer of the millowners under this section shall be referred to and determined by a single arbitrator to be agreed upon between them or in default of agreement to be appointed on the

application of either of them after notice in writing to the other of them by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to such arbitration.

PART II
—cont.

8. The works authorised by this Act shall for all purposes be deemed part of the undertaking.

Works to form part of undertaking.

9. Subject to the provisions of this Act the Corporation may collect divert appropriate and use for the purposes of the undertaking the waters of the streams known as Long Grain Short Grain Higher Cat Clough and Lower Cat Clough the unnamed stream flowing along the eastern boundary of the enclosure numbered 174 in the urban district of Thurlstone on the 1/2500 ordnance map of Yorkshire (West Riding) sheet CCLXXXI.1 (second edition 1905) and Town Brook and such of the several feeders and tributaries thereof and all such other springs streams and waters as are intercepted by the waterworks authorised by the Act of 1927 as may be conveyed by means of Work No. 8 into Sledbrook Reservoir (Work No. 9) authorised by this Act.

Power to take waters.

10.—(1) After the completion of the Sledbrook Reservoir (Work No. 9) the following provisions shall apply:—

Compensation water (Sledbrook Reservoir).

(a) The Corporation shall during every day discharge or deliver into Sledbrook Dyke at a point therein situate not more than two hundred yards below the foot of the dam of the said reservoir and above the junction with that dyke of Work No. 10 by this Act authorised not less than three hundred and fifty thousand gallons of water in a uniform and continuous flow;

(b) For the purpose of measuring the quantity of water to be so discharged or delivered into the Sledbrook Dyke the Corporation shall erect and maintain at an approved point on the said river below the said reservoir not more than two hundred yards from the foot of the dam thereof and above the junction with that dyke of Work No. 10 by this Act authorised an approved automatically recording measuring gauge over or through which the said compensation water shall flow and the same shall be open to the inspection and examination of all persons interested therein.

(2) If the Corporation fail to maintain any gauge in a state of efficiency or refuse to allow any person interested to inspect and examine any such gauge or any records made or kept thereby or in connection therewith and in the case of any failure or neglect by or in consequence of which the said quantity of compensation water shall not so flow the Corporation shall without prejudice to their civil liability (if any) to a person aggrieved be liable to a fine not exceeding fifty pounds in respect of each day on which an offence has been committed and in the

PART II
—cont.

case of an offence under paragraph (a) of subsection (1) of this section—

- (i) on summary conviction to a fine not exceeding fifty pounds in respect of each such day ; and
- (ii) on conviction on indictment to a fine not exceeding five hundred pounds in respect of each such day.

(3) If any difference arises between the Corporation and any person so interested with respect to the siting construction maintenance or use of any gauge or the state of repair or condition thereof such difference shall be referred to the arbitration of an engineer to be nominated (unless otherwise agreed) on the application of either party after notice in writing to the other of them by the President of the Institution of Civil Engineers.

(4) The provisions of this section shall be accepted and taken by all persons interested as full compensation for all water draining to the river Don which the Corporation are authorised to collect use divert and appropriate by the Act of 1927 and all water which the Corporation can collect divert appropriate or use by means of the Sledbrook Reservoir (Work No. 9).

(5) (a) In this section “approved” means approved by the Minister and the engineer of the millowners.

(b) For the purposes of this section the Yorkshire Ouse River Board shall be deemed to be interested in the flow of water in and the discharge of water into the Sledbrook Dyke and shall be deemed to be aggrieved by the commission of any offence under this section in relation to the Sledbrook Dyke.

(6) As from the date on which the Sledbrook Reservoir (Work No. 9) is completed section 18 (Restriction on taking waters) of the Act of 1927 shall be and is hereby repealed.

Power to divert streams etc.

11.—(1) It shall be lawful for the Corporation to divert and alter the course of any stream watercourse or ditch on any lands acquired or appropriated by them for the purposes of the works authorised by this Act and the existing bed banks and channel of the diverted portion of any such stream watercourse and ditch shall by virtue of this Act vest in the Corporation and may be appropriated and used by the Corporation for the purposes of or in connection with those works.

(2) In the exercise of the powers conferred by this section the Corporation shall do as little damage as may be and shall pay compensation to all persons for damage sustained by them or any liability to which they may become subject by reason of the exercise of those powers and any difference as to the amount of the compensation to be paid shall be referred to and determined by an arbitrator to be agreed upon between the parties or failing such agreement appointed by the President of the Institution of Civil Engineers and subject as aforesaid the Arbitration Act 1950 shall apply to any such arbitration.

(3) The provisions of this section shall be in addition to and not in substitution for or in derogation of any other provision of this Act relating to the diversion of streams watercourses or ditches.

PART II
—cont.

12. The provisions of section 145 of the Act of 1933 shall apply with respect to the alteration of any watercourse under the powers of the last foregoing section as if the alteration was done in the exercise of powers conferred by the Land Drainage Act 1930.

Application of section 145 of Act of 1933.

13.—(1) If in the opinion of the Corporation it shall be expedient in order to preserve the purity of the waters which they are authorised to take for the purpose of the undertaking to prohibit the dipping or washing of sheep (with or without the use of chemicals) in any such waters the Corporation shall have power to prohibit such dipping or washing of sheep:

Sheep dipping and washing.

Provided that before the Corporation carry this provision into effect in respect of any place where it has been the practice to dip or wash sheep they shall give to the owners of such dipping or washing place notice in writing of their intention so to do and shall also give notice of such intention by advertisement in a newspaper circulating in the district in which such dipping or washing place is situate and shall also provide and maintain in the nearest convenient and available situation another suitable dipping or washing place and also a suitable folding place in the vicinity thereof.

(2) Any person aggrieved by any prohibition issued by the Corporation under this section may within three months after the issue thereof appeal to a court of summary jurisdiction held for the petty sessional division in which the prohibition is to take effect provided that he gives not less than fourteen days' notice of the appeal and the grounds thereof to the Corporation.

(3) On any such appeal the court shall have power to cancel the prohibition or to allow the prohibition unconditionally or subject to such conditions as to the area within which it shall take effect or as to the provision and maintenance of another suitable dipping or washing place or otherwise as they may think fit and to award costs which shall be recoverable summarily as a civil debt.

(4) A notice given under this section shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought.

14.—(1) The Corporation shall provide and maintain or cause to be provided and maintained for the workmen employed in and about the construction of the works authorised by this Act such accommodation and such arrangements for meals as shall be reasonably necessary having regard to the accommodation available in the neighbourhood of or conveniently accessible

Accommodation for workmen employed on construction of works.

PART II
—cont.

from the said works and shall provide and maintain proper and sufficient sanitary accommodation for such workmen.

(2) The medical officer of health of the West Riding or any person authorised by him shall be entitled at all reasonable times to enter and inspect any accommodation provided under this section in order to ascertain whether overcrowding exists therein and whether proper and sufficient sanitary arrangements are provided.

Repeal of
section 23 of
Act of 1923.

15. Section 23 (Limiting powers of Corporation to abstract water) of the Act of 1923 is hereby repealed.

For protection
of Hepworth
Iron Company
Limited.

16. For the protection of the Hepworth Iron Company Limited (in this section referred to as "the company") the following provisions shall unless otherwise agreed in writing between the company and the Corporation apply and have effect:—

(1) (a) The Corporation shall not under the powers of this Act enter upon take or use any part of the lands numbered on the deposited plans 1 to 4 in the urban district of Penistone and 56 to 70 in the parish of Dunford in the rural district of Penistone;

(b) Notwithstanding the provisions of the foregoing subparagraph the Corporation may acquire such easements or rights in and under the said lands as they may require for the purpose of constructing the line or lines of pipes (Work No. 16) authorised by this Act:

(2) Notwithstanding the provisions of this Act and of any enactment incorporated therewith the company may work any mines or minerals within or under any land adjoining the lands purchased by the Corporation for the purposes of this Act whether within or without the distance of forty yards from the boundary of such lands and shall not be under any obligation to leave any lateral support for the lands so purchased or to pay any compensation for damage that may be occasioned thereby but the company shall inform the Corporation when and so soon as they shall commence to work the mines and minerals within the said distance of forty yards:

Provided that the company shall not work any such mines or minerals in such a manner as will so affect Work No. 10 by this Act authorised as to prevent the Corporation from carrying Sledbrook Dyke by the said Work No. 10:

(3) (a) In connection with Work No. 10 authorised by this Act the Corporation shall construct and maintain protective works at the north-westerly end of Sledbrook

Reservoir (Work No. 9) authorised by this Act in such a position as to provide reasonably convenient ingress to and egress from the quarry belonging to the company known as the Middlecliffe and Illions Quarry from and to the New Mill district county road (A.616) and for that purpose shall construct thereon and also on the land to be acquired by the Corporation for the purposes of this Act a road to the reasonable specification of the company ;

- (b) The cost of constructing the said road shall be borne in the first instance by the Corporation but the company shall repay to the Corporation an amount equivalent to the cost which the company but for the passing of this Act would have incurred in constructing on land belonging to them a similar road for the purpose aforesaid ;
- (c) The Corporation shall for so long as the said road is used by the company or their successors in title for the working of the said quarry maintain in a reasonable state of repair that part of the said road which is on the protective works and such other contiguous length of road as shall when measured together with the length of road on the protective works equal the length by which the road to be constructed by the Corporation is in excess of the length of road which the company would have constructed and in respect of which the company will make the payment provided for in paragraph (b) of this subsection ;
- (d) In this subsection the expression "protective works" means such bridge dam or other structure as may be agreed between the company and the Corporation or in default of agreement settled by arbitration to be suitable for the purpose of giving effect to paragraph (a) of this subsection ;
- (4) The company shall be entitled at all times to use the catchwater by-pass (Work No. 10) authorised by this Act for the purpose of de-watering the said Middlecliffe and Illions Quarry and the Corporation shall at their own expense provide maintain and operate all necessary works and facilities to enable the company to discharge surplus water into the said catchwater by-pass to the extent to which such surplus water apart from the works authorised by this Act could reasonably have been caused in the ordinary course of working to flow by gravitation into the Sledbrook Dyke :
- (5) The Corporation shall construct and maintain to the reasonable satisfaction of the company and their successors in title one stone water trough of at least

PART II
—cont.

nine cubic feet capacity on each of the lands numbered on the deposited plans 28 29 30 39 40 42 46 and 54 in the parish of Dunford in the rural district of Penistone and shall supply thereto and keep the same supplied with a proper and sufficient supply of water and shall also provide a proper and sufficient drain for the overflow from the said troughs:

Provided that where it is agreed between the Corporation and the company that any two of the said lands can be adequately served by one and the same trough it shall be a sufficient compliance with the requirements of this subsection for the Corporation to construct and maintain one such trough in respect of those two lands:

- (6) The Corporation shall at all times indemnify the company against all actions and proceedings (if any) in respect of any acts of the company or the successors in title of the company affecting the purity of the water for the time being impounded in the Sledbrook Reservoir (Work No. 9) authorised by this Act which may be done or omitted to be done by the company or their successors in title after the passing of this Act in or in connection with the working getting or dressing of the mines or minerals by the company or their successors in title in the Hinchcliffe Piece Quarry of the company:
- (7) If any difference arises between the company and the Corporation under the provisions of this section such difference shall be referred to and determined by an arbitrator to be agreed between them or failing such 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 and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to any such reference.

For protection
of West Riding
County
Council
and local
authorities.

17. For the protection of the county council of the administrative county of the West Riding of Yorkshire (in this section referred to as "the county council") the following provisions shall unless otherwise agreed in writing between the county council and the Corporation apply and have effect:—

- (1) Nothing in this Act shall prejudice or affect the provisions of section 21 (For protection of Thurlstone Urban District Council) of the Act of 1927 to the extent to which they apply to the springs mentioned in paragraphs (a) and (b) of that section:

- (2) The Corporation shall not use for the purposes of their undertaking any waters collected diverted or appropriated under the provisions of section 9 (Power to take waters) of this Act until they shall have completed the construction of the intake and catchwater by-pass (Work No. 10) authorised by this Act ;
- (3) (a) The Corporation shall not under the powers of this Act enter upon take or use any part of the lands numbered on the deposited plans 31 in the parish of Dunford ;
- (b) Notwithstanding the provisions of the foregoing subparagraph the Corporation may acquire such easements or rights in and under the said lands numbered 31 as they may require for the purpose of constructing the line of pipes (Work No. 15) authorised by this Act :
- (4) (a) In constructing Works Nos. 8 12 13 15 and 16 authorised by this Act where those works cross any stream watercourse or drain the Corporation shall not diminish the width of such stream watercourse or drain between the banks thereof and shall construct those works either at such a height above the level of such stream watercourse or drain as may be reasonably required to permit of the passage under the said works of flood water in such stream watercourse or drain or at such depth below the level of the bed of such stream watercourse or drain as not to cause any obstruction to the flow of water therein and as to permit of the proper cleansing or scouring of such stream watercourse or drain and the deepening of the bed thereof to a reasonable extent for the purposes of or in connection with any necessary improvement or alteration ;
- (b) The Corporation shall give reasonable notice to the county council of the date or dates on which they intend to construct any of the said works across over or under any such stream watercourse or drain and such construction shall be carried out under the supervision (if after receiving such notice they choose to attend or be represented) of the county council and to their reasonable satisfaction in accordance with plans sections and specifications to be submitted to and reasonably approved by the county council :

Provided that if at the expiration of twenty-one days from such submission the county council do not object in writing to the said plans sections and specifications the same shall be deemed to be approved :

- (c) If any difference arises between the county council and the Corporation under the provisions of this paragraph

PART II
—cont.

such difference shall be referred to and determined by an arbitrator to be agreed between them or failing such 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 and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to any such reference.

For further protection of West Riding County Council.

18. For the protection of the county council of the administrative county of the West Riding of Yorkshire (in this section referred to as "the county council") the following provisions shall unless otherwise agreed in writing between the county council and the Corporation apply and have effect:—

(1) In this section—

"the protected roads" means the portions of the county roads known as the New Mill district (A.616) and Holmfirth district (B.6106) county roads included within the limits of deviation shown on the deposited plans;

"the junction" means the point at which the centre line of the New Mill district (A.616) county road is intersected by the centre line of the Holmfirth district (B.6106) county road:

- (2) In constructing the Sledbrook Reservoir (Work No. 9) authorised by this Act the Corporation shall not interfere with either of the protected roads without the consent of the county council which consent shall not be unreasonably withheld and may be given on such conditions as the county council may reasonably impose:
- (3) If in the opinion of the county council it shall be necessary to carry out any protective works to maintain the stability of the protected roads in consequence of the construction of the Sledbrook Reservoir (Work No. 9) authorised by this Act all expenses reasonably incurred by the county council in carrying out such protective works (including the cost of sinking such boreholes as are referred to in paragraph (4) of this section) shall be repaid to them by the Corporation:
- (4) For the purpose of ascertaining the extent to which the carrying out of such protective works is necessary the county council may both before the commencement and after the completion of the construction of the Sledbrook Reservoir (Work No. 9) authorised by this Act sink boreholes under the protected roads to a depth of at least three feet below the top water level of the reservoir:

- (5) No works shall be carried out by the Corporation nor shall any tree or shrub be planted by them on the lands numbered 52 on the deposited plans in the parish of Dunford in the rural district of Penistone within one hundred feet of the junction in such a way as to impair the line of vision across the south-westerly corner of the said lands:
- (6) The Corporation shall erect and maintain to the satisfaction of the county council a fence on the top of so much of the retaining wall on the eastern side of the New Mill district (A.616) county road as is coterminous with the westerly limits of deviation shown on the deposited plans in respect of the Sledbrook Reservoir (Work No. 9) authorised by this Act:
- (7) (a) Notwithstanding anything in this Act the Corporation shall not construct any building wall plant or other structure or erection on the lands referred to in sub-paragraph (b) of this paragraph or make any permanent excavation thereon;
- (b) The lands referred to in sub-paragraph (a) of this paragraph are so much of the lands numbered 52 on the deposited plans in the said parish of Dunford as lies between the foot of the embankment at the southerly end of the Sledbrook Reservoir (Work No. 9) authorised by this Act and the northern side of the Holmfirth district (B.6106) county road and within a distance of twenty-five feet measured on the square from the eastern side of the New Mill district (A.616) county road:
- (8) If any difference arises between the county council and the Corporation under the provisions of this section such difference shall be referred to and determined by an arbitrator to be agreed between them or failing such 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 and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to any such reference.

PART III

LANDS

19.—(1) Subject to the provisions of this Act the Corporation may enter upon take and use such of the lands delineated on the deposited plans and described in the deposited book of reference as may be required for the purpose of the works authorised by this Act. Power to acquire lands.

PART III
—cont.

(2) The powers of the Corporation for the compulsory purchase of land under this section shall cease after the expiration of three years from the first day of October nineteen hundred and fifty-six.

Correction
of errors in
deposited
plans and book
of reference.

20.—(1) If any omission misstatement or wrong description of any land or of the owner lessee or occupier of any land is found to have been made on the deposited plans or in the deposited book of reference the Corporation after giving ten days' notice to the owner lessee and occupier of the land in question may apply to two justices having jurisdiction in the West Riding for the correction thereof.

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

(3) Any such certificate shall be deposited with the clerk of the West Riding Council and a copy thereof shall be deposited with every clerk of a local authority and chairman of a parish council or parish meeting with whom a copy of the deposited plans (or so much thereof as includes the land to which the certificate relates) has been deposited in accordance with the Standing Orders of Parliament or who has the custody of any such copy so deposited and thereupon the deposited plans and the deposited book of reference shall be deemed to be corrected according to the certificate and it shall be lawful for the Corporation to take the land and execute the works in accordance with the certificate.

(4) Any certificate or copy deposited under this section with any person shall be kept by him with the other documents to which it relates.

Acquisition of
part only of
certain
properties.

21.—(1) For the purposes of this Act the following provisions of this section shall have effect in substitution for section 92 of the Lands Clauses Consolidation Act 1845.

(2) No person shall be required to sell a part only of any house building or factory or of a park or garden belonging to a house if he is willing and able to sell the whole of the house building factory park or garden unless the tribunal determines—

- (a) in the case of a house building or factory that such part as is proposed to be taken can be taken without material detriment to the house building or factory; or
- (b) in the case of a park or garden that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house to which it belongs.

(3) If the tribunal determines as aforesaid compensation shall be awarded in respect of any loss due to the severance of the part proposed to be taken in addition to the value of that part and thereupon the person interested shall be required to sell to the Corporation that part of the house building factory park or garden.

22. At any time after serving a notice to treat in respect of any land that may be acquired compulsorily under this Act but not less than one month after giving the owner and occupier of the land notice of their intention to exercise the powers of this section the Corporation may enter on and take possession of the land or such part thereof as is specified in the last-mentioned notice without previous consent and without compliance with sections 84 to 90 of the Lands Clauses Consolidation Act 1845:

Power to expedite entry.

Provided that the Corporation shall pay the like compensation for land of which possession is taken under this section and the like interest on the compensation awarded as would have been payable if the provisions of those sections had been complied with.

23. Any person acting on behalf of the Corporation and duly authorised by the town clerk may at all reasonable times enter on any land that may be acquired compulsorily under this Act for the purpose of surveying or valuing the land:

Power to enter for survey and valuation.

Provided that no land shall be entered under this section unless the Corporation not less than twenty-four hours before the first entry and not less than twelve hours before any subsequent entry have given notice to the owner and occupier of the land.

24. In determining any question of disputed compensation or purchase money in respect of land acquired under this Act the tribunal shall not take into account—

Disregard of recent improvements and interests.

(a) any improvement or alteration made or building erected after the fifth day of December nineteen hundred and fifty-five; or

(b) any interest in the land created after the said date;

which in the opinion of the tribunal was not reasonably necessary and was made erected or created with a view to obtaining or increasing the compensation or purchase money.

25.—(1) All private rights of way over any land that may be acquired compulsorily under this Act shall as from the acquisition of the land whether compulsorily or by agreement be extinguished.

Extinction of private rights of way.

(2) Any person who suffers loss by the extinguishment of any right under this section shall be entitled to be paid by the

PART III
—cont.

Corporation compensation to be determined in case of dispute under and in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

Agreements
with adjoining
owners.

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

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

Development
of land.

27.—(1) The Corporation may (with the consent of the Minister) lay out and develop any land for the time being belonging to them and not required for the purpose for which it was acquired and may on any such land erect and maintain houses shops offices industrial buildings warehouses and other buildings and construct sewer drain pave channel and kerb streets:

Provided that nothing in this section shall apply to land acquired by the Corporation under section 38 or section 40 of the Town and Country Planning Act 1947 or to land appropriated by them for the purposes for which land can be acquired under those sections.

(2) The Corporation may use or dispose of the building or other materials of any houses or structures on any land acquired or appropriated by them which they deem it necessary or desirable to pull down.

For
protection
of Penistone
rural district
council.

28. For the protection of the Penistone rural district council (in this section referred to as "the council") the following provisions shall unless otherwise agreed in writing between the council and the Corporation apply and have effect:—

(1) The Corporation shall pay to the council the amount by which the cost of or in connection with the acquisition of land for and the construction of their proposed sewage disposal works on a suitable alternative site of equivalent area the laying of sewers thereto and the provision of mains pipes and apparatus in connection therewith exceeds the cost which the council but for the acquisition of the lands numbered on the deposited plans 37 in the parish of Dunford would have incurred in carrying out the said works at the date of the passing of this Act:

- (2) If any difference arises between the council and the Corporation under the provisions of this section such difference shall be referred to and determined by an arbitrator to be agreed between them or failing such 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 and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to any such reference.

PART IV

SUPPLY OF WATER

29.—(1) On the day of transfer the Penistone undertaking shall by virtue of this Act be transferred to and vest in the Corporation. Transfer of Penistone undertaking.

(2) Subject to the provisions of this Act the Corporation shall as consideration for the transfer of the said undertaking in the year commencing on the day of transfer and in every year thereafter repay to the Penistone Urban District Council the amount which in pursuance of arrangements in force immediately before the day of transfer for the redemption of loans and the payment of interest thereon would but for this Act have fallen on or after the day of transfer to be debited in the accounts of the undertaking of that council for that year in respect of money borrowed in respect of the said undertaking and in calculating the amount that would have fallen to be debited as aforesaid in respect of such loan account shall be taken of the income earned by any sinking fund established for the redemption of the loan.

(3) Any sum payable under the foregoing provisions of this section shall unless otherwise agreed be paid not later than the day on which the amounts referred to in subsection (2) of this section become payable by the Penistone Urban District Council.

(4) Any payment made by the Corporation under subsection (2) of this section in respect of the liability for the redemption of a loan (or the repayment of an advance) shall be deemed to be a capital payment and any other such payment shall be deemed to be an annual payment.

(5) The Corporation shall also pay to the Penistone Urban District Council as part of the consideration for the transfer—

- (a) an amount equal to the then current value of all expendable stores which immediately before the day of transfer were held on revenue account by that council in respect of their water undertaking and which by this Part of this Act are transferred to the Corporation; and

PART IV
—cont.

(b) the amount of any capital expenditure incurred by the Penistone Urban District Council for the purpose of their water undertaking not defrayed from loan moneys for which statutory borrowing powers could and it is anticipated would but for the transfer have been conferred.

(6) Notwithstanding the foregoing provisions of this section the Corporation may with the consent of the lender agree with the Penistone Urban District Council for the transfer to the Corporation by that council of the liability in respect of any outstanding loan to that council in respect of the Penistone undertaking and from the day of transfer all liabilities in respect of the loan so transferred shall be borne by the Corporation.

As to receipts
and debts to
day of transfer.

30.—(1) The Penistone Urban District Council shall be entitled to and may recover all rates rents charges profits and sums of money and shall discharge and pay all debts outgoing and liabilities in respect of the Penistone undertaking which may accrue due up to or shall have accrued due or become payable before the day of transfer and the Corporation shall be entitled to and may recover all rates rents charges profits and sums of money and shall discharge and pay all debts outgoing and liabilities in respect of such undertaking which may accrue due or become payable on or after that day and where necessary for the purpose of this section all such revenues and outgoing shall be apportioned between the Penistone Urban District Council and the Corporation:

Provided that so much of the rates rents meter rents or other charges received by the Penistone Urban District Council and so much of the outgoing discharged by them as is attributable to any period subsequent to the day of transfer shall be paid by them to the Corporation or (as the case may be) shall be paid by the Corporation to the said council and so much of such rates rents charges profits and sums of money received by the Corporation in respect of such undertaking and so much of the outgoing discharged by them as is attributable to the period prior to the day of transfer shall be paid by the Corporation to the Penistone Urban District Council or (as the case may be) shall be repaid to the Corporation by such council.

(2) Any question which may arise under this section or the last preceding section of this Act between the Penistone Urban District Council and the Corporation shall be determined by an arbitrator to be agreed upon between the Penistone Urban District Council and the Corporation or failing such agreement to be appointed by the President of the Institution of Civil Engineers and subject as aforesaid the Arbitration Act 1950 shall apply to any such arbitration.

(3) The Penistone Urban District Council and the Corporation may enter into and carry into effect agreements relating to the matters referred to in this section.

PART IV
—cont.

31.—(1) The limits within which the Corporation may supply water shall be extended so as to include the added limits.

Extension
of limits
of supply.

(2) Subject to the provisions of this Act the Corporation shall have and may exercise with reference to the added limits all and the like powers privileges and authorities for and in relation to the supply of water and the construction of works and be subject to all and the like duties and obligations in respect thereof as they have and are subject to under the Barnsley Corporation Acts and Orders 1822 to 1956 with reference to the existing limits and any conditions of supply relating to the undertaking made by the Corporation which are in force in the existing limits shall extend and apply to and within the added limits and may be enforced by the Corporation :

Provided that nothing contained in this subsection shall prevent any amendment variation rescission or revocation of the said conditions of supply.

(3) (i) Any works pipes plant or apparatus belonging to the rural district council of Penistone in the parish of Cawthorne provided by such council for the purpose of supplying water within such parish shall vest in the Corporation as from the date on which the Corporation commence to supply water in the parish of Cawthorne and the Corporation shall pay to the said rural district council in respect of such works pipes plant or apparatus such sum as may be agreed between the Corporation and such council or in default of agreement determined by an arbitrator appointed by the Minister.

(ii) For the purposes of section 12 of the Finance Act 1895 (which relates to stamp duty on the vesting of property by virtue of an Act of Parliament) the date of the final ascertainment of the amount of the consideration for the vesting under the preceding paragraph of this subsection of the property other than goods shall be treated as the date of vesting.

32. For a period of five years commencing on the day of transfer the charges which the Corporation may demand for water supplied by them in the added limits shall be less than the charges which the Corporation may from time to time make during the same period for water supplied in the borough by such respective amounts or percentages as may be agreed between the Corporation and the urban district council of Penistone (as regards the urban district of Penistone) and the rural district council of Penistone (as regards the parish of Cawthorne) or as (failing such agreement in either case) may

Water charges
in added limits.

PART IV
—cont.

be determined by the Minister after considering any representations in reference thereto made to him by the Corporation and the said councils or either of the said councils:

Provided that if the said respective amounts or percentages are not agreed or determined as aforesaid by the day of transfer then as from the day of transfer and until the said respective amounts or percentages are agreed or determined as aforesaid the charges which the Corporation may demand for water supplied by them in the added limits shall not exceed the rates for a supply of water for domestic purposes which the urban district council of Penistone (as regards the urban district of Penistone) or the rural district council of Penistone (as regards the parish of Cawthorne) were charging at the date of the passing of this Act.

Continuance of proceedings.

33. Nothing in this Act shall release discharge or suspend any action arbitration or other proceeding which shall be pending by or against any council whose undertaking works pipes plant or apparatus is or are transferred to or vested in the Corporation by this Act in relation to that undertaking or those works pipes plant or apparatus or to which any such council in relation as aforesaid shall be a party on the date of the transfer or vesting and any such action arbitration or other proceeding save so far as it relates to any tortious act of any servant of any council may be maintained prosecuted or continued by or in favour of or against the Corporation.

Saving of agreements etc.

34. All sales conveyances grants assurances deeds contracts bonds and agreements affecting the undertaking of any council whose undertaking works pipes plant or apparatus is or are transferred to or vested in the Corporation by this Act and in force on the day on which the transfer or vesting takes place shall on and from that day be as binding and of as full force in every respect against or in favour of the Corporation and may be enforced as fully and effectually as if instead of the council the Corporation had been a party thereto or bound thereby or entitled to the benefit thereof:

Provided that no sale conveyance grant assurance deed contract bond or agreement relating to such undertaking works pipes plant or apparatus made or entered into by any such council after the date of the passing of this Act shall be binding on or of any force or effect against or in favour of the Corporation unless it is made or entered into with the consent in writing of the Corporation or having been made or entered into without such consent it is subsequently ratified in writing by the Corporation.

Books to remain evidence.

35. All books and documents which if this Act had not been passed would have been evidence in respect of any matter for or against any council whose undertaking works pipes plant

or apparatus is or are transferred to or vested in the Corporation by this Act shall in so far as they relate to their undertaking works pipes plant or apparatus on and after the day on which the transfer or vesting takes place be admitted in evidence in respect of the same or the like matter for or against the Corporation:

PART IV
—cont.

36. The Corporation shall be entitled to inspect and at their own expense to obtain copies of all registers books maps plans specifications engineering reports and other documents not transferred by virtue of this Act which relate to any undertaking works pipes plant or apparatus transferred to or vested in them by virtue of this Act.

Inspection
etc. of
documents.

37.—(1) Every existing officer of the Penistone urban district council or of the Penistone rural district council who suffers loss of employment or diminution of emoluments which is attributable to the passing of this Act shall be entitled to have his case considered for the payment of compensation by the Corporation such compensation to be determined in accordance with the provisions of the schedule to the Local Government (Compensation) Regulations 1948 and subject to the provisions of this section those regulations shall apply accordingly with any modifications which the Minister may by order consider it necessary or expedient to make for the purpose of the application of the said regulations to compensation under this Act.

Compensation
to existing
officers.

(2) For the purpose of this section and the said regulations as applied thereby—

(a) the expression “existing officer” means a person who immediately before the passing of this Act devoted the whole of his time and had devoted the whole of his time for a period of not less than eight years previously after attaining the age of eighteen years without a break of more than twelve months at any one time either—

(i) to any of the following employments or to two or more or to any combination of such employments namely:—

(A) employment under the Crown or in the local government service; or

(B) employment in the service of a statutory water company or statutory water companies in Great Britain; or

(C) employment by any authority or body for the purposes of the Crown or of local government or of statutory water companies in Great Britain; or

PART IV
—cont.

(D) employment under any officer engaged in any such employment as aforesaid for the purposes of the functions of the employing authority or body; or

(ii) partly to any such employment as aforesaid or to two or more or to any combination of such employments and partly to—

(A) employment as a superintendent registrar or registrar of births and deaths or as a registrar of marriages or as a person designated by a local authority to act as a deputy superintendent registrar or registrar of births and deaths; or

(B) war service as defined by the said regulations undertaken on ceasing to follow any of the employments mentioned in paragraph (i) of this subsection or any combination thereof; and

(b) the expression "service" includes service with statutory water undertakers, and such war service as aforesaid.

(3) Nothing in this section or in the said regulations as applied thereby shall entitle a person to have his case considered for the payment of compensation unless—

(a) the cause of the claim arises not later than ten years after the passing of this Act;

(b) the claim is made not later than two years after the date on which the cause of claim arises; and

(c) the other conditions prescribed by paragraph (b) of regulation 5 of the said regulations are fulfilled.

Superannua-
tion and
pensions.

38.—(1) In this section the expression "transferred officer" means an officer or servant who at the day of transfer is in the service of the Penistone Urban District Council and who is wholly or mainly employed for the purposes of the Penistone undertaking and becomes an officer or servant of the Corporation.

(2) Subject to the provisions of this section transferred officers shall be afforded by the Corporation superannuation rights not less favourable than those enjoyed by them immediately before the day of transfer.

PART V

STREETS

Prohibition
of building
until street
formed and
sewered.

39.—(1) Where a plan and sections of a new street deposited with the Corporation in pursuance of street byelaws are approved by them they may by notice prohibit the erection of any building on land abutting on the street until the carriage-way of the street has been constructed and the street has been sewered in accordance with the said byelaws:

Provided that where the plan shows that the street will exceed one hundred yards in length the Corporation shall divide the street for the purpose of the notice into lengths not exceeding one hundred yards and each such length shall for that purpose be treated as a separate street.

(2) Any such notice shall be given to the person by whom or on whose behalf the plan and sections were deposited and the prohibition imposed thereby shall be binding on successive owners of the land to which it relates.

(3) If any person contravenes the provisions of any such notice he shall be liable to a penalty not exceeding twenty pounds and the Corporation may construct the carriageway and works of sewerage which should have been constructed and recover the expenses of so doing from that person.

(4) This section shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 with respect to the avoidance of any such notice for want of registration as a local land charge.

(5) The execution of any works under the provisions of this section shall not relieve any person from any liability under the provisions of any enactment relating to private street works for the time being in force in the borough.

40.—(1) Where a plan and sections of a new street deposited with the Corporation in pursuance of street byelaws are approved by them they may for the purposes of safety by notice require that the corners formed at the junction of the new street with another street (whether existing or intended but not being a trunk road) shall be rounded or splayed off in such manner as may be specified in the notice.

Rounding
or splaying
off corners
at street
junctions.

(2) Any such notice—

(a) shall be given to the person by whom or on whose behalf the plan and sections were deposited; and

(b) shall be binding on successive owners of the land to which it relates.

(3) The Corporation shall pay compensation to any person injuriously affected by the exercise of the powers conferred by this section and in default of agreement the amount thereof shall be determined by arbitration in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

(4) If any person lays out or constructs a new street otherwise than in compliance with a notice in respect of the street under this section he shall be liable to a penalty not exceeding

PART V
—cont.

twenty pounds and the Corporation may do such work as may be necessary to comply with the notice and recover the expenses of so doing from that person.

(5) This section shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 with respect to the avoidance of any such notice for want of registration as a local land charge.

Damage to
trees etc. on
highways
and in
open spaces.

41.—(1) No person (except in the execution of some act which he has lawful authority to perform) shall on any highway or in any open space to which the public have access within the borough—

(a) remove or cut any turf; or

(b) pluck any bud blossom flower fruit or leaf of any tree shrub or plant or remove cut or displace any plant if the tree shrub or plant has been planted by the person having control of the highway or open space for the purpose of improving the amenities thereof and a notice stating the effect of this paragraph is conspicuously placed in the neighbourhood of the tree shrub or plant.

(2) If any person contravenes the provisions of this section he shall be liable to a penalty not exceeding forty shillings and to the payment of such further amount as appears to the court reasonable compensation for any damage so committed which last-mentioned amount shall be paid to the person having control of the highway or open space.

(3) Nothing in this section shall—

(a) apply to any open space vested in or under the control of the Corporation a board of conservators or the National Trust for Places of Historic Interest or Natural Beauty or to any land as respects which by-laws made under the National Parks and Access to the Countryside Act 1949 are for the time being in force; or

(b) affect the right of any persons authorised by any enactment to open or break up any street or road or any land for the purpose of laying making altering repairing or renewing any main pipe sluice weir sewer electric line duct substation transformer station street box drain tramway or trolley vehicle equipment or other apparatus.

(4) In this section the expression “open space” has the same meaning as in the Open Spaces Act 1906.

42.—(1) No person shall mix mortar cement plaster or any like substance in any street in the borough repairable by the inhabitants at large except upon such board or in such receptacle as will protect the street from such mortar cement plaster or substance:

PART V
—cont.
Mixing of
mortar etc.
in streets.

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

(2) If any person contravenes the provisions of this section he shall be liable to a penalty not exceeding forty shillings.

43.—(1) Where in pursuance of the Housing Acts 1936 to 1952 any grass verge garden or space is provided by the Corporation and maintained in an ornamental condition or mown by them they may by notice prohibit persons from entering upon or causing or permitting vehicles to enter upon any such grass verge garden or space.

Verges etc.
of housing
estates.

(2) Any such notice as is referred to in the foregoing subsection shall be conspicuously posted on or in proximity to the grass verge garden or space to which it relates and if any person contravenes a notice so posted he shall be liable to a penalty not exceeding twenty shillings.

(3) The powers of this section shall not be exercisable in relation to any grass verge or garden which forms part of a highway repairable by the inhabitants at large.

44.—(1) No part of any awning over the footway of a street in the borough being a highway repairable by the inhabitants at large shall project over any part of the footway which is less than two feet from the outer edge of the footway or shall be placed in such position that it obscures any traffic sign or traffic lights from the view of drivers of vehicles on the highway.

Awnings over
footways.

(2) If any person places or causes or permits to be placed over any such footway an awning which contravenes the foregoing subsection he shall be liable to a penalty not exceeding forty shillings.

(3) If an awning over any such footway is so constructed or maintained as to be prejudicial to the safety or convenience of the public the Corporation may by notice require the owner or occupier of the premises to which the awning is appurtenant to carry out such work as may be necessary to prevent the awning being so prejudicial.

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

PART V
—cont.

(5) In this section the expression “awning” includes a blind shade or other covering.

(6) Section 23 (Window blinds etc.) of the Act of 1949 is hereby repealed.

PART VI

PUBLIC HEALTH SANITATION AND BUILDINGS

Verminous premises.

45. Where it appears to the Corporation upon a certificate of the medical officer of health that any premises used for human habitation—

- (a) are in such a filthy or unwholesome condition as to be prejudicial to health ; or
- (b) are verminous ; and that
- (c) the occupier of the said premises is so suffering from disease infirm or physically incapacitated as to be unable to devote proper care and attention to the premises ;

the Corporation after notice given to the owner and the occupier of the premises may instead of taking the action required by section 83 of the Act of 1936 take such steps as may be necessary to remedy the condition of the premises by cleansing or disinfecting them removing the wallpaper and distempering or white-washing the interior surface thereof and take such other steps as may be necessary for the purpose of destroying or removing vermin.

Amendment of section 40 of Act of 1949.

46. Section 40 (Entry into premises in case of disease) of the Act of 1949 shall have effect as if the words “or whose body clothing or bedding are infested with vermin” were inserted after the word “disease” where it first appears and as if the words “or whether his body clothing or bedding are infested with vermin” were inserted after the word “disease” where it secondly appears.

Abandoned drains to be cut off.

47.—(1) Where after the passing of this Act any person shall—

- (a) reconstruct any drain which communicates with any sewer or other drain ;
- (b) lay such drain in a new position ; or
- (c) on the occasion of the execution of any works to or in connection with such drain permanently discontinue the use of such drain ;

such person shall cause any drain or portion of drain thereby rendered unnecessary to be cut off and sealed at each end.

(2) Any person who knowingly contravenes the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

PART VI
—cont.

48.—(1) Where after the passing of this Act—

- (a) any person erects or raises a building in the borough (in this section referred to as the “taller building”) to a greater height than an adjoining building; and
- (b) any chimneys or flues of the adjoining building are in the party wall or in an external wall of the adjoining building;

New building
overreaching
adjoining
chimneys.

the Corporation may by notice—

- (i) require that person within such time as may be specified in the notice to build up those chimneys and flues (if it is reasonably practicable so to do) so that the top thereof will be of the same height as the top of the chimneys of the taller building or the top of the taller building whichever is the higher; and
- (ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him:

Provided that if the said owner or occupier within fourteen days of the service of the notice on him serves on the first-mentioned person and on the Corporation a notice (in this section referred to as a “counter-notice”) that he elects to carry out the work himself the owner or occupier shall comply with the notice served under paragraph (i) of this subsection instead of the first-mentioned person and recover the cost of doing so from that person.

(2) Any person aggrieved by a requirement of the Corporation under this section may appeal to a magistrates’ court.

(3) If—

- (a) any person on whom a notice is served under paragraph (i) of subsection (1) of this section fails to comply with the notice (except in a case where the owner or occupier of an adjoining building has refused to allow entry on that building or the carrying out of any such work as may be necessary to comply with the notice or has served a counter-notice); or
- (b) any person on whom a notice is served under paragraph (ii) of subsection (1) of this section fails to comply with the notice or having served a counter-notice fails to comply with the notice served under paragraph (i) of that subsection;

PART VI
—cont.

he shall be liable to a penalty not exceeding twenty pounds and the Corporation may themselves carry out such work as may be necessary to comply with the notice served under the said paragraph (i) and recover the expenses of so doing from the person on whom that notice was served.

Height of new
chimneys.

49.—(1) Where plans for the extension or erection of a building used or to be used for manufacturing or other purposes are in accordance with building byelaws deposited with the Corporation and the plans show that it is proposed to construct a chimney for carrying smoke or steam or noisome or deleterious gases or effluvia from the building the Corporation shall reject the plans unless they are satisfied that the height of the chimney as shown on the plans will be sufficient to prevent it being prejudicial to health or a nuisance having regard to—

- (a) the purpose of the chimney ;
- (b) the position and description of buildings near thereto ;
- (c) the levels of the neighbouring ground ; and
- (d) any other matters requiring consideration in the circumstances.

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

(3) This section shall not apply to a chimney of a generating station consent to the construction of which has been given in accordance with the provisions of the Electricity (Supply) Acts 1882 to 1936 by the Minister of Fuel and Power or to a chimney of any works of the gas board for the manufacture of gas.

Power to order
alteration
of domestic
chimneys.

50.—(1) If a magistrates' court is satisfied upon a complaint by the Corporation that any smoke gas or vapour from any chimney flue or pipe of a building or structure forming part of or within the curtilage of a house in the borough is prejudicial to the health of any of the inhabitants of the borough or a nuisance the court may make an order requiring the owner of the chimney flue or pipe within such time as may be specified in the order—

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

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

(2) If any person fails to comply with an order made under this section he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

PART VI
—cont.

PART VII

FOOD

51.—(1) The Corporation may make byelaws—

Byelaws as
to sale etc.
of animal
feeding meat.

(a) for regulating the construction and equipment of any premises in the borough at or from which animal feeding meat is—

- (i) prepared for sale ;
- (ii) sold or offered or exposed for sale ; or
- (iii) deposited for the purpose of sale or preparation for sale ;

(b) for regulating the cleanliness and sanitary condition of such premises and the provision of suitable storage therein for animal feeding meat ;

(c) for requiring the keeping of accurate records of—

(i) the description quantities and weights of all animal feeding meat delivered at or sold otherwise than by retail at or from any premises at which the sale or offer or exposure for sale of animal feeding meat is carried on ;

(ii) the dates at which such deliveries and sales take place ; and

(iii) the names and addresses of the person from whom the articles so delivered are obtained and of the persons to whom such sales are made ;

(d) for prohibiting the sale or offer or exposure for sale of animal feeding meat unless such meat has been sterilised in such manner as may be prescribed by the byelaws ;

(e) for empowering an authorised officer to examine any animal feeding meat which is offered or exposed for sale and to seize and destroy or cause to be destroyed such animal feeding meat if it has not been so sterilised as aforesaid :

Provided that nothing in any byelaws made under the provisions of this section shall extend or apply to require the sterilisation of animal feeding meat which is bona fide supplied to a zoological garden or to a menagerie for consumption only by carnivorous animals in such zoological garden or menagerie and which has been examined and passed as fit for animal food by an authorised officer.

PART VII
—cont.

(2) Nothing in any byelaw made under paragraph (a) or paragraph (b) of subsection (1) of this section shall extend or apply to any premises which are used for the sale or offer or exposure for sale of animal feeding meat—

(a) contained in tins or other containers effectually sealed and having attached thereto a notice of adequate size distinctly and legibly printed and conspicuously visible to the effect that the animal feeding meat is for animal consumption only;

(b) in the form of dog biscuits or other articles of a similar nature;

and are not otherwise used for any purpose in connection with the preparation storage or sale of animal feeding meat.

(3) Nothing in this section shall affect the operation of the Diseases of Animals Act 1950 or of any order licence or act of any Minister made granted or done thereunder or having effect by virtue of subsection (2) of section 89 of that Act.

Registration of premises used in connection with the sale etc. of animal feeding meat.

52.—(1) (a) As from the appointed day and subject to the provisions of this section no premises in the borough shall be used for the sale or offer or exposure for sale or deposit or consignment for sale or preparation for sale of animal feeding meat unless such premises are registered under this section for that purpose by the Corporation and if any person uses any premises in contravention of the provisions of this section he shall be liable in the case of a first offence to a penalty not exceeding ten pounds and in the case of a subsequent offence to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding two months or to both such a penalty and such imprisonment.

(b) Subject to the following provisions of this section the Corporation shall on the application of the occupier of or of a person proposing to occupy any premises register those premises for the purposes of this section.

(c) If it appears to the Corporation that any premises for the registration of which application has been made under this section or which are registered under this section do not satisfy the requirements of any byelaws made under subsection (1) of the last foregoing section or are otherwise unsuitable for use for the purpose for which they are proposed to be used or are being used the Corporation shall serve on the applicant for registration or (as the case may be) on the occupier for the time being of the premises a notice stating the place and time not being less than twenty-one days after the date of the service of the notice at which they propose to take the matter into consideration and informing him that he may attend before them with any

(2) No person shall between the hours of nine in the afternoon and eight in the forenoon operate or cause or suffer to be operated any loudspeaker for any purpose when such loudspeaker is in any street in the borough:

Provided that this subsection shall not apply to a loudspeaker forming part of a wireless receiving set inside a motor-car so long as such loudspeaker is used only for the private purposes of the occupants of the said vehicle and is not used so as to be an annoyance or nuisance to persons in a street.

(3) Any person who contravenes any of the provisions of this section shall be liable to a penalty not exceeding five pounds.

(4) This section shall not apply to—

- (a) the use of a loudspeaker by the Corporation or the police or the fire brigade in the execution of their duty or in case of emergency;
- (b) the use of a loudspeaker by the commission for the purposes of announcements to their passengers or staff at any station or depot of the commission;
- (c) the use of a loudspeaker by the Yorkshire Electricity Board or the East Midland or North Eastern Gas Boards (as the case may be) in case of emergency affecting their undertaking;
- (d) the use of a loudspeaker by any persons operating public service vehicles for the purpose of announcements to their passengers whilst in any of their vehicles or any of their stations or depots not forming part of a public highway or for communications between their staff;
- (e) the use of a loudspeaker by a travelling showman in any part of a street while such part thereof is being used as a pleasure fair and such fair is open to the public.

(5) In this section the expression "loudspeaker" includes an amplifier or similar instrument.

55.—(1) Any excessive or unreasonable or unnecessary noise which is prejudicial to health or a nuisance shall be a statutory nuisance for the purposes of Part III of the Act of 1936:

Provided that—

- (a) in any proceedings brought by virtue of this section under the said Part III in respect of a noise occasioned in the course of any trade or business it shall be a defence for the defendant to prove that he has used the best practicable means for preventing or mitigating the noise having regard to the cost and to other relevant circumstances;

PART VIII
—cont.

(b) a justice shall not entertain a complaint under section 99 of the said Act with respect to a noise unless the complaint is made by not less than three occupiers of premises within hearing of the noise.

(2) Nothing in this section shall apply to a noise occasioned by the exercise by railway undertakers of statutory powers conferred in relation to their railway undertaking or by the operation by the National Coal Board of any railway in connection with coal industry activities.

(3) Nothing in this section shall affect the power of the Corporation to make byelaws under section 249 of the Act of 1933.

PART IX

WEIGHTS AND MEASURES

**Definitions
for Part IX.**

56. In this Part of this Act unless the subject or context otherwise requires the following expressions have the meanings hereby respectively assigned to them:—

“the Act of 1889” means the Weights and Measures Act 1889;

“coke” includes coke and any solid fuel derived from coal or of which coal or coke is a constituent;

“vehicle” includes any lorry cart hand-cart waggon truck or other means of conveying goods or commodities by land in whatever manner the same may be drawn or propelled but does not include a railway truck or waggon.

**Application
of Weights
and Measures
Act 1889.**

57.—(1) Section 4 of the Act of 1889 (which provides that persons convicted of offences shall be liable to imprisonment in cases of fraud) shall extend and apply to convictions under—

(a) sections 20 to 22 and 24 to 27 and 29 of the Act of 1889 as extended by this section to coke and wood fuel and peat; and

(b) the following sections of the Act of 1949:—

Section 55 (Requirements as to vehicles carrying coal &c. for sale or delivery on sale);

Section 56 (As to sale of coal &c. otherwise than in sacks from a vehicle);

Section 57 (As to sale in sacks of coal coke wood fuel or peat in quantities exceeding two hundredweight); and

(c) the following section of this Act:—

Section 60 (Deficient weight measure or number).

(2) In their application within the borough the provisions of sections 20 to 22 and 24 to 29 of the Act of 1889 as amended by the Act of 1949 and any byelaws made by the Corporation thereunder shall extend to coke and (except section 28 and the byelaws made thereunder) to wood fuel and peat subject to and in accordance with the following provisions:—

- (a) the references in subsection (1) of section 21 and subsection (1) of section 22 to any quantity of coal exceeding two hundredweight shall include references to any quantity of coke wood fuel or peat exceeding two hundredweight;
- (b) the reference in section 24 to coal in any quantity not exceeding two hundredweight shall include a reference to coke in any quantity not exceeding two hundredweight and to wood fuel or peat in any quantity of fourteen pounds or over but not exceeding two hundredweight;
- (c) any other reference to coal in the said sections 20 to 22 and 24 to 29 and any byelaws made thereunder shall include a reference to coke and (except in section 28 and the byelaws made thereunder) to any quantity of wood fuel or peat of fourteen pounds or over.

(3) Section 51 (Application of Weights and Measures Act 1889) of the Act of 1949 is hereby repealed.

58.—(1) If within the borough any coal coke wood fuel or peat or any part thereof is being or has been sold delivered offered for sale exposed for sale or carried on a vehicle for sale or delivery and any person wilfully makes any false statement as to the weight thereof or wilfully increases the weight of any such coal coke wood fuel or peat by damping the same or wilfully does any other act by which the seller or the purchaser or prospective purchaser of coal coke wood fuel or peat is or may be defrauded not being a false statement or an act (as the case may be) to which section 65 (Penalties on persons committing frauds) of the Act of 1949 applies he shall be liable for every such offence on the first occasion to a penalty not exceeding five pounds and on any subsequent occasion to a penalty not exceeding ten pounds and in respect of any such offence the court may in lieu of or in addition to inflicting a penalty impose any term of imprisonment not exceeding two months.

Penalty on
fraudulent
sale of
coal etc.

(2) Section 53 (Penalty on fraudulent sale) of the Act of 1949 is hereby repealed.

(3) Section 23 of the Act of 1889 shall cease to apply to the borough.

PART IX
—cont.
Sale of
briquettes.

59.—(1) In this section the expression “briquette” means uncarbonised solid fuel manufactured mainly from coal each briquette being not less than one pound in weight.

(2) As from the appointed day notwithstanding anything contained in this Part of this Act or in the Act of 1949 briquettes may be sold by number and the following provisions instead of the provisions of the said Part (other than the definition of vehicle) or of the said Act shall apply to briquettes which are sold or intended to be sold by number:—

- (a) If any seller delivers or causes to be delivered to the purchaser or his agent a less number of briquettes than is purported to be sold he shall be liable for every such offence on the first occasion to a penalty not exceeding five pounds and on the second or any subsequent occasion to a penalty not exceeding ten pounds:
- (b) (i) Where more than twenty-five briquettes are delivered by means of a vehicle to a purchaser the seller shall therewith deliver or cause to be delivered to the purchaser or his agent before any of the briquettes are unloaded a ticket or note in a form approved by the Corporation stating in legible figures the number of briquettes upon which the purchase price is based;
- (ii) If default is made in complying with the requirements of this paragraph with respect to the delivery of a ticket or note or if the number is less than the number expressed in the ticket or note the seller of the briquettes or the person in charge of the vehicle as the case may be shall be liable for every such offence on the first occasion to a penalty not exceeding five pounds and on the second or any subsequent occasion to a penalty not exceeding ten pounds;
- (iii) If any person attending on any such vehicle having received any such ticket or note for delivery to the purchaser fails to deliver it as required by this paragraph or on being requested so to do to exhibit it to any inspector of weights and measures or other officer appointed for the purpose by the Corporation he shall be liable for every such offence on the first occasion to a penalty not exceeding five pounds and on the second or any subsequent occasion to a penalty not exceeding ten pounds:
- (c) (i) Every person who within the borough sells or offers or exposes for sale any briquettes shall cause his name and place of business and residence to be registered with the Corporation and on each occasion on which he shall change his registered place of business or

residence he shall within seven days thereafter cause particulars of such change to be registered with the Corporation;

- (ii) If any person contravenes the provisions of this paragraph he shall be liable to a penalty not exceeding five pounds:
- (d) (i) Every vehicle carrying briquettes for sale or for delivery on sale by retail shall have the seller's name and place of business clearly marked and visible on such vehicle:

Provided that in the case of a vehicle used by a person whose only interest in the briquettes to be delivered is that of a carrier it shall be a sufficient compliance with this paragraph if the name of such person is clearly marked and visible on the vehicle;

- (ii) Any person who in the borough uses a vehicle to which this paragraph applies and which is not in conformity therewith shall be liable to a penalty not exceeding five pounds.

(3) Where a person is convicted under this section of any offence and the court by which he is convicted is of opinion that such offence was committed with intent to defraud he shall be liable in addition to or in lieu of any fine to be imprisoned for a term not exceeding two months.

60.—(1) If any person in the borough—

- (a) sells or delivers or makes up or exposes for sale or delivery by weight or measure; or
- (b) sells or delivers or sets apart keeps or exposes for sale or delivery in numbers;

Deficient
weight
measure or
number.

any article or articles of which the weight measure or number (as the case may be) is less than the weight measure or number thereof which has been represented by such person he shall be guilty of an offence and shall be liable to a penalty not exceeding five pounds and for any subsequent offence to a penalty not exceeding ten pounds.

(2) An inspector of weights and measures of the Corporation on production if required of his authority under the Weights and Measures Acts 1878 to 1936 may at all reasonable times—

- (a) enter any building or other place in the borough in which he has reasonable cause to believe that any article is sold or is made up or exposed for sale by weight or measure or that any articles are sold or are set apart or kept or exposed for sale in numbers; or

PART IX
—cont.

- (b) inspect any vehicle which he has reasonable cause to believe is carrying articles for sale or delivery by weight or measure or in numbers in the borough; or
- (c) stop any person who he has reasonable cause to believe is carrying or in charge of any basket or other receptacle from which articles are sold or delivered by weight or measure or in numbers or in which such articles are kept or exposed for sale or delivery in the borough;

and weigh measure or number any such article or articles or require any such article or articles to be weighed measured or numbered in his presence.

(3) If the inspector of weights and measures has reasonable cause to believe that the weight measure or number of any such articles or article when so ascertained is less than the weight measure or number thereof which has been represented by the person who has sold delivered or made up set apart kept or exposed the same for sale or delivery he may for the purposes of proceedings under subsection (1) of this section seize impound and convey such article or articles to an office provided for the purpose by the Corporation.

(4) For the purposes of section 288 of the Act of 1936 as applied by this Act action wilfully taken by the driver or person in charge of any vehicle to avoid inspection of the vehicle by an inspector of weights and measures under this section by driving away or increasing speed when approached by such inspector shall be deemed to be obstruction.

(5) In any proceedings under this section in respect of an alleged deficiency of weight or measure of any pre-packed article the court shall disregard any inconsiderable variation in the weight or measure of a single article and shall have regard to the average weight or measure of a reasonable number of other articles of the same kind (if any) sold or delivered by the defendant or in his possession for the purposes of sale or delivery on the same occasion and generally to all the circumstances of the case.

(6) In any proceedings under this section in respect of an alleged deficiency of weight or measure or number it shall be a defence for the defendant to prove to the satisfaction of the court either—

- (a) that such deficiency was due to a bona fide mistake or accident or other causes beyond his control and that he took all reasonable precautions and exercised all due diligence to prevent the occurrence of such deficiency; or

- (b) that the alleged deficiency was due to unavoidable evaporation or drainage and that due care and precaution had been taken to avoid such deficiency; or
- (c) in case of a pre-packed article that he purchased the article in the wrapper or container in which he sold it from a person carrying on business at an address in the United Kingdom and that the wrapper or container had remained unopened and that he had no reason to believe that this section was being contravened.

(7) Any person against whom proceedings are brought in respect of an offence against this section (hereafter in this section referred to as "the original defendant") shall upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention be entitled to have any other person to whose act or default he alleges that the offence was due brought before the court in the proceedings and if after the offence has been proved the original defendant proves that the offence was due to the act or default of that other person that other person may be convicted of the offence and if the original defendant further proves that he has used all due diligence to secure that the provisions in question were complied with he shall be acquitted of the offence.

(8) Where the original defendant seeks to avail himself of the provisions of the last foregoing subsection—

- (a) the prosecution as well as the person whom the original defendant charges with the offence shall have the right to cross-examine him if he gives evidence and any witness called by him in support of his pleas and to call rebutting evidence;
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(9) A prosecution in respect of an offence by a retailer under this section other than an offence of obstructing or hindering an inspector in the exercise of his duties shall not be instituted after the expiration of twenty-eight days from the time when the offence was committed nor unless within seven days after the alleged commission of the offence notice of the date and nature of the alleged offence has been served on or sent by registered post to the defendant nor unless in the case of any alleged deficiency the person against whom the allegation is made has been given reasonable opportunity to check the weight measure or number of the articles or article in respect of which such allegation is made.

PART IX
—cont.

(10) A prosecution under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions or the Corporation.

(11) In this section the expression "pre-packed article" means any article which is packed or made up in advance ready for retail sale in a wrapper or container and where any article packed or made up in a wrapper or container is found on any premises where such articles are packed kept or stored for sale the article shall be deemed to be pre-packed unless the contrary is proved.

(12) The provisions of this section shall not apply to the sale of coal coke wood fuel or peat nor to any article of food to which section 1 of the Sale of Food (Weights and Measures) Act 1926 applies.

(13) Section 67 (Deficient weight measure or number) of the Act of 1949 is hereby repealed.

PART X

FINANCIAL PROVISIONS

Power to borrow.

61.—(1) The Corporation shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 from time to time to borrow without the consent of any sanctioning authority for and in connection with the purposes mentioned in the first column of the following table the respective sums mentioned in the second column of the said table and they shall pay off all moneys so borrowed within such periods as they may determine not exceeding those respectively mentioned in the third column of the said table:—

(1) Purpose	(2) Amount	(3) Period for repayment
(a) (i) For the construction of Works Nos. 9 and 10 by this Act authorised	£360,000	Sixty years from the date or dates of borrowing.
(ii) For the construction of— Works Nos. 8 and 16 by this Act authorised	£100,000	Thirty-five years from the date or dates of borrowing.
Works Nos. 12 13 and 15 by this Act authorised	£9,000	Thirty-five years from the date or dates of borrowing.
(iii) For the construction of— Work No. 14 by this Act authorised	£12,000	Thirty-five years from the date or dates of borrowing.
Work No. 11 by this Act authorised (hereafter in this Act referred to as "purpose No. 1")	£68,000	Thirty-five years from the date or dates of borrowing.

(1) Purpose	(2) Amount	(3) Period for repayment
(b) The purchase of lands and easements for the works authorised by this Act (hereafter in this Act referred to as "purpose No. 2")	The sum requisite	Sixty years from the date or dates of borrowing.
(c) The payment out of capital of interest on moneys borrowed for and in connection with the construction of the works authorised by this Act and the purchase of lands in accordance with the provisions of section 62 (Payment of interest on moneys borrowed until completion of works) of this Act (hereafter in this Act referred to as "purpose No. 3")	The sum requisite	Sixty years from the date or dates of borrowing.
(d) For the payment of any sum payable by them under this Act in respect of works pipes plant or apparatus vested in them (not being part of the Penistone undertaking)	The sum requisite	Twenty years from the date or dates of borrowing.
(e) The payment of the costs charges and expenses preliminary to and of and incidental to the promotion and obtaining of this Act	The sum requisite	Five years from the passing of this Act.

(2) The provisions of Part IX of the Act of 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money borrowed under this section as if it were borrowed under Part IX of that Act and the period fixed under this section for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purpose of the said Part IX.

62. Notwithstanding anything in this Act or in any Act wholly or partially incorporated therewith the Corporation may pay interest on any moneys borrowed under this Act for purpose No. 1 and purpose No. 2 out of moneys borrowed under this Act for purpose No. 3 but only until the completion and first filling of the Sledbrook Reservoir (Work No. 9) in respect of Works Nos. 8 to 16 inclusive authorised by this Act or until the expiration of five years from the date or dates of borrowing whichever shall first happen.

63.—(1) The Corporation may make reasonable payments for or in connection with—

(a) the provision of public entertainment on the occasion of or otherwise in connection with public ceremony or rejoicing;

PART X
—cont.

- (b) the arrangement and conduct of ceremonies relative to or arising out of any statutory functions of the Corporation;
- (c) refreshments for members of the council and representatives of local authorities and other bodies or for other persons attending conferences or meetings convened by the council and held at the town hall or other public hall in the borough;
- (d) the presentation of the freedom of the borough to persons whom the council may resolve to admit as honorary freemen.

(2) Paragraph (b) of subsection (3) of section 3 (Audit of accounts of borough of Barnsley) of the Local Government Board's Provisional Orders Confirmation (No. 12) Act 1912 is hereby repealed.

Recovery of rates from tenants and lodgers.

64. For the purposes of section 15 of the Rating and Valuation Act 1925 the rates due from the person rated for any hereditament within the borough shall be deemed to be in arrear if such rates are not paid within two months after lawful demand in writing has been made for the same.

Service of demand notes.

65. The provision of section 59 of the Rating and Valuation Act 1925 relating to the sending or service of demand notes shall apply to demand notes for any charges made in connection with any undertaking department or service of the Corporation.

PART XI

MISCELLANEOUS

Amendment of section 76 of Act of 1949.

66. Section 76 (Loans for erection &c. of buildings) of the Act of 1949 shall have effect as if the word "unreasonably" were substituted for the word "reasonably" in subsection (4) of the said section.

Robes of office.

67. The Corporation may provide and maintain robes of office and headdresses for the use of the mayor aldermen and councillors for the time being of the borough:

Provided that the robes and headdresses provided by the Corporation under the powers of this section shall remain the property of the Corporation.

School agreements.

68.—(1) Any agreement entered into by or on behalf of the Corporation with the parent or guardian of a pupil or intended pupil at any secondary school may make provision for the payment by such parent or guardian to the Corporation of any sum not exceeding ten pounds in the event of the pupil ceasing without the consent of the Corporation to attend such school before the date fixed by such agreement for the pupil to cease such

attendance and the Corporation shall be entitled without proof of any actual damage incurred by reason of such pupil ceasing to attend such school to recover from such parent or guardian any sum not exceeding the sum specified in the agreement which the court may think fit to award in all the circumstances of the case.

(2) In this section the expression "secondary school" includes—

- (a) a secondary school as defined by section 114 of the Education Act 1944 ;
- (b) a school in respect of which grants are paid by the Minister of Education under regulations made in pursuance of paragraph (b) of subsection (1) of section 100 of that Act and in which secondary education as defined by section 8 of the said Act is provided ; and
- (c) an independent school as defined by the said section 114 in which secondary education as defined by the said section 8 of the Act is provided.

69. Notwithstanding anything contained in the Public Libraries Acts 1892 to 1919 the powers of the Corporation under those Acts in relation to any library provided by them under those Acts shall include—

Return of
library books.

- (1) the power to prescribe the period or periods being not less than fourteen days within which any book borrowed from such library must be returned thereto:
Provided that the Corporation may prescribe different periods within which different classes of books so borrowed must be returned ;
- (2) the power to recover from any person who fails within such prescribed period to return to the said library any book so borrowed such reasonable sum not exceeding threepence as the Corporation may prescribe in respect of each week or portion of a week in which he so fails to return such book together with any expenses incurred by the Corporation in sending to such person notices in respect of such book ;
- (3) the power to prohibit any such persons from borrowing any other book from the said library or from any other library provided by the Corporation under the said Acts until such person has paid any such sum as is due to the Corporation under paragraph (2) of this section ;
- (4) the power to charge such reasonable sum not exceeding sixpence per book as the Corporation may prescribe for reserving a book for a particular person.

PART XI
—cont.Provisions as
to motor
vehicles
let for hire.

70. The provisions of the Town Police Clauses Act 1847 shall be extended to empower the Corporation to make byelaws for declaring that to the extent determined by such byelaws those provisions and the byelaws of the Corporation in force with respect to hackney carriages shall apply to every motor vehicle standing or plying for hire in the borough notwithstanding that such vehicle stands or plies for hire on or from private premises only:

Provided that this section shall not apply to any such vehicle which is kept by any company firm or person in connection with any business carried on by such company firm or person as funeral directors or owners of funeral vehicles available for hire and used wholly or mainly in connection with such business or is kept and used ordinarily for the purpose of being let on hire by the day or for longer periods of hire or to a public service vehicle or to any vehicle belonging to or used by the commission for the purpose of carrying passengers and their luggage to or from any of their railway stations or railway premises or to the drivers or conductors of such vehicles:

Provided also that nothing in this section shall empower the Corporation to fix the site of the stand or starting place of any motor vehicle standing or plying for hire in any railway station or railway premises or in any yard belonging to the commission except with the consent of the commission.

PART XII

GENERAL

Protection of
members and
officers of
Corporation
from personal
liability.Liability of
Corporation
for work done
in default or
by request.

71. Section 265 of the Public Health Act 1875 shall apply to the Corporation as if any reference in that section to the said Act of 1875 included a reference to this Act.

72.—(1) Where under any enactment—

- (a) the Corporation require any person (in this section referred to as “the defaulter”) to execute any work or take any action; and
- (b) in default or at the request of the defaulter the Corporation or any of their officers execute the work or take the action;

then in the absence of negligence on the part of the Corporation or of any such officer or of any contractor employed by them or him—

- (i) the Corporation shall not as between themselves and the defaulter be liable to pay any damages in respect of or consequent upon the execution of the work or the taking of the action; and

- (ii) any such damages as aforesaid paid by the Corporation to any other person shall be deemed to be part of the expenses payable by the defaulter and shall be recoverable accordingly.

PART XII
—cont.

(2) In this section the expression "damages" includes penalties costs and charges.

(3) Section 46 (In executing works for owner Corporation liable for negligence only) of the Act of 1914 is hereby repealed.

73. Proceedings in respect of an offence created by or under this Act other than under section 60 (Deficient weight measure or number) of this Act shall not without the written consent of the Attorney-General be taken by any person other than a party aggrieved or the Corporation. Restriction on right to prosecute.

74. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Minister except that in the case of byelaws made under section 51 (Byelaws as to sale etc. of animal feeding meat) the confirming authority shall be the Minister of Agriculture Fisheries and Food. Confirming authority for byelaws.

75.—(1) Section 300 of the Act of 1936 shall apply with respect to appeals to a magistrates' court under any enactment in this Act as it applies with respect to such appeals under any enactment in that Act and sections 301 and 302 of that Act shall apply accordingly. Appeals

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

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

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

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

PART XII
—cont.Local
inquiries.

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

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

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

Application of
general
provisions of
Act of 1936.

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

(2) The sections of the Act of 1936 mentioned in Part II of the said schedule shall have effect as if references therein to that Act included a reference to the following Parts of this Act that is to say:—

Part V (Streets);

Part VI (Public health sanitation and buildings);

Part VII (Food).

Appointed
day.

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

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

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

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

(b) of the general effect of the provisions of this Act coming into operation as from that date;

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

(4) Either—

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

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

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

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

- (a) immediately before that day was carrying on that business or using any premises for that purpose ; and
- (b) had before that day duly applied for the licence or registration required by that provision ;

to continue to carry on that business and to use those premises for that purpose until he is informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (2) of section 75 (Appeals) of this Act.

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

80. For the protection of the British Transport Commission the following provisions shall unless otherwise agreed in writing between the Corporation and the commission apply and have effect:— For protection of British Transport Commission.

(1) In this section—

“ railway property ” means any lands belonging to or occupied by the commission shown on the deposited plans and the railway and railway works of the commission ;

“ the works ” means so much of any work authorised by section 5 (Power to construct works) of this Act as may be situated upon across under or over any railway property or may in any way affect the same and includes the construction maintenance and renewal of such works ;

“ the engineer ” means an engineer to be appointed by the commission :

(2) The Corporation shall not under the powers of this Act acquire compulsorily any lands of the commission but the Corporation may acquire such easements and rights in the lands of the commission shown within the limits of deviation on the deposited plans as they may reasonably require for the purposes of the works :

(3) The Corporation shall before commencing the works (other than works of maintenance and repair) furnish to the commission proper and sufficient plans sections

PART XII
—cont.

drawings and particulars thereof for the approval of the engineer which approval shall not be unreasonably withheld and shall not commence the works until such plans sections drawings and particulars shall have been approved by the engineer or in case of difference between the engineer and the Corporation until they shall have been settled by arbitration:

Provided that if within twenty-eight days after such plans sections drawings and particulars have been furnished to the commission the engineer shall not have intimated his approval or disapproval thereof he shall be deemed to have approved them:

- (4) If within twenty-eight days after such plans sections drawings and particulars have been furnished to the commission the commission shall give notice to the Corporation that in consequence of the nature of the works it is reasonably necessary that the commission should construct any part of the works themselves then if the Corporation desire that part of the works to be constructed the commission shall construct it with all reasonable dispatch on behalf of and to the reasonable satisfaction of the Corporation in accordance with the plans sections drawings and particulars approved or deemed to be approved or settled as aforesaid (hereafter in this section called "the approved plans") and may recover the reasonable cost of so doing from the Corporation:

Provided that in the event of the commission not constructing or completing such part of the works with reasonable dispatch and to the reasonable satisfaction of the Corporation the Corporation may after giving twenty-eight days' notice to the engineer themselves construct such part of the works:

- (5) Upon signifying his approval or disapproval of the plans sections drawings and particulars the engineer may specify any temporary or permanent works which should be carried out before the commencement of the works in order reasonably to ensure the stability of railway property or to protect it from injury and such temporary or permanent works as may be reasonably necessary for those purposes shall be constructed by the commission with all reasonable dispatch and the reasonable cost of constructing such protective works shall be paid by the Corporation and the Corporation shall not commence the construction of the works until the engineer shall have notified the Corporation that such temporary or permanent works have been completed:

- (6) The Corporation shall except in cases of emergency give to the engineer twenty-eight days' notice of their intention to commence any of the works:
- (7) The works (or so much thereof as shall be carried out by the Corporation) shall when commenced be carried out with all reasonable dispatch in accordance with the approved plans and under the supervision (if given) and to the reasonable satisfaction of the engineer and in such manner as to cause as little damage to railway property and as little interference with or delay or interruption to the conduct of traffic on the railways of the commission as may be and if any damage to any railway property or any such interference delay or interruption shall be caused or take place the Corporation shall notwithstanding any such approval as aforesaid forthwith make good such damage and pay to the commission the reasonable costs and expenses to which they may be put and reasonable compensation for any loss which they may sustain by reason of any such damage interference delay or interruption:
- (8) The Corporation shall at all times afford reasonable facilities to the engineer for access to the works during their construction and shall supply him with all such information as he may reasonably require with regard to the works or the method of construction thereof:
- (9) The commission shall at all times afford reasonable facilities to the Corporation for access to any works carried out by the commission under this section during their construction and shall supply the Corporation with all such information as they may reasonably require with regard to such works or the method of construction thereof:
- (10) If any alterations or additions either permanent or temporary to railway property are reasonably necessary in consequence of the works such alterations and additions may be effected by the commission after notice has been given to the Corporation and the Corporation shall repay to the commission the reasonable cost thereof including a capitalised sum representing the increased or additional cost of maintaining working and when necessary renewing any such alterations or additions:
- (11) The Corporation shall repay to the commission all additional costs charges and expenses reasonably incurred by the commission in connection with the works—
- (a) in respect of the employment of any inspectors signalmen watchmen and other persons whom it may

PART XII
—cont.

be reasonably necessary to appoint for inspecting signalling watching and lighting any railway property affected by the works and for preventing as far as may be reasonably practicable any interference obstruction danger or accident arising from the works ;

(b) in respect of any special traffic working resulting from any speed restrictions which may in the opinion of the engineer require to be imposed or from the substitution or diversion of services ; and

(c) in lighting railway property in the vicinity of the works :

(12) The Corporation shall at all times after the construction of the works maintain them in substantial repair and good order and condition and when necessary renew them to the reasonable satisfaction and under the supervision (if given) of the engineer and if and whenever the Corporation fail so to do after reasonable notice in that behalf the commission may make and do in and upon the lands of the commission or of the Corporation all such works and things as shall be requisite in that behalf and the reasonable costs and expenses reasonably incurred by the commission in so doing shall be repaid to them by the Corporation :

(13) The Corporation shall be responsible for and make good to the commission all costs charges damages and expenses not otherwise provided for in this section which may be occasioned to the commission—

(a) by reason of the works or the leakage bursting or failure thereof ; or

(b) by reason of any act or omission of the Corporation or of any persons in their employ or of their contractors or others whilst engaged upon the works ;

and the Corporation shall effectively indemnify and hold harmless the commission from and against all claims or demands arising out of or in connection with the works or any such leakage bursting or failure or act or omission as aforesaid and the fact that any work or thing may have been done by the commission on behalf of the Corporation or in accordance with any plan section drawings or particulars approved by the engineer or in accordance with any requirement of the engineer or under his supervision shall not (if it was done without negligence on the part of the commission or of any person in their employ or of their contractors

or others whilst engaged upon the works) excuse the Corporation from any liability under the provisions of this section:

Provided that the commission shall give to the Corporation reasonable notice of any claim or demand as aforesaid and no settlement or compromise thereof shall be made without prior consultation with the Corporation:

- (14) Any additional expense which the commission may reasonably incur after giving one month's notice thereof to the Corporation in widening altering reconstructing or maintaining the railway and railway works of the commission in pursuance of any powers existing at the passing of this Act by reason of the existence of the works shall be repaid by the Corporation to the commission:
- (15) Any dispute or difference arising between the Corporation and the commission or the engineer under this section 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 of them (after notice in writing to the other) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to such arbitration.

81. For protection of the Yorkshire Electricity Board (in this section referred to as "the board") the following provisions shall unless otherwise agreed in writing between the Corporation and the board apply and have effect:—

For protection
of Yorkshire
Electricity
Board.

- (1) Notwithstanding anything in this Act or shown on the deposited plans the Corporation shall not acquire otherwise than by agreement any apparatus:
- (2) If the Corporation in the exercise of the powers of this Act acquire any interest in any lands in under over or across which any apparatus is placed they shall not seek to remove that apparatus or to extinguish any right of the board to maintain repair renew or inspect that apparatus in under over or across those lands until adequate alternative apparatus shall have been constructed and be in operation to the reasonable satisfaction of the board:
- (3) If the Corporation for the purpose of exercising the powers of this Act require the removal of any apparatus and give to the board written notice of such requirement or if in consequence of the exercise of the powers of this Act the board shall require to remove any

PART XII
—cont.

apparatus the Corporation shall afford to the board the necessary facilities and rights for the construction of adequate alternative apparatus in on or over other land of the Corporation and thereafter for the maintenance repair renewal and inspection of such apparatus:

Provided that if the Corporation are unable to afford facilities and rights as aforesaid the board shall on receipt of a written notice to that effect from the Corporation forthwith use their best endeavours to obtain the necessary facilities and rights over other land:

Provided also that if the Corporation require the removal of any apparatus or the board require to remove any apparatus the board shall proceed with all due diligence to remove and complete the removal of such apparatus:

(4) The Corporation shall pay to the board the amount by which the costs charges and expenses reasonably incurred by the board in connection with any removal or alteration of any apparatus or the construction of any new apparatus that may be required in consequence of the exercise of the powers of this Act shall exceed the value of any apparatus removed in consequence of alternative apparatus being provided and shall also make compensation to the board for any damage caused to any apparatus in consequence of the exercise of the said powers:

(5) The Corporation shall not carry out any work authorised by this Act near to which any apparatus has been lawfully placed except in accordance with and subject to the provisions of section 18 of the schedule to the Electric Lighting (Clauses) Act 1899:

Provided that for the purposes of this subsection the said section 18 shall have effect as if the Corporation were a gas or water company and as if the words "fourteen days" were substituted for the words "three days" in subsection (1) thereof:

(6) Any difference which may arise between the Corporation and the board under this section or under section 18 of the said schedule shall be referred to and determined by arbitration:

(7) In this section "apparatus" means any electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to the board including any works constructed for the lodging therein of apparatus but not apparatus in respect of which the relations between the Corporation and the board are regulated by the provisions of section 26 of the Public Utilities Street Works

Act 1950 and the expression "adequate alternative apparatus" means alternative apparatus adequate to enable the board to fulfil their statutory functions in a manner not less efficient than previously.

PART XII
—cont.

82. For the protection of the undertakers the following provisions shall unless otherwise agreed in writing between the Corporation and the undertakers concerned apply and have effect:—

For protection of certain statutory undertakers.

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

"apparatus" means electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by either of the undertakers and includes any works constructed for the lodging therein of apparatus;

"in" in a context referring to apparatus includes under over across along or upon;

"position" includes depth;

"undertakers" means—

The Yorkshire Electricity Board;

The Central Electricity Authority;

(2) Nothing in section 27 (Development of land) of this Act shall relieve the Corporation from liability for damage caused by them to any apparatus in the exercise of the powers of the said section and the Corporation shall so exercise those powers as not to obstruct or render less convenient (so far as reasonably practicable) the access to any apparatus:

(3) Nothing in section 39 (Prohibition of building until street formed and sewered) of this Act shall prevent the undertakers from beginning to erect or proceeding with the erection for the purposes of their undertaking of an electricity substation feeder pillar pressure governor or meter house on land abutting on any new street before such new street is constructed or sewered in accordance with street byelaws:

(4) Not less than twenty-eight days before the Corporation in the exercise of the powers of section 40 (Rounding or splaying off corners at street junctions) of this Act require the addition to the carriageway of a street of any portion of a footway or grass margin or garden in under upon over along or across which any apparatus is situate the Corporation shall give to the undertakers concerned notice in writing of their intention so to do accompanied by a plan and section of the intended

PART XII
—cont.

alteration and the undertakers may (and if reasonably so required by the Corporation shall) alter the position of the apparatus to such other position in—

(i) the carriageway or footway ; or

(ii) the grass margin or garden (if any) as altered ;

as may be reasonable :

(5) The undertakers shall within twenty-eight days from the receipt of a notice from the Corporation pursuant to paragraph (4) of this section give to the Corporation not less than fourteen days' notice of their intention to alter the position of any apparatus (otherwise than on the requirement of the Corporation) under the provisions of that paragraph and shall at the same time deliver to the Corporation a plan and section of the proposed alteration. If such plan and section be not disapproved by the Corporation within fourteen days from the receipt thereof the proposed position of the apparatus shown thereon shall be deemed to be approved :

(6) The Corporation shall repay to the undertakers the reasonable expenses incurred by the undertakers of or in connection with the alteration of the position of any apparatus under paragraph (4) of this section and the reasonable costs of and incidental to (i) the cutting off of any apparatus from any other apparatus and (ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this paragraph :

Provided that if the undertakers provide and lay or place apparatus of greater dimensions (other than length) or of greater capacity than those of the existing apparatus the undertakers shall bear such proportion of the cost of such provision and laying or placing as represents the amount by which such cost exceeds the cost which would have been incurred if the dimensions or the capacity of the apparatus so laid or placed had been the same as those of the existing apparatus :

(7) Nothing contained in section 43 (Verges etc. of housing estates) of this Act shall affect the rights of any undertakers with respect to any apparatus (including the placing of apparatus) in any such grass verge garden or space as is referred to in that section :

Provided that in exercising such rights the undertakers shall not cause or permit except in case of necessity horses or vehicles to enter upon any grass verge or space which is maintained in an ornamental condition or mown or any garden :

(8) (a) Any difference which may arise between the Corporation and the undertakers under this section (other than a difference as to the meaning or construction of this section which does not arise in the course of the arbitration) shall be referred to and determined by an arbitrator to be agreed upon between the parties or in default of such agreement appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to the arbitration ;

(b) In settling any difference under this section the arbitrator shall if he thinks fit require the Corporation to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

83. For the protection of the gas board the following provisions shall unless otherwise agreed in writing between the Corporation and the gas board apply and have effect:—

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

“apparatus” means mains pipes or other apparatus belonging to or maintained by the gas board and includes any works constructed for the lodging therein of apparatus ;

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

(2) Nothing in section 27 (Development of land) of this Act shall relieve the Corporation from liability for damage caused by them to any apparatus in the exercise of the powers of the said section and the Corporation shall so exercise those powers as not to obstruct or render less convenient (so far as reasonably practicable) the access to any apparatus :

(3) Nothing in section 39 (Prohibition of building until street formed and sewered) of this Act shall prevent the gas board from beginning to erect or proceeding with the erection for the purposes of their undertaking of a pressure governor or meter house on land abutting on any new street before such new street is constructed or sewered in accordance with street byelaws :

(4) Not less than twenty-eight days before the Corporation in the exercise of the powers of section 40 (Rounding or splaying off corners at street junctions) of this Act require the addition to the carriageway of a street of

PART XII
—cont.

any portion of a footway or grass margin or garden in which any apparatus is situate the Corporation shall give to the gas board notice in writing of their intention so to do accompanied by a plan and section of the intended alteration and the gas board may (and if reasonably so required by the Corporation shall) alter the position of the apparatus to such other position in—

(i) the carriageway or footway ; or

(ii) the grass margin or garden (if any) as altered ;

as may be reasonable :

(5) The gas board shall within twenty-eight days from the receipt of a notice from the Corporation pursuant to paragraph (4) of this section give to the Corporation not less than fourteen days' notice of their intention to alter the position of any apparatus (otherwise than on the requirement of the Corporation) under the provisions of that paragraph and shall at the same time deliver to the Corporation a plan and section of the proposed alteration. If such plan and section be not disapproved by the Corporation within fourteen days from the receipt thereof the proposed position of the apparatus shown thereon shall be deemed to be approved :

(6) The Corporation shall repay to the gas board the reasonable expenses incurred by the gas board of or in connection with the alteration of the position of any apparatus under paragraph (4) of this section and the reasonable costs of and incidental to (i) the cutting off of any apparatus from any other apparatus and (ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this paragraph :

Provided that if the gas board provide and lay or place apparatus of greater dimensions (other than length) or of greater capacity than those of the existing apparatus the gas board shall bear such proportion of the cost of such provision and laying or placing as represents the amount by which such cost exceeds the cost which would have been incurred if the dimensions or the capacity of the apparatus so laid or placed had been the same as those of the existing apparatus :

(7) Nothing in section 43 (Verges etc. of housing estates) of this Act shall affect the rights of the gas board with respect to any apparatus (including the placing of apparatus) in any such verge garden or space as is referred to in that section :

Provided that in exercising such rights the gas board shall not cause or permit except in case of necessity any horses or vehicles to enter upon any verge or space which is maintained in an ornamental condition or mown or any garden :

PART XII
—cont.

(8) (a) Any difference which may arise between the Corporation and the gas board under this section shall be referred to and determined by an arbitrator to be agreed upon between the parties or in default of such agreement appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to the arbitration ;

(b) In settling any difference under this section the arbitrator may if he thinks fit require the Corporation to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

84. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act. Saving for town and country planning.

85. Nothing in this Act or in any repeal effected by this Act affects prejudicially any estate right power privilege or exemption of the Crown. Crown rights.

86. All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act or otherwise in relation thereto as taxed and ascertained by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation out of the general rate fund or out of moneys to be borrowed under this Act. Costs of Act.

SCHEDULES

THE FIRST SCHEDULE

THE ADDED LIMITS

In the West Riding of the county of York—

The urban district of Penistone.

The parish of Cawthorne in the rural district of Penistone.

THE SECOND SCHEDULE

SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED

PART I

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284	Authentication of documents.
285	Service of notices etc.
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291	Certain expenses recoverable from owners to be a charge on the premises: Power to order payment by instalments.
292	Power to make a charge in respect of establishment expenses.
293	Recovery of expenses etc.
294	Limitation of liability of certain owners.
295	Power of local authority to grant charging orders.
299	Inclusion of several sums in one complaint etc.
329	Saving for certain provisions of the Land Charges Act 1925.

Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act 1845 ...	8 & 9 Vict. c. 18.
Railways Clauses Consolidation Act 1845	8 & 9 Vict. c. 20.
Town Police Clauses Act 1847	10 & 11 Vict. c. 89.
Lands Clauses Consolidation Act Amend- ment Act 1860	23 & 24 Vict. c. 106.
Barnsley Local Board Act 1862	25 & 26 Vict. c. xxxii.
Public Health Act 1875	38 & 39 Vict. c. 55.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Electric Lighting Act 1882	45 & 46 Vict. c. 56.
Weights and Measures Act 1889	52 & 53 Vict. c. 21.
Finance Act 1895	58 Vict. c. 16.
Barnsley Corporation (Water) Act 1896 ...	59 & 60 Vict. c. lii.
Electric Lighting (Clauses) Act 1899 ...	62 & 63 Vict. c. 19.
Open Spaces Act 1906	6 Edw. 7 c. 25.
Local Government Board's Provisional Orders Confirmation (No. 12) Act 1912	2 & 3 Geo. 5 c. cxxxviii.
Barnsley Corporation Act 1914	4 & 5 Geo. 5 c. xli.
Acquisition of Land (Assessment of Com- pensation) Act 1919	9 & 10 Geo. 5 c. 57.
Barnsley Corporation Act 1923	13 & 14 Geo. 5 c. lxxxix.
Land Charges Act 1925	15 & 16 Geo. 5 c. 22.
Rating and Valuation Act 1925	15 & 16 Geo. 5 c. 90.
Law of Property (Amendment) Act 1926 ...	16 & 17 Geo. 5 c. 11.
Sale of Food (Weights and Measures) Act 1926	16 & 17 Geo. 5 c. 63.
Barnsley Corporation (Water) Act 1927 ...	17 & 18 Geo. 5 c. xxi.
Road Traffic Act 1930	20 & 21 Geo. 5. c. 43.
Land Drainage Act 1930	20 & 21 Geo. 5 c. 44.
Local Government Act 1933	23 & 24 Geo. 5 c. 51.
Public Health Act 1936	26 Geo. 5 & 1 Edw. 8 c. 49.
Housing Act 1936	26 Geo. 5 & 1 Edw. 8 c. 51.
Barnsley Corporation Act 1937	1 Edw. 8 & 1 Geo. 6 c. xxxviii.
Education Act 1944	7 & 8 Geo. 6 c. 31.
Water Act 1945	8 & 9 Geo. 6 c. 42.
Ministers of the Crown (Transfer of Functions) Act 1946	9 & 10 Geo. 6 c. 31.
Borrowing (Control and Guarantees) Act 1946	9 & 10 Geo. 6 c. 58.
Town and Country Planning Act 1947 ...	10 & 11 Geo. 6 c. 51.
Barnsley Corporation Act 1949	12 13 & 14 Geo. 6 c. 51.
Lands Tribunal Act 1949	12 13 & 14 Geo. 6 c. 42.
National Parks and Access to the Country- side Act 1949	12 13 & 14 Geo. 6 c. 97.
Arbitration Act 1950	14 Geo. 6 c. 27.
Diseases of Animals Act 1950	14 Geo. 6 c. 36.
Public Utilities Street Works Act 1950 ...	14 Geo. 6 c. 39.
Food and Drugs Act 1955	4 Eliz. 2 c. 16.

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