



CHAPTER xxxvi

An Act to provide for an extension of the periods limited for the compulsory purchase of certain lands by the corporation of Sunderland and the completion of certain works to empower the Corporation to supply heat to extend the powers of the River Wear Commissioners to lease land to the Corporation to make further provision for the improvement health and local government of their borough and for other purposes.

[1st August 1951.]

WHEREAS—

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

(2) By the Sunderland Corporation Act 1935 the Corporation were empowered to make and maintain the work therein referred to as street work No. 2 and to acquire lands for that purpose and the period limited by that Act as extended by the Sunderland Corporation Act 1935 (Extension of Time) Order 1941 for the compulsory purchase of the lands would have expired in the year nineteen hundred and forty-three: 25 & 26 Geo. 5.
c. cxxv.

(3) By the Sunderland Corporation Act 1939 the Corporation were empowered to acquire lands compulsorily for the purposes of a civic centre and municipal and other buildings and premises and the period limited by that Act for the compulsory purchase of lands would have expired in the year nineteen hundred and forty-four: 2 & 3 Geo. 6.
c. lxvi.

6 & 7 Geo. 6.
c. iv.

(4) By the Sunderland Corporation Act 1943 the periods for compulsory purchase of lands hereinbefore referred to were extended until the expiration of three years after the termination of the period of the emergency which was the occasion of the passing of the Emergency Powers (Defence) Act 1939:

2 & 3 Geo. 6.
c. 62.

10 & 11 Geo. 6.
c. xxxii.

(5) By the Sunderland Corporation Act 1947 the Corporation were empowered to make and maintain the works therein referred to including a quay and quay wall on the south-east side of the river Wear and to acquire lands for that purpose and the period for the compulsory purchase of land was under that Act to expire on the thirty-first day of December nineteen hundred and fifty and the period for the completion of the works thereby authorised was to expire in the year nineteen hundred and fifty-seven:

(6) It is expedient to make provision as in this Act contained for the extension of the periods hereinbefore referred to for the compulsory purchase of lands and the completion of works:

(7) It is expedient to authorise the Corporation to supply heat by means of hot water or steam within the borough:

(8) By section 40 of the said Act of 1939 the River Wear Commissioners were empowered to grant and the Corporation were empowered to accept a lease of the land therein referred to and it is expedient to extend the powers of that section:

(9) It is expedient to make further provision in relation to the health local government and improvement of the borough:

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

(11) The purposes of this Act cannot be effected without the authority of Parliament:

23 & 24 Geo. 5.
c. 51.

(12) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act 1933 have been complied with:

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

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Sunderland Corporation Act 1951.

Division
into Parts.

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

Part I.—Preliminary.

Part II.—Extensions of time.

Part III.—Streets.

- Part IV.—Sanitation and buildings.
 Part V.—Smoke nuisance.
 Part VI.—Infectious diseases.
 Part VII.—Food.
 Part VIII.—Public order and public safety.
 Part IX.—Heating undertaking.
 Part X.—Establishments for massage or special treatment.
 Part XI.—Finance.
 Part XII.—Miscellaneous.
 Part XIII.—General.

PART I
—cont.

3.—(1) In this Act the several words and expressions to which meanings are assigned by sections 90 110 269 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.
26 Geo. 5. &
1 Edw. 8.
c. 49.

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

“ The Act of 1927 ” “ the Act of 1935 ” “ the Act of 1939 ”
 “ the Act of 1943 ” and “ the Act of 1947 ” mean
 respectively the Sunderland Corporation Act 1927 the
 Sunderland Corporation Act 1935 the Sunderland
 Corporation Act 1939 the Sunderland Corporation Act
 1943 and the Sunderland Corporation Act 1947 ;

17 & 18 Geo. 5.
c. xcvi.

“ The Act of 1933 ” and “ the Act of 1936 ” mean
 respectively the Local Government Act 1933 and the
 Public Health Act 1936 ;

“ The appointed day ” has the meaning assigned to it by
 section 106 of this Act ;

“ The borough ” means the borough of Sunderland ;

“ The commission ” means the British Transport Com-
 mission and any reference to the commission in
 relation to any functions of the commission which are
 for the time being delegated to an executive in pur-
 suance of section 5 of the Transport Act 1947 shall be
 construed as a reference to that executive ;

10 & 11 Geo. 6.
c. 49.

“ The company ” means the Sunderland and South Shields
 Water Company ;

“ Contravention ” includes a failure to comply and “ con-
 travene ” shall be construed accordingly ;

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

“ The council ” means the council of the borough ;

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

PART I
—cont.45 & 46 Vict.
c. 56.

“ Electric line ” has the same meaning as in the Electric Lighting Act 1882 ;

“ The electricity authority ” means the British Electricity Authority ;

“ The electricity board ” means the North Eastern Electricity Board ;

“ Enactment ” includes an enactment in this Act or in any general or local Act and any order byelaw or regulation for the time being in force within the borough ;

1 & 2 Geo. 6.
c. 56.

“ Food ” has the same meaning as in the Food and Drugs Act 1938 ;

“ The gas board ” means the Northern Gas Board ;

“ The general rate fund ” and “ the general rate ” mean respectively the general rate fund and the general rate of the borough ;

“ Heat ” means heat supplied or intended to be supplied by means of hot water or steam ;

“ Heating fittings ” includes radiators air heaters water heaters mains pipes meters taps cocks valves ferrules and other apparatus and appliances used in connection with the supply or use of heat supplied by the Corporation ;

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

“ Main ” includes mechanical and thermal protection for a main and apparatus used in connection with a main ;

“ The Minister ” means the Minister of Local Government and Planning ;

38 & 39 Vict.
c. 83.

“ Statutory security ” means any security in which trustees are for the time being authorised by law to invest trust moneys and any mortgage bond debenture debenture stock stock or other security created by a local authority as defined by section 34 (Definitions) of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Corporation ;

41 & 42 Vict.
c. 76.

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

“ The town clerk ” “ the medical officer ” and “ the sanitary inspector ” mean respectively the town clerk the medical officer of health and any sanitary inspector of the borough ;

“ Trunk road ” has the same meaning as in the Trunk Roads Acts 1936 and 1946. 1 Edw. 8. &
1 Geo. 6. c. 5.
9 & 10 Geo. 6.
c. 30.

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

PART II

EXTENSIONS OF TIME

4. The period limited by section 4 of the Act of 1943—

(a) for the compulsory purchase of lands for the construction of street work No. 2 authorised by the Act of 1935 ;

Extension
of time for
purchase of
lands for
street works
and civic
centre.

(b) for the compulsory purchase of lands for the purposes of Part II (Lands and civic centre) of the Act of 1939 ;

is hereby further extended until the thirty-first day of December nineteen hundred and fifty-five.

5.—(1) The period limited by section 8 of the Act of 1947 for the compulsory purchase of lands is hereby extended until the thirty-first day of December nineteen hundred and fifty-five. Extension
of time for
purchase of
lands and
construction
of quay etc.

(2) The period limited by section 15 of the Act of 1947 for the completion of the works authorised by that Act is hereby extended until the thirty-first day of December nineteen hundred and seventy.

6.—(1) The appropriate Minister may by order extend still further the periods referred to in each of the last two foregoing sections. Further
extensions.

(2) Before deciding whether or not to make an order under the foregoing subsection the appropriate Minister may require the fulfilment by the Corporation in such manner as may be specified in the requirement of such conditions with respect to the publication of notices and the giving of notices to such persons as may be so specified and that Minister shall afford to any person appearing to him to be likely to be affected by the making of the order an opportunity of making representations to him and may if he thinks fit cause a local inquiry to be held.

(3) The provisions of section 290 of the Act of 1933 shall apply to an inquiry held under the last foregoing subsection as they apply to inquiries held under that section as if for references therein to a department there were substituted references to the appropriate Minister.

PART II
—cont.

(4) As soon as may be after making an order under this section the appropriate Minister shall cause to be published in the London Gazette and in such other manner as appears to him to be best adapted for informing persons affected a notice stating that the order has been made and specifying a place where copies thereof may be obtained.

(5) For the purposes of this section the appropriate Minister is—

- (a) as regards the periods referred to in section 4 of this Act the Minister ; and
- (b) as regards the periods referred to in section 5 of this Act the Minister of Transport.

Power to
owners and
lessees to give
notice as to
purchase
of land.

7.—(1) If at any time after the passing of this Act any person being the owner or lessee of any land for the compulsory purchase of which the period is extended by the foregoing provisions of this Part of this Act shall desire that any such land or his interest therein shall be acquired as soon as may be and shall give notice in writing to the Corporation of such desire the Corporation within a period of six months after the receipt of such notice shall either—

- (a) enter into an effective contract with such person for the acquisition by agreement of such land or part of such land or his interest in such land or part thereof ; or
- (b) serve a notice to treat for the compulsory acquisition of such land or part of such land or of such person's interest in such land or part thereof ; or
- (c) notify their intention not to proceed with the purchase of such land or of such person's interest therein.

(2) In any case in which the contract referred to in paragraph (a) of the foregoing subsection relates to part only of the land referred to in the notice given by the owner or lessee under that subsection or his interest in part only of such land the powers conferred by the Act authorising the compulsory purchase of such land or his interest therein shall cease as respects the remainder or (as the case may be) his interest in the remainder of such land.

(3) In any case in which the notice to treat referred to in paragraph (b) of subsection (1) of this section relates to part only of the land referred to in the notice given by the owner or lessee under that subsection or his interest in part only of such land then—

- (a) if part only or his interest in part only of such land is acquired in pursuance of the notice to treat the powers

conferred by the Act authorising the compulsory purchase of such land or his interest therein shall cease as respects the remainder or (as the case may be) his interest in the remainder of such land ;

PART II
—cont.

(b) if in pursuance of any statutory provision in that behalf the notice to treat is withdrawn the powers aforesaid shall cease as respects the whole or (as the case may be) his interest in the whole of such land.

(4) In any case in which the Corporation notify their intention under paragraph (c) of subsection (1) of this section not to proceed with the purchase of any land or any interest in any land the powers conferred by the Act authorising the compulsory purchase of such land or interest shall cease.

PART III

STREETS

Improvement of streets

8.—(1) So much of section 149 of the Public Health Act 1875 as relates to fences and posts for the safety of foot passengers in streets repairable by the inhabitants at large shall extend to streets in the borough which are not so repairable. Guard rails in private streets. 38 & 39 Vict. c. 55.

(2) The Corporation shall not without the consent of the undertakers concerned exercise the powers of this section—

(a) in any street belonging to or repairable by any transport undertakers and forming the approach to any station wharf or depot of those undertakers ; or

(b) so as to obstruct or interfere with the access to or exit from any station wharf or depot of any transport undertakers :

Provided that such consent shall not be unreasonably withheld and any question whether or not it is unreasonably withheld shall be determined by the Minister of Transport.

(3) In this section the expression “ transport undertakers ” means any railway canal inland navigation or passenger road transport undertakers.

(4) The Corporation shall not exercise any of the powers of this section so as to cause any damage to or obstruct or render less convenient the access to any mains pipes or apparatus of the gas board or the company.

9.—(1) Subject to the provisions of this section the Corporation may affix to any building in the borough such lamps Attachment of street lamps brackets etc.

PART III
—cont.

brackets pipes electric lines and apparatus (in this section called “attachments”) as may be required for the purposes of street lighting.

(2) The Corporation shall not affix attachments to a building under this section without the consent of the owner of the building:

Provided that where in the opinion of the Corporation any consent required under this subsection is unreasonably withheld they may apply to the appropriate authority who may either allow the attachments subject to such conditions (if any) as to rent or otherwise as the authority thinks fit or disallow the attachments.

(3) Where any attachments have been affixed to a building under this section and the person who gave the consent or who was the owner of the building when the attachments were allowed by the appropriate authority ceases to be the owner thereof the subsequent owner may give to the Corporation notice requiring them to remove the attachments and subject to the provisions of this subsection the Corporation shall comply with the requirement within three months after the service of the notice:

Provided that where in the opinion of the Corporation any such requirement is unreasonable they may apply to the appropriate authority who may either annul the notice subject to such conditions (if any) as to rent or otherwise as the authority thinks fit or confirm the notice subject to such extension (if any) of the said three months as the authority thinks fit.

(4) Where any attachments have been affixed to a building under this section the owner of the building may require the Corporation at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building.

(5) If the owner of any building suffers damage by or in consequence of the affixing to the building of any attachments under the powers of this section he shall be entitled to be paid by the Corporation compensation to be determined in case of dispute in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

9 & 10 Geo. 5. c. 57.
12 & 13 Geo. 6. c. 42.

(6) In this section the following expressions have the meanings hereby assigned to them:—

“appropriate authority” means a court of summary jurisdiction except that in relation to a building mentioned in the first column of the following table it means the

Minister specified in relation thereto in the second column of that table:—

PART III
—cont.

Building forming part of an aerodrome licensed pursuant to an order made under the Civil Aviation Act 1949 or any enactment repealed by that Act.	The Minister of Civil Aviation.	12 13 & 14 Geo. 6. c. 67.
Building which— (i) is subject to a building preservation order made under section 29 of the Town and Country Planning Act 1947; or (ii) is included in a list of buildings of special architectural or historic interest compiled or approved by the Minister of Town and Country Planning or the Minister under section 30 of the last-mentioned Act; or (iii) is alleged by the owner thereof to be a building of special architectural or historic interest; or (iv) is owned by statutory water undertakers.	The Minister.	10 & 11 Geo. 6. c. 51.
Building owned by railway canal dock or inland navigation undertakers.	The Minister of Transport.	
Building owned by electricity or gas undertakers.	The Minister of Fuel and Power.	

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

“owner” means—

(a) in relation to a building occupied under a tenancy for a term of years whereof five years or more remain unexpired and not forming part of such an aerodrome as aforesaid the occupier of the building;

(b) in relation to a building forming part of such an aerodrome as aforesaid the person having control of the aerodrome;

(c) in relation to any other building the person who is receiving the rack rent or who would receive the rack rent if the building were let at a rack rent;

and the expression “owned” shall be construed accordingly.

Protection and repair of streets

10.—(1) No person shall erect or bring forward beyond the building line on land abutting on a street in the borough any structure of a greater height than six feet six inches above the level of the ground at the nearest boundary of the street. Application of building line to walls etc.

PART III
—cont.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding five pounds.

(3) The foregoing provisions of this section shall not apply to a temporary structure required to be erected as mentioned in subsection (1) of this section for the purpose of the construction alteration repair or maintenance of any building or works:

Provided that if any such temporary structure is not removed when the construction alteration repair or maintenance of the building or works is completed the person who erected the structure shall be liable to a penalty not exceeding five pounds.

(4) Where any person is convicted of an offence under either of the last two foregoing subsections the court by which he was convicted may order him within such time as may be fixed by the order to remove the structure or if he so elects to set it back or alter it so that it no longer contravenes the provisions of subsection (1) of this section and if he fails to comply with the order—

(a) he shall be liable to a penalty not exceeding twenty shillings for each day on which the failure continues; and

(b) the Corporation after giving him notice of their intention so to do may remove the structure and recover from him the expenses incurred by them in so doing:

Provided that he shall not be liable to a penalty for any day after that on which the Corporation have given him notice of their intention to remove the structure.

(5) Where after the expiration of five years from the passing of this Act there is on any site in the borough a structure which existed on that site at the passing of this Act and could not have been erected there after the passing thereof without contravening the provisions of subsection (1) of this section—

(a) the Corporation may by notice stating the effect of paragraphs (b) and (c) of this subsection require the owner or occupier of the site to remove set back or alter the structure within such time (not being less than seven days) as may be specified in the notice so that it will comply with those provisions;

(b) if the owner or occupier complies with the said notice the Corporation shall on demand repay to him the reasonable expenses incurred by him in so doing;

(c) if the owner or occupier fails to comply with the said notice the Corporation at their own expense may remove the structure but shall if he so requires re-erect it so as not to contravene the said provisions.

(6) In this section—

PART III
—cont.

(a) the expression “building line” in relation to any land means—

(i) any building line prescribed by the Corporation in respect of the land under the provisions of any enactment; or

(ii) if there be no such line then any line beyond which a house or building may not be erected on the land without infringing a condition enforceable by the Corporation under subsection (2) of section 140 of the Housing Act 1936; or

26 Geo. 5. &
1 Edw. 8. c. 51.

(iii) if there be neither of such lines then the line beyond which a house or building may not (except with the consent of the Corporation) be erected or brought forward on the land without contravening the provisions of the Public Health (Buildings in Streets) Act 1888; and

51 & 52 Vict.
c. 52.

(b) the expression “structure” means a wall fence hoarding or similar erection but for the purpose of this definition the expression “wall” does not include a wall forming part of a permanent building.

(7) The provisions of this section shall not apply to any wall erected on land belonging to any railway undertakers so long as that land is used by those undertakers primarily for the purposes of their railway undertaking.

11.—(1) In this section the expression “retaining wall on a street” means a wall which—

Retaining
walls.

(a) is situated wholly or partly within twelve feet of a street in the borough; and

(b) is of greater height than six feet; and

(c) serves or is intended to serve as a support for earth or other material on one side only; and

(d) does not form part of a permanent building.

(2) After the passing of this Act no retaining wall on a street shall be erected otherwise than in accordance with plans sections and specifications approved by the Corporation and if any person erects such a wall in contravention of this subsection he shall be liable to a penalty not exceeding five pounds.

(3) If any retaining wall on a street—

(a) is in such disrepair as to be liable to endanger persons using the street; or

(b) being a wall erected before the passing of the Act of 1927 or erected in contravention of section 168 of that Act or of the last foregoing subsection is so constructed as to be liable as aforesaid;

PART III
—cont.

the Corporation may by notice to the owner or occupier require him to execute such work as may be necessary to prevent the wall being liable as aforesaid and the provisions of section 290 of the Act of 1936 shall apply in relation to such a notice as they apply in relation to the notices mentioned in subsection (1) of that section.

(4) Any plans sections and specifications submitted to the Corporation under section 168 of the Act of 1927 or approved by the Corporation under that section shall be deemed to have been submitted or (as the case may be) approved under this section.

(5) The provisions of this section shall not apply to a retaining wall on a street erected on land belonging to any railway undertakers so long as that land is used by those undertakers primarily for the purpose of their railway undertaking.

Awnings over
footways.

12.—(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 one foot six inches from the outer edge of the footway.

(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.

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

*Miscellaneous*Decorations
in streets.

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

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

(3) The Corporation shall not exercise the powers of this section in a trunk road without the consent of the Minister of Transport.

PART III
—cont.

PART IV

SANITATION AND BUILDINGS

Sewers drains and sanitary conveniences

14. Section 24 of the Act of 1936 shall have effect in its application to the borough as if the following were substituted for the proviso to subsection (1) of that section:—

Recovery of
cost of
maintaining
public sewers.

“ Provided that unless in the opinion of the medical officer of health or the sanitary inspector immediate action is necessary notice of the work proposed to be undertaken shall not less than seven days before the work is commenced be given to the owners of any premises known by the local authority to be served by the length of sewer in question and the local authority shall consider any representations as to the need for and the reasonableness of the proposed work which may be made to them by any of those owners within seven days of the service of the notice ”.

15.—(1) In lieu of section 48 of the Act of 1936 the following provisions of this section shall if the council by resolution so determine have effect in the borough for such period as may be specified in the resolution either as respects the whole of the borough or as respects such part or parts thereof as may be so specified.

Delegation of
power to
examine and
test drains etc.

(2) Where it appears to the medical officer or the sanitary inspector that there are reasonable grounds for believing—

- (a) that a sanitary convenience drain private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance ; or
- (b) that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water ;

he may examine its condition and for that purpose may apply any test other than a test by water under pressure and if he deems it necessary open the ground.

(3) If on examination the convenience drain sewer or cesspool is found to be in proper condition the Corporation shall as soon as possible reinstate any ground which has been opened by the medical officer or the sanitary inspector and make good any damage done by him.

PART IV
—cont.Power to
repair drains
and private
sewers.**16.**—(1) If any drain or private sewer in the borough—

- (a) is not sufficiently maintained and kept in good repair to the satisfaction of the Corporation ; and
- (b) can in the opinion of the Corporation be sufficiently repaired at a cost not exceeding fifty pounds ;

the Corporation may after giving not less than seven days' notice to the owner or owners cause the drain or sewer to be repaired and subject to the next following subsection recover the expenses of so doing so far as they do not exceed fifty pounds from the owner or owners of the drain or sewer in such proportions (if there is more than one owner) as the Corporation may determine :

Provided that where the said expenses do not exceed two pounds the Corporation may if they think fit remit the payment thereof.

(2) In any proceedings under this section the court may inquire—

- (a) whether the drain or sewer in question required repair and whether the work done by the Corporation was reasonable ; and
- (b) whether any apportionment made by the Corporation was fair ;

and the court may make such an order concerning the expenses or their apportionment as appears to the court to be just :

Provided that the court shall not revise any apportionment unless it is satisfied that all persons affected thereby have had due notice of the proceedings and an opportunity of being heard.

Closet
accommoda-
tion for
separate
dwellings.

17. For the purposes of section 44 of the Act of 1936 any part of a building in the borough being a part occupied as a dwelling shall be treated as a separate building and where two or more parts of such a building are occupied as dwellings by separate families each such part shall be treated as a separate building.

Power to
cleanse drains
etc.

18. The Corporation may at the request of the owner or occupier of any premises in the borough undertake the cleansing of any drains water-closets sinks or gullies in or connected with the premises and may make such charge if any for so doing as they think fit.

*Buildings and structures*Power to order
alteration of
domestic
chimneys.

19.—(1) If a court of summary jurisdiction 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—

PART IV
—cont.

- (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 contravenes an order made under this section or an order made before the passing of this Act under section 169 of the Act of 1935 he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

20.—(1) No person shall in or in connection with any house shop or office in the borough construct without the consent of the Corporation any cellar or room the floor level of which is lower than the ordinary level of the subsoil water on under or adjacent to the site of the house shop or office. Cellars and rooms below subsoil water level.

(2) Any consent under this section may be given subject to such conditions as to the construction or use of the premises as may be specified therein and any such conditions shall be binding on successive owners of the house shop or office.

(3) Any person aggrieved by the refusal of the Corporation to give their consent under this section or by any conditions attached to such consent may appeal to a court of summary jurisdiction.

(4) If any person constructs a cellar or room in contravention of subsection (1) of this section or of any conditions attached to any consent under this section—

- (a) he shall be liable to a penalty not exceeding twenty pounds ; and
- (b) the Corporation may by notice require him within such reasonable time as may be specified in the notice either to alter the cellar or room so that its construction will no longer contravene the said subsection or conditions or if he so elects to fill it in or otherwise make it unusable and if he fails to comply with any such notice the Corporation may themselves fill in the cellar or room or otherwise make it unusable and recover from him the expenses of so doing.

(5) If any person uses a cellar or room in contravention of any such conditions he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

PART IV
—cont.15 & 16 Geo. 5.
c. 22.
16 & 17 Geo. 5.
c. 11.

(6) The provisions of the last two foregoing subsections shall have effect subject to the provisions of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 as to the avoidance for want of registration as a local land charge of any prohibition or restriction imposed by virtue of any such conditions.

(7) Nothing in this section shall apply to the construction of any cellar or room in connection with any shop or office which forms part of a railway station.

Food storage
accommo-
dation.

21.—(1) Every house erected in the borough after the passing of the Act of 1927 shall be provided with sufficient and suitable accommodation for the storage of food and any other house in the borough not so provided shall if reasonably practicable be so provided within one month from the service by the Corporation on the owner thereof of a notice requiring it to be so provided.

(2) Any person aggrieved by a requirement imposed by a notice under the preceding subsection may appeal to a court of summary jurisdiction.

(3) If any house required to be provided as aforesaid is occupied when not so provided the owner thereof shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(4) The owner of any house on whom a notice is served under subsection (1) of this section shall have power notwithstanding any lease or other agreement to enter the house and carry out such work as may be necessary to comply with the notice.

(5) For the purposes of this section—

(a) the expression “house” includes any part of a building which is occupied or intended to be occupied as a separate dwelling;

(b) the conversion of a building into two or more dwellings shall be deemed to be the erection of each of those dwellings; and

(c) a house the erection whereof was commenced before the passing of the Act of 1927 shall not be deemed to have been erected after the passing of that Act:

Provided that where any part of a building has been let for occupation as a separate dwelling-house without the consent of the owner of the building the person so letting that part of the building shall be deemed to be the owner.

Separate
approach
for separate
tenements.

22. The powers of the Corporation under section 6 of the Housing Act 1936 shall include power to make byelaws for requiring in the case of houses let in lodgings or occupied by

members of more than one family a separate approach to each room or tenement separately occupied without passing through any other room or tenement.

PART IV
—cont.

23.—(1) A house in the borough which is occupied or is of a type suitable for occupation by persons of the working classes shall be deemed for the purposes of section 9 of the Housing Act 1936 to be not in all respects fit for human habitation—

Extension of powers under section 9 of Housing Act 1936.

(a) if it is not kept repaired and painted sufficiently to prevent the dilapidation thereof and to secure reasonable amenities for the occupiers thereof; or

(b) if the interior surface of the walls thereof is not papered or painted with oil-bound water paint or distempered with washable distemper sufficiently as aforesaid.

(2) On an appeal to the county court under section 15 of the said Act by a person aggrieved by a notice requiring the execution of works to remedy the defects referred to in subsection (1) of this section the court shall take into consideration—

(a) in the case where the person aggrieved is a lessee or agent for a lessee the length of the unexpired period of the lease;

(b) the period for which the house is likely to continue occupied;

(c) the expenditure incurred on the house during the preceding three years by the person having control of the house or the owner thereof;

(d) in the case of any house the rent of which is subject to control in pursuance of the Rent and Mortgage Interest Restrictions Acts 1920 to 1939 the financial return accruing to the owner in respect of his ownership of the house; and

(e) whether the condition of the house is or is not due to the wilful default or neglect of the occupier.

(3) In this section the expressions “house” “owner” and “person having the control of the house” have the same meanings as in the Housing Act 1936.

Filthy or verminous premises or articles

24. Section 83 of the Act of 1936 shall in its application to the borough have effect as if the following were substituted for subsection (1) thereof:—

Cleansing of filthy or verminous premises.

“ (1) Where the local authority upon consideration of a report from any of their officers or other information in

PART IV
—cont.1 Edw. 8. &
1 Geo. 6. c. 67.

their possession are satisfied that any premises other than a factory within the meaning of the Factories Act 1937—

- (a) are in such a filthy or unwholesome condition as to be prejudicial to health ; or
- (b) are verminous ;

the authority shall give notice to the owner or occupier of the premises requiring him to take such steps as may be specified in the notice to remedy the condition of the premises by cleansing and disinfecting them and by either—

- (i) distempering or whitewashing the interior surface thereof ; or
- (ii) in the case of premises used for human habitation or as shops or offices papering or painting the said interior surface ;

and the notice may require among other things the removal of wallpaper or other covering of the walls or in the case of verminous premises the taking of such steps as may be necessary for removing or destroying vermin ”.

Power to
require
vacation of
premises
during
fumigation.

25.—(1) If the Corporation serve notice under subsection (3) of section 83 of the Act of 1936 as amended by the last preceding section on the owner and occupier of any premises requiring that they shall be allowed to employ gas for the purpose of destroying vermin on the premises—

- (a) the notice to the occupier may also require that the premises shall be vacated until such time as the Corporation are satisfied that it is safe for the occupier to return ; and
- (b) the Corporation may also serve notice on the occupiers of any other premises having any floor wall or ceiling contiguous with the first-mentioned premises or into which there is reason to apprehend that the gas may penetrate requiring that those other premises shall be vacated as aforesaid.

(2) No person shall be required to vacate any premises under this section for any period unless shelter or other accommodation has been provided for him by the Corporation free of charge for that period and any notice given under this section shall specify the shelter or accommodation so provided.

(3) Any person aggrieved by a requirement of the Corporation under this section may appeal to a court of summary jurisdiction.

(4) If any person fails to comply with a notice under this section he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding ten shillings.

(5) The Corporation may pay to any person vacating premises in pursuance of a notice under this section such reasonable allowance as they think fit towards his expenses in removing from and returning to the premises.

(6) The Rent and Mortgage Interest Restrictions Acts 1920 to 1939 shall not be deemed to cease to apply to any house or premises by reason only of the fact that the house or premises have been vacated in compliance with a notice served under this section.

26.—(1) No dealer shall in the borough—

- (a) prepare for sale ;
- (b) sell or offer or expose for sale ; or
- (c) deposit for sale or preparation for sale ;

Prohibition
of sale of
verminous
articles.

any household article if it is to his knowledge verminous or if by taking reasonable precautions he could have known it to be verminous.

(2) If any household article which is verminous is on any premises in the borough—

- (a) being prepared or offered by a dealer for sale ; or
- (b) exposed by a dealer for sale or deposited by a dealer for sale or preparation for sale ;

the medical officer or the sanitary inspector may cause the article to be disinfested or destroyed as the case may require and if necessary for that purpose to be removed from the premises and the Corporation may recover from the dealer the expenses incurred by the medical officer or the sanitary inspector in taking any action under this subsection.

(3) If any person contravenes the provisions of subsection (1) of this section he shall be liable to a penalty not exceeding twenty pounds.

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

(5) For the purposes of this section—

- (a) the expression “dealer” means a person who trades or deals in any household article ;
- (b) the expression “household article” means an article of furniture bedding or clothing or any similar article ;
- (c) the expression “preparation for sale” shall not include disinfestation.

PART V

SMOKE NUISANCE

Smoke from
industrial
furnaces.

27.—(1) As from the appointed day no person shall instal in any building in the borough whether erected before or after the passing of this Act or on any premises in the borough any furnace for steam raising or for any manufacturing or trade purpose unless the furnace is so far as practicable capable of being operated continuously without emitting smoke.

(2) Any person who contravenes the provisions of this section shall be liable to a penalty not exceeding ten pounds and any person who after there has been a conviction of an offence of installing a furnace in contravention of those provisions uses that furnace shall unless it has been altered so as to comply with those provisions be liable to a penalty not exceeding forty shillings for each day on which he so uses the furnace:

Provided that a person so using such furnace shall not be liable to the last-mentioned penalty unless he himself was convicted of the said offence or if he was not so convicted unless prior to such use or the continuance of the use he had received notice from the Corporation that there had been a conviction in respect of the installation of such furnace.

(3) Nothing in this section shall apply to the installation of a furnace in—

- (a) a house or flat unless the furnace is intended to be used for the heating of more than one house or flat; or
- (b) a building previously used as a single house which has been converted into two or more separate houses or flats.

(4) If a person before installing a furnace to which this section applies submits to the Corporation a plan and specification of the proposed furnace and furnishes them with such other information in regard thereto as they may reasonably require the Corporation may within six weeks from the receipt of the plan specification and information serve notice upon him stating whether or not they are satisfied that the furnace is so far as practicable capable of being operated as aforesaid and—

- (a) if the notice states that they are so satisfied; or
- (b) if they do not serve any notice under this subsection before the expiration of the said six weeks;

no proceedings shall be taken against that person under this section in respect of the installation of the furnace in accordance with the plan specification and information so submitted and furnished.

(5) Before serving a notice under this section stating that they are not satisfied that a furnace is so far as practicable capable of being operated as aforesaid the Corporation shall consult the Minister of Fuel and Power.

(6) In determining for the purposes of this section whether a furnace is so far as practicable capable of being operated as aforesaid—

- (a) a court in any proceedings under this section ; and
- (b) the Corporation on considering a plan specification and other information received under subsection (4) of this section ;

shall have regard to cost and to local conditions and circumstances.

28.—(1) The Corporation may by order confirmed by the Smokeless Minister prohibit the emission of smoke from premises to which the order applies.

(2) The occupier of any premises from which smoke is emitted in contravention of the provisions of an order under this section shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds:

Provided that it shall be a defence in any proceedings under this subsection to prove that the smoke emitted—

- (a) arose solely from a furnace stove or other appliance suitable for burning an authorised fuel and properly maintained and used ; and
- (b) so arose either—
 - (i) by burning that authorised fuel therein ; or
 - (ii) by burning any other type of fuel therein unless it is proved by the prosecutor that the authorised fuel was available to the defendant at the time the smoke was emitted.

In this subsection the expression “ authorised fuel ” means coke anthracite or any other fuel specified in the order as being an authorised fuel for the time being approved by the Corporation.

(3) The Corporation may if they think fit contribute the whole or part of the expense necessarily incurred by any person in executing works or in providing altering or adapting any fixtures fittings or appliances for the purpose of complying with the provisions of an order under this section.

(4) An order under this section may contain provisions—

- (a) for enabling the tenant of any premises incurring such expense as aforesaid and the owner of those premises

PART V
—cont.

to enter into and carry out an agreement making such variations in the terms of the tenancy of the premises as may be reasonable having regard to the expense incurred and to other relevant circumstances ;

- (b) for enabling any such tenant who has been unable to make such an agreement to apply to the county court for an order making such variations of the terms of the tenancy as aforesaid and for enabling the court to make such an order.

(5) An order under this section shall subject to the provisions of this section apply to all premises situated in such area or areas as may be specified in the order being either the whole of the borough or any part or parts thereof :

Provided that as respects any particular premises or premises of any class so situated any such order may provide—

- (a) that they shall be excluded from the application of the order ; or
- (b) that the application of the order to them shall be deferred until such date as may be so specified.

(6) Before submitting an order to the Minister for confirmation under this section the Corporation shall publish in the London Gazette and in a local newspaper circulating in the borough a notice stating—

- (a) that the order has been made and is about to be submitted to the Minister for confirmation ;
- (b) the area or areas within which the order applies and the general effect of the order ; and
- (c) that within twenty-eight days beginning with a date specified in the notice (not being earlier than the publication of the notice in the local newspaper) any person may object to the confirmation of the order by giving notice in writing to the Minister and sending a copy of the notice of his objection to the town clerk.

(7) If no objection is duly made or if every objection so made is withdrawn the Minister may if he thinks fit confirm the order either with or without modification but in any other case he shall before confirming the order cause a local inquiry to be held and consider any objection not withdrawn and the report of the person holding the inquiry and may then confirm the order either with or without modification.

(8) If at any time after the passing of this Act any person owning or occupying premises in the borough by application to the town clerk specifying his name and address and the premises to which the application relates requests the Corporation to serve

upon him a copy of any notice published in pursuance of subsection (6) of this section relating to an order affecting any premises so specified the Corporation shall—

- (a) register the name address and premises so specified in a register kept for the purpose ; and
- (b) serve upon him at the address entered in the register a copy of any such notice :

Provided that the accidental omission to serve a copy of a notice relating to any particular order on any person on whom it should have been served under paragraph (b) of this subsection shall not invalidate or prejudice the making or confirmation of the order.

(9) The Minister may for the purposes of this section designate to the Corporation any specified body of persons as being representative of the owners or occupiers of premises used for carrying on any trade or industry in the borough or of any class of such owners or occupiers and in the event of any such designation the Corporation shall before submitting an order under subsection (1) of this section to the Minister consult with such body.

(10) As soon as may be after an order under this section has been confirmed by the Minister the Corporation shall—

- (a) publish in a local newspaper circulating in the borough a notice stating that the order has been confirmed and that a copy of the order may be inspected at all reasonable hours at a place in the borough specified in the notice ; and
- (b) serve a like notice on every person who having given notice to the Minister of his objection to the order appeared at the local inquiry in support of his objection.

(11) An order under this section shall not come into operation before the expiration of six months from the date of the publication of notice of its confirmation under the last preceding subsection but shall come into operation on such date thereafter as may be specified in the order.

(12) An order under this section may be varied or revoked by another order made by the Corporation and confirmed by the Minister in like manner :

Provided that where by an order made under this subsection an authorised fuel ceases to be so authorised such order shall not come into operation until such date as may be specified in the order not being less than six months from the date of the publication of notice of its confirmation under subsection (10) of this section.

PART V
—cont.

(13) An order under this section may also be varied by another order made by the Minister on the application of the electricity authority or the gas board in relation to any premises intended to be used by the electricity authority as an electricity generating station or by the gas board as a gasworks (as the case may be) for the purposes of their respective undertakings:

Provided that—

- (a) before making application to the Minister for an order under this subsection the electricity authority or the gas board (as the case may be) shall give notice to the Corporation of their intention to make the application stating the general effect of the order proposed; and
- (b) before making the order the Minister shall consider any representations which may be made by the Corporation and shall give the Corporation an opportunity of being heard thereon.

(14) A copy of a newspaper containing a notice published in pursuance of this section shall be sufficient evidence of the publication of the notice.

(15) Nothing in any order under this section shall apply to smoke emitted from a railway locomotive or from any furnace or engine of a ship.

(16) The Minister shall not confirm an order under this section applying as from any date to premises used for any of the following processes that is to say:—

- (a) the working of a mine;
- (b) the smelting of ores and minerals;
- (c) the calcining puddling and rolling of iron and other metals;
- (d) the conversion of pig-iron into wrought-iron or the reheating annealing hardening forging converting and carburising of iron and other metals;

if he is satisfied on an objection duly made under subsection (6) of this section that the application of the order to those premises as from that date would obstruct or interfere with that process.

For protection
of certain
companies.

29. The following provisions for the protection of the companies mentioned in the next following paragraph shall apply and have effect in relation to the protected premises of those companies respectively:—

(1) In this section—

“the company” means either Vaux and Associated Breweries Limited the owners of the Brewery Sunderland or R. Fenwick and Company Limited the owners of the Sunderland Brewery or the Sunderland and South Shields Water Company;

“protected premises” where used in relation to either of the said brewery companies means the Brewery Sunderland or the Sunderland Brewery (as the case may be) and where used in relation to the said water company means the Fulwell pumping station of that company;

“furnace” includes a copper:

(2) If any furnace is approved in accordance with the following provisions of this section it shall in any proceedings under subsection (2) of section 28 (Smokeless areas) of this Act against the company in respect of the emission of smoke from the protected premises be a defence for the company to prove that the smoke emitted arose solely from the use of a furnace which is—

(a) for the time being approved under this section; and

(b) used in accordance with terms and conditions imposed thereunder (except any term or condition as to the type of fuel to be used if such fuel is not reasonably available); and

(c) otherwise properly maintained and used;

(3) If the company submit to the Corporation plans and particulars of any furnace which has been installed or which the company intend to instal in the protected premises and furnish the Corporation with such other necessary information in regard thereto as they may require the Corporation shall within a period of six weeks (or such longer period as may be agreed upon between the parties) from the date upon which such plans and particulars are received by them or (if the Corporation require other necessary information as aforesaid) from the date upon which such other information is received by them—

(a) if they are satisfied that the furnace is so far as practicable capable of being operated continuously without emitting smoke approve of the furnace subject to such terms and conditions (including terms and conditions as to the type of fuel to be used therein) as they may think fit; or

(b) if they are not so satisfied disapprove of the furnace or approve of the furnace subject to such modifications and to such terms and conditions (including terms and conditions as to the type of fuel to be used therein) as they may think fit:

PART V
—cont.

- (4) Before disapproving of a furnace or requiring any modification or imposing any term or condition under this section the Corporation shall consult with the Minister of Fuel and Power :
- (5) (a) If the Corporation disapprove of the furnace or if any dispute arises between the Corporation and the company as to any modification term or condition required or imposed by the Corporation under this section the matter shall be referred to arbitration ;
- (b) In any such arbitration the arbitrator may—
- (i) approve of the furnace ; or
 - (ii) disapprove of the furnace ; or
 - (iii) approve of the furnace subject to such modifications and to such terms and conditions (including terms and conditions as to the type of fuel to be used therein) as he may think fit :
- (6) (a) At any time after a furnace has been approved of by the Corporation or the arbitrator under this section the Corporation may serve notice on the company withdrawing the approval of the furnace and stating their reasons for such withdrawal or intimating the modifications in the furnace or the further or different terms and conditions in regard thereto subject to which approval will be continued ;
- (b) If any dispute arises between the Corporation and the company in consequence of a notice served under this subsection the matter shall be referred to and determined by arbitration :
- (7) In any arbitration under this section the arbitrator shall have regard to cost and to local conditions and circumstances.

PART VI

INFECTIOUS DISEASES

Definition
of notifiable
disease.

30. In this Part of this Act the expression “notifiable disease” means—

- (a) any notifiable disease as defined by section 343 of the Act of 1936 ; and
- (b) any infectious disease to which section 144 of that Act for the time being applies in the borough by virtue of regulations made under section 143 thereof.

Entry into
premises
in case of
notifiable
disease.

31.—(1) If it is shown to the satisfaction of a justice of the peace on sworn information by the medical officer in writing—

- (a) that in any premises in the borough there is a person who is or has been suffering from a notifiable disease ; and

(b) that admission to the premises or examination of that person has been refused or that refusal is apprehended or that the case is one of urgency or that an application for admission would defeat the object of the entry ;

the justice may by warrant under his hand authorise the medical officer to enter the premises if need be by force and examine any person found thereon :

Provided that no such warrant shall authorise the medical officer—

(i) to enter any premises except between the hours of seven in the morning and ten in the evening ; or

(ii) to examine a person who is already under the treatment of a registered medical practitioner except with the consent of that practitioner.

(2) On entering any premises by virtue of a warrant issued under this section the medical officer may take with him such other persons as may be necessary.

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

(4) Any warrant granted by a justice of the peace in pursuance of section 152 of the Act of 1935 shall be deemed to have been granted under this section.

32. Section 148 of the Act of 1936 in its application to the borough shall have effect as if the following paragraph were substituted for paragraph (b) thereof :—

Restriction on attendance at schools places of assembly etc.

“ (b) having the care of a person—

(i) whom he knows to be suffering from a notifiable disease ; or

(ii) whom he cannot permit to attend school without contravening section 150 of this Act ; causes or permits that person to expose other persons to the risk of infection by his presence or conduct in any such place as aforesaid ; or ”.

33. If with a view to preventing the spread of—

(a) a notifiable disease ; or

(b) a milk-borne disease as defined in section 37 of the Food and Drugs Act 1938 ; or

(c) food poisoning ;

Compensation for stopping employment to prevent spread of disease.

the medical officer requests in writing any person to discontinue his employment the Corporation may if they think fit compensate him for any loss occasioned by his compliance with the request.

PART VII

FOOD

Slaughter
of animals
otherwise than
for human
consumption.

34.—(1) As from the appointed day the following provisions shall have effect in the borough with respect to the slaughter of any of the following animals namely horses cattle sheep goats or pigs where the animal owing to emaciation or disease is slaughtered otherwise than for sale for human consumption within the meaning of the Public Health (Meat) Regulations.

(2) The owner of any such animal shall comply with the following provisions:—

- (a) he shall not less than twelve hours before slaughtering the animal or causing it to be slaughtered give notice to an authorised officer of the intention to slaughter it unless by reason of accidental injury illness or exposure to infection it is necessary to slaughter it before the expiration of twelve hours from the giving of such notice or before such notice is given ;
- (b) where it is necessary by reason aforesaid to slaughter the animal before the expiration of the said twelve hours he shall retain the carcase intact until the expiration of twelve hours from the time of slaughter or until its disposal is approved by an authorised officer whichever first occurs ;
- (c) where it is necessary by reason aforesaid to slaughter the animal before such notice is given he shall give notice of the slaughter to an authorised officer as soon as practicable thereafter and shall retain the carcase intact until the expiration of twelve hours from the time when notice is given under this paragraph or until its disposal is approved by an authorised officer whichever first occurs ;
- (d) he shall on the application of an authorised officer made within two weeks from the date of the slaughter of the animal furnish such information within his knowledge as that officer may reasonably require for the purpose of enabling him to trace the disposition of the carcase or any part thereof.

(3) If any person—

- (a) fails to comply with any of the provisions of subsection (2) of this section ; or
- (b) furnishes in response to an application under paragraph (d) of that subsection information which he knows to be false ;

he shall be liable to a penalty not exceeding ten pounds.

(4) Nothing in this section shall affect the operation of the Diseases of Animals Acts 1894 to 1937 or Part IV of the Agriculture Act 1937 or of any order licence or act of the Minister of Agriculture and Fisheries made granted or done thereunder. 1 Edw. 8. &
1 Geo. 6. c. 70.

(5) In this section—

- (a) the expression “authorised officer” means any officer of the Corporation who is by virtue of the Food and Drugs Act 1938 an authorised officer for the purpose of the examination and seizure of meat under the provisions of that Act relating to unsound food ;
- (b) the expression “Public Health (Meat) Regulations” means regulations for the time being in force under section 8 of the Food and Drugs Act 1938 or having effect by virtue of subsection (3) of section 101 of that Act as if they had been made under the said section 8.

35.—(1) As from the appointed day the following provisions shall have effect in the borough:— Registration
of hawkers of
food and their
premises.

- (a) No person shall sell or offer or expose for sale any food from or upon a cart barrow or other vehicle or from or upon a basket pail tray or other receptacle unless he is registered by the Corporation ;
- (b) No premises shall be used as storage accommodation for food intended for sale from or upon a cart barrow or other vehicle or from or upon a basket pail tray or other receptacle unless the premises are registered by the Corporation :

Provided that nothing in this subsection shall apply—

- (i) to the sale or offer or exposure for sale of food by a person keeping open shop for the sale of food or by a person employed and in the course of his employment by such a person or to the use by a person so keeping open shop or by a person employed and in the course of his employment by such a person of any premises as storage accommodation for food intended for sale by him or his employer as the case may be ;
- (ii) to the sale or offer or exposure for sale of food by a dairyman registered under regulations for the time being in force under Part II of the Food and Drugs Act 1938 as amended by any subsequent enactment or by a person employed and in the course of his employment by such a dairyman or to the use by any person as storage accommodation for food of a dairy so registered ;

PART VII
—cont.

- (iii) to the use by any person as storage accommodation for food of premises registered under section 14 of the Food and Drugs Act 1938 ;
- (iv) to the sale or offer or exposure for sale of food by any person on premises owned or occupied by him or his employer or to the use by any person of any premises owned or occupied by him or his employer as storage accommodation for food intended for sale by him or his employer on those or any other such premises ;
- (v) to the sale or offer or exposure for sale of food by any person or to the use of any premises as storage accommodation for food intended for sale if the profits of the sale are devoted to a religious or charitable purpose.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

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

(4) If it appears to the Corporation—

- (a) that the public health is or is likely to be endangered by any act or default of a person who has applied to be or is registered under this section being an act or default in relation to the quality storage or distribution of food ; or
- (b) that any premises in respect of which an application has been made for registration under this section or which are registered under this section do not satisfy the requirements of subsection (1) of section 13 of the Food and Drugs Act 1938 or are otherwise unsuitable for use as storage accommodation for food intended for sale as aforesaid ;

the Corporation shall serve on that person or on the person applying for the registration of the premises or in the case of premises which are registered the occupier of the premises a notice—

- (i) stating the place and time (not being less than seven days after the date of the service of the notice) at which it is proposed that a committee of the council shall take the matter into consideration ; and
- (ii) informing him that he may attend before the said committee with any witnesses whom he desires to call

at the place and time mentioned to show cause why the Corporation should not for reasons specified in the notice refuse to register him or the premises or revoke his or their registration as the case may be.

PART VI
—cont.

(5) If a person on whom a notice is served under the last preceding subsection fails to show cause to the satisfaction of the said committee the Corporation may refuse to register him or the premises or revoke his or their registration as the case may be and shall forthwith give notice to him of their decision in the matter and shall if so required by him within fourteen days of their decision give to him within forty-eight hours a statement of the grounds on which it was based.

(6) Any person aggrieved by a decision of the Corporation under the last preceding subsection may appeal to a court of summary jurisdiction.

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

(8) In this section the expression "food" has the meaning assigned to it by section 100 of the Food and Drugs Act 1938 except that it does not include any substance contained in containers of such materials and so closed as to exclude all risk of contamination.

(9) When this section comes into operation section 29 of the Act of 1939 shall be repealed and any person or premises registered in pursuance of that section shall be deemed to have been registered under this section and any application for registration under that section and any proceedings taken in consequence of the application shall be deemed to have been made or taken under this section.

PART VIII

PUBLIC ORDER AND PUBLIC SAFETY

36.—(1) As from the appointed day the provisions of Part IV of the Public Health Acts Amendment Act 1890 shall in their application to the borough extend to any place ordinarily used for any boxing or wrestling entertainment as though any such entertainment were of the like kind with public dancing and music:

Boxing and
wrestling
entertainments.
53 & 54 Vict.
c. 59.

Provided that the said provisions shall not extend to any premises licensed under the Theatres Act 1843 if and so long as the conditions attached to the licence under that Act are complied with as though a boxing or wrestling entertainment were a stage play.

6 & 7 Vict.
c. 68.

PART VIII
—cont.

(2) For the purposes of this section the expression “boxing or wrestling entertainment” means any public contest or display of boxing or wrestling except such as may be provided or given—

- (a) by travelling showmen at pleasure fairs ;
- (b) by bona fide organisations associations clubs or societies whether for juveniles or adults and whether corporate or unincorporate which are not carried on for profit ;
or
- (c) by any university university college college of a university training college establishment of further education or school.

Byelaws as to
pleasure fairs
and roller-
skating rinks.

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

- (a) for regulating the hours during which pleasure fairs and roller-skating rinks may be open to the public ;
- (b) for securing safe and adequate means of ingress to and egress from any pleasure fair or roller-skating rink ;
- (c) for the prevention and suppression of nuisances and preserving sanitary conditions cleanliness order and public safety at any pleasure fair or roller-skating rink.

(2) In this section—

- (a) the expression “pleasure fair” means any place—
 - (i) which is for the time being used wholly or mainly for providing (whether or not in combination with any other entertainment) any entertainment to which this section applies ; and
 - (ii) for admission to which or for the use of the contrivances in which a charge is made ;
- (b) the expression “roller-skating rink” means any place which is for the time being used wholly or mainly for roller-skating and for admission to which a charge is made.

(3) Subject to the provisions of the next following subsection the entertainments to which this section applies are the following:—

- (a) circuses ;
- (b) exhibitions of human beings or of performing animals ;
- (c) merry-go-rounds roundabouts swings switchback railways ;
- (d) cocoanut shies hoop-las shooting galleries ;

- (e) dodgems or other mechanical riding or driving contrivances ;
- (f) automatic or other machines intended for entertainment or amusement ;
- (g) anything similar to any of the foregoing.

(4) Nothing in this section or the byelaws made thereunder shall apply to—

- (a) any fair held by statute royal charter royal licence letters patent or ancient custom ; or
- (b) any entertainment which is not run for profit and is not carried on for more than seven consecutive days ; or
- (c) any entertainment the profits whereof are devoted to a religious or charitable purpose ; or
- (d) any entertainment in any permanent premises in respect of which a licence under the Cinematograph Act 1909 ^{9 Edw. 7.} is for the time being in force. _{c. 30.}

(5) The Corporation shall—

- (a) not less than one month before making byelaws under this section furnish the Amusement Caterers' Association the Association of Amusement Park Proprietors of Great Britain and the Showmen's Guild of Great Britain with a draft of the proposed byelaws ; and
- (b) on submitting the byelaws to the Secretary of State for confirmation furnish him with a copy of any representations made to the Corporation in writing by any of the said bodies and a statement showing the effect (if any) given to any such representation.

(6) Different byelaws may be made under this section for pleasure fairs and roller-skating rinks and for different kinds of pleasure fairs.

38.—(1) The Corporation may make byelaws for all or any of the following purposes with respect to public meetings and gatherings to which this section applies :— Byelaws as to public meetings and gatherings.

- (a) for securing the safety of the public ;
- (b) for preventing fire and the risk of fire ;
- (c) for securing safe and adequate means of ingress to and egress from the ground or place in or on which the public meeting or gathering is held ;
- (d) for preserving sanitary conditions and cleanliness ; and
- (e) for preserving order and preventing and suppressing nuisances.

PART VIII
—cont.

(2) The public meetings and gatherings to which this section applies are those at or in connection with any show fete exhibition stage play variety entertainment concert game sport or other similar function entertainment contest or event—

(a) to which the public are admitted or which the public attend with or without the payment of a charge for admission ; and

(b) which is held—

(i) in on or under a tent marquee or other structure or erection of a temporary character ; or

(ii) in the open air on a place which is enclosed by a fence or other erection and to which the public obtain admission through entrances in such fence or erection ;

but do not include a pleasure fair as defined in the last foregoing section.

Further powers
to make
byelaws as to
boats.

39.—(1) For the prevention of noise or of danger obstruction or annoyance to persons boating or bathing or using the seashore the Corporation may make byelaws—

(a) requiring the fitting of effectual silencers on boats propelled by internal combustion engines ;

(b) prohibiting regulating or controlling the keeping or landing of boats on such parts of the seashore as may be specified in the byelaws.

(2) The said byelaws may also provide for charging such fee as may be prescribed by the byelaws for any licence or permission to keep a boat on any part of the seashore owned by or let to the Corporation.

(3) Byelaws made under this section may contain different provisions for different classes or descriptions of boats.

(4) No byelaw made under this section shall—

(a) affect any right or privilege of owners of boats engaged in the fishing industry which may exist at the time of the making of the byelaw ; or

(b) prevent the owner of any part of the seashore or any person with his consent exercising any rights which he could have exercised if the byelaw had not been made ; or

(c) in the case of a byelaw made under paragraph (a) of subsection (1) of this section apply to any boat which is ordinarily kept outside the borough and is not required to be licensed by the Corporation.

40.—(1) The power of the Corporation to make byelaws as to boats whether under this Act or under any other enactment shall include power to provide that any such byelaw shall operate not only within the borough but also within a distance seaward from the borough of three miles from low-water mark of ordinary spring tides.

PART VIII

—cont.

Local extent
of byelaws as
to boats.

(2) Any offence committed within the said distance against any byelaw so operating may be inquired into and dealt with as if it had been committed within the borough.

PART IX

HEATING UNDERTAKING

41.—(1) The Corporation may supply heat to such premises as they may think fit in the borough upon and subject to the terms and conditions provided by this Part of this Act and such other terms and conditions as may be agreed between the Corporation and the owners or occupiers of those premises:

Supply
of heat.

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

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

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

Works for
provision
of heat.

Provided that—

- (a) nothing in this section shall be taken to dispense with the consent of any government department to any use of any lands of the Corporation in any case in which such consent would have been required if this section had not been enacted ;

PART IX
—cont.

(b) any electrical works or apparatus erected laid down maintained worked and used in pursuance of this section shall be so constructed maintained worked and used as to prevent interference with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of any such line.

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

(a) to the electricity authority ; or

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

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

(3) The electricity authority shall take all the electricity generated by the Corporation as aforesaid which is not—

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

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

upon such terms and conditions as may be agreed between the Corporation and the electricity authority or in default of agreement determined by arbitration on the basis of a supply by a willing seller to a willing buyer.

(4) Any matter to be determined by arbitration under the last preceding subsection shall be referred to and determined by an arbitrator to be agreed upon between the Corporation and the electricity authority or in default of agreement to be appointed by the President of the Institution of Electrical Engineers.

As to construction of station for providing heat. 43.—(1) (a) If the council shall resolve to construct extend modify or enlarge a station for providing heat under the powers of this Part of this Act they shall forthwith give to the Minister of Fuel and Power to the electricity authority and to the gas board notice of such resolution and such information with regard to such station as the electricity authority or the gas board (as the case may be) may within six weeks of the service of such notice reasonably require including information as to the nature position and capacity of the proposed station (but not details of design) the proposed method of producing heat thereat the area proposed to be supplied therefrom and an estimate of the quantity or quantities of heat required by the Corporation and of the times and form at and in which such quantity or quantities will be required.

(b) Any dispute between the Corporation on the one hand and the electricity authority and the gas board or either of them on the other hand as to whether any information is reasonably required by the electricity authority and the gas board or either of them under this subsection shall be referred to and determined by the Minister of Fuel and Power.

(2) Within three months after the service of the said notice or the receipt of such information (whichever is the later) the electricity authority and the gas board or either of them may serve upon the Corporation a counter-notice offering a supply of heat to them upon such terms and conditions as may be specified in the counter-notice or as may be agreed between the Corporation and the electricity authority or the gas board as the case may be.

(3) If within three months after the receipt of such counter-notice or such longer period as may be agreed between the Corporation and the electricity authority or the gas board (as the case may be) the terms and conditions upon which a supply of heat is to be given to the Corporation by the electricity authority or the gas board (as the case may be) for the purposes of the heating undertaking are not agreed between them the Corporation shall submit to the Minister for determination the question whether a supply of heat shall be afforded to the Corporation by the electricity authority or the gas board and (if he determines that a supply of heat is to be afforded by the electricity authority or the gas board) the terms and conditions upon which such a supply is to be afforded.

(4) If the Minister determines that a supply of heat shall be afforded to the Corporation by the electricity authority or the gas board the electricity authority or the gas board (as the case may be) shall afford such a supply in accordance with the terms and conditions approved by the Minister:

Provided that if the Minister makes a substantial alteration in the terms or conditions on which the electricity authority or the gas board offered a supply of heat to the Corporation then if within twenty-eight days after the receipt of the determination of the Minister the electricity authority or the gas board (as the case may be) give notice in writing to the Minister and the Corporation that the said terms or conditions are not acceptable they shall not be required to afford a supply of heat to the Corporation and the Corporation shall be entitled to proceed with their proposals as if this section had not been enacted unless within twenty-eight days of such last-mentioned notice the Corporation serve on the electricity authority or the gas board (as the case may be) a notice requiring a supply in which case the electricity authority or the gas board (as the case may be) shall afford a supply on the terms and conditions specified in the counter-notice referred to in subsection (2) of this section.

PART IX

—cont.

Power to buy
heat in bulk.

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

- (a) any such person may enter into any such agreement accordingly; and
- (b) any such agreement may provide for the provision by the Corporation or for the joint user by them and any other party to the agreement of any works plant materials or things required for the purposes of the agreement.

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

Purchase of
land for
heating
undertaking.9 & 10 Geo. 6.
c. 49.

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

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

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

(b) In relation to the compulsory acquisition of any such easement or right the Acquisition of Land (Authorisation Procedure) Act 1946 (except section 2 thereof) and the enactments incorporated therewith shall have effect as if references (whatever the terms used) to the land comprised in the compulsory purchase order were construed where the context so requires as references to the land in respect whereof the easement or right is acquired and references to the obtaining or taking possession of the land so comprised were construed as references to the exercise of the easement or right.

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

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

(5) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this section requires the Corporation to acquire the land the Corporation shall not be entitled under this section to acquire the easement or right unless the tribunal by whom the compensation is to be assessed determines that the easement or right can be granted without material detriment to the land or in the case of a park or garden belonging to a house without seriously affecting the amenity or convenience of the house:

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

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

46.—(1) The following provisions of the Third Schedule to the Water Act 1945 as amended by the Public Utilities Street Works Act 1950 are hereby incorporated with this Part of this Act (namely):—

- | | | |
|------------|---|---|
| Part V | (Power to lay mains &c.); | Power to lay mains etc. and break open streets. |
| Section 22 | (Power to break open streets); | 8 & 9 Geo. 6. c. 42. |
| Section 25 | (Protection for railway companies navigation authorities tramway undertakers &c.); | 14 Geo. 6. c. 39. |
| Section 27 | (Remedies where undertakers fail to comply with foregoing requirements); | |
| Section 28 | (Application of Part VI to verges and streets and highways not maintainable at the public expense); and | |
| Section 93 | (Protection for works of navigation authorities and for catchment boards and railways). | |

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

- “the undertakers” means the Corporation;
- “supplying water” means supplying heat and “supply of water” shall be construed accordingly;
- “service pipe” means a pipe for supplying heat from a main to any premises; and
- “the limits of supply” means the borough.

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

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

PART IX
—cont.

Consultation
with statutory
undertakers
as to certain
works.

47.—(1) In this section the expression “the statutory undertakers” means the electricity authority the electricity board the gas board and the company.

(2) (a) Before the Corporation—

(i) apply to the appropriate sanctioning authority for consent to the borrowing of money for the purpose of constructing laying down or executing any works for providing storing transmitting or distributing heat under the powers of this Part of this Act ; or

(ii) lay down any main under the provisions of this Part of this Act other than a main extending for a distance of not more than two hundred yards from any main laid down in accordance with proposals previously made under this section ;

they shall give to the Minister of Fuel and Power (in this section referred to as “the said Minister”) and to the statutory undertakers notice of their proposals and such information with regard thereto as the statutory undertakers may within six weeks of the receipt of such notice reasonably require and shall consult with the statutory undertakers on such proposals.

(b) Any dispute between the Corporation and the statutory undertakers or any of them as to whether any information is reasonably required by them under this subsection shall—

(i) if the dispute is with the electricity authority the electricity board or the gas board be determined by the Minister of Fuel and Power ; and

(ii) if the dispute is with the company be determined by the Minister of Local Government and Planning.

(3) Without prejudice to the generality of subsection (2) of this section such information shall include particulars of the proposals (if any) of the Corporation as to the standards of heat proposed to be maintained in premises supplied with heat under the powers of this Part of this Act and the measures to be taken with respect to—

(a) the securing of the safety of the mains pipes electric lines and apparatus of the statutory undertakers from damage or injury arising directly or indirectly from any mains or pipes to be laid down or placed by the Corporation under the powers of this Part of this Act ;

(b) the insulation of any such last-mentioned mains or pipes so as to prevent the escape of heat therefrom ;

(c) the maximum and minimum temperatures and pressures at which hot water or steam may be stored transmitted or distributed by the Corporation ;

(d) the methods for measuring the quantity temperature and pressure of the hot water or steam so stored transmitted or distributed ; and

(e) the independent testing of such measurements.

(4) The statutory undertakers or any of them may within three months after the receipt of such notice or the receipt of such information (whichever is the later) make representations to the said Minister with respect to such proposals.

(5) If no such representations are made the Corporation shall not proceed except in accordance with the proposals sent to the statutory undertakers or any alteration thereof which may be agreed.

(6) If any such representations are made the Corporation shall not proceed with their proposals except with the approval of the said Minister and in accordance with any modification of such proposals which the said Minister may require.

(7) The provisions of this section shall not apply to the construction extension modification or enlargement of a station for providing heat under the powers of this Part of this Act.

48. The provisions of section 9 (Attachment of street lamps brackets etc.) of this Act shall extend and apply to such brackets mains electric lines and attachments as may be required for the purposes of the heating undertaking as if they were mentioned in that section.

Attachment
of heating
mains etc.

49.—(1) For the purposes of the heating undertaking or in connection with the use or sale of electricity under the provisions of subsection (2) of section 42 (Works for provision of heat) of this Act the Corporation may within the borough lay down or erect electric lines and apparatus—

Power to lay
down or erect
electric lines
etc.

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

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

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

Provided that a consent required for the purposes of this subsection shall not be unreasonably withheld and any question whether such a consent is or is not unreasonably withheld shall be referred to and determined by the Minister.

PART IX
—cont.

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

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

(3) The following provisions of the Third Schedule to the Water Act 1945 as amended by the Public Utilities Street Works Act 1950 shall apply with the necessary modifications to the laying down erection inspection repair alteration renewal or removal of electric lines and apparatus under this section and for the purpose of such application the borough shall be deemed to be the limits of supply (namely):—

Section 22 (Power to break open streets) except the words “and outside those limits for the purpose of laying any mains which they are authorised to lay and of inspecting repairing renewing or removing mains”;

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

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

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

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

10 & 11 Geo. 6.
c. 54.
62 & 63 Vict.
c. 19.

(4) The provisions for the protection of the Postmaster-General and his telegraphic lines which are contained in the Electricity (Supply) Acts 1882 to 1936 as amended by the Electricity Act 1947 and in the schedule to the Electric Lighting (Clauses) Act 1899 shall so far as applicable extend and apply to any electric lines or apparatus laid down or erected under this section and references in those provisions to the electricity board or the undertakers shall be construed as references to the Corporation.

(5) The powers of this section shall not be exercised except with the consent of the electricity authority and the electricity board.

Power to
supply
fittings.

50.—(1) In any premises to which the Corporation supply or propose to supply heat they may provide (but not manufacture) and may supply by way either of sale or hire any such heating

fittings as may be required for or in connection with the supply or utilisation of the heat so supplied and may instal repair renew or alter any heating fittings whether supplied by them or not and may provide any materials and do any work required in connection with such installation repair renewal or alteration.

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

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

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

(b) shall notwithstanding that they be fixed or fastened to any part of the premises in which they may be situate or to the soil under any such premises at all times continue to be the property of and (subject to the provisions of the Hire Purchase Act 1938) removable by the Corporation: 1 & 2 Geo. 6.
c. 53.

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

(4) All heating fittings supplied by the Corporation under any hire purchase agreement shall until payment of the final instalment of the purchase money for such fittings be deemed for the purposes of subsection (3) of this section to be fittings let for hire by the Corporation.

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

(b) The total sums expended and received by the Corporation in connection with the purposes of this section in each year including interest and any sums carried to a sinking fund shall be separately shown in the abstract of accounts of the Corporation for that year.

(6) If any person wilfully injures or suffers to be injured any heating fittings belonging to the Corporation he shall be liable to a penalty not exceeding five pounds and the Corporation may do all such work as is necessary for repairing any injury done

PART IX
—cont.

and may recover the expenses reasonably incurred by them in so doing from the offender and if the amount does not exceed twenty pounds summarily as a civil debt.

Heating
charges.

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

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

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

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

Security for
payment of
accounts.

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

Power to enter
premises.

53.—(1) Subject to the provisions of this section any authorised officer of the Corporation shall on producing if so required some duly authenticated document showing his authority have

a right to enter at all reasonable hours any premises to which the Corporation are supplying or have agreed to supply heat under the powers of this Part of this Act or any premises in or upon which any heating fittings have been installed for the purpose of or in connection with supplying heat to any premises as aforesaid for the purpose of—

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

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

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

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

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

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

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

PART IX
—cont.

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

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

(6) Nothing in this section shall authorise any authorised officer of the Corporation to enter any premises (other than offices or showrooms) belonging to or used by—

- (a) the electricity authority or the electricity board for the purposes of or in connection with the generation or supply of electricity ; or
- (b) the gas board for the purposes of or in connection with the manufacture storage or supply of gas.

Interference
with apparatus
etc.

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

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

Byelaws for
protection
of heating
undertaking.

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

(2) Byelaws under this section may include provisions—

- (a) prescribing the size nature materials strength and workmanship and the mode of arrangement connection disconnection insulation alteration and repair of the heating fittings to be used ; and

(b) forbidding the use of any heating fittings which are of such a nature or are so arranged or connected as to cause or permit or be likely to cause or permit—

(i) waste misuse undue consumption or contamination of or interference with the circulation of hot water or steam ;

(ii) reverberation in pipes ; or

(iii) waste misuse or undue consumption of heat.

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

56. The Corporation may if they think fit make an allowance by way of discount on all sums of money due to them for the supply of heat from any person who pays the same within such time of the demand thereof as the Corporation think fit to prescribe in that behalf and notice to that effect shall (if and so long as the Corporation shall allow such discount) be endorsed on every demand note in respect of such charges:

Discount
for prompt
payment.

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

57.—(1) If the occupier of any premises supplied with heat by the Corporation quits the premises without giving notice of his intention so to do to the Corporation in manner provided by this section he shall be liable to pay to the Corporation all money accruing due for heat supplied by them to the premises and for meter rent up to the next date on which the register of the meter on the premises is usually ascertained or the date from which any subsequent occupier of the premises requires the Corporation to supply heat to the premises whichever first occurs.

Notice to be
given before
quitting
premises
supplied
with heat.

(2) The notice to be given under this section by an occupier of premises shall be given in writing and sent by registered post or otherwise delivered to the Corporation at the town hall so that it is received by the Corporation at least twenty-four hours before he quits the premises.

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

PART IX
—cont.

Application of
certain Acts
to heating
undertaking.
7 & 8 Geo. 6.
c. 47.
12 & 13 Geo. 6.
c. 32.

Reports etc.
with respect
to heating
undertaking
etc.

For protection
of company.

58.—(1) The provisions of the Town and Country Planning Acts 1944 and 1947 shall where applicable apply to the heating undertaking as if that undertaking were a statutory undertaking and as if the Minister were the “appropriate Minister” within the meaning of section 119 of the Town and Country Planning Act 1947.

(2) Section 4 of the Special Roads Act 1949 shall apply in relation to the powers conferred on the Corporation by this Part of this Act to lay down or erect mains pipes electric lines and apparatus in under or over any land for the purpose of the heating undertaking as it applies in relation to the powers conferred on statutory undertakers as defined in that Act by or under any enactment to lay down or erect any apparatus on under or over any land and the expression “statutory undertakers” in the said section 4 shall be construed accordingly.

59.—(1) The Corporation shall give to the electricity authority and the electricity board and the gas board such reports and returns and such information with respect to the heating undertaking as the electricity authority or the electricity board or the gas board may reasonably require and the electricity authority and the electricity board and the gas board shall give to the Corporation such reports and returns and such information with respect to any supply by them of heat as the Corporation may reasonably require.

(2) Any dispute between the Corporation on the one hand and the electricity authority or the electricity board or the gas board on the other hand as to whether any reports returns or information are reasonably required by the electricity authority or the electricity board or the gas board or the Corporation (as the case may be) shall be determined by the Minister of Fuel and Power.

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

(1) Notwithstanding anything in section 41 (Supply of heat) of this Act where heat supplied by the Corporation is used or intended to be used for the purpose of heating water for consumption in any dwelling-house supplied with water by the company the company with the consent of the Corporation (whose consent shall not be withheld unreasonably) may require that such dwelling-house shall have such supply of water afforded by meter:

Provided that in the event of a supply of water by the company for the purposes aforesaid being afforded by meter the minimum quarterly charge (exclusive of

meter rent) payable to the company for such supply to any such dwelling-house shall be one-fourth of the annual amount which would be payable according to the scale for the time being in force for a domestic supply of water furnished to such dwelling-house :

PART IX
—cont.

(2) The surface box and cover of any control valve attached to any main or pipe provided by the Corporation for the transmission distribution or use of heat and the cap of any valve spindle thereof shall be of a distinctive pattern so as to distinguish it from the like apparatus of the company :

(3) If any difference shall arise between the Corporation and the company with respect to any matter under this section (other than a matter relating to the construction of the section) the matter in difference shall be referred to arbitration.

61.—(1) The provisions of section 27 of the Water Act 1945 shall apply to a supply of water to be given by the company to the Corporation for the purposes of this Part of this Act whether or not the water to be so supplied is intended to be used for purposes other than domestic purposes :

Supply of water by company to Corporation for heating undertaking.

Provided that any water so supplied shall if required by the Corporation be of the like quality as if the Corporation had required a supply of water for domestic purposes.

(2) The provisions of section 22 of the Sunderland and South Shields Water Act 1891 as amended by section 34 of the Sunderland and South Shields Water Act 1921 shall not apply to water supplied by the company to the Corporation for the purposes of this Part of this Act.

54 & 55 Vict. c. xxxiii.
11 & 12 Geo. 5. c. xlvii.

(3) Save as expressly provided by this section nothing in this Part of this Act shall affect the powers rights and obligations of the company in regard to the supply of water under any enactment or their powers rights and obligations incident or relating thereto.

62. Nothing in this Part of this Act shall be deemed to constitute the Corporation water undertakers within the meaning of the Water Act 1945 except for the purpose of section 46 (Power to lay mains etc. and break open streets) and section 49 (Power to lay down or erect electric lines etc.) of this Act.

Corporation not to be water undertakers.

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

Corporation not to be exempted from proceedings for nuisance.

PART IX

—cont.

Modification
of section 26
of Public
Utilities
Street Works
Act 1950.**64.**—(1) In any case in which—

- (i) the Corporation are the operating undertakers within the meaning of section 26 of the Act of 1950 in respect of undertakers' works authorised by this Part of this Act or are the owning undertakers within the meaning of that section in respect of apparatus laid down under the powers of this Part of this Act ; and
- (ii) either the electricity authority the electricity board the gas board or the company are the owning undertakers or (as the case may be) the operating undertakers ;

the said section 26 shall be modified as follows :—

- (a) The notice to be given under subsection (2) of the said section by the operating undertakers to the owning undertakers shall be accompanied by plans sections and particulars of the works ;
- (b) The said notice shall be given not less than seven days before the works are commenced ;
- (c) Any question which may arise under the said section as modified by this section between the operating undertakers and the owning undertakers shall be determined by arbitration in accordance with section 31 of the Act of 1950 and the proviso to subsection (2) of that section shall not apply.

(2) In this section “ the Act of 1950 ” means the Public Utilities Street Works Act 1950 and any expressions to which meanings are assigned by that Act have the same respective meanings.

PART X

ESTABLISHMENTS FOR MASSAGE OR SPECIAL TREATMENT

Definition of
establishment
for massage
or special
treatment.

65. In this Part of this Act the expression “ establishment for massage or special treatment ” means any premises in the borough used or represented as being or intended to be used for the reception or treatment of persons requiring—

- (a) massage or chiropody ; or
- (b) electric treatment or radiant heat light electric vapour or other baths for therapeutic treatment ; or
- (c) other similar treatment.

Establishments
for massage
or special
treatment to
be licensed.

66. As from the appointed day no person shall carry on an establishment for massage or special treatment without a licence from the Corporation authorising him so to do.

67.—(1) A person requiring a licence or the renewal of a licence under this Part of this Act shall make application in writing to the Corporation and shall in the application state—

- (a) his full name ;
- (b) his age and nationality ;
- (c) his technical qualifications ;
- (d) his private address or if the application be made by or on behalf of a company society association or body the registered or principal office (if any) of such company society association or body and so far as may reasonably be required the names and private addresses of the directors or other persons directly or indirectly responsible for the management of such company society association or body ;
- (e) the name under which and the address at which the establishment is carried on or proposed to be carried on ;
- (f) the nature of the establishment and of the business carried on or proposed to be carried on thereat ;
- (g) whether and if so to what extent he is or has been interested in any other establishment for massage or special treatment ; and
- (h) such further information (if any) as the Corporation may reasonably require with respect to him or the establishment carried on or proposed to be carried on by him.

(2) The person making an application under this section shall when making the same pay to the Corporation such fee as the Corporation may fix not exceeding—

	£	s.	d.
(a) in respect of an application for the grant of a licence	2	2	0
(b) in respect of an application for the renewal of a licence	1	1	0

and the fee paid on any application for the grant or renewal of a licence may be retained by the Corporation whether such licence is or is not granted or renewed.

(3) An applicant for a licence or renewal of a licence under this section shall give not less than fourteen days' notice in writing of his intention to make such application to the Corporation.

(4) Subject to the foregoing provisions of this section the Corporation may make such regulations as they think fit as to the manner in which and the dates at which applications for a licence or the renewal of a licence under this Part of this Act shall be made.

PART X
—cont.Grant of
licences.

68.—(1) The Corporation shall as soon as reasonably practicable after the receipt of an application under this Part of this Act grant or renew a licence to the applicant to carry on an establishment for massage or special treatment of the description and in the name and at the address specified in the application and may attach such conditions thereto as they may consider reasonably necessary for securing the due notification to them of any change in the name or private address of the licensee or in the treatment afforded or in the nature of the business carried on at the establishment and generally for securing the proper conduct of the establishment:

Provided that the Corporation may refuse to grant or renew a licence or may revoke a licence granted—

- (a) to any person under the age of twenty-one years ; or
- (b) to any person who may be unsuitable to hold such licence; or
- (c) in respect of any premises which are unsuitable for the purposes of an establishment for massage or special treatment or in which the accommodation or provision for such treatment is not reasonably adequate or suitable ; or
- (d) in respect of any establishment which has been or is being improperly conducted ; or
- (e) in respect of any establishment in which massage or special treatment is or may be administered by any person who does not possess such technical qualifications as may be reasonably necessary ; or
- (f) in respect of any establishment which is being carried on in contravention of the provisions of this Part of this Act or any byelaw made thereunder.

(2) If the Corporation refuse to grant or renew a licence or revoke a licence under this Part of this Act they shall if required by the applicant or holder (as the case may be) send or deliver to him within seven days of the receipt of such requirement particulars in writing of the ground or grounds for such refusal or revocation.

(3) Where an application is made for the renewal of a licence and objections have been taken to such renewal or when it is proposed to revoke a licence notice in writing to that effect shall at least seven days before the question of renewal or revocation is considered be given to the applicant or holder of the licence and if within three days after the receipt of this notice the applicant or holder requires to be heard the application shall not be refused or the licence revoked unless the Corporation has afforded him an opportunity of being heard before a committee of the council against the refusal or revocation.

Any notice served under this subsection shall state the objections to renewal or the grounds on which revocation is proposed and shall notify the aforesaid opportunity of being heard and also the effect of subsection (2) of this section and the right of appeal conferred by subsection (4) of this section and the time within which such appeal may be brought.

(4) Any person aggrieved by a refusal of the Corporation to grant or renew a licence or by any condition attached to a licence or by the revocation of a licence under this Part of this Act may appeal to a court of summary jurisdiction.

(5) Every licence granted or renewed as aforesaid shall (unless revoked) be valid until the date of the next annual meeting fixed for the purpose of considering applications under this Part of this Act and no longer.

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

Byelaws as to establishments for massage or special treatment.

- (a) prescribing the keeping by every person holding a licence under this Part of this Act of books cards or forms showing the business conducted by him so far as it relates to his establishment for massage or special treatment ;
- (b) prescribing the entries to be made in connection with such business in such books or cards or forms ;
- (c) for preventing fraud and immorality in the conduct of establishments so licensed ; and
- (d) generally for regulating any premises used for the purposes of or in connection with any such establishment.

(2) Every person holding a licence under this Part of this Act shall keep exhibited in a suitable place (to be approved by the Corporation) in the premises to which the licence relates a copy of the byelaws made under this section.

70.—(1) Any officer of or other person duly authorised by the Corporation in that behalf may—

Powers of entry and inspection.

- (a) enter the premises specified in any licence or application under this Part of this Act or any premises which are used or there is reason to believe are used for the purposes of or in connection with an establishment for massage or special treatment ; and
- (b) inspect such premises and the books cards or forms kept in connection with the establishment carried on at those premises.

(2) The provisions of subsections (2) to (5) of section 287 of the Act of 1936 shall have effect as if they were re-enacted in this section and in terms made applicable thereto.

PART X
—cont.

Penalties for offences in respect of establishments for massage etc.

71.—(1) Every person who after the appointed day carries on an establishment for massage or special treatment without a licence under this Part of this Act or otherwise than in accordance with the terms and conditions of such licence or obtains a licence or the renewal of a licence by wilful misrepresentation or by wilfully omitting to give such particulars as are required by this Part of this Act to be given shall be liable to a penalty not exceeding fifty pounds and to a daily penalty not exceeding twenty pounds and in respect of a second or subsequent offence the court may in lieu of or in addition to inflicting a fine impose any term of imprisonment not exceeding three months.

(2) Every person who—

- (a) contravenes the provisions of any byelaw made under this Part of this Act ; or
- (b) issues publishes or displays or causes to be issued published or displayed any advertisement relating to an establishment for massage or special treatment which is not licensed in accordance with the provisions of this Part of this Act after the expiration of a period of seven days from the receipt of notice from the Corporation that the licence relating to such establishment has expired or has been refused or revoked under the provisions of this Part of this Act ; or
- (c) contravenes the provisions of subsection (2) of section 69 (Byelaws as to establishments for massage or special treatment) of this Act ;

shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(3) In respect of any conviction for an offence under this Part of this Act the court may (in lieu of or in addition to imposing a penalty) make an order revoking the licence (if any).

Saving for establishments of medical practitioners.

72. The provisions of this Part of this Act shall not apply to an establishment for massage or special treatment carried on by a registered medical practitioner.

Saving for members of certain societies.

73.—(1) Subject as hereinafter provided the provisions of this Part of this Act prohibiting a person from carrying on an establishment for massage or special treatment without a licence from the Corporation authorising him so to do shall not apply to a registered member of the Chartered Society of Physiotherapy or a registered member of the Society of Chiropodists Limited (By Guarantee) carrying on or proposing to carry on any such establishment with respect to which there has been lodged with the Corporation a certificate in a form to be approved by the Corporation and signed by two registered medical practitioners not being in partnership with each other and not having any financial or other interest in such establishment to the effect

that the person carrying on or proposing to carry on such establishment is a suitable person to carry on the same at the premises used or to be used therefor:

Provided that any such certificate shall not be valid—

(a) with respect to any person or premises other than the person or premises specified therein; or

(b) for a period extending beyond the expiration of one month after the date of the annual meeting fixed for the purpose of considering applications under this Part of this Act.

(2) Any registered member of either of the said societies carrying on an establishment for massage or special treatment with respect to which a valid certificate is deposited with the Corporation under subsection (1) of this section is in this section referred to as a “registered member”.

(3) During the validity of any such certificate the provisions of this Part of this Act (other than section 66 (Establishments for massage or special treatment to be licensed) section 67 (Applications for licences) and section 68 (Grant of licences)) shall apply to a registered member and to the establishment carried on by him—

(a) as if he held a licence under this Part of this Act; and

(b) as if the premises with respect to which the certificate has been given were the premises specified in the licence:

Provided that no person other than the medical officer or a registered medical practitioner shall be entitled for the purposes of this Part of this Act to inspect the premises at which the establishment is carried on or the books cards or forms kept in connection with such establishment.

(4) The provisions of this section shall apply to a registered member and to the establishment carried on by him so long only as he complies with the provisions of the charter granted to the Chartered Society of Physiotherapy and with the byelaws made thereunder or with the memorandum and articles of association of the said Society of Chiropodists and with the byelaws made thereunder (as the case may be).

74. Notwithstanding anything in this Part of this Act the provisions thereof shall not except as provided by the next succeeding section apply to— Saving for certain premises.

(1) any hospital provided by the Minister of Health; or

(2) any nursing home which is for the time being registered under the Act of 1936 or exempted from registration under that Act by a certificate granted by either the Corporation or the said Minister and at which the persons administering massage or special treatment have such technical qualifications as may be reasonably necessary; or

PART X
—cont.

- (3) any premises used for the reception or treatment of persons for any purpose to which the provisions of this Part of this Act apply but not so used for the purpose of gain or reward; or
- (4) any premises being an establishment for massage or special treatment merely by reason of face or scalp massage being administered in those premises.

Extension of
this Part of
Act to other
premises and
businesses.

75. In any case in which the Corporation have reason to believe that any premises (including premises referred to in the last foregoing section of this Act) situate in the borough and to which premises the provisions or some of the provisions of this Part of this Act do not apply are advertised as being used for some legitimate business but are in fact being used for immoral purposes the council may subject to the approval of the Secretary of State by resolution determine that all or any of the provisions of this Part of this Act and of any byelaws made thereunder shall extend and apply to such premises and the business carried on therein as if such premises and business were included in the expression "establishment for massage or special treatment" within the meaning of this Part of this Act and as from the passing of any such resolution as aforesaid or as from such date (if any) as may be specified therein all or any of the provisions of this Part of this Act and any such byelaws as aforesaid shall extend and apply accordingly.

PART XI

FINANCE

Power to
borrow.

76.—(1) The Corporation shall have power in addition and without prejudice to their powers of borrowing under the Act of 1933 to borrow without the consent of any sanctioning authority the sum requisite for the payment of the costs charges and expenses of this Act and they shall repay any sum so borrowed within such period as the Corporation may determine not exceeding 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 by 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.

Capital fund.

77.—(1) The Corporation may (if they think fit) establish a fund to be called "the capital fund" to which they may pay—

- (a) any sums derived from the sale of any property of the Corporation other than property of the transport undertaking or the heating undertaking of the Corporation;

- (b) the surplus of the revenue income over the revenue expenditure of the general rate fund (not required by law to be applied to or carried forward for any other purpose) on the thirty-first day of March in any year; and
- (c) such other sums from the revenue of the general rate fund (including a sum equal to the interest earned on the capital fund and any income arising from the application of that fund to the purposes authorised) as the council may by resolution direct not being moneys directed by law to be applied to any other purpose:

Provided that—

- (i) the aggregate amount paid to the capital fund under paragraphs (b) and (c) of this subsection (in addition to the sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) shall not exceed in any year the equivalent of six times the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925; and
- (ii) payments into the capital fund shall not be made whenever that fund amounts to one hundred and fifty thousand pounds or such greater sum as may from time to time be approved by the Minister.

15 & 16 Geo. 5.
c. 90.

(2) The Corporation may apply the moneys in the capital fund in defraying any expenditure to which capital is properly applicable (other than expenditure in connection with the transport undertaking or the heating undertaking of the Corporation) or in providing money for repayment of loans (but not in making the annual payment required to be made therefor):

Provided that the amount to be expended under this subsection shall not exceed the sum of fifteen thousand pounds in any one transaction unless a greater sum shall in any case be allowed by the Minister.

(3) (a) Pending the application of moneys in the capital fund to the purposes authorised by the last preceding subsection the moneys in the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment of the moneys in the capital fund in the manner provided by the foregoing paragraph and any income arising from the application of the capital fund to the purposes authorised shall be carried to and form part of the general rate fund.

(4) All moneys derived from the sale of any land of the Corporation which are applied from the capital fund under the provisions of this section shall and all other moneys which are

PART XI
—cont.

applied from the capital fund may if the Corporation think fit be repaid from the account to which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the Corporation.

(5) Any sum derived from the sale of any corporate land of the Corporation as defined in section 305 of the Act of 1933 and paid to the capital fund shall not except with the consent of the Minister be applied otherwise than in the purchase or acquisition of other corporate land.

8 & 9 Geo. 6.
c. 18.

(6) Nothing in this section shall affect the operation of paragraphs (a) (b) or (c) of subsection (1) of section 8 of the Local Authorities Loans Act 1945 in any case in which the moneys in the capital fund are used in pursuance of that section.

(7) The capital reserve fund established in pursuance of section 254 of the Act of 1935 shall form part of the capital fund established in pursuance of this section.

Art fund.

78.—(1) The Corporation may (if they think fit) establish a fund to be called “the art fund” to provide for the purchasing of any pictures sculptures or other objects of artistic scientific or historical interest which in their opinion it is desirable at any time to acquire for exhibition in and as additions to the collections in the art galleries museums or other buildings of the Corporation and such fund shall be formed by paying thereto out of the general rate fund such an amount as the Corporation may from time to time determine not exceeding in any financial year the equivalent of one-fifth of the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of section 9 of the Rating and Valuation Act 1925 or such greater fraction (not exceeding one-half) of the product of a penny rate as may be approved by the Minister:

Provided that when the art fund shall amount to the sum of twenty thousand pounds the Corporation shall discontinue such annual payments but if the said fund is at any time reduced below the sum of twenty thousand pounds the Corporation may recommence and continue the annual payments until the said fund be restored to the sum of twenty thousand pounds.

(2) (a) Pending the application of the art fund to the purposes authorised by this section the moneys in the said fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(b) Any income arising from the investment or use of the moneys in the art fund in manner provided by this subsection shall be carried to and form part of the general rate fund and (subject to the limitation imposed by the proviso to subsection (1) of this section) an amount equivalent to such income shall be credited to the art fund.

79.—(1) The Corporation may pay—

PART XI
—cont.

- (a) reasonable subscriptions (whether annually or otherwise) to the funds of any association formed for the purpose of consultation as to matters affecting the Corporation or of interest to them as a corporation or of discussion of such matters or to the funds of any scientific or other society or body (not carrying on business for profit) which or the members of which are engaged in investigations or the keeping of records of use or value to the Corporation and any reasonable expenses of the attendance of any officers or nominees of the Corporation at conferences or meetings of any such association society or body and the cost of purchasing reports and contributing towards the expenses of the proceedings of any such conferences or meetings ;
- (b) reasonable expenses in connection with the provision of public entertainments on the occasion of public ceremony or rejoicing ;
- (c) reasonable expenses in connection with the attendance of members of their fire brigade at meetings and competitions of fire brigades ;
- (d) reasonable expenses in connection with the presentation of the freedom of the borough to persons whom they may resolve to admit as honorary freemen and in connection with the reception and entertainment of distinguished persons residing in or visiting the borough.

Subscriptions to local government associations etc. and other expenses.

(2) Nothing in this section shall authorise the Corporation to pay subscriptions to any such associations as are referred to in section 129 of the Local Government Act 1948.

11 & 12 Geo. 6.
c. 26.

80.—(1) If on the death of an employee (which expression in this section includes a former employee or pensioner of the Corporation or other person) to whom or to whose personal representative a sum not exceeding one hundred pounds is due from the Corporation on account of salary wages superannuation allowance pension gratuity grant or repayment of contributions to any superannuation fund or of contributions otherwise made in respect of superannuation with or without interest a grant of probate of the will of the employee or of letters of administration to his estate is not produced to the Corporation within such time (not being less than one month after his death) as the Corporation may think reasonable then at the expiration of that time the Corporation may pay such sum or a part thereof to the person or persons entitled to the residuary estate of the employee by virtue of the provisions of paragraphs (i) to (vi) inclusive of subsection (1) of section 46

Payments due to deceased employees.

PART XI
—cont.15 & 16 Geo. 5.
c. 23.16 & 17 Geo. 5.
c. 60.9 & 10 Geo. 6.
c. 67.

of the Administration of Estates Act 1925 and section 9 of the Legitimacy Act 1926 to the intent that such sum shall be applied in due course of administration :

Provided that—

(a) the Corporation may (notwithstanding the receipt of a notice under proviso (b) of this subsection) if they think fit pay out of such sum the funeral expenses of the deceased employee or so much thereof as the Corporation consider reasonable having regard to any death grant which has been or is to be paid under section 22 of the National Insurance Act 1946 ;

(b) if the Corporation receive notice in writing of any claim against the estate of the deceased employee at any time before they shall have paid the whole of such sum in accordance with the provisions of this subsection they shall not (except in any case in which the provisions of section 46 (1) (vi) of the Administration of Estates Act 1925 are applicable) pay such sum or the balance thereof in their hands to any person other than the personal representative of the deceased employee unless and until such claim has been satisfied disproved, or withdrawn.

(2) Before paying any sum in accordance with the provisions of subsection (1) of this section (except under proviso (a) thereof) to any person other than the personal representative of the deceased employee the Corporation shall require either—

(a) a statutory declaration (or when payment is made to the Crown or to the Duchy of Lancaster or to the Duchy of Cornwall a statement) by the person or one of the persons to whom the Corporation may pay or propose to pay such sum or any part thereof to the effect that the total estate of the deceased employee (including such sum but after deduction of debts and funeral expenses) does not exceed four hundred pounds ; or

(b) the production of a certificate from the Commissioners of Inland Revenue to the effect either that any death duties payable in respect of such sum have been paid or that no such duties are payable.

(3) The Corporation shall be discharged from all liability in respect of any payment or application of money effected by them in exercising their powers under this section.

Payment of
pensions etc.
of persons of
unsound mind.
53 & 54 Vict.
c. 5.

81.—(1) Subject to the provisions of this section where a person entitled to receive from the Corporation any sum to which this section applies is lawfully detained as a person of unsound mind in accordance with the Lunacy Act 1890 as amended by

any enactment the Corporation may pay the whole of that sum or so much thereof as they think fit to the person having the care of the person so detained as aforesaid and may pay or apply the whole or so much as they think fit of the surplus (if any) thereof to or for the maintenance or benefit of the wife husband relations or dependants of the person so detained as aforesaid.

(2) Subject to the provisions of this section where a person entitled to receive from the Corporation any sum to which this section applies is in the opinion of the Corporation through mental infirmity incapable of managing his affairs the Corporation may pay or apply the whole or so much as they think fit of that sum to or for the maintenance or benefit of such person or of the wife husband relations or dependants of such person.

(3) This section applies to any sum payable by the Corporation to an employee or former employee or pensioner of the Corporation or the widow or a child of a deceased employee or pensioner by way of salary wages pension superannuation or other allowance gratuity or annuity or by way of repayment with or without interest of contributions made to any superannuation or other fund but the amount to be paid in pursuance of this section to or in respect of any such employee former employee or pensioner shall not exceed one hundred pounds in any year.

(4) Not less than fourteen days before exercising their powers under this section for the first time in relation to any person the Corporation shall give to the Master in Lunacy notice in writing of their intention in that behalf specifying the name and address of that person and the amount and nature of the sums in respect of which the Corporation intend to exercise the said powers and in relation to any person to whom subsection (2) of this section applies the Corporation shall at the same time give notice in writing to that person in a form approved by the Master in Lunacy:

Provided that the Corporation may with the approval of the Master in Lunacy exercise the powers of this section in respect of any person notwithstanding that the said period of fourteen days has not expired.

(5) If at any time the Master in Lunacy gives to the Corporation notice in writing that he objects to the exercise by the Corporation of the said powers in relation to any person the said powers shall as from the date of the receipt by the Corporation of the notice cease to be exercisable by the Corporation in relation to that person unless and until the master withdraws the notice.

(6) The Corporation shall be discharged from all liability in respect of any payment or application of money effected by them in exercise of the said powers.

PART XI
—cont.Application of
provisions of
Act of 1935.

82. For the avoidance of doubt be it enacted that the following sections of the Act of 1935 shall apply to the heating undertaking and to any undertaking of the Corporation from which revenue is derived (namely):—

Section 260 (Receipts and expenses);

Section 261 (Accounts); and

Section 262 (Application of revenue of undertakings).

PART XII

MISCELLANEOUS

Power for
River Wear
Commissioners
to lease land
to
Corporation.

83.—(1) The River Wear Commissioners may grant and the Corporation may accept from time to time a lease or leases for such term of years for such purposes and upon and subject to such terms conditions and reservations as may be agreed between them of all or any part of that piece of land in the borough (a part of which forms part of land known as “the Blockyard”) coloured green on the plan dated the sixteenth day of December nineteen hundred and fifty and signed in duplicate by Alfred Henry James Bown on behalf of the said commissioners and by George Shipley McIntire on behalf of the Corporation.

(2) Section 40 (As to lease of land to the Corporation) of the Act of 1939 is hereby repealed.

Extension of
power to
maintain
burial grounds.

84.—(1) The powers of the Corporation in relation to a burial ground provided by them or a closed or disused burial ground maintainable by them shall include power to put and keep in order any grave or tombstone therein subject to the following provisions:—

(a) Before exercising the powers of this section the Corporation shall give notice of their intention so to do—

(i) by publishing the notice once in each of two successive weeks in a local newspaper circulating in the borough with an interval between each publication of not less than six clear days; and

(ii) by displaying the notice in a conspicuous position in the burial ground;

(b) Any such notice shall—

(i) contain a description of the works intended to be executed; and

(ii) specify the date on which it is intended that those works will be commenced which shall not be earlier than the fourteenth day after the last publication of the notice in a newspaper as aforesaid or the twenty-first day after the notice is first displayed in the burial ground as aforesaid; and

(iii) state the effect of paragraph (c) of this subsection;

(c) If notice of objection to the execution of any such works and of the ground thereof is given to the Corporation before the date so specified and is not withdrawn before the expiration of fourteen days from that date the works to which the objection relates shall not be executed without the consent of the Minister.

(2) In this section—
the expression “burial ground” includes a cemetery;
the expression “grave” includes a grave space;
the expression “tombstone” includes a monument or other memorial of a deceased person.

85.—(1) As from the appointed day no person shall carry on the business of a hairdresser or barber on any premises in the borough unless he and those premises are registered by the Corporation. Hairdressers
and barbers.

(2) Subject to the provisions of this section any person who makes an application in that behalf and furnishes the Corporation with particulars of his name and residence and of the premises in respect of which he desires to be registered shall be registered in respect of those premises by the Corporation in a book kept for the purpose and on so registering any person the Corporation shall issue to him a certificate of registration.

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

(a) the cleanliness of premises registered under this section and of the instruments towels materials and equipment used therein; and

(b) the cleanliness of persons employed in such premises in regard to both themselves and their clothing.

(4) If any person carries on business in contravention of subsection (1) of this section or contravenes any byelaw made under subsection (3) of this section he shall be liable—

(a) in the case of a contravention of subsection (1) to a penalty not exceeding twenty pounds and a daily penalty not exceeding five pounds; and

(b) in the case of a contravention of a byelaw to a penalty not exceeding five pounds;

and in either case the court by which he is convicted may (in lieu of or in addition to imposing a penalty) order the suspension or the cancellation of his registration.

(5) Where the registration of any person is cancelled by order of a court under the last preceding subsection—

(a) he shall within seven days deliver up to the Corporation his certificate of registration and if he fails to do so he

PART XII
—cont.

shall be liable to a penalty not exceeding twenty shillings and a daily penalty not exceeding ten shillings ; and

(b) he shall not again be registered by the Corporation under this section except in pursuance of a further order of a court of summary jurisdiction made on his application.

(6) A person registered under this section shall keep a copy of the said byelaws and of his certificate of registration displayed in the premises in respect of which he is registered and if he fails to do so he shall be liable to a penalty not exceeding twenty shillings and a daily penalty not exceeding ten shillings.

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

School
agreements.

86.—(1) Any agreement entered into between the Corporation and the parent or guardian of a 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 reasonable cause 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) For the purposes of this section the expression “secondary school” includes—

(a) a secondary school as defined by section 114 of the

7 & 8 Geo. 6.
c. 31.

(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.

As to vehicles
carrying coal
or coke for
sale or delivery.

87.—(1) Every motor vehicle carrying coal or coke for sale or for delivery on sale by retail shall have the seller's name and place of business together with the words “coal merchant” or “coke merchant” (as the case may require) or words to the like effect clearly marked and visible on the front of such vehicle.

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

(3) Vehicles belonging to the gas board or the National Coal Board shall be deemed sufficiently to comply with the provisions of this section if the words "Northern Gas Board" or "National Coal Board" (as the case may be) are clearly marked on the vehicles.

88.—(1) Where—

As to sale in sacks of coal and other fuel in quantities exceeding two hundredweight.

(a) any quantity of fuel (as defined in this section) exceeding two hundredweight is carried by means of any one vehicle on any one journey for delivery to more than one purchaser; or

(b) any person sells or intends to sell or exposes for sale fuel from or on any vehicle in quantities exceeding two hundredweight;

and such fuel is carried on such vehicle in sacks the net weight of fuel in any one sack shall be equal to one of the following weights (that is to say):—

two hundredweight;

one hundredweight;

one-half of a hundredweight;

and each sack shall be legibly marked so as to show the net weight of fuel carried in such sack and a weighing instrument of a type approved by the Corporation and stamped by an inspector of weights and measures shall be carried on such vehicle.

(2) If default is made in complying with any of the requirements of subsection (1) of this section or the net weight of fuel in any such sack is less than the weight shown thereon or stated in the ticket or note referred to in section 21 of the Weights and Measures Act 1889 the seller of the fuel and the person responsible for loading the fuel on such vehicle and the person in charge of such vehicle shall severally be liable to a penalty not exceeding five pounds.

52 & 53 Vict.
c. 21.

(3) In addition to the matters which in accordance with the said section 21 and the Third Schedule to the said Act of 1889 are required to be stated on the ticket or note referred to in that section there shall in all cases to which subsection (1) of this section applies be stated on such ticket or note the number of sacks carried on the vehicle to which the ticket or note refers and the net weight of fuel in each of such sacks and the said section 21 in its application to the borough shall be read and have effect accordingly.

(4) In this section the expression "fuel" means coal or coke or any solid fuel derived from coal or of which coal or coke is a constituent.

(5) This section shall come into operation on the first day of January nineteen hundred and fifty-two.

PART XII
—cont.

Notice of two preceding sections.

89.—(1) Public notice of the provisions contained in the last two preceding sections shall be given forthwith after the passing of this Act by advertisement in a local newspaper circulating in the borough.

(2) No evidence shall be required in any proceedings that the provisions of this section have been complied with.

Prizes for garden competitions.

90. The Corporation may expend on the provision of prizes in connection with any competition they may hold relating to their tenants' gardens such sum as they may think fit not exceeding in any one year the sum of five hundred pounds.

Summary recovery of damages for negligence.

91. Any compensation recoverable by the Corporation for damage caused by negligence to any lamp or lamp-post belonging to them or any apparatus or equipment provided by them in any street or public place shall if the amount thereof does not exceed twenty pounds be recoverable summarily as a civil debt.

False statements to obtain rebate etc.

92. As from the appointed day if any person for the purpose of obtaining for himself or any other person a rebate in the rent of any house belonging to the Corporation or a reduction in the amount of any other payment due to the Corporation—

(a) knowingly makes to the Corporation or any of their employees a false statement or false representation relating to his or that other person's ability to pay the rent or make the payment ; or

(b) produces or furnishes or knowingly allows to be produced or furnished to the Corporation or any of their employees any document or information relating as aforesaid which he knows to be false in a material particular ;

he shall be liable on summary conviction to a penalty not exceeding fifty pounds or to imprisonment for a term not exceeding four months or to both such penalty and imprisonment.

Contributions to cultural bodies.

93.—(1) The Corporation may upon and subject to such terms and conditions (if any) as may be agreed between them and any body rendering public service to the inhabitants of the borough by means of cultural activities carried on either wholly or partly within the borough contribute such sum or sums as they may from time to time determine in the circumstances of the case to be reasonable to the funds or towards the expenses of such body.

(2) In this section the expression "body" includes an association institution society or similar organisation and a company howsoever constituted.

(3) The provisions of this section shall be in addition to and not in derogation of the provisions of any other enactment

enabling the Corporation to provide or contribute towards the provision of music or any entertainment:

PART XII
—cont.

Provided that the amount of any sum or sums contributed by the Corporation under this section for the purpose of or in connection with the provision of any entertainment when added to the net amount of any expenditure incurred by the Corporation under section 132 (Provision of entertainments) of the Local Government Act 1948 shall not in any one year exceed the net amount of the expenditure which the Corporation may incur in any year under the said section 132.

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

(2) If the builder of or contractor for any such building or works or any person employed by him in or about the building or works—

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

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

he shall be liable to a penalty not exceeding five pounds.

95.—(1) Section 142 (Prohibition of tents vans &c.) of the Act of 1935 shall have effect— Amendment as to tents vans etc.

(a) by the addition of the following words to paragraph (a) of subsection (1):—

“ other than land which can be let or permitted to be used for occupation by any such tent van shed or similar structure under the provisions of paragraph (b) of this subsection ” ;

(b) by the substitution for subsection (3) of that section of the following subsection:—

“ (3) This section shall not apply to—

(a) a tent van or similar structure used for human habitation by a travelling showman round-about proprietor or stall-holder (not being a pedlar or hawker) ; or

(b) any movable dwelling which is used by a member of any duly constituted society or organisation operating throughout Great Britain which by their rules undertake the responsibility

PART XII
—cont.

for the good conduct of their members when in camp and for their proper use of movable dwellings:

Provided that the exemption conferred by this paragraph shall apply only so long as that society or organisation continues to enforce good conduct among its members and their proper use of movable dwellings ”.

(2) The said section 142 shall not apply to a movable dwelling which is kept by its owner on land occupied by him in connection with his dwelling-house and is used for habitation only by him or by members of his household.

(3) The provisions of this section shall operate only if and so long as there is available in the borough for the use of any tent van shed or similar structure used or intended to be used for human habitation either—

(a) land which satisfies the requirements of paragraph (b) of subsection (1) of the said section 142; or

(b) land provided by the Corporation.

Extension
of power
to develop
lands.

96. The buildings which the Corporation are empowered by section 90 (Power to develop lands &c.) of the Act of 1927 to erect and maintain shall include factories.

Definition of
transport
undertaking.

97. As from the passing of this Act the tramway undertaking of the Corporation which includes their omnibus undertaking shall be known as their “ transport undertaking ”.

PART XIII

GENERAL

Apportionment
of expenses
in case of
joint owners.

98. Where under the provisions of this Act or any local Act in force in the borough the Corporation shall execute any works of common benefit to two or more buildings belonging to different owners the expenses which under those Acts or any of them are recoverable by the Corporation from the owners shall be paid by the owners of such buildings in such proportions as shall be determined by the Corporation or in case of dispute by a court of summary jurisdiction.

Breach of
conditions of
consent of
Corporation.

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

100. Whenever the Corporation or any of their officers under any enactment execute re-execute or alter any work or do any act or thing in default or at the request of the owner occupier or other person required to execute re-execute or alter such work or do such act or thing the Corporation shall not as between themselves and such owner occupier or other person in the absence of any negligence on their part or the part of any of their officers or any contractor or other person employed by them or him be liable to pay any damages penalties costs charges or expenses for or in respect of or consequent upon the executing re-executing or altering of such work or the doing of such act or thing and any such damages penalties costs charges or expenses paid by the Corporation or such officer in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such owner occupier or other person and shall be recoverable accordingly.

PART XIII
—cont.

In executing works for owner Corporation liable for negligence only.

101. Where any damages expenses or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Act mentioned the amount of such damages expenses or charges in case of dispute respecting the same may be settled and determined by the court before whom any offender is convicted.

Damages and charges to be settled by court.

102. When any compensation costs damages or expenses is or are by this Act directed to be paid and the method for determining the amount thereof is not otherwise provided for such amount shall in case of dispute be ascertained in the manner provided by subsection (2) of section 278 of the Act of 1936.

Determination of compensation.

103. The Minister the Minister of Transport the Minister of Fuel and Power and the Minister of Civil Aviation may hold such inquiries as they respectively may consider necessary in regard to the exercise of any powers conferred upon them or the giving of consents under this Act and section 290 of the Act of 1933 shall apply accordingly.

Inquiries by Ministers.

104. Where under this Act any question or dispute is to be referred to an arbitrator or to arbitration other than questions or disputes to which the provisions of the Lands Clauses Acts apply then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties to the question or dispute or in default of such agreement appointed on the application of either party 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 arbitration.

Application of Arbitration Act.

14 Geo. 6.
c. 27.

105. 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

Confirming authority for byelaws.

PART XIII
—cont.

the sections mentioned in the first column of the following table: the confirming authority shall be the authority respectively mentioned in the second column of that table:—

Section 37	(Byelaws as to pleasure fairs and roller-skating rinks).	Secretary of State.
Section 38	(Byelaws as to public meetings and gatherings).	Secretary of State.
Section 39	(Further powers to make byelaws as to boats).	Secretary of State.
Section 69	(Byelaws as to establishments for massage or special treatment).	Secretary of State.

Appointed
day.

106.—(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 of any such newspaper bearing the date of its publication and containing any such notice;

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

(5) Where any provision of this Act coming into operation on a day fixed by resolution under this section requires the 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 108 (Appeals) of this Act.

107. Proceedings in respect of an offence created by or under 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.

108.—(1) Section 300 of the Act of 1936 shall apply with respect to appeals to a court of summary jurisdiction 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.

109. Section 265 (Protection of local authority and their officers from personal liability) of the Public Health Act 1875 shall extend and apply to the purposes of this Act or any local enactment for the time being in force in the borough as if the same were re-enacted therein. Application of section 265 of Public Health Act 1875.

110.—(1) The sections of the Act of 1936 hereinafter mentioned shall have effect as if they were re-enacted in this Act and in terms made applicable thereto (that is to say):— Application of provisions of Act of 1936.

Section 271 (Interpretation of “ provide ”) ;

Section 275 (Power of local authority to execute certain work on behalf of owners or occupiers) ;

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—cont.

- Section 276 (Power of local authority to sell certain materials) ;
- Section 277 (Power of councils to require information as to ownership of premises) ;
- Section 283 (Notices to be in writing; forms of notices &c.) ;
- Section 284 (Authentication of documents) ;
- Section 285 (Service of notices &c.) ;
- Section 286 (Proof of resolutions &c.) ;
- Section 287 (Power to enter premises) ;
- Section 288 (Penalty for obstructing execution of Act) ;
- Section 289 (Power to require occupier to permit works to be executed by owner) ;
- Section 291 (Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments) ;
- Section 292 (Power to make a charge in respect of establishment expenses) ;
- Section 293 (Recovery of expenses &c.) ;
- Section 294 (Limitation of liability of certain owners) ;
- Section 295 (Power of local authority to grant charging orders) ;
- Section 296 (Summary proceedings for offences) ;
- Section 297 (Continuing offences and penalties) ;
- Section 299 (Inclusion of several sums in one complaint &c.) ;
- Section 304 (Judges and justices not to be disqualified by liability to rates) ;
- Section 328 (Powers of Act to be cumulative) ;
- Section 329 (Saving for certain provisions of the Land Charges Act 1925) :

Provided that—

- (a) the said sections 277 287 289 291 292 294 295 and 329 shall only apply to the provisions contained in Part III (Streets) Part IV (Sanitation and buildings) Part V (Smoke nuisance) Part VI (Infectious diseases) and Part VII (Food) of this Act and in section 85 (Hair-dressers and barbers) of this Act ;
- (b) the said section 293 shall not apply to the expenses referred to in subsection (6) of section 50 (Power to supply fittings) of this Act.

(2) The following sections of the Act of 1936 shall extend and apply in relation to any local Act for the time being in force in

the borough as if such sections were re-enacted in that local Act and in terms made applicable thereto (that is to say):—

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—cont.

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

Section 285 (Service of notices &c.).

(3) The provisions of section 286 of the Act of 1936 shall extend and apply in relation to any proceedings under any enactment for the time being in force in the borough.

111. The following provisions are hereby repealed:—

Repeal.

Act of 1927—

Section 168 (As to erection of retaining walls);

Section 184 (Food storage accommodation to be provided in new houses);

Section 186 (Cellars not to be constructed below sub-soil water level);

Section 188 (Closet accommodation in houses occupied by more than one family);

Section 195 (As to repair of drains):

Act of 1935—

Section 126 (Window blinds &c.);

Section 152 (Entry into premises in case of dangerous and infectious disease);

Section 169 (Power to order alteration of chimneys);

Section 227 (Requirements as to vehicles carrying coal or coke for sale or delivery on sale);

Section 242 (Payment of pension &c. of person of unsound mind);

Section 243 (As to payments due to deceased employees);

Section 254 (Capital reserve fund);

Section 279 (As to school agreements);

Section 281 (Power to pay certain expenses):

Act of 1939—

Section 26 (Prohibition of sale of verminous furniture &c.).

112. 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.

113. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Corporation.

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Ch. xxxvi

*Sunderland Corporation
Act, 1951*

14 & 15 GEO. 6

LONDON: PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE

Price 3s. 6d. net

PRINTED IN GREAT BRITAIN

(76441)

Sunderland Corporation Act, 1951

14 & 15 GEO. 6 Ch. xxxvi

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