

Dover Corporation Act, 1956

4 & 5 ELIZ. 2 Ch. lix

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short and collective titles.
2. Division of Act into Parts.
3. Interpretation.

PART II

SEA DEFENCES

4. Repeal and amendment of enactments relating to sea defence works.
5. Saving for Coast Protection Act 1949.

PART III

TRANSPORT

6. Repeal of enactments relating to public service vehicles.

PART IV

MISCELLANEOUS

7. Personal weighing-machines.
8. Deficient weight measure or number.
9. Return of library books.
10. Application of general provisions of Act of 1936.
11. Costs of Act.

SCHEDULES:

First Schedule

Part I—Provisions of the Act of 1877 repealed.

Part II—Provisions of the Dover Corporation Act 1936 repealed.

Second Schedule—Sections of the Act of 1936 applied.



CHAPTER lix

An Act to repeal and amend certain provisions of the Dover Corporation (Sea Defences) Act 1877 to repeal certain provisions of the Dover Corporation Act 1936 to make further provision with regard to the local government of the borough of Dover and for other purposes. [5th July 1956.]

WHEREAS

(1) The borough of Dover (in this Act called "the borough") in the county of Kent is a municipal borough under the government of the mayor aldermen and burgesses of the borough (in this Act called "the Corporation"):

(2) By the Dover Corporation (Sea Defences) Act 1877 (in this Act called "the Act of 1877") the Corporation were authorised to extend certain works of defence to protect certain lands and houses against incursions of the sea and to construct certain other works of defence for the protection of those lands and houses:

(3) By the Act of 1877 it was provided that the expense from time to time incurred by the Corporation in relation to the maintenance of the said works should be defrayed in part by the owners of lands and houses situate within areas therein described:

(4) It is expedient to relieve the owners of the said lands and houses of their liability under the Act of 1877 to contribute to the maintenance of the said works and to repeal and amend the Act of 1877 as in this Act provided:

(5) By the Dover Corporation Act 1936 the Corporation were empowered to run public service vehicles along certain routes in the borough but such powers are not exercisable without the

consent in writing of the East Kent Road Car Company Limited until the agreement between the said company and the Corporation which is set out in the schedule to the said Act of 1936 shall be determined and cease to have effect:

(6) The said agreement is due to expire on the thirty-first day of March nineteen hundred and fifty-eight:

(7) The said company are providing adequate services of public service vehicles within the borough and adjoining neighbouring districts and it is expedient to repeal the provisions of the Dover Corporation Act 1936 with reference to the running of public service vehicles by the Corporation:

(8) It is expedient to enlarge the powers of the Corporation with reference to personal weighing-machines the prevention of deficiency in weight measure or number of articles sold or exposed for sale and the return of library books:

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

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

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

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

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Act may be cited as the Dover Corporation Act 1956.

(2) The Dover Corporation Acts 1778 to 1950 and this Act may be jointly cited as the Dover Corporation Acts 1778 to 1956.

Division of Act into Parts.

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

Part I.—Preliminary;

Part II.—Sea defences;

Part III.—Transport;

Part IV.—Miscellaneous.

Interpretation.

3. In this Act unless the subject or context otherwise requires—

“the Act of 1877” means the Dover Corporation (Sea Defences) Act 1877;

- “ the Act of 1936 ” means the Public Health Act 1936 ;
 “ the borough ” means the borough of Dover ;
 “ the Corporation ” means the mayor aldermen and
 burgesses of the borough ;
 “ owner ” has the same meaning as is assigned thereto by
 section 343 of the Act of 1936 ;
 “ premises ” includes messuages buildings lands easements
 and hereditaments of any tenure.

PART I
 —cont.

PART II

SEA DEFENCES

4.—(1) As from the passing of this Act the provisions of the Act of 1877 specified in Part I of the First Schedule to this Act are hereby repealed to the extent specified in that schedule.

Repeal and amendment of enactments relating to sea defence works.

(2) Notwithstanding the repeal effected by this section all property vested in the Corporation immediately before the passing of this Act shall continue vested in them.

(3) The unrepealed provisions of section 18 (For defraying the expenses of maintenance of works) of the Act of 1877 shall have effect as if after the word “ maintain ” there were inserted the words “ renew and improve ”.

5. The powers of the Corporation under this Part of this Act and under the unrepealed provisions of the Act of 1877 shall be in addition to and not in derogation of their powers under the Coast Protection Act 1949.

Saving for Coast Protection Act 1949.

PART III

TRANSPORT

6. On the thirty-first day of March nineteen hundred and fifty-eight the provisions of the Dover Corporation Act 1936 specified in Part II of the First Schedule to this Act shall be repealed to the extent specified in that schedule.

Repeal of enactments relating to public service vehicles.

PART IV

MISCELLANEOUS

7.—(1) In this section—

the expression “ personal weighing-machine ” means a weighing-machine in the borough constructed or adapted for ascertaining the weight of a person ;

the expression “ prescribed ” means prescribed by the Corporation by byelaws made under this section ;

Personal weighing-machines.

PART IV
—cont.

the expression "stamped" means bearing a stamp of verification such as is authorised for use under the Weights and Measures Acts 1878 to 1936; and

the expressions "in use" and "used" mean used or exposed for use.

(2) The Corporation may make byelaws—

- (a) generally with respect to the examination on verification and to the inspection of personal weighing-machines;
- (b) for prescribing the distinguishing mark to be affixed to personal weighing-machines approved on verification under this section and the circumstances and conditions in and under which such mark may be affixed or cancelled;
- (c) for prescribing the tests to be applied for the purpose of ascertaining the accuracy and efficiency of personal weighing-machines;
- (d) for prescribing the limits of error to be allowed on the verification and inspection respectively of personal weighing-machines;
- (e) for prescribing the fees to be paid to the Corporation for the examination and marking of personal weighing-machines submitted for verification or for the examination of such personal weighing-machines submitted as aforesaid as are found to be incorrect or defective.

(3) On and after the expiration of a period of twelve months from the coming into force of any byelaws made under subsection (2) of this section the owner or the person having in his possession or being in charge of any personal weighing-machine which is in use and which is false or unjust beyond the prescribed limits of error to be allowed on inspection shall be liable to a penalty not exceeding forty shillings or in the case of a second or any subsequent offence five pounds and the machine shall be liable to be forfeited.

(4) (a) On and after the expiration of the said period a personal weighing-machine shall not be used unless such machine has been examined and approved by an inspector of weights and measures of the Corporation and has been marked with the prescribed distinguishing mark by such inspector or unless it has been stamped by any inspector of weights and measures.

(b) On or after the expiration of the said period the owner or the person having in his possession or being in charge of any personal weighing-machine which is in use and which is not so marked or stamped shall be liable to a penalty not exceeding forty shillings or in the case of a second or any subsequent offence five pounds and the machine shall be liable to be forfeited.

(c) The provisions of this subsection shall not apply to a personal weighing-machine owned by a travelling showman and used by him at a pleasure fair if at any time within the three months preceding such use such weighing-machine has been examined and approved by any inspector of weights and measures.

(5) If any person forges counterfeits or (not being an inspector of weights and measures) removes any such mark or stamp as is referred to in the last foregoing subsection or unlawfully marks or stamps a personal weighing-machine with any such mark or stamp or knowingly exposes for use any such machine on which there is any such forged or counterfeit mark or stamp he shall be liable to a penalty not exceeding five pounds and the machine shall be liable to be forfeited.

(6) (a) Any inspector of weights and measures of the Corporation may—

- (i) verify any personal weighing-machine submitted for the purpose;
- (ii) at all reasonable times examine inspect and test any personal weighing-machine which is in use;
- (iii) seize and detain any personal weighing-machine which there is reasonable cause to believe may be liable to be forfeited under the provisions of this section;
- (iv) for the purposes referred to in the foregoing subparagraphs (ii) and (iii) enter any premises or place where there is reason to believe that there is a personal weighing-machine in use.

(b) If any person neglects or refuses to produce for such examination inspection and testing any personal weighing-machine which is in use and is in his possession or custody or on his premises or refuses to permit any such inspector of weights and measures to examine inspect or test the same or obstructs the entry of such inspector or otherwise obstructs or hinders him from acting under this section he shall be liable to a penalty not exceeding five pounds or in the case of a second or any subsequent offence ten pounds.

(7) For the purposes of this section—

- (a) a personal weighing-machine shall not be deemed to be used unless either—
 - (i) a charge is made or is proposed to be made for the use of the machine; or
 - (ii) the machine is kept in any premises or place to which the public have access; and
- (b) a personal weighing-machine shall not be deemed to be marked or stamped by reason of its bearing a cancelled mark or stamp.

PART IV
—cont.

(8) A personal weighing-machine which is liable to be forfeited under any of the foregoing provisions of this section shall not be forfeited if in the opinion of the court it is reasonably practicable having regard to cost or other relevant circumstances to restore such machine to a condition in which it may lawfully be used under this section.

(9) (a) The provisions of subsections (5) (6) and (7) of this section shall come into operation on the date on which any byelaws made under subsection (2) of this section shall come into force and the Corporation shall forthwith after the confirmation of any such byelaws give public notice of the provisions of this section by advertisement in a local newspaper circulating in the borough.

(b) In any proceedings it shall be presumed unless the contrary is proved that the provisions of this subsection as to public notice have been complied with.

(10) As respects byelaws made under subsection (2) of this section the confirming authority for the purpose of section 250 of the Local Government Act 1933 shall be the Board of Trade.

Deficient
weight
measure or
number.

8.—(1) If any person in the borough—

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

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

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

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

by weight or measure or in numbers or in which such articles are kept or exposed for sale or delivery in the borough ;

PART IV
—cont.

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

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

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

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

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

- (a) that such deficiency was due to a bona fide mistake or accident or other causes beyond his control and that he took all reasonable precautions and exercised all due diligence to prevent the occurrence of such deficiency ; or
- (b) that the alleged deficiency was due to unavoidable evaporation or drainage and that due care and precaution had been taken to avoid such deficiency ; or
- (c) in case of a pre-packed article that he purchased the article in the wrapper or container in which he sold it from a person carrying on business at an address in the

PART IV
—cont.

United Kingdom and that the wrapper or container had remained unopened and that he had no reason to believe that this section was being contravened.

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

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

(a) the prosecution as well as the person whom the original defendant charges with the offence shall have the right to cross-examine him if he gives evidence and any witness called by him in support of his pleas and to call rebutting evidence;

(b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

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

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

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

(12) In this section—

- (a) the expression “pre-packed article” means any article which is packed or made up in advance ready for retail sale in a wrapper or container and where any article packed or made up in a wrapper or container is found on any premises where such articles are packed kept or stored for sale the article shall be deemed to be pre-packed unless the contrary is proved ;
- (b) the expression “coke” includes coke and any solid fuel derived from coal or of which coal or coke is a constituent.

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

- (a) the power to recover from any person who fails within the prescribed period to return to such library any book borrowed such reasonable sum not exceeding six-pence as the Corporation may prescribe in respect of each week or portion of a week in which he so fails to return the book together with any expenses incurred by the Corporation in sending to such person notices in respect of the book ;
- (b) the power to prohibit any such person from borrowing any other book from the said library or from any other library provided by the Corporation under those Acts until such person has paid any such sum as is due to the Corporation under paragraph (a) of this subsection.

(2) In this section the expression “prescribed period” means the period being not less than fourteen days prescribed by regulations made by the Corporation under section 15 of the Public Libraries Act 1892 within which any book borrowed from a library must be returned thereto.

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

Application
of general
provisions of
Act of 1936.

(2) The section of the Act of 1936 mentioned in Part II of the said schedule shall have effect as if references therein to that Act included a reference to section 8 (Deficient weight measure or number) of this Act.

11. All the costs charges and expenses preliminary to 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 in the first place be paid by the Corporation but a contribution thereto of four

Costs of Act.

PART IV
—cont.

hundred and fifty pounds shall be paid to the Corporation by the owners at the date of the passing of this Act of premises within the area situate at East Cliff in the borough described in Schedule A to the Act of 1877 which contribution shall be apportioned between the said owners in the proportion which the rateable value of their respective premises as appearing in the valuation list in force at the date of the passing of this Act bears to the total rateable value of all the premises in the said area.

SCHEDULES

FIRST SCHEDULE

PART I

PROVISIONS OF THE ACT OF 1877 REPEALED

Section	Marginal note	Extent of repeal
2	Certain provisions of general Acts herein named incorporated.	So much as incorporates the Lands Clauses Consolidation Acts 1845 1860 and 1869 and any of the provisions of the Railways Clauses Consolidation Act 1845.
3	Interpretation of terms...	The words from "In this Act the term" to "that Act" the words from "the expression 'superior courts' or" to "and 'work'" the words "and provisions" the words "the Railways Clauses Consolidation Act 1845 and" and the words from "respectively" to "prescribed limits and".
4	Power for Corporation to execute authorised works.	The whole section.
5	Description of authorised works.	The whole section.
6	Power to deviate vertically or laterally.	The whole section.
7	Period for completion of works.	The whole section.
8	Maintenance of surface of revetments.	The words "both within and without the borough" and the words "within the borough".
9	Power to take lands ...	The whole section.
10	Correction of errors and omissions.	The whole section.
11	Powers for compulsory purchases limited.	The whole section.
12	Expenses of works to be defrayed in the first instance by the Corporation.	The whole section.
13	Power of Corporation to borrow.	The whole section.
14	Separate accounts and application of moneys borrowed.	The whole section.
15	Sums borrowed by Corporation to be deemed to be borrowed on behalf of owners.	The whole section.
16	Power of Corporation to recover expenses.	The whole section.
17	The War Department may contribute to the expenses.	The whole section.

1st SCH.
—cont.

Section	Marginal note	Extent of repeal
18	For defraying the expenses of maintenance of works.	The words from " and all expenses " to the end of the section.
19	Power to issue debenture stock.	The whole section.
20	Period for repayment of moneys borrowed.	The whole section.
21	Power to reborrow ...	The whole section.
22	Inspection of accounts ...	The whole section.
23	Owners may appeal to Local Government Board.	The whole section.
27	Expenses of Act... ..	The whole section.
The Schedules	—	Schedule B.

PART II

PROVISIONS OF THE DOVER CORPORATION ACT 1936 REPEALED

Section or Part	Marginal note or title	Extent of repeal
2 4	Division of Act into parts Interpretation	The words " Part III—Transport ". So much of subsection (2) as defines " existing tramways " " public service vehicle " " the East Kent Company " " the scheduled agreement " " the appointed day " " the transport undertaking " and in the definition of " the Corporation undertakings " the words " the transport undertaking and ".
Part III 37	Transport Power to borrow	The whole Part. So much as authorises the Corporation to borrow for or in connection with the provision of public service vehicles and the adaptation and equipment of buildings for the purposes of the public service vehicles of the Corporation.
The Schedules	—	The Second Schedule.

SECOND SCHEDULE

SECTIONS OF THE ACT OF 1936 APPLIED

PART I

SECTIONS APPLIED GENERALLY

Section	Marginal note
286	Proof of resolutions etc.
296	Summary proceedings for offences.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.

PART II

SECTION APPLIED TO SECTION 8 (DEFICIENT WEIGHT MEASURE OR NUMBER) OF THIS ACT

Section	Marginal note
288	Penalty for obstructing execution of Act.

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Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act 1845	8 & 9 Vict. c. 18.
Railways Clauses Consolidation Act 1845	8 & 9 Vict. c. 20.
Lands Clauses Consolidation Acts Amendment Act 1860	23 & 24 Vict. c. 106.
Lands Clauses Consolidation Act 1869	32 & 33 Vict. c. 18.
Dover Corporation (Sea Defences) Act 1877	40 & 41 Vict. c. cxiii.
Public Libraries Act 1892	55 & 56 Vict. c. 53.
Sale of Food (Weights and Measures) Act 1926	16 & 17 Geo. 5. c. 63.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Public Health Act 1936	26 Geo. 5. & 1 Edw. 8. c. 49.
Dover Corporation Act 1936	26 Geo. 5. & 1 Edw. 8. c. cxix.
Coast Protection Act 1949	12 & 13 Geo. 6. c. 74.

PRINTED BY JOHN ROUGHTON SIMPSON, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON : PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 1s. 0d. net

PRINTED IN GREAT BRITAIN

(37576)