

# Chertsey Urban District Council Act, 1956

4 & 5 ELIZ. 2 Ch. lxxix

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1944

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SECRET

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### CHAPTER lxxix

An Act to regulate and control the burial grounds and cemeteries in the urban district of Chertsey to make further and better provision for the health local government improvement and finances of the urban district and for other purposes. [2nd August 1956,]

### WHEREAS—

(1) The urban district of Chertsey in the county of Surrey (in this Act referred to as "the district") is under the management and local government of the urban district council of Chertsey (in this Act referred to as "the Council"):

(2) A burial board for the ecclesiastical parish of Addlestone in the county of Surrey was constituted in the year one thousand eight hundred and ninety-five under sections 10 and 11 of the Burial Act 1852 as extended and applied in respect of any parish not in the metropolis by section 7 of the Burial Act 1853 and the said burial board have provided a burial ground and thereon have erected chapels and other buildings:

(3) By a resolution of the Council passed on the twenty-fifth day of January one thousand nine hundred and fifty-five pursuant to section 62 of the Local Government Act 1894 the powers duties property debts and liabilities of the said burial board were transferred to the Council with effect as from the first day of January one thousand nine hundred and fifty-six:

(4) The Council with the approval of the appropriate Minister have appropriated certain lands belonging to them for the purposes of a cemetery under the Public Health (Interments) Act 1879 which lands are in close proximity to the burial ground so provided by the said burial board and the said lands

adjoin the St. Stephens burial ground which is partly in the ecclesiastical parish of Chertsey and partly in the ecclesiastical parish of Addlestone and is vested in the incumbent of the first-named parish:

(5) The said ecclesiastical parishes of Addlestone and Chertsey as now constituted are wholly included within the district:

(6) It is expedient that the expenses to be incurred by the Council in connection with the management and maintenance of the burial ground provided by the said burial board should be charged on the whole of the district that the Council should be empowered to acquire by agreement the St. Stephens burial ground that the said burial grounds should be subject to the statutory provisions which are applicable to cemeteries provided by the Council under the Public Health (Interments) Act 1879 and that the powers of the Council in relation to cemeteries and burial grounds should be enlarged as in this Act provided:

(7) It is expedient to confer on the Council powers relative to the purchase and use of lands:

(8) It is expedient that further and better provision should be made with respect to the health local government improvement and finances of the district and that the powers of the Council should be enlarged and extended as by this Act provided:

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

(10) The objects aforesaid cannot be attained 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:—

## PART I

### PRELIMINARY

Short title.

1. This Act may be cited as the Chertsey Urban District Council Act 1956.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Cemeteries and burial grounds.

Part III.—Lands.



- Part IV.—Streets.
- Part V.—Sanitation buildings etc.
- Part VI.—Nuisances and offensive trades.
- Part VII.—Infectious diseases.
- Part VIII.—Food.
- Part IX.—Parks and other municipal property.
- Part X.—Public order and public safety.
- Part XI.—Miscellaneous.
- Part XII.—Finance rating etc.
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PART I  
—cont.

3. The Lands Clauses Acts except sections 127 to 132 (which relate to the sale of superfluous lands) of the Lands Clauses Consolidation Act 1845 and except the provisions with respect to the purchase and taking of lands otherwise than by agreement (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with and form part of this Act: Incorporation  
of Lands  
Clauses Acts.

Provided that the bond required by section 85 of the Lands Clauses Consolidation Act 1845 shall be sufficient without the addition of the sureties mentioned in that section.

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

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

“appointed day” has the meaning assigned to it by section 96 (Appointed day) of this Act;

“authorised security” means any mortgage stock bond or other security which the Council are for the time being authorised to grant create or issue or upon or by means of which the Council are for the time being authorised to raise money;

“clerk” “medical officer” “surveyor” and “sanitary inspector” mean respectively the clerk the medical officer of health the surveyor and any sanitary inspector of the Council and include any person duly appointed by the Council to discharge temporarily the duties of any of those officers;

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

PART I  
—cont.

- “ Council ” means the urban district council of the district ;
- “ daily penalty ” means a penalty for each day on which any offence is continued by a person after conviction ;
- “ district ” means the urban district of Chertsey ;
- “ enactment ” includes this Act and any general or local Act order byelaw or regulation for the time being in force in the district ;
- “ food ” has the same meaning as is assigned thereto by section 135 of the Food and Drugs Act 1955 ;
- “ general rate ” means the general rate of the district ;
- “ Lands Clauses Acts ” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919 by Part V of the Town and Country Planning Act 1947 by the Lands Tribunal Act 1949 and by the Town and Country Planning Act 1954 ;
- “ Minister ” means the Minister of Housing and Local Government ;
- “ notifiable disease ” means (a) any notifiable disease as defined by section 343 of the Public Health Act 1936 and (b) any infectious disease to which section 144 of that Act for the time being applies in the district by virtue of regulations made under section 143 thereof ;
- “ statutory securities ” means any securities 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 of the Local Loans Act 1875 but does not include annuities or charges or securities transferable by delivery or any securities of the Council.

(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

## CEMETERIES AND BURIAL GROUNDS

Interpretation  
of Part II.

5. In this Part of this Act unless the subject or context otherwise requires—

“ Addlestone burial ground ” means the burial ground of the Addlestone Burial Board (which was transferred to the Council on the first day of January one thousand nine hundred and fifty-six pursuant to section 62 of the Local Government Act 1894) being the enclosures numbered 533b and 533d and part of the enclosure.

numbered 533 in the district on the 1/2500 ordnance map of Surrey (sheets XI.6 and XI.10) (revision of 1934) and containing an area of 6.367 acres or thereabouts and all buildings and erections thereon;

“burial ground” has the same meaning as in the Open Spaces Act 1906;

“Chertsey cemetery” means the lands appropriated by the Council for the purposes of a cemetery under the Public Health (Interments) Act 1879 being parts of the enclosure numbered 455 in the district on the 1/2500 ordnance map of Surrey (sheet XI.6) (revision of 1934) and containing an area of 2.25 acres or thereabouts;

“grave” includes a grave space vault niche or urn;

“owner” has the same meaning as in the Open Spaces Act 1906;

“St. Stephens burial ground” means the burial ground being the enclosures numbered 106b and 455a in the district on the 1/2500 ordnance map of Surrey (sheet XI.6) (revision of 1934) and containing an area of 3.676 acres or thereabouts and all buildings and erections thereon;

“tombstone” includes a kerb and any fixed memorial to the dead.

6.—(1) The owner of the St. Stephens burial ground may convey the St. Stephens burial ground or any part thereof to or grant any term of years or other limited interest therein to or make any agreement with the Council for the purposes of this section and the Council may accept such conveyance thereof or grant of an interest therein and enter into such agreement.

Acquisition of  
St. Stephens  
burial ground.

(2) Upon the completion of any such transfer as is contemplated by the preceding subsection the St. Stephens burial ground or such part thereof or such rights or interests therein as may be so transferred shall be used by the Council under and for the purposes of the Public Health (Interments) Act 1879 as part of their cemeteries.

(3) If and when the St. Stephens burial ground or any part thereof transferred to the Council and administered by them as a cemetery under the Public Health (Interments) Act 1879 becomes a disused burial ground within the meaning of the Open Spaces Act 1906 the Council in respect of the said burial ground or such part thereof may exercise the powers of sections 10 11 and 15 of the Open Spaces Act 1906 subject to the terms and conditions of any transfer or agreement under subsection (1) of this section.

## PART II

—cont.

Unification of  
law affecting  
Council's  
cemeteries.

7.—(1) The burial ground vested in the Council and being—

(a) the Addlestone burial ground ;

as well as—

(b) the Chertsey cemetery ; and

(c) the St. Stephens burial ground if and when transferred to the Council ;

shall as from the first day of January one thousand nine hundred and fifty-six in the case of the Addlestone burial ground be deemed to have been provided by the Council under the Public Health Acts and the provisions of those Acts and of this Part of this Act shall apply to those burial grounds as they apply to cemeteries provided by the Council under those Acts.

(2) The Burial Acts 1852 to 1906 except to such extent as they are expressed to apply to a cemetery provided under the Public Health (Interments) Act 1879 or to a local authority maintaining a cemetery under that Act shall cease to be in force with respect to the burial grounds to which subsection (1) of this section applies.

(3) As from the first day of April one thousand nine hundred and fifty-six the expenses incurred by the Council in connection with the Addlestone burial ground shall be charged on the whole of the district and as from the said date no fees for the burial of inhabitants of the district therein shall exceed those chargeable to parishioners of the parish of Addlestone.

(4) Any byelaw made by the Council under or by virtue of the Public Health Acts and in force at the passing of this Act with respect to the management of cemeteries provided by them shall apply to the burial grounds referred to in paragraph (a) of subsection (1) of this section and (as from the date of transfer) to the burial ground referred to in paragraph (c) of the said subsection (1) in like manner as to the cemetery named therein.

(5) Nothing in this section shall affect any exclusive right of burial in any part of the burial grounds to which subsection (1) of this section applies :

Provided that any assignment or bequest of any such right shall be subject to the provisions of sections 44 to 47 of the Cemeteries Clauses Act 1847.

(6) In and for the purposes of this section the expression " the Public Health Acts " means the Public Health (Interments) Act 1879 and the Public Health Act 1936.

Registration  
of burials.

8. Section 3 of the Registration of Burials Act 1864 and so much of section 32 of the Cemeteries Clauses Act 1847 as requires copies or transcripts of register books of burials to be sent to the diocesan registrar shall cease to have effect with regard to any cemetery of the Council.

9.—(1) The Council may agree with any person in consideration of the payment of a capital sum by him to maintain for a period fixed by the agreement a grave or tombstone in a cemetery or crematorium provided by the Council and the following provisions shall apply in relation to any such agreement:—

PART II  
—cont.  
Agreements to maintain graves and tombstones.

- (a) The said sum shall subject to the next following paragraph and any other enactment authorising its application in some other manner be invested in statutory securities ;
- (b) If and in so far as the cost of maintaining the grave or tombstone in accordance with the agreement exceeds in any year the interest received on the said sum the cost shall be defrayed out of the capital of the said sum ;
- (c) At the expiration of the period fixed by the agreement for the maintenance of the grave or tombstone the Council may apply the capital of the said sum or so much thereof as has not been expended under the last foregoing paragraph in any manner in which capital money may properly be applied by them under any enactment ;
- (d) The amount of the capital of the said sum and the interest thereon shall be shown separately in the accounts of the Council relating to the cemetery or crematorium.

(2) Any agreement made or purporting to be made by the Addlestone Burial Board before the passing of this Act and any agreement made by the owner before the acquisition by the Council of the St. Stephens burial ground and in force at the date of such transfer in consideration of the maintenance of a grave or tombstone is hereby confirmed.

10.—(1) The powers of the Council in relation to a cemetery maintainable by them shall include power—

Extension of power to maintain cemeteries.

- (a) to put and keep in order any tombstone therein ;
- (b) to level any grave therein or remove any tombstone or movable memorial on any grave therein or the railings surrounding any grave or tombstone therein.

(2) Before exercising the powers conferred by paragraph (b) of the foregoing subsection the Council shall give notice of their intention to do so—

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

PART II  
—cont.

- (b) by displaying the notice in a conspicuous position in the cemetery; and
- (c) by serving the notice upon the owner of the grave or upon a relative of a deceased person whose remains are interred therein if after reasonable inquiry the name and address of such owner or relative can be ascertained.
- (3) The said notice shall—
- (a) contain brief particulars of the Council's proposals and if necessary specify an address at which full particulars of the proposals can be obtained;
- (b) specify the date on which it is intended that the Council shall begin to carry out the proposals 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 cemetery as aforesaid or where notice is served under paragraph (c) of subsection (2) of this section the twenty-first day after such service;
- (c) state the effect of the next following subsection.
- (4) If notice of objection to the proposals and of the ground thereof is given to the Council before the date so specified and is not withdrawn before the expiration of fourteen days from that date the proposals to which the objection relates shall not be carried out without the consent of the Minister.
- (5) Unless within three months after the first publication of the notice required by paragraph (a) of subsection (2) of this section or where notice is served under paragraph (c) of that subsection within three months after such service whichever is the later any tombstones, memorials or railings removed under this section are claimed the Council may put them to such use as they think appropriate or destroy them.
- (6) Where any tombstone is removed under this section the Council may erect at their own expense in substitution a tombstone of a value not exceeding twenty-five pounds.
- (7) The Council shall cause to be made a record of each tombstone and memorial removed under this section and deposit a copy of the record with the Registrar-General.
- (8) Where a faculty or licence of a consistory court is required for any work nothing in this section shall relieve the Council of their obligation to obtain such a faculty or licence and where the Council obtain a faculty or licence for any work subsections (2) to (4) of this section shall not apply to that work.

PART III

LANDS

11.—(1) Subsections (1) and (2) of section 163 of the Local Government Act 1933 shall apply to any land acquired by the Council under this Act whether or not the land is required for the purposes for which it was acquired or has since been appropriated or is being used. Appropriation and disposal of land.

(2) Notwithstanding anything in subsection (1) of the said section the purpose for which the Council may appropriate any such land shall not require the approval of the Minister unless it was acquired under section 13 (Acquisition of land in advance of requirements) of this Act.

(3) The Council may sell lease exchange (paying or receiving or without paying or receiving money for equality of exchange) or otherwise dispose of any such land as aforesaid in such manner and for such consideration and on such terms and conditions as they think fit (whether in consideration of the execution of works or of the payment of a capital sum or of an annual rent or of payment in any other form):

Provided that the Council shall not without the consent of the Minister sell lease exchange or otherwise dispose of any such land for a consideration less than the current market value of the land but a purchaser or lessee shall not be concerned to inquire whether such consent is necessary or has been obtained.

(4) Nothing in this section shall authorise the disposal of any land by the Council whether by sale lease exchange or other disposition in breach of any trust covenant or agreement binding upon the Council.

(5) Sections 164 and 165 of the Local Government Act 1933 shall not apply to any such land as aforesaid.

12. On selling any land the Council—

(a) may reserve to themselves all or any part of the water rights or other rights or easements belonging thereto and may make the sale subject to such reservation accordingly;

(b) may make the sale subject to such other reservations special conditions restrictions and provisions with respect to the exercise of noxious trades or the deposit or discharge of manure sewage or other impure matter or otherwise as they think fit.

Reservation of easements etc. by Council.

13.—(1) The Council may acquire by agreement (whether by way of purchase lease or exchange) any land whether situate within or without the district for or in connection with the Acquisition of land in advance of requirements.

PART III  
—cont.

purposes of any of their undertakings powers or duties or for the benefit improvement or development of the district notwithstanding that the land is not immediately required.

(2) Any land acquired under this section may until it is appropriated under section 163 of the Local Government Act 1933 be used for the purpose of any of the functions of the Council and until it is so appropriated all expenses incurred by the Council in respect of the land shall be payable out of the general rate fund.

(3) The Council shall not acquire land under section 158 of the Local Government Act 1933.

Development  
of land.

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

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

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

Application of  
capital money.

15. Section 166 of the Local Government Act 1933 shall apply to capital money received by the Council in respect of the sale leasing exchange or other disposition of land under section 11 (Appropriation and disposal of land) of this Act as it applies to capital money received in respect of a transaction under section 164 or 165 of that Act.

Loans for  
erection etc. of  
buildings.

16.—(1) The Council may advance money to the purchaser or lessee of any land acquired from or leased by the Council for the purpose of enabling or assisting him to build on such land or to extend or improve any existing building thereon:

Provided that any such advance shall not exceed in the case of a building being a house nine-tenths or in the case of any other building three-quarters of the amount which in the opinion of the Council will be the market value of the interest of the borrower in the land after the purpose of the loan has been effected.

(2) Before any advance is made under this section its repayment shall be secured to the satisfaction of the Council by a



mortgage of the land and building in respect of which the advance is to be made or of the lessee's interest therein and the instrument securing the advance shall—

PART III  
—cont.

- (a) fix the rate of interest to be paid being a rate not less than the rate for the time being in operation under the Small Dwellings Acquisition Acts 1899 to 1923 as amended by section 92 of the Housing Act 1935 ;
- (b) fix the period within which the advance is to be repaid being a period not exceeding thirty years from the date of the advance ;
- (c) require the repayment to be made either by equal instalments of principal or by an annuity of principal and interest combined ;
- (d) fix the intervals at which all payments on account of principal and interest are to be made being intervals not exceeding half a year ;
- (e) authorise the borrower at any of the usual quarter days after one month's notice and on paying all sums due on account of interest to repay the whole of the outstanding principal of the advance or any part thereof being one hundred pounds (or such less sum as may be provided in the said instrument or as the Council may be prepared to accept) or a multiple of one hundred pounds (or of such less sum as aforesaid) ;
- (f) where the repayment is to be made by an annuity of principal and interest combined provide for determining the amount by which the annuity is to be reduced when a part of the advance is paid off otherwise than by way of an instalment of the annuity ;
- (g) require the borrower either—
  - (i) to keep the building in respect of which the advance is made insured against fire to the satisfaction of the Council and to produce to the Council when required the receipts for the premiums paid in respect of the insurance ; or
  - (ii) (if the Council elect themselves to insure the said building against fire) to repay to the Council the amounts of any premiums paid by them from time to time in that behalf ;
- (h) require the borrower to keep the said building in good repair.

(3) Any person acting on behalf of the Council and authorised in writing by the clerk shall have power at all reasonable times to enter any building in respect of which an advance has been made under this section for the purpose of ascertaining whether the conditions of this section and of the instrument aforesaid are being complied with.

PART III  
—cont.

(4) In this section the expression "lessee" includes a person to whom the Council have agreed to grant a lease and the expression "lease" shall be construed accordingly.

Undertakings  
and  
agreements  
binding  
successive  
owners.

17.—(1) Every undertaking given by or to the Council to or by the owner of any legal estate in land and every agreement made between the Council and any such owner being an undertaking or agreement—

(a) given or made under seal on the passing of plans or otherwise in connection with the land; and

(b) expressed to be given or made in pursuance of this section;

shall be binding not only upon the Council and any owner joining in the undertaking or agreement but also upon the successors in title of any owner so joining and any person claiming through or under them.

(2) Any such undertaking or agreement shall be treated as a local land charge for the purposes of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926.

(3) Any person upon whom any such undertaking or agreement is binding shall be entitled to require from the Council a copy thereof.

## PART IV

## STREETS

*Interpretation*Interpretation  
of Part IV.

18.—(1) In this Part of this Act the following expressions have the following meanings:—

"classified road" has the same meaning as in the Local Government Act 1929;

"street byelaws" means any byelaws for the time being in force in the district with respect to the level width and construction of new streets;

"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.

(2) For the purposes of this Part of this Act the erection of a building shall be deemed to have begun at the time when the clearing of the site or the excavation for the foundations thereof began.

*New streets*

PART IV  
—cont.—

19.—(1) Where a plan and sections of a new street deposited with the Council in pursuance of street byelaws are approved by them they may for the purpose of securing adequate means of communication between the new street and any other street (whether existing or intended) by notice prohibit the erection or retention of any structure at either end of the new street on land belonging at the time of the deposit to the owner of the land upon which the new street is proposed to be constructed or laid out:

Termination  
of new streets.

Provided that no such notice shall affect any structure existing at the time of the deposit until both the new street and that other street have become highways repairable by the inhabitants at large.

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

(3) If any person contravenes any notice under this section he shall be liable to a penalty not exceeding twenty pounds and the Council may remove the structure and recover the expenses of so doing from that person.

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

*Improvement of streets*

20.—(1) Subject to the provisions of this section the Council shall have power in any street vested in them or on any land acquired by them for the purpose of the construction or improvement of any such street or for preventing the erection of buildings detrimental to the view from the street—

Trees grass  
verges and  
gardens.

- (a) to plant trees or shrubs or place tubs in which to grow trees or shrubs ;
- (b) to attach baskets for plants to posts or standards provided by the Council or with the consent of the owner thereof to any other posts or standards ;
- (c) to lay out grass verges or gardens ;
- (d) to provide guards or fences and otherwise do anything expedient for the maintenance or protection of such trees shrubs tubs baskets grass verges or gardens ;
- (e) to cut down any such tree or shrub to remove any such tub or basket and to abolish any such grass verge or garden or enlarge or diminish the area thereof ;

PART IV  
—cont.

(f) by notice to prohibit persons from entering upon or causing or permitting horses cattle or vehicles to enter upon any such grass verge which is maintained in an ornamental condition or mown or any such garden.

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

(3) The powers conferred by this section shall not be exercised so as to hinder the reasonable use of the street by any person entitled to the use thereof or so as to be a nuisance or injurious to the owner or occupier of any land or premises abutting on the street.

(4) Section 1 of the Roads Improvement Act 1925 shall cease to apply to highways vested in the Council or to any such land as is referred to in subsection (1) of this section and anything done by the Council under that section with respect to such highways, or lands before the passing of this Act shall be deemed to have been done under this section.

(5) Nothing in this section shall affect the duty of the Council to provide footpaths or grass or other margins under section 58 of the Road Traffic Act 1930.

(6) Where the Council carry out works under any enactment relating to private street works they may with the consent of the owners of premises fronting adjoining or abutting on the part of the street in which the works are carried out exercise the powers conferred by this section in that part and the expenses incurred in so doing shall be deemed part of the expenses of carrying out the works.

The reference in this subsection to the consent of the owners of the said premises is a reference to the consent of the majority of them where the rateable value of the premises owned by the persons consenting is greater than the rateable value of the rest of the said premises.

Variation of  
width of  
carriageways  
and footways.

**21.**—(1) Subject to the provisions of this section the Council may vary the relative widths of the carriageway and footway or footways in any street in the district being a highway repairable by the inhabitants at large.

(2) The Council shall not exercise the powers of this section in relation to a trunk road without the consent of the Minister of Transport and Civil Aviation.

(3) At least twenty-one days before commencing any work under this section which will materially reduce the width of the

carriageway or any footway of a classified road the Council shall send notice of the proposed work to the Minister of Transport and Civil Aviation.

PART IV  
—cont.

(4) The Council shall not exercise the powers of this section in relation to so much of any street as is situate upon a bridge over any railway canal or inland navigation or upon the approaches to any such bridge without the consent in writing of the railway canal or inland navigation undertakers concerned:

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

22.—(1) Subject to the provisions of this section the Council may enter into and carry into effect agreements with persons having a legal interest in land adjoining any street in the district not being a trunk road for the adjustment of the boundary of the street. Adjustment of  
boundaries  
of streets.

(2) For the purposes of this section the Council—

(a) may exchange land including land forming the site of the street for other land and pay or receive money for equality of exchange; and

(b) shall be deemed to be the owners of the land forming the site of the street and shall be entitled to convey any such land in accordance with the agreement.

(3) As from the date of any such exchange as aforesaid all public rights over the part of any such street so exchanged shall be extinguished.

(4) No such agreement shall be entered into until the expiration of one month from the date on which notice giving particulars of the proposed agreement has been published in some local newspaper circulating in the district.

(5) During the said period of one month any four ratepayers may appeal to a magistrates' court against the proposal to enter into the agreement.

(6) Where the street is a county road (whether the Council have claimed to exercise the functions of maintenance and repair of the street or not) the county council of the administrative county of Surrey shall have the same right of appeal as any four ratepayers have under the last foregoing subsection.

(7) Nothing in this section shall be taken to dispense with the consent of any government department to any appropriation exchange or other disposition of any land of the Council in any case in which the consent of that department would have been required if this Act had not been passed.

PART IV  
—cont.

(8) In this section the expression "ratepayer" means a person who is liable to any rate in respect of property in the district entered in any valuation list and includes an occupier of such property who pays rent inclusive of rates.

Guard rails in  
private streets.

23.—(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 district which are not so repairable.

(2) The Council 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 dock wharf or depot of those undertakers; or

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

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

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

Attachment of  
street lamps  
brackets etc.

24.—(1) Subject to the provisions of this section the Council may affix to any building in the district such lamps brackets pipes electric lines and apparatus (in this section called "attachments") as may be required for the purposes of street lighting.

(2) The Council 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 Council 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 Council notice requiring them to remove the attachments and subject to the provisions of this subsection the Council shall comply with the requirement within three months after the service of the notice:

Provided that where in the opinion of the Council 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 Council 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 Council 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.

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

“appropriate authority” means a magistrates’ court 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:—

1	2
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. 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 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.	The Minister of Transport and Civil Aviation. The Minister.
Building owned by a highway authority or railway canal dock or inland navigation undertakers.	The Minister of Transport and Civil Aviation.
Building owned by electricity or gas undertakers ...	The Minister of Fuel and Power.
Building owned by statutory water undertakers ...	The Minister.

“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

PART IV  
—cont.

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*

Application  
of building line  
to walls etc.

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

(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 demolition alteration repair or maintenance of any building or works :

Provided that if any such temporary structure is not removed when the construction demolition 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 any of the foregoing provisions of this section 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 Council 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 Council 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 district 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 Council 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 Council 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 Council 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 the expression “ building line ” in relation to any land means—

- (a) any building line prescribed by the Council in respect of the land under the provisions of any enactment ; or
- (b) 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 Council under subsection (2) of section 140 of the Housing Act 1936 ; or
- (c) if there be neither of such lines then the line beyond which a house or building may not (except with the consent of the Council) be erected or brought forward on the land without contravening the provisions of the Public Health (Buildings in Streets) Act 1888.

(7) The provisions of this section shall not apply to—

- (a) any wall erected on land belonging to any railway dock canal or inland navigation undertakers so long as that land is used by those undertakers primarily for the purposes of their railway dock canal or inland navigation undertaking ; or
- (b) any structure which is erected on land belonging to statutory undertakers so long as that land is used primarily for the purposes of works in connection with the provision of a supply of electricity gas or water.

26.—(1) Where the owner or occupier of any premises in the district which abut on any street repairable by the inhabitants at large habitually uses or permits to be used any grass verge or kerbed or paved footway in the street as a crossing for any horse

Crossings over  
footways.

PART IV  
—cont.

or horse-drawn or mechanically propelled vehicle (other than a motor-cycle) in passing to and from those premises the Council may give notice to the owner or occupier (as the case may be) either—

- (a) that they propose to construct across the grass verge or footway a carriage-crossing of such materials and in such manner as they may specify in the notice; or
- (b) in the case of a footway that they propose to strengthen or adapt it in such manner as they may so specify; or
- (c) imposing such reasonable conditions on the use of the grass verge or footway as a crossing as aforesaid as they may so specify:

Provided that—

- (i) the Council shall not exercise the powers of this subsection in relation to the grass verge or footway of a trunk road without the consent of the Minister of Transport and Civil Aviation or otherwise than in accordance with any conditions attached by him to his consent; and
- (ii) this subsection shall not apply to any premises used exclusively for agricultural purposes within the meaning of the Town and Country Planning Act 1947.

(2) Any person aggrieved by a notice under the foregoing subsection may appeal to a magistrates' court.

(3) The Council may execute such works as may have been specified in a notice served under paragraph (a) or paragraph (b) of subsection (1) of this section and may recover the expenses of so doing from the owner or occupier.

(4) If the Council impose any condition under paragraph (c) of subsection (1) of this section any person who knowingly uses the grass verge or footway as a crossing as aforesaid or permits it to be so used in contravention of that condition shall be liable to a penalty not exceeding five pounds.

(5) Nothing in this section shall impose on the owner or occupier any obligation to maintain any crossing constructed or footway strengthened or adapted in pursuance of a requirement made under this section.

(6) Section 18 of the Public Health Acts Amendment Act 1907 shall cease to be in force in the district and the following provisions of this subsection shall have effect in lieu thereof as respects streets in the district which are repairable by the inhabitants at large:—

- (a) Any person may request the Council in writing to carry out such works as shall be specified in the request for the purpose of forming a carriage-crossing across a

grass verge or footway in any such street or of strengthening or adapting a part of any such footway as a carriage-crossing:

- (b) The Council may approve the request either with or without modifications or propose alternative work or reject the application:

Provided that the Council shall not exercise the powers conferred by this paragraph as respects the grass verge or footway of a trunk road without the consent of the Minister of Transport and Civil Aviation:

- (c) The Council shall give the applicant notice of their decision under the last foregoing paragraph and if they approve the work requested or propose alternative work shall furnish him with an estimate of the cost of the work as approved or proposed by them:
- (d) The applicant may deposit with the Council the amount of the said estimate and require them to execute the work as approved or proposed by them:
- (e) As soon as practicable after such a deposit has been made the Council shall execute the work as approved or proposed by them and any difference between the sum deposited and the actual cost of the work shall be paid to or by the Council by or to the applicant as the case may require.

(7) The code in Part II of the Public Utilities Street Works Act 1950 (which relates to cases where apparatus is affected by street works) shall have effect as if the works approved proposed or required by this section were mentioned in paragraph (a) of subsection (1) of section 21 of the said Act.

27.—(1) Where the forecourt of any premises abutting on a street in the district or any steps or projection or goods (whether for sale or not) placed in any such forecourt is or are a source of danger obstruction or inconvenience to the public the Council may by notice require the owner or occupier of the premises to fence the forecourt from the street. Fencing of forecourts.

(2) The provisions of section 290 of the Public Health Act 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of the said section 290.

28.—(1) If the Council by resolution determine that any stall or other erection on any forecourt in the district is by reason of its character injurious to the amenities of the street on which the forecourt abuts the Council may by notice require the owner or occupier of the forecourt either to make such alterations in Forecourts injurious to amenities of street.

PART IV  
—cont.

the stall or erection as may be necessary to prevent it from being injurious to the amenities of the street or if he so elects to remove it.

(2) The provisions of section 290 of the Public Health Act 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

(3) In this section the expression "erection" does not include an advertisement to which regulations made under section 31 of the Town and Country Planning Act 1947 for the time being apply.

Urgent repairs  
of private  
streets.

29.—(1) In any street in the district not being a highway repairable by the inhabitants at large the Council may execute such repairs as are in their opinion urgently required to prevent or remove danger to persons or vehicles in the street and may themselves pay the cost of the repairs out of the general rate fund:

Provided that the cost of the repairs executed in any street in any period of three consecutive years under this section shall not exceed fifty pounds for each one hundred yards of the length of the street.

(2) The exercise by the Council of their powers under this section shall not prejudice their powers under any statutory provision for the time being in force in the district relating to private street works or private street improvement expenses or under section 19 of the Public Health Acts Amendment Act 1907.

*Miscellaneous*

Stopping up  
and diversion  
of highways.

30.—(1) Subject to the provisions of this section a magistrates' court—

(a) if satisfied on the application of the Council that a highway within the district is unnecessary may by order authorise the stopping up thereof; and

(b) if so satisfied that such a highway can be diverted so as to make it nearer or more commodious to the public may by order authorise it to be so diverted.

(2) An application or order under this section—

(a) may provide for the stopping up or diversion of a highway for the purposes of all traffic or subject to the reservation of a bridle-way or footway;

(b) may be made with respect to any part of a highway;

(c) may be made with respect to two or more highways or parts of highways which are connected with each other;

and in relation to any application or order in respect of a part of a highway or two or more highways or parts of highways any reference in the following provisions of this section to a highway shall be construed as a reference to that part or those highways or parts of highways as the case may be.

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—cont.

(3) No application or order shall be made under this section with respect to a trunk road or a public path within the meaning of Part IV of the National Parks and Access to the Countryside Act 1949.

(4) No order shall be made under this section unless the court is satisfied that notice of the intention to apply for the order specifying the time and place at which the application is to be made and the terms of the order applied for (embodying a plan showing the effect of the order)—

(a) has at least twenty-eight days before the date on which the application is made been served on the local planning authority on the statutory undertakers in whose area or limits of supply the highway so proposed to be stopped up or diverted is situated and on the owners or reputed owners and the occupiers of all land abutting on the highway and also when the application relates to a classified road on the Minister of Transport and Civil Aviation ; and

(b) has during at least twenty-eight days before the said date been exhibited in such manner and in such positions on or near the highway as may be reasonably sufficient for notifying persons using the highway of the application ;

and that a similar notice (except that there may be substituted for the plan a statement of the place where the plan can be inspected at all reasonable hours without payment) has been inserted once at least in each of four successive weeks in a local newspaper circulating in the district.

(5) No order under this section authorising the diversion of a highway—

(a) shall be made unless the written consent of the local planning authority and of every person having a legal interest in the land over which the highway is to be diverted is produced to and deposited with the court ;

(b) shall authorise the stopping up of any part of the highway until the new part to be substituted for the part stopped up has been completed to the satisfaction of two justices of the peace and a certificate to that effect signed by them has been transmitted by their clerk to the clerk of the peace of the county of Surrey.

PART IV  
—cont.

(6) On the hearing of the application the Council, the local planning authority and any person who is interested in land abutting on or served by the highway or uses the highway or is otherwise aggrieved shall have a right to be heard.

(7) An appeal against a decision of a magistrates' court under this section may be brought to quarter sessions by any person (including the Council and the local planning authority) who was entitled under the last foregoing subsection to be and was or claimed to be heard on the application and for the purposes of the provision of the Summary Jurisdiction Act 1879 as amended by the Summary Jurisdiction (Appeals) Act 1933 and of the provisions of the Magistrates' Courts Act 1952 with respect to appeals to quarter sessions where more than two persons were heard or claimed to be heard in opposition to the application it shall be sufficient if a notice of appeal against a refusal to make an order upon that application is served upon any two of those persons in addition to the clerk of the court but without prejudice to the right of any of those persons to appear as respondents to the appeal.

(8) Where by reason of the diversion of a highway under this section any person is relieved from liability to repair the highway he shall be liable to pay to the Council such sum as may be agreed between him and the Council or in default of agreement as may be determined by arbitration to represent the value to him of the relief and any such sum shall be payable either—

(a) as a lump sum ; or

(b) by annual payments of such amount and continuing for such number of years as may be agreed or determined as aforesaid.

(9) Every order made under this section—

(a) shall have annexed thereto a plan signed by the chairman of the court ; and

(b) shall be transmitted by the clerk of the court to the clerk of the peace of the county together with any written consents produced to the court under subsection (5) of this section ;

and the clerk of the peace shall enrol any documents so transmitted to him and any certificates transmitted to him under subsection (5) of this section among the records of quarter sessions.

(10) Every order made under this section shall be binding on all persons whatsoever.

(11) The provisions of this section shall be in addition to and not in derogation of any other provisions relating to the stopping up and diversion of highways.

31. For the purpose of—

(a) making any new street ; or

(b) providing a parking place for vehicles under section 68 of the Public Health Act 1925 ;

PART IV  
—cont.

Temporary  
stoppage  
of streets.

the Council may break up and for any reasonable time stop up divert and interfere with any street in the district and divert the traffic therefrom and prevent persons using it:

Provided that the Council shall not exercise the powers of this section—

(i) as respects any trunk road without the consent of the Minister of Transport and Civil Aviation ;

(ii) so as to deprive foot-passengers bona fide going to or from any building or land in the street of reasonable access to the building or land ; or

(iii) so as to obstruct or interfere with the access to or exit from any station dock wharf or depot of any railway dock canal inland navigation or passenger road transport undertakers.

32.—(1) The owner or occupier of any premises situated under or abutting on a pavement forming part of a street in the district may with the consent of the Council provide means for the admission of light or air to the premises through the pavement. Pavement  
lights and  
ventilators.

(2) In giving their consent under this section the Council may attach thereto such terms and conditions as they think fit and such terms and conditions shall be binding on successive owners and occupiers of the premises and shall be treated as a local land charge for the purposes of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926.

(3) The giving of consent by the Council shall not relieve the owner or occupier of the premises from any liability to statutory undertakers to which he would have been subject if this section had not been enacted.

(4) Anything done before the passing of this Act which would have been lawfully done under this section if done after the passing thereof is hereby ratified.

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

PART IV  
—cont.

(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 Council 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 Public Health Act 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.

Decorations  
in streets.

**34.**—(1) The Council may on the occasion of any public festivity cause flag-poles and pylons to be erected in any street in the district 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 Council shall not exercise the powers of this section in a trunk road without the consent of the Minister of Transport and Civil Aviation.

For protection  
of Postmaster-  
General.

**35.**—(1) Where pursuant to section 22 (Adjustment of boundaries of streets) of this Act the Council enter into an agreement with a person having a legal interest in land adjoining any street for the conveyance to that person of the site of any part of the street and immediately before the date on which the site ceased to be part of the street there was under in upon over along or across such site any telegraphic line belonging to or used by the Postmaster-General the Postmaster-General shall continue to have the same powers in respect of that line as if such site had remained part of the street but nothing in Part I of the Public Utilities Street Works Act 1950 shall have effect in relation to those powers.

Provided that if any person in whom such site is vested desires that such telegraphic line should be altered paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 shall apply to the alteration and accordingly shall have effect subject to any necessary modifications as if references therein to undertakers included references to the said person desiring the alteration.



(2) As between the Council and the Postmaster-General nothing in the foregoing subsection shall affect the operation of Part II of the Public Utilities Street Works Act 1950 or the rights of the Postmaster-General and the Council thereunder.

(3) Where any highway or part of a highway is stopped up in pursuance of an order made under section 30 (Stopping up and diversion of highways) of this Act the following provisions shall unless otherwise agreed in writing between the Council and the Postmaster-General have effect in relation to any telegraphic line belonging to or used by the Postmaster-General which is under in upon over along or across such highway or part of a highway at the time of such stopping up:—

- (a) The power of the Postmaster-General to remove the line shall be exercisable notwithstanding the stopping up of the highway or part of the highway so however that the said power shall not be exercisable as respects the whole or any part of the line after the expiration of a period of three months from the date mentioned in subsection (4) of this section unless before the expiration of that period the Postmaster-General has given notice to the Council of his intention to remove the line or that part thereof as the case may be:
- (b) The Postmaster-General may by notice to the Council in that behalf abandon the said line or any part thereof and shall be deemed as respects the line or any part thereof to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it:
- (c) The Postmaster-General shall be entitled to recover from the Council the expense of providing in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line a telegraphic line in such other place as the Postmaster-General may require:
- (d) Where under paragraph (b) of this subsection the Postmaster-General abandons the whole or any part of a telegraphic line it shall vest in the owner of the soil in or over which it is situate and the provisions of the Telegraph Acts 1863 to 1954 shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

(4) As soon as the whole or any part of any highway has been stopped up the Council shall send by post to the Postmaster-General a notice informing him of such stopping up and

PART IV  
—cont.

the period of three months mentioned in subsection (3) of this section shall commence to run from the date on which such notice is sent.

(5). In this section the expressions "alter" "alteration" and "telegraphic line" have the same meanings as in the Telegraph Act 1878.

## PART V

## SANITATION BUILDINGS ETC.

*Sewers drains and sanitary conveniences*

Recovery of  
expenses of  
sewering public  
highway.

36.—(1) Where the Council—

- (a) resolve to construct a sewer in a street or part of a street in the district being a street or part which is repairable by the inhabitants at large and has not been previously sewerred ; and
- (b) include in the resolution a declaration that the construction of the sewer will in the opinion of the Council increase the value of premises fronting adjoining or abutting on the street or that part thereof ;

then the provisions of the First Schedule to this Act shall have effect as respects the apportionment and recovery by the Council of the expenses incurred in constructing the sewer:

Provided that all liabilities under the said schedule in respect of the sewer shall cease at the expiration of two years from the date when the resolution becomes operative if the construction of the sewer is not then complete.

(2) Notice of any such resolution shall be published by the Council in a local newspaper circulating in the district and the resolution shall become operative for the purposes of this section and the said schedule on the date of such publication.

(3) Either—

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

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

37.—(1) If on a complaint by the Council to a magistrates' court it is proved to the satisfaction of the court—

PART V  
—cont.

(a) that by reason of any transfer of land any part of any premises (hereafter in this section referred to as "the severed part") has ceased to be included in premises fronting adjoining or abutting on a street or part of a street to which the last foregoing section of this Act applies ; and

Prevention of  
evasion of  
liabilities under  
last foregoing  
section.

(b) that the transfer was intended for the purpose of evading liability under the First Schedule to this Act imposed by the last foregoing section ;

then the court may make such order under the following provisions of this section as it thinks just for the purpose of ensuring that the said liability is not evaded by reason of the transfer.

(2) Any such order may direct—

(a) that for the purposes of paragraph 2 of the said schedule the severed part shall be deemed to be premises fronting adjoining or abutting on the street or part of the street in question and shall be deemed to have had at the relevant date within the meaning of the said schedule such frontage on the street as may be specified in the order ;

(b) that for the purposes of sub-paragraph (a) of paragraph 6 of the said schedule the site of a new building erected on the severed part and the land occupied therewith shall be deemed to have such frontage on the street or part of the street as may be specified in the order ;

(c) that any such amendment shall be made of any entry in the register of local land charges as may be specified in the order including an amendment taking effect as from a past date.

(3) Any order made under paragraph (a) of subsection (2) of this section may also direct that any premises from which the severed part has been excluded or in which it has ceased to be included shall not be deemed to be premises fronting adjoining or abutting on the street or part of the street or shall be deemed to have such frontage as may be specified in the order.

(4) Orders made under any provision of subsection (2) of this section may be made on separate complaints made by the Council at different times.

(5) For the purposes of this section the expression "transfer" includes any disposal of land whether by way of sale lease exchange gift or otherwise.

PART V  
—cont.

Recovery of  
cost of  
maintaining  
public sewers.

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

“ 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.”

Separate  
sewers for  
foul water  
and surface  
water.

39. For the purpose of facilitating the disposal of sewage the powers of the Council under section 157 of the Public Health Act 1875 shall extend to the making of byelaws requiring any person constructing a new street in the district to provide separate sewers for foul water drainage and surface water drainage respectively.

Delegation of  
power to  
examine and  
test drains etc.

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

(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 Council 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.

Summary  
power to  
remedy  
stopped-up  
drains etc.

41.—(1) If it appears to the medical officer or the sanitary inspector that on any premises in the district a drain private sewer water-closet or soil pipe is stopped up he may by notice require the owner or occupier of the premises to remedy the defect within forty-eight hours from the service of the notice.

(2) If the notice is not complied with the Council may themselves carry out the work necessary to remedy the defect and may subject to the next following subsection recover the expenses of so doing from the person on whom the notice was served:

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

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

(a) whether any requirement contained in a notice served under this section or any work done by the Council was reasonable; and

(b) whether the expenses incurred by the Council in doing the work or any part thereof ought to be borne wholly or partly by the person on whom the notice was served;

and the court may make such order concerning the expenses or their apportionment as appears to the court to be just in the circumstances of the case:

Provided that the court shall not order the expenses or any part thereof to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

42.—(1) If any drain or private sewer in the district—

Power to repair  
drains and  
private sewers.

(a) is not sufficiently maintained and kept in good repair to the satisfaction of the Council; and

(b) can in the opinion of the Council be sufficiently repaired at a cost not exceeding fifty pounds;

the Council may after giving not less than seven days' notice to the person or persons concerned 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 person or persons concerned in such proportions (if there is more than one such person) as the surveyor may determine:

Provided that where the said expenses do not exceed two pounds the Council 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 Council was reasonable; and

PART V  
—cont.

(b) whether any apportionment made by the surveyor was fair ;

and the court may make such 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.

(3) In this section the expression " person concerned " in relation to a drain or private sewer means any person owning any premises drained by means of the drain or sewer and also in the case of a sewer the owner thereof.

Penalty for  
improper  
construction  
or repair of  
water-closet etc.

43.—(1) If a water-closet drain or soil pipe in the district is so constructed or repaired as to be prejudicial to health or a nuisance the person who undertook or executed the construction or repair thereof shall unless he shows that the prejudice to health or nuisance could not have been avoided by the exercise of reasonable care be liable to a penalty not exceeding twenty pounds.

(2) A person charged with an offence under this section (hereafter in this section referred to as " the original defendant ") shall upon information duly laid by him and on giving to the prosecutor not less than three clear days' notice of his intention be entitled to have any other person being his agent servant or workman to whose act or default he alleges the offence was due brought before the court at the time appointed for the hearing of the charge and—

(a) if after the commission of 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

(b) if the original defendant further proves that he used all due diligence to secure that the water-closet drain or soil pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance he shall be acquitted of the offence.

(3) Where the original defendant seeks to avail himself of the provisions of subsection (2) of this section—

(a) the prosecutor as well as the person whom the original defendant charges with the offence shall have the right to cross-examine the original defendant 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.

44. For the purposes of section 44 of the Public Health Act 1936 any part of a building in the district being a part occupied as a separate dwelling shall be treated as a separate building:

PART V  
—cont.

Provided that where any part or parts of a building occupied as aforesaid has or have been let for occupation without the consent of the owner of the building the person so letting that part or those parts shall be deemed to be the owner thereof for the purposes of the said section 44.

Closet accommodation for separate dwellings.

45. The Council may on the application of the owner or occupier of any premises in the district undertake the cleansing or repair 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.

Power to cleanse drains etc.

46.—(1) The Council may by notice require a contractor engaged in or upon any building operations or the construction or reconstruction of any works in the district within such time as may be specified in the notice—

Sanitary conveniences for persons employed on construction work.

(a) to provide in connection therewith sufficient and satisfactory accommodation in the way of sanitary conveniences for the accommodation of the workpeople employed thereon; and

(b) where persons of both sexes are employed in or in connection with the operations or works to provide separate accommodation as aforesaid for persons of each sex;

if it is reasonably practicable so to do:

Provided that this section shall not apply to building operations or works to which section 107 or section 108 of the Factories Act 1937 applies.

(2) The provisions of section 290 of the Public Health Act 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

#### *Buildings and structures*

47.—(1) Paragraphs (b) and (ii) of subsection (1) of section 58 of the Public Health Act 1936 and so much of subsection (2) of that section as relates to those paragraphs shall cease to have effect in the district and the following provisions of this section shall have effect in lieu thereof.

Ruinous and dilapidated buildings and neglected sites.

(2) Where a building in the district is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities

PART V  
—cont.

of the neighbourhood the Council may by notice require the owner thereof—

- (a) to execute such works of repair or restoration ; or
- (b) if he so elects to take such steps for demolishing the building or any part thereof and removing any rubbish or other material resulting from or exposed by the demolition ;

as may be necessary in the interests of amenity.

(3) Where rubbish or other material resulting from or exposed by the demolition or collapse of a building in the district is lying on the site of the building or on any land occupied with the building and by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood the Council may by notice require the owner of the site or land to take such steps for removing the rubbish or material as may be necessary in the interests of amenity.

(4) The provisions of section 290 of the Public Health Act 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section and in their application to a notice given under subsection (2) of this section—

- (a) subsection (2) of the said section 290 shall be construed as requiring the notice to indicate both the nature of the works of repair or restoration and the works of demolition and removal of rubbish or material; and
- (b) subsection (6) of the said section 290 shall be construed as authorising the Council to execute subject to the provisions of that subsection at their election either the works of repair or restoration or the works of demolition and removal of rubbish or material.

(5) Notwithstanding anything in subsection (3) of section 276 of the Public Health Act 1936 as applied by this Act that section shall apply to all rubbish or material removed by the Council under this section.

(6) In this section the expression “building” includes any structure.

Height of new  
chimneys.

48.—(1) Where plans for the extension or erection of a building used or to be used for manufacturing or other purposes are in accordance with building byelaws deposited with the Council and the plans show that it is proposed to construct a chimney for carrying smoke or steam or noisome or deleterious gases or effluvia from the building the Council shall reject the plans



unless they are satisfied that the height of the chimney as shown on the plans will be sufficient to prevent its being prejudicial to health or a nuisance having regard to—

PART V  
—cont.

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

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

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

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

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

New building  
over-reaching  
adjoining  
chimneys.

the Council may by notice—

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

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

PART V  
—cont.

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

(3) If—

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

(b) any person on whom a notice is served under paragraph (ii) of subsection (1) of this section fails to comply with the notice or having served a counter-notice fails to comply with the notice served under paragraph (i) of that subsection;

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

Power to order alteration of domestic chimneys.

**50.**—(1) If a magistrates' court is satisfied upon a complaint by the Council 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 district is prejudicial to the health of any of the inhabitants of the district or a nuisance the court may make an order requiring the owner of the chimney flue or pipe within such time as may be specified in the order—

(a) to cause it to be raised to a height so specified; or

(b) to cause such other means for remedying the cause of complaint to be adopted as the court thinks fit:

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

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

Cellars and rooms below subsoil water level.

**51.**—(1) No person shall in or in connection with any house shop or office in the district construct without the consent of the Council 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.

(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 Council to give their consent under this section or by any conditions attached to such consent may appeal to a magistrates' court.

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

(a) he shall be liable to a penalty not exceeding twenty pounds; and

(b) the Council 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 Council 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.

(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.

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

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

PART V  
—cont.

(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 a 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 this Act shall not be deemed to have been erected after the passing of this Act:

Provided that where any part of a building has been let for occupation as a separate dwelling 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.

Provision of  
bathrooms.

**53.**—(1) Where plans of a house are deposited with the Council in pursuance of building byelaws the Council may reject the plans if they do not show that the house will be provided with a bathroom containing a fixed bath.

(2) If the Council reject the plans for non-conformity with this section the notice given in pursuance of subsection (2) of section 64 of the Public Health Act 1936 shall specify that the plans have been rejected on account of such non-conformity.

*Filthy or verminous premises or articles*Cleansing of  
filthy or  
verminous  
premises.

**54.** Section 83 of the Public Health Act 1936 shall in its application to the district have effect as if the following subsection were substituted for subsection (1) thereof:—

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

PART V  
—cont.

- (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 surfaces ;

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.”

**55.**—(1) If the Council serve notice under subsection (3) of section 83 of the Public Health Act 1936 as amended by the last foregoing 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—

Power to  
require  
vacation of  
premises  
during  
fumigation.

- (a) the notice to the occupier may also require that the premises shall as from such date as may be specified in the notice be vacated until the Council give the occupier further notice that the premises can safely be re-occupied ; and
- (b) the Council 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 Council 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 Council under this section may appeal to a magistrates' court.

(4) If any person fails to comply with a notice requiring the vacation of any premises 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 Council 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.

PART V  
—cont.

Prohibition  
of sale of  
verminous  
articles.

56.—(1) No dealer shall in the district—

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

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 district—

- (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 Council 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 Public Health Act 1936 as applied by this Act the provisions of this section shall be provisions which it is the duty of the Council to enforce.

(5) In 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” does not include disinfestation.

PART VI

NUISANCES AND OFFENSIVE TRADES

Lighting  
ventilation and  
sanitation  
of stables.

57.—(1) The Council may make byelaws—

- (a) for securing the proper lighting and ventilation of any building in the district erected before the date on which the byelaws come into operation and used for the time being for stabling horses ;
- (b) for preventing insanitary conditions in or about or arising out of any building in the district so used whether erected before or after the said date.

(2) For the purposes of any byelaws made under this section a building the erection of which was commenced before the date on which the byelaws came into operation shall be deemed to have been erected before the said date.

**58.**—(1) As from the appointed day no person shall instal in any premises in the district any furnace for any manufacturing or trade purpose unless the furnace is so far as practicable capable of being operated continuously without emitting smoke. Smoke from industrial furnaces.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding ten pounds and if—

(a) that person after conviction of the contravention ; or

(b) any other person after notice of the conviction has been served on him by the Council ;

uses the furnace he shall unless it has been altered so that it is so far as practicable capable of being operated as aforesaid be liable to a penalty not exceeding five pounds for each day on which he uses it until it is so altered.

(3) If a person before installing a furnace to which this section applies submits to the Council a plan and specification of the proposed furnace and furnishes them with such other information in regard thereto as they may reasonably require the Council 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.

(4) 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 Council shall consult the Minister of Fuel and Power.

(5) 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 Council on considering a plan specification and other information received under subsection (3) of this section ;

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

PART VI  
—cont.Silencers  
for internal  
combustion  
engines.

59.—(1) A stationary internal combustion engine shall not be used in the district unless an effectual silencer is provided and used on the exhaust of the engine.

(2) If any person uses any such engine in contravention of the foregoing subsection or causes or permits any such engine to be so used the Council may give him notice that the engine is being or has been so used and if after the lapse of such time from the service of the notice as may be reasonably sufficient for remedying the cause of complaint he uses the engine as aforesaid or causes or permits it to be so used he shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding forty shillings.

(3) An authorised officer of the Council shall on producing if so required some duly authenticated document showing his authority have the right—

(a) to enter at all reasonable hours any premises on which there is reason to believe that any such engine is being or has been used in contravention of subsection (1) of this section; and

(b) to inspect and test any silencer on the exhaust of any such engine found on the premises and for that purpose to require the silencer to be taken off,

and any expenses incurred under this subsection by any such officer may be recovered by the Council from the occupier of the premises if there is found on the premises any such engine which is not provided with an effectual silencer on the exhaust thereof:

Provided that in the exercise of the powers conferred by this section on any premises belonging to railway undertakers and used by them for the purposes of their railway undertaking such officer shall conform to such reasonable requirements of the undertakers as are necessary to prevent obstruction to or interference with the working of the traffic of the undertakers.

Discharge  
of steam and  
waste gas.

60.—(1) No person shall cause or permit to be discharged in the district so as to be prejudicial to health or a nuisance—

(a) any steam or waste gas ejected from any stationary engine or the boilers or condensers thereof; or

(b) any condensing water above a temperature of one hundred and ten degrees Fahrenheit so ejected; or

(c) any spent or ejected steam arising or produced in the course of any trade or business.

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

(3) Nothing in this section shall apply to steam gas or water discharged from a railway locomotive.



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

PART VI  
—cont.

Noise  
nuisance.

Provided that—

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

(b) a justice shall not entertain a complaint under section 99 of the Public Health Act 1936 with respect to a noise unless the complaint is made by not less than three occupiers of premises within hearing of the noise.

(2) Nothing in this section shall apply to a noise occasioned by the exercise by railway undertakers of statutory powers conferred in relation to their railway undertaking.

(3) Nothing in this section shall affect the power of the county council of the administrative county of Surrey to make byelaws under section 249 of the Local Government Act 1933.

## PART VII

### INFECTIOUS DISEASES

62.—(1) On the application of the medical officer the occupier of any building in the district which is used for human habitation and in which there is or has been any person suffering from a notifiable disease shall furnish such information within his knowledge as the medical officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease.

Information  
to be furnished  
by occupier  
in case of  
notifiable  
disease.

(2) If any person required to furnish information under this section fails to furnish it or knowingly furnishes false information he shall be liable to a penalty not exceeding forty shillings.

(3) In this section the expression "occupier" includes—

(a) a person having the charge management or control of the building or of the part of the building in which the person suffering from a notifiable disease is or has been; and

(b) in the case of a building the whole of which is ordinarily let out in separate tenements or in the case of a lodging-house the whole of which is ordinarily let to lodgers the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person.

PART VII  
—cont.

(4) In this section references to a notifiable disease include references to food poisoning.

Restriction on attendance at public places etc.

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

“(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”.

Exclusion of children from places of entertainment or assembly.

64.—(1) With a view to preventing the spread of a notifiable disease the Council on the advice of the medical officer may by notice published in such manner as they think best for bringing it to the notice of persons concerned prohibit the admission of persons under the prescribed age to places of entertainment or assembly in the district for a time specified in the notice.

(2) If the person responsible for the management of any place of entertainment or assembly having been served by the Council with a copy of a notice published under the foregoing subsection admits any person under the prescribed age to that place in contravention of the notice he shall be liable to a penalty not exceeding five pounds:

Provided that in any proceedings under this subsection it shall be a defence to prove that there were reasonable grounds for believing that the person admitted had attained the prescribed age.

(3) In this section the expression “prescribed age” in relation to any notice means such age not exceeding sixteen as may be prescribed by the notice.

Compensation for stopping employment to prevent spread of disease.

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

(a) a notifiable disease; or

(b) a disease to which subsection (1) of section 23 of the Food and Drugs Act 1955 for the time being applies;

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

Entry into premises in case of notifiable disease.

66.—(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 district 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 entry is necessary has been satisfied.

67.—(1) If the medical officer certifies—

- (a) that any person is suffering from tuberculosis of the respiratory tract and is in an infectious state ; and
- (b) that he is occupied in the cooking preparation or handling of food in the district intended for consumption by persons other than himself or members of his household ; and
- (c) that his continuance in that occupation would in the judgment of the medical officer be a danger to the health of other persons ;

Prohibition  
of tuberculous  
persons from  
handling food.

the medical officer or any other person authorised in that behalf by the Council may request him in writing to discontinue his occupation as aforesaid.

(2) If any person requested as aforesaid complies with the request the Council may if they think fit compensate him for any loss occasioned by his compliance with the request.

(3) If any person requested as aforesaid fails to comply with the request a magistrates' court may on the application of the Council order him to comply with the request and may by any such order if it thinks fit direct that such compensation (if any) as it thinks equitable shall be paid to him by the Council.

(4) If any person fails to comply with any such order he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(5) This section shall not apply to any employment or occupation to which the Public Health (Prevention of Tuberculosis) Regulations 1925 apply.

## PART VIII

## FOOD

Slaughter  
of animals  
otherwise than  
for human  
consumption.

68.—(1) As from the appointed day the following provisions shall have effect in the district 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 twenty-four 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 twenty-four 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 twenty-four hours he shall retain the carcase intact until the expiration of twenty-four 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 twenty-four 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) Nothing in paragraphs (b) and (c) of the foregoing subsection shall prevent a veterinary surgeon or veterinary practitioner at any time after the slaughter of an animal from—

- (a) sending with the consent of the owner the whole carcase or any specimens taken therefrom to a laboratory for examination; or
- (b) retaining in his possession any such specimens with such consent:

Provided that a veterinary surgeon or veterinary practitioner (not being a veterinary inspector for the purposes of the Diseases

of Animals Act 1950 acting in the course of his duties under that Act) taking action in pursuance of this subsection shall—

- (i) before the expiration of twenty-four hours notify an authorised officer of the action taken ; and
- (ii) be under the same duty to comply with paragraph (d) of the last foregoing subsection as the owner of the animal slaughtered.

(4) Notwithstanding anything in paragraphs (b) and (c) of subsection (2) of this section contained it shall be competent to the owner or other person responsible for the slaughter of any animal in a knacker's yard within the meaning of subsection (1) of section 135 of the Food and Drugs Act 1955 or the slaughter of any animal whereof the carcase is immediately thereafter removed to such a knacker's yard to remove or cause to be removed from the carcase at any time after slaughter such parts or organs as in the opinion of such owner or other person it is necessary to remove in order to prevent or minimise the risk of nuisance or of deterioration of the said carcase and in any such case the expression "intact" in the said paragraphs (b) and (c) shall be construed accordingly:

Provided that—

- (a) all such parts or organs shall be retained for the same period as that for which the entire carcase may be required to be retained upon the premises in which removal thereof from the carcase is effected and in such manner as to identify the same with such carcase ; and
- (b) nothing in this subsection shall relieve the owner or other person responsible for the slaughter of an animal from the obligations imposed by subsection (2) of this section to give any notice.

(5) 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.

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

(7) In this section—

- (a) the expression "authorised officer" means any officer who is by virtue of the Food and Drugs Act 1955 an

PART VIII  
—cont.

- authorised officer for the purpose of the examination and seizure of meat under the provisions of Part I of that Act relating to food unfit for human consumption ;
- (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.

## Inedible fat.

**69.**—(1) If any person takes or causes to be taken any fat unfit for food into any premises in the district in which any food of which fat is an ingredient is manufactured or prepared for sale he shall be liable to a penalty not exceeding ten pounds or in the case of a second or subsequent offence to a penalty not exceeding fifty pounds :

Provided that in any proceedings under this section it shall be a defence to prove that the fat was not taken into the premises for the purpose of being used and has not been used as an ingredient in the manufacture or preparation of food.

(2) Where in any premises any process is carried on in the ordinary course of producing fat suitable for use as an ingredient of food any material taken into those premises for the purpose of being subjected to that process shall not be deemed to be unfit for food by reason only that it has not been subjected to that process.

## PART IX

## PARKS AND OTHER MUNICIPAL PROPERTY

Power to let  
parks etc.  
for games.

**70.** When any part of a park or pleasure ground provided by or under the management and control of the Council is set apart by them under paragraph (b) of subsection (1) of section 76 of the Public Health Acts Amendment Act 1907 for the purpose of cricket football or any other game or recreation the Council may permit the exclusive use by any club or other body of persons of—

- (a) any portion of the part set apart as aforesaid ; and
- (b) the whole or any part of any pavilion convenience refreshment room or other building provided under that section ;

subject to such charges and conditions as the Council think fit :

Provided that nothing in this section shall empower the Council to permit at one and the same time the exclusive use of—

- (i) more than one-third of the area of any park or pleasure ground ; or
- (ii) more than one-quarter of the total area of all the parks and pleasure grounds provided by them or under their management and control.

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

(8) The provisions of this section shall not apply to any stand erected by the proprietor of a travelling circus roundabout or amusement fair for the purposes of his business as such.

(9) In this section the expression "stand" includes a structure but does not include a building or extension of a building to which building byelaws are applicable or a stand erected by the British Transport Commission for the accommodation of their passengers or servants under the provisions of section 104 of the London Passenger Transport Act 1934 or section 65 of the London Passenger Transport Act 1938.

77.—(1) The Council 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.

Byelaws as to  
pleasure fairs  
and  
roller-skating  
rinks.

(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) coconut shies hoop-las shooting galleries ;
- (e) dodgems or other mechanical riding or driving contrivances ;

PART X  
—cont.

- (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.
- (5) The Council 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 Council 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.
- (7) For the purposes of paragraph (a) of subsection (1) of section 287 of the Public Health Act 1936 as applied by this Act the provisions of any byelaws made under this section shall be provisions which it is the duty of the Council to enforce.

PART XI

MISCELLANEOUS

Hairdressers  
and barbers.

78.—(1) As from the appointed day no person shall carry on the business of a hairdresser's or barber's shop on any premises in the district unless he and those premises are registered by the Council.

(2) Subject to the provisions of this section any person who makes an application in that behalf and furnishes the Council 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 Council in a book kept for the purpose and on so registering any person the Council shall issue to him a certificate of registration.



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

PART XI  
—cont.

(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 or fails to comply with 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 or failure to comply with 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 foregoing subsection—

(a) he shall within seven days deliver up to the Council his certificate of registration 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; and

(b) he shall not again be registered by the Council under this section except in pursuance of a further order of a magistrates' court 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) Where an offence under this section has been committed by a body corporate every person who at the time of the commission of the offence was a director general manager or other similar officer of the body corporate or was purporting to act in any such capacity shall be deemed to be guilty of that offence unless he proves—

(a) that the offence was committed without his consent or connivance; and

(b) that he exercised all such diligence to prevent the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

PART XI  
—cont.

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

(9) As from the appointed day section 125 (Byelaws as to hairdressers' and barbers' premises) of the Surrey County Council Act 1936 shall cease to be in force in the district.

Prizes for garden and allotment competitions.

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

Summary recovery of damages for negligence.

80. Any compensation recoverable by the Council 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.

Liability of Council for work done in default or by request.

81.—(1) Where under any enactment—

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

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

- (i) the Council shall not as between themselves and the defaulter be liable to pay any damages in respect of or consequent upon the execution of the work or the taking of the action; and
- (ii) any such damages as aforesaid paid by the Council to any other person shall be deemed to be part of the expenses payable by the defaulter and shall be recoverable accordingly.

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

Powers to use ladders etc. for entry or inspection.

82.—(1) Any power conferred on an officer of the Council by any enactment or byelaw 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.

(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—

PART XI  
—cont.

(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.

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

Return of  
library books.

(a) the power to prescribe the period or periods being not less than fourteen days within which any book borrowed from such library must be returned thereto;

(b) the power to recover from any person who fails within such prescribed period to return to the said library any book so borrowed such reasonable sum as the Council may prescribe not exceeding one penny in respect of each day or sixpence in respect of each week in which he so fails to return such book together with any expenses incurred by the Council in sending to such person notices in respect of such book;

(c) the power to prohibit any such person from borrowing any other book from the said library or from any other library provided by the Council under the said Act until such person has paid any such sum as is due to the Council under paragraph (b) of this section.

**84.** Notwithstanding anything contained in paragraph 3 of Part V of the Third Schedule to the Local Government Act 1933 or in any other enactment or rule of law to the contrary the minutes of the proceedings of the Council or of any committee thereof may be recorded on loose leaves consecutively numbered the minutes of the proceedings of any meeting being signed and each leaf comprising those minutes being initialled at the same or next ensuing meeting of the Council or committee (as the case may be) by the person presiding thereat and any minutes purporting to be so signed shall be received in evidence without further proof and for the purposes of sub-paragraph (2) of the said paragraph 3 shall be deemed to have been made and signed in accordance with sub-paragraph (1) thereof.

As to minutes  
of Council  
meetings etc.

**85.** Where under the provisions of any local Act or general Act the Council 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

Apportionment  
of expenses  
in case of  
joint owners.

PART XI  
—cont.

Council from the owners shall be paid in such proportions as shall be determined by the Council or in case of dispute by a magistrates' court.

## PART XII

## FINANCE RATING ETC.

Power to  
borrow.

**86.**—(1) The Council shall have power in addition and without prejudice to their powers of borrowing under the Local Government Act 1933 from time to time 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 the sum so borrowed within such period as the Council may determine not exceeding five years from the date of borrowing.

(2) The provisions of Part IX of the Local Government Act 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 the said Part IX and the period fixed by this section for the repayment of any money borrowed shall as respects that money be the fixed period for the purposes of the said Part IX.

Interest  
warrants  
by post.

**87.**—(1) The Council may give notice to any person being registered as a holder of any authorised security (other than stock) that they intend to send interest to him by post if he does not object and if such person does not within fourteen days from the receipt of such notice give notice to the Council of such objection the Council may from time to time send orders for the payment of interest or warrants by post to the address of such person appearing in the register:

Provided that if such person give notice to the Council that he desires such orders or warrants to be sent to another person at a given address the Council may from time to time send the same by post to such other person at such address.

(2) Where more persons than one are registered as joint holders of any authorised security any one of them may for the purpose of this section be regarded as the holder of the security unless contrary notice has been given to the Council by any other of them.

(3) The posting by the Council of an order for the payment of interest or a warrant in pursuance of this section shall as respects the liability of the Council be equivalent to the delivery of the order or warrant to the registered holder of the authorised security.

(4) Every order or warrant so sent by post shall be deemed to be a cheque and the Council shall in relation thereto be deemed a banker within the meaning of the Bills of Exchange Act 1882.

**88.**—(1) Where the owner of any hereditament has agreed with the occupier thereof that the owner shall pay the general rate charged on such hereditament the owner shall be liable to pay to the Council so much of any payment in respect of rent received by him from the occupier as shall represent the proportion of rate included in such payment and so much of such payment may on proof of such agreement be recovered by the Council from the owner in the same manner and subject to the same conditions under and subject to which rates are recoverable from occupiers of rated hereditaments.

PART XII  
—cont.  
Recovery of rates from certain owners.

The remedy of the Council under this section shall be in addition and without prejudice to their other remedies for the recovery of rates.

(2) This section shall not apply to any hereditament to which subsection (1) of section 11 of the Rating and Valuation Act 1925 applies by virtue of a resolution of the Council.

(3) In this section the expression "owner" in relation to a hereditament means the person who is entitled to receive the rent payable in respect thereof.

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

Recovery of rates from tenants and lodgers.

**90.** Whenever under any enactment (other than the Public Health Act 1936) the Council on the application or in consequence of the default of the owner or occupier of any premises execute any work the cost of which is payable by such owner or occupier the Council may include in and recover as part of such cost such additional sum as they think fit not exceeding five per centum of the cost of the works in respect of their establishment charges.

Power to charge in respect of establishment expenses.

**91.**—(1) Subject to the provisions of this section where a person entitled to receive from the Council any sum to which this section applies is lawfully detained as a person of unsound mind in accordance with the Lunacy and Mental Treatment Acts 1890 to 1930 the Council 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 or husband or dependants of the person so detained as aforesaid.

Payment of pension etc. of person of unsound mind.

(2) Subject to the provisions of this section where a person entitled to receive from the Council any sum to which this section applies is in the opinion of the Council through mental

PART XII  
—cont.

infirmity incapable of managing his affairs the Council 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 or husband or dependants of such person.

(3) This section applies to any sum payable by the Council to any person 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 person 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 Council shall give to the court of protection notice 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 Council intend to exercise the said powers and in relation to any person to whom subsection (2) of this section applies the Council shall at the same time give notice to that person in a form approved by the court of protection:

Provided that the Council may with the approval of the court of protection 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 court of protection give to the Council notice in writing that they object to the exercise by the Council of the said powers in relation to any person the said powers shall as from the date of the receipt by the Council of the notice cease to be exercisable by the Council in relation to that person unless and until the court of protection withdraw the notice.

(6) The Council 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 XIII

## GENERAL

Protection of members and officers of Council from personal liability.

Breach of conditions of consent.

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

93. Where in pursuance of this Act the Council give their approval or 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 any such terms or

conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the work or the doing of the act or thing without the required approval or consent and the provisions of this section shall mutatis mutandis apply to conditions imposed by the Council under any provision of this Act.

PART XIII  
 —cont.

94. 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 Council.

Restriction on right to prosecute.

95. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Local Government Act 1933 shall be the Minister except that in the case of byelaws made under 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:—

Confirming authority for byelaws.

1	2
72 (Boating pools) ... ..	Secretary of State.
73 (Golf courses) ... ..	Secretary of State.
75 (Aerodrome undertaking) ... ..	Minister of Transport and Civil Aviation.
77 (Byelaws as to pleasure fairs and roller-skating rinks)	Secretary of State.

96.—(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.

Appointed day.

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

(3) The Council shall cause to be published in a local newspaper circulating in the district 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 such newspaper containing any such notice; or
- (b) a photostatic or other reproduction certified by the clerk to be a true reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice;

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

PART XIII  
—cont.

(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 97 (Appeals) of this Act.

## Appeals.

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

(2) Where any requirement refusal or other decision of the Council 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 Council themselves execute the work or take the action; and
- (ii) that person may carry on that business and use those premises for that purpose.

For protection  
of certain  
statutory  
undertakers.

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

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

“apparatus” means—

- (a) in relation to the Central Electricity Authority and the South Eastern Electricity Board electric



lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by that authority or board ;

(b) in relation to the North Thames Gas Board mains pipes or other apparatus belonging to or maintained by that board ; and

(c) in relation to the West Surrey Water Company and the Woking and District Water Company mains pipes or other apparatus belonging to or maintained by either of those companies as part of or in connection with their water undertakings ; and includes any works constructed for the lodging therein of apparatus ;

“ undertakers ” means the Central Electricity Authority the South Eastern Electricity Board the North Thames Gas Board the West Surrey Water Company and the Woking and District Water Company ;

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

“ position ” includes depth :

- (2) Nothing in the following sections of this Act shall relieve the Council from liability for damage caused by them to any apparatus in the exercise of the powers of the said sections and the Council shall so exercise those powers as not to render less convenient (so far as is reasonably practicable) the access to any apparatus :—

Section 20 (Trees grass verges and gardens) ;

Section 23 (Guard rails in private streets) ;

Section 34 (Decorations in streets) :

- (3) Nothing in section 20 (Trees grass verges and gardens) of this Act shall affect the rights of the undertakers with respect to any apparatus (including the placing of apparatus) in any grass verge or garden :

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

- (4) Whenever the Council in the exercise of the powers of section 22 (Adjustment of boundaries of streets) of this Act shall give up land forming part of a street in exchange for other land there being in such first-mentioned land any apparatus the Council shall give notice to the undertakers of such exchange with a plan

PART XIII  
—cont.

showing the position and dimensions of the portion of the street so exchanged and the undertakers may and if reasonably required by the Council shall alter the position of the apparatus or provide or lay or place new apparatus in such other position in the street as altered under the said powers as may be reasonable having regard to the circumstances:

Provided that if the undertakers do not alter the position of such apparatus they shall notwithstanding any agreement entered into under the said section 22 continue to have the same powers and rights in respect of any apparatus remaining in the land previously forming the site of the street as if such land had continued to be part of the street:

- (5) Whenever by virtue of the provisions of section 30 (Stopping up and diversion of highways) of this Act any highway or part of a highway in which any apparatus is situate is stopped up or diverted the undertakers shall notwithstanding such stopping up or diversion continue to have the same powers and rights in or in respect of any apparatus remaining in the land comprised in the highway or part of a highway so stopped up or diverted as if the same had remained a highway or may (if they give notice to the Council within three months from the date mentioned in subsection (7) of this section) and if reasonably so required by the Council shall—

(i) remove the apparatus and relay or replace the same in the highway (if any) substituted for the highway or part of a highway so stopped up or diverted or in such other position as the undertakers may reasonably determine; or

(ii) provide and lay or place other apparatus in such substituted highway or in such other position as aforesaid in lieu of such existing apparatus:

- (6) The Council shall repay to the undertakers the reasonable expenses incurred by the undertakers of or in connection with—

(a) the alteration of the position of any apparatus or the provision laying or placing of new apparatus under subsection (4) of this section; or

(b) the removal and relaying or replacing of any apparatus and the provision and laying or placing of any new apparatus under the provisions of subsection (5) of this section;

and the reasonable costs of and incidental to—

(i) the cutting off of any apparatus from any other apparatus; and

(ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this subsection:

Provided that subsections (3) and (4) of section 23 of the Public Utilities Street Works Act 1950 shall so far as applicable extend and apply to any payment to be made by the Council under this subsection as if the works hereinbefore in this subsection mentioned were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words "specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority" there were substituted the words "agreed or settled by arbitration under section 98 (For protection of certain statutory undertakers) of the Chertsey Urban District Council Act 1956":

- (7) The Council shall send by post to the undertakers notices informing them of any order made under the said section 30 and the period of three months mentioned in subsection (5) of this section shall commence to run from the date on which such notice is sent:
- (8) Notwithstanding the stopping up temporarily of any street under the powers of section 31 (Temporary stoppage of streets) of this Act the undertakers their officers servants and agents shall be at liberty at all times to execute and do all such works and things in upon or under any such street as may be necessary for inspecting repairing maintaining renewing or removing any apparatus:
- (9) Before the Council give any consent pursuant to section 32 (Pavement lights and ventilators) of this Act they shall give at least twenty-eight days' notice to the undertakers of their intention to do so and any such consent shall contain such conditions as may be required to secure that the owner or occupier of premises to whom consent is given shall comply with the reasonable requirements of the undertakers for the protection of their apparatus:
- (10) Nothing in section 42 (Power to repair drains and private sewers) of this Act shall authorise the Council to execute any works in under or upon any operational

PART XIII  
—cont.

land within the meaning of the Town and Country Planning Act 1947 of the undertakers without the consent of the undertakers concerned but such consent shall not be unreasonably withheld:

- (11) Before entering in exercise of the powers of section 59 (Silencers for internal combustion engines) of this Act upon any premises occupied or used by the undertakers in connection with the manufacture or storage or supply of water gas or electricity an authorised officer of the Council shall give reasonable notice of his intended entry and in the exercise of such powers in relation to such premises shall observe any precautions reasonably required by the undertakers in the interests of safety and for preventing interference with the supply of water gas or electricity:
- (12) (a) Any difference which may arise between the Council and the undertakers under this section shall be determined by arbitration;
- (b) In settling any difference under this section the arbitrator may if he thinks fit require the Council to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

Local  
inquiries.

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

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

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

Application  
of general  
provisions of  
Public Health  
Act 1936.

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

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

Part IV.—(Streets);

Part V.—(Sanitation buildings etc.);

Part VI.—(Nuisances and offensive trades);

Part VII.—(Infectious diseases);

Part VIII.—(Food).

PART XIII  
—cont.

(3) The sections of the Public Health Act 1936 mentioned in Part III of the said schedule shall have effect as if references therein to that Act included a reference to the Parts of this Act mentioned in subsection (2) of this section and also to section 80 (Summary recovery of damages for negligence) of this Act.

(4) The sections of the Public Health Act 1936 mentioned in Part IV of the said schedule shall have effect as if references therein to that Act included a reference to the Parts of this Act mentioned in subsection (2) of this section and also to section 76 (Safety of stands) section 77 (Byelaws as to pleasure fairs and roller-skating rinks) and section 78 (Hairdressers and barbers) of this Act.

**101.** In arbitrations under a provision of this Act mentioned in the first column of the following table the reference shall be to a single arbitrator to be appointed by agreement between the parties or in default of agreement by the person respectively mentioned in the second column of that table on the application of any party after giving notice in writing to the other party or parties:—

1	2
Provision of Act	Person appointing arbitrator
Subsection (8) of section 30 (Stopping up and diversion of highways).	The Minister of Transport and Civil Aviation.
Subsection (5) of section 72 (Boating pools) ...	The Minister.
Subsection (12) of section 98 (For protection of certain statutory undertakers).	The President of the Institution of Civil Engineers.

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

**103.** 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 the last-mentioned Act. Saving for town and country planning.

**104.** The costs charges and expenses preliminary to and of and incidental to the preparation of and the application for and the obtaining and passing of this Act or otherwise in relation thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the general rate fund or out of moneys to be borrowed under this Act for that purpose. Costs of Act.

## SCHEDULES

## FIRST SCHEDULE

APPORTIONMENT AND RECOVERY OF EXPENSES OF  
CONSTRUCTING SEWERS

1. The sum apportionable shall not exceed the sum certified by the surveyor to be at the relevant date the average cost per lineal yard of providing a public sewer having an internal diameter of nine inches in a private street in the district multiplied by the extent in lineal yards (as so certified) of the sewer or length of sewer in question.

2. The expenses incurred by the Council not exceeding the sum so apportionable shall be apportioned by the Council on the premises fronting adjoining or abutting on the street or part of the street in question according to the frontages of the respective premises as existing at the relevant date:

Provided that no sum shall be apportioned on any premises in contravention of any agreement between the Council and the owner of the premises and any sum which but for this proviso would have been apportioned on any premises shall be deducted from the aggregate sum to be apportioned under this paragraph.

3. As soon as the apportionment has been made the Council shall serve on the owners of the several premises affected notice of the sums respectively apportioned to them and the notice shall state the right of appeal conferred by the next following paragraph.

4. Any person aggrieved by an apportionment under this schedule may appeal to a magistrates' court and may on the appeal dispute the correctness of the surveyor's certificate as well as any other matter affecting the validity or correctness of the apportionment.

5. If the court finds on any such appeal that the aggregate sum apportioned is excessive or that the apportionment thereof is erroneous the court—

- (a) shall order the Council to revise not only the sum apportioned to the appellant but also the sums apportioned to the owners of the other premises affected and to submit the revised apportionment to the court for approval; and
- (b) may if satisfied that the owners of all premises affected have had due notice of the proceedings and an opportunity of being heard approve any such revised apportionment either without amendment or with such amendments as they think just.

6. Whenever a new building requiring foul water drainage is erected after the relevant date on any premises on which a sum has been or is thereafter apportioned under this schedule that sum shall be recoverable by the Council subject to and in accordance with the following provisions:—

- (a) The said sum shall be recoverable to an extent proportionate to the frontage on the street or part of the street of the site of the new building and the land occupied therewith:

Provided that where a sum has become payable under sub-paragraph (c) of this paragraph in respect of the frontage of the site of a new building and land occupied therewith no further sum shall be recoverable in respect of the same length of frontage or any part thereof by reason of the erection of another new building on that site or that land ;

(b) At any time after whichever of the following events last occurs (that is to say):—

(i) the erection of the new building ; or

(ii) the expiration of the time for appealing against the apportionment or if an appeal is brought within that time the final determination of the appeal ;

the Council may serve on the owner for the time being of the new building a demand for payment of the amount recoverable together with interest thereon from the date of the demand :

Provided that where the drains of the new building are at the time of its erection made to communicate with a sewer other than the sewer the expenses of the construction of which are apportioned no such demand shall be served in respect of the building unless and until the drains thereof are made to communicate with the last-mentioned sewer ;

(c) As from the date of the service of the said demand the amount recoverable together with interest thereon from that date until payment thereof shall be payable by the owner on whom the demand is served and shall be charged on the new building and the land occupied therewith and on all estates and interests therein ;

(d) The rate of interest chargeable under this paragraph shall be such rate as the Council may determine not exceeding the maximum rate fixed by the Minister for the purpose of section 291 of the Public Health Act 1936 at the time when the said demand is served or if different maximum rates are then so fixed the highest of those rates.

7.—(1) If any person from whom any sum becomes recoverable under the last preceding paragraph proves that by reason of the length of frontage of the land occupied with the building in respect of which the sum is so recoverable the amount of that sum is disproportionate to the benefit accruing to the premises the Council may remit such part of that sum as they may think just but in that event if another new building is subsequently erected on the said land the said paragraph shall apply to that other building as if the first-mentioned building had not been erected :

Provided that the amount recoverable in respect of that other building shall not exceed the amount remitted.

(2) Any person aggrieved by a decision of the Council with respect to any such remission may appeal to a magistrates' court.

1st SCH.  
—cont.

8.—(1) The sum apportioned on any premises under this schedule shall for the purposes of section 15 of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 be deemed to be a charge on the premises notwithstanding that it is not immediately recoverable.

(2) Where the whole or part of the sum so deemed to be a charge (hereafter in this sub-paragraph referred to as “the provisional charge”) becomes actually charged on the whole or part of the premises under the preceding provisions of this schedule—

- (a) within fourteen days the registration of the provisional charge under the said section 15 shall be cancelled and the actual charge shall be registered under that section as from the date on which the provisional charge was registered ;
- (b) where a part only of the said sum has become actually charged on a part of the premises the remainder of that sum shall be deemed to be a charge on the remainder of the premises notwithstanding that it is not immediately recoverable and shall be registered accordingly within the said fourteen days under the said section as from the said date and the foregoing provisions of this sub-paragraph shall apply thereto accordingly.

9. For the purposes of this schedule—

- (a) a building shall be deemed to be a new building erected after the relevant date unless its erection was completed before that date ;
- (b) the following alterations and extensions shall be deemed to be the erection of a new building (that is to say):—
  - (i) the re-erection wholly or partly of any building of which an outer wall is pulled down (otherwise than in consequence of fire or other accident) either completely or to such an extent that the part of that wall remaining is less than half the previous height of the building (the height being measured from ground level to the highest point of the building) ;
  - (ii) the conversion into a house of any building not originally constructed for human habitation ;
  - (iii) the conversion of any premises into a factory shop or place of public resort ;
  - (iv) any extension by reason whereof the area occupied by the site of the building will (with any previous extension made since the relevant date) be increased by an area of more than one-eighth or in the case of a building constructed for agricultural purposes one-quarter of that occupied by the site of the building before that date ;
- (c) the expression “the relevant date” means the date when the resolution became operative.



**SECOND SCHEDULE**  
**SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED**

**PART I**  
**SECTIONS APPLIED GENERALLY**

Section	Marginal note
271	Interpretation of "provide".
283	Notices to be in writing; forms of notices etc.
284	Authentication of documents.
285	Service of notices etc.
286	Proof of resolutions etc.
288	Penalty for obstructing execution of Act.
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**  
**SECTIONS APPLIED TO PARTS IV V VI VII AND VIII**  
**OF THIS ACT**

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Power of local authority to sell certain materials.
277	Power of councils to require information as to ownership of premises.
289	Power to require occupier to permit works to be executed by owner.
291	Certain expenses recoverable from owners to be a charge on the premises: Power to order payment by instalments.
292	Power to make a charge in respect of establishment expenses.
294	Limitation of liability to certain owners.
295	Power of local authority to grant charging orders.
329	Saving for certain provisions of the Land Charges Act 1925.

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**AND SECTION 80 OF THIS ACT**

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293	Recovery of expenses etc.
299	Inclusion of several sums in one complaint etc.

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**AND SECTIONS 76 77 AND 78 OF THIS ACT**

Section	Marginal note
287	Power to enter premises.

*Table of Statutes referred to in this Act*

Title	Session and chapter
Lands Clauses Consolidation Act 1845	8 & 9 Vict. c. 18.
Cemeteries Clauses Act 1847	10 & 11 Vict. c. 65.
Burial Act 1852	15 & 16 Vict. c. 85.
Burial Act 1853	16 & 17 Vict. c. 134.
Registration of Burials Act 1864	27 & 28 Vict. c. 97.
Public Health Act 1875	38 & 39 Vict. c. 55.
Local Loans Act 1875	38 & 39 Vict. c. 83.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Public Health (Interments) Act 1879	42 & 43 Vict. c. 31.
Summary Jurisdiction Act 1879	42 & 43 Vict. c. 49.
Electric Lighting Act 1882	45 & 46 Vict. c. 56.
Public Health (Buildings in Streets) Act 1888	51 & 52 Vict. c. 52.
Public Health Acts Amendment Act 1890	53 & 54 Vict. c. 59.
Local Government Act 1894	56 & 57 Vict. c. 73.
Open Spaces Act 1906	6 Edw. 7 c. 25.
Public Health Acts Amendment Act 1907	7 Edw. 7 c. 53.
Acquisition of Land (Assessment of Compensation) Act 1919	9 & 10 Geo. 5 c. 57.
Land Charges Act 1925	15 & 16 Geo. 5 c. 22.
Roads Improvement Act 1925	15 & 16 Geo. 5 c. 68.
Public Health Act 1925	15 & 16 Geo. 5 c. 71.
Rating and Valuation Act 1925	15 & 16 Geo. 5 c. 90.
Law of Property (Amendment) Act 1926	16 & 17 Geo. 5 c. 11.
Local Government Act 1929	19 & 20 Geo. 5 c. 17.
Road Traffic Act 1930	20 & 21 Geo. 5 c. 43.
Land Drainage Act 1930	20 & 21 Geo. 5 c. 44.
Local Government Act 1933	23 & 24 Geo. 5 c. 51.
Summary Jurisdiction (Appeals) Act 1933	23 & 24 Geo. 5 c. 38.
London Passenger Transport Act 1934	24 & 25 Geo. 5 c. xcvi.
Housing Act 1935	25 & 26 Geo. 5 c. 40.
Restriction of Ribbon Development Act 1935	25 & 26 Geo. 5 c. 47.
Public Health Act 1936	26 Geo. 5 & 1 Edw. 8 c. 49.
Housing Act 1936	26 Geo. 5 & 1 Edw. 8 c. 51.
Surrey County Council Act 1936	26 Geo. 5 & 1 Edw. 8 c. cxxx.
Factories Act 1937	1 Edw. 8 & 1 Geo. 6 c. 67.
Food and Drugs Act 1938	1 & 2 Geo. 6 c. 56.
London Passenger Transport Act 1938	1 & 2 Geo. 6 c. xcii.
Borrowing (Control and Guarantees) Act 1946	9 & 10 Geo. 6 c. 58.
Ministers of the Crown (Transfer of Functions) Act 1946	9 & 10 Geo. 6 c. 31.
Town and Country Planning Act 1947	10 & 11 Geo. 6 c. 51.
Civil Aviation Act 1949	12 & 13 Geo. 6 c. 67.
Lands Tribunal Act 1949	12 & 13 Geo. 6 c. 42.
National Parks and Access to the Countryside Act 1949	12 13 & 14 Geo. 6 c. 97.
Diseases of Animals Act 1950	14 Geo. 6 c. 36.
Public Utilities Street Works Act 1950	14 Geo. 6 c. 39.
Magistrates' Courts Act 1952	15 & 16 Geo. 6 & 1 Eliz. 2 c. 55.
Town and Country Planning Act 1954	2 & 3 Eliz. 2 c. 72.
Food and Drugs Act 1955	4 Eliz. 2 c. 16.

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