

**ELIZABETH II**



**1972 CHAPTER **xlvi****

An Act to confer further powers on the Hampshire County Council and local authorities in the administrative county of Hampshire in relation to the lands, development, amenities, highways and the local government, improvement, health and finances of the county; to make further provision for the superannuation of employees; and for other purposes.

[9th August 1972]

**W**HEREAS it is expedient that further and better provision should be made with reference to lands, development, amenities and highways and for the local government, improvement, health and finances of the administrative county of Hampshire and that the powers of the county council of that administrative county (hereinafter referred to as "the Council") and of the local authorities within that administrative county should be enlarged and extended as by this Act provided:

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

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

1933 c. 51. And whereas in relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act, 1933, have been observed:

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 Hampshire County Council Act 1972.

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

- Part I.—Preliminary.
- Part II.—Lands.
- Part III.—Planning and amenities.
- Part IV.—Highways and streets.
- Part V.—Fire protection, public safety and public order.
- Part VI.—Public health and housing.
- Part VII.—Finance.
- Part VIII.—Superannuation.
- Part IX.—Welfare and education.
- Part X.—Miscellaneous.
- Part XI.—General.

Interpretation. 3.—(1) In this Act the several words and expressions (other than those defined in subsection (2) of this section) to which meanings are assigned by sections 90 and 343 of the Act of 1936 and sections 294 and 295 of the Act of 1959 have the same respective meanings unless there be something in the subject or context repugnant to such construction.

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

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

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—cont.
- “ the Act of 1936 ” means the Public Health Act, 1936; 1936 c. 49.
- “ the Act of 1937 ” means the Local Government Superannuation Act, 1937; 1937 c. 68.
- “ the Act of 1957 ” means the Housing Act, 1957; 1957 c. 56.
- “ the Act of 1959 ” means the Highways Act, 1959; 1959 c. 25.
- “ the Act of 1967 ” means the Road Traffic Regulation Act, 1967; 1967 c. 76.
- “ the Act of 1971 ” means the Town and Country Planning Act, 1971; 1971 c. 78.
- “ apparatus ” includes mains, pipes or other apparatus, and electric lines and works (as respectively defined in the Electric Lighting Act, 1882) and telegraphic lines (as defined in the Telegraph Act, 1878) belonging to, or maintained by, any statutory undertakers, and includes any works constructed for the lodging therein of apparatus; 1882 c. 56. 1878 c. 76.
- “ appointed day ” has the meaning assigned to that expression by section 4 (The appointed day) of this Act;
- “ building regulations ” has the same meaning as in section 4 of the Public Health Act, 1961; 1961 c. 64.
- “ caravan ” has the same meaning as in Part I of the Caravan Sites and Control of Development Act, 1960; 1960 c. 62.
- “ the Council ” means the county council of the county;
- “ the county ” means the administrative county of Hampshire;
- “ the county fund ” means the county fund of the Council;
- “ daily fine ” means a fine for each day or part of a day on which an offence is continued after conviction thereof;
- “ district ” means a borough or an urban or rural district in the county;
- “ enactment ” includes an enactment in this Act or in any public general or local Act and any order, byelaw, scheme or regulation for the time being in force within the county;
- highway authority ” means—
- (a) in the case of a trunk road, the Secretary of State or, with his consent, the authority who are for the time being acting as his agent under the Act of 1959 with respect to that trunk road;
- (b) in the case of a county road in the county, except a claimed county road, and in the case of any other highway for the time being maintained by the Council, the Council; and
- (c) in the case of any other highway, the local authority for the district in which the highway is situate;



PART I  
—cont.

“ land ” includes land covered by water and any interest in land or any easement or right in, to or over land;

“ local authority ” means the council of a district;

1952 c. 55.

“ magistrates’ court ” has the same meaning as in the Magistrates’ Courts Act, 1952;

“ officer ” includes servant;

1969 c. 48.

“ operational land ” in relation to statutory undertakers (other than the Post Office) means land which is used for the purpose of the carrying on of their undertaking and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings and in relation to the Post Office has the same meaning as in paragraph 93 (4) of Schedule 4 to the Post Office Act, 1969;

“ parish council ” means the parish council of a rural parish in the county or where there is no parish council the parish meeting of such parish;

1960 c. 16.

“ road ” has the same meaning as in section 257 of the Road Traffic Act, 1960;

“ statutory undertakers ” means any company, body or person authorised by any enactment to supply electricity, gas or water and the Post Office, or any of them;

“ verge ” includes any lands situated between two carriageways and any part of a street which is not a carriageway, footway or cycle track;

“ voluntary organisation ” means any organisation not carried on for profit, not being an organisation carried on by a public authority, and “ voluntary ” shall be construed accordingly.

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

The appointed day.

4.—(1) In this Act “ the appointed day ” means such day as may be fixed by resolution of a local authority subject to, and in accordance with, the provisions of this section.

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

(3) The local authority shall cause to be published in a local newspaper circulating in their district notice—

PART I  
—cont.

- (a) of the passing of any such resolution and of the day fixed thereby; and
- (b) of the general effect of the provisions of this Act coming into operation as from that day;

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

(4) Either—

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

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

(5) In this section “local authority” includes the Council and in its application to the Council subsection (3) of this section shall have effect as if for the words “their district” there were substituted the words “the county”.

PART II

LANDS

5.—(1) If the Council—

Suspension of  
restrictive  
covenants.

- (a) acquire land by agreement; or
- (b) enter into an agreement to acquire land; or
- (c) have acquired land by agreement before the passing of this Act; or
- (d) propose to appropriate (whether before or after the passing of this Act) land which has been previously acquired by agreement;

for a purpose for which they are for the time being authorised to acquire land compulsorily, or could under any enactment be authorised to acquire the land compulsorily, and the land is, before such acquisition or agreement to acquire, affected by any restriction arising under covenant or otherwise (other than a restriction imposed by or in pursuance of any enactment or a restriction or condition imposed in pursuance of the provisions of section 23 of the Industrial Development Act, 1966) as to 1966 c. 34

PART II  
—cont.

the user thereof or the building thereon, the Council may, subject to the provisions of this section, by resolution suspend the operation of such restriction.

(2) The resolution shall describe by reference to a map the land to which it applies.

(3) The Council shall—

(a) in two successive weeks publish in one or more local newspapers circulating in the locality in which the land referred to in the resolution is situated a notice stating that the resolution has been passed, describing the land and naming a place within the locality where a copy of the resolution and map may be inspected and specifying the period (not being less than twenty-one days from the first publication of the notice) within which, and the manner in which, objections to the suspension of the restriction can be made;

(b) on or before the date of the first publication of the said notice serve by registered post or the recorded delivery service a copy of the said notice on every person who appears to them, after reasonable inquiry, to be entitled to the benefit of the restriction to which the resolution relates; and

(c) on or before the date of the first publication of the said notice post a copy or copies of the said notice in a prominent position on the land to which the resolution relates.

(4) Any person able to prove that he is entitled to the benefit of the restriction may object to the suspension of the restriction by sending notice of his objection, and of the grounds thereof, to the appropriate Minister within the period specified in the notice and by sending a copy thereof to the Council.

(5) If any objection is duly made as aforesaid and is not withdrawn, the resolution shall be of no effect unless and until it is confirmed by the appropriate Minister, and before confirming the resolution the appropriate Minister shall cause a public local inquiry to be held into the proposed suspension of the restriction and, after considering the report of the person who held the inquiry, may confirm the resolution.

(6) (a) If no objection is duly made under subsection (4) of this section, or if all objections so made are withdrawn, the restriction shall be suspended on and after the date of the expiration of the period specified in the notice, or the date of the withdrawal of the objection, or (if more than one) the last objection, or the date on which the Council acquire or appropriate the land (whichever is the later).

(b) If objection is duly made as aforesaid and the appropriate Minister confirms the resolution, the restriction shall be suspended



on and after such date as the appropriate Minister shall determine, not being earlier than the date on which the Council acquire or appropriate the land (whichever is the later).

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—cont.

(7) If, in the opinion of the Council, there is doubt whether any such land is affected by any restriction to which that subsection relates or whether any such restriction is enforceable, the Council may—

(a) in three successive weeks publish, in one or more local newspapers circulating in the locality in which the land is situated, a notice describing the land and stating generally the effect of this subsection and subsections (8) and (9) of this section and specifying the time not being less than three months from the first publication of the notice within which and the manner in which any person claiming to be entitled to enforce a restriction against the use of the land may intimate such claim to the Council, and shall produce to them his documents of title in support of his claim;

(b) on or before the date of the first publication of the notice referred to in paragraph (a) of this subsection—

(i) serve a copy of that notice by registered post or recorded delivery service on every person they consider after reasonable inquiry may reasonably be expected to claim to be entitled to the benefit of a restriction against the land; and

(ii) affix a copy or copies of that notice to some conspicuous object or objects on the land.

(8) If any person is entitled to the benefit of a restriction against the land but fails to comply with the requirements of such notice, the restriction shall, so far as concerns such person and his successors in title, be deemed to have been suspended under the foregoing provisions of this section, but without prejudice to any claim for compensation under subsection (9) of this section.

(9) The Council shall pay compensation in accordance with the provisions of section 10 of the Compulsory Purchase Act, 1965, in respect of any entitlement to the benefit of a restriction suspended under the powers of this section and loss suffered in consequence thereof, and the amount of the compensation shall, in case of dispute, be determined in accordance with the Land Compensation Act, 1961. 1965 c. 56. 1961 c. 33.

(10) Any restriction suspended under the powers of this section shall be unenforceable so long as the Council are the owners of the land to which the restriction relates, or, if the Council convey the land to any body for any of the purposes of the Education Acts, 1944 to 1970, so long as the land is used

PART II  
—cont.

by that body for the purposes of those Acts, and if compensation is paid by the Council under subsection (9) of this section in respect of the suspension of a restriction relating to the building upon, or use of, land, that restriction shall remain unenforceable in respect of such building or use notwithstanding any subsequent conveyance or disposition of the land to any other person:

Provided that if such compensation is paid on the basis that land may be used for a particular purpose, the restriction shall, after any subsequent conveyance or disposition of the land to a person otherwise than for any of the purposes of the Education Acts, 1944 to 1968, remain unenforceable only so long as the land is used for that purpose.

(11) If the Council dispose of any land to which the restriction suspended under the powers of this section relates, they shall, in two successive weeks, publish notice thereof in one or more local newspapers circulating in the locality in which the land is situated.

(12) Nothing in this section shall apply to any restriction—

(a) for the protection of, or for preventing interference with, the use of, or for securing access to operational land or apparatus of the statutory undertakers or the British Railways Board contained in any deed, wayleave, agreement or other instrument, or for the prevention of pollution of water which any statutory water undertakers (within the meaning of the Water Act, 1945, other than Part II of that Act) are for the time being authorised to take;

(b) arising under a covenant granted to the National Trust for Places of Historic Interest or Natural Beauty restricting the development or use of land;

(c) expressed to be in favour of the Conservators of the River Thames in respect of their statutory functions relating to land drainage or river pollution;

(d) for the protection of, or for securing access to, or preventing interference with the use of, apparatus of the said Conservators contained in any deed, wayleave, agreement or other instrument;

(e) arising under the Water Resources Act, 1963, or under any agreement expressed to be made pursuant to that Act.

(13) In this section “the appropriate Minister” means the Minister of the Crown having power to authorise the compulsory purchase of the land for the purpose for which the Council have acquired or agreed to acquire or propose to appropriate that land.

6. Where land owned by the Council (being land acquired by the Council to provide a site for a voluntary school) is conveyed by the Council to the trustees of a voluntary school in pursuance

1945 c. 42.

1963 c. 38.

Covenants or  
restrictions  
affecting  
certain land.



of the provisions of the Education Act, 1946, any covenants or restrictions affecting the use of such land as aforesaid shall be enforceable against the trustees or governors or managers of the voluntary school only to the extent that they were enforceable against the Council prior to the conveyance referred to in this section.

PART II  
—cont.

1946 c. 50.

7.—(1) The Council and any person having an estate or interest in any land within the county may enter into an agreement which may provide for all or any of the following:—

Agreements  
with  
developers.

- (a) determining the manner in which that land is to be developed and the order in which development of that land shall be carried out as between the different parts of that land and as between the different parts of the development of any part of that land;
- (b) determining the time by which development of that land shall be completed or the times by which the parts of that development shall be completed;
- (c) providing that the estate or interest of that person in that land shall not be conveyed, leased or assigned except by way of mortgage or legal charge to any person unless the Council shall have first satisfied themselves that that person has or can command sufficient financial resources to carry out development of that land and to implement all the provisions of the agreement;
- (d) the dedication to the public of rights of way over that land or over a part or parts of any building or structure which is comprised in the development and the maintenance and cleansing of the public rights of way so dedicated, including the maintenance and cleansing of the surface and the lighting of the building or structure over or above the public rights of way so dedicated and the maintenance of any support of the public rights of way so dedicated;
- (e) arrangements relating to the provision, maintenance or use of facilities for the parking of vehicles for, or in connection with, development of that land or relating to the provision or maintenance of roads required for the purposes of that development;
- (f) arrangements for the maintenance of open spaces provided in connection with the development of that land;
- (g) any other related or consequential matters.

(2) (a) An agreement entered into under the foregoing subsection may contain positive and negative covenants and whether they be positive or negative and notwithstanding that they may not enure, and may not be expressed to enure, for the benefit of any other land of the covenantee they shall, if registered as a local

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—cont.  
1925 c. 22.

land charge for the purposes of the Land Charges Act, 1925, be enforceable by the Council against the covenantor and all persons deriving title by, through or under the covenantor.

(b) In the event of the person who has entered into an agreement under the foregoing subsection or any person deriving title by through or under him failing to perform any of the positive covenants contained in the agreement, the Council may after giving not less than twenty-one days' notice of their intention so to do enter on the land and do the work in default and the expenses incurred by the Council shall be recoverable by them from the person in default.

(c) Except as may be expressly provided in the agreement, an agreement entered into under the foregoing subsection shall be enforceable and be deemed to be intended to be enforceable in perpetuity or for the duration of the estate or interest which the person entering into the agreement has in the land at the time when the agreement is entered into.

(3) The Council may take or acquire shares or other securities in any company incorporated in the United Kingdom with which an agreement is entered into under this section.

(4) In this section "development" has the same meaning as in section 22 of the Act of 1971.

Compensation  
may be in  
land.

8.—(1) The Council, when they are required by any enactment to make compensation to any person interested in any land, may by agreement with such person make such compensation wholly or partly in works, land or money, but in the case of land for the alienation of which the consent of any government department is required, only with such consent.

(2) Nothing in this section shall release the Council or any person purchasing or acquiring any land or interest in land from them under this section from any rent, covenants, restrictions, reservations, terms or conditions made payable by or contained in any conveyance, lease or other deed or instrument by which the land or interest has been conveyed or leased to or otherwise acquired by the Council or any persons from or through whom the Council have derived title to it.

Provision of  
substituted  
sites.

9. The power of the Council to purchase land by agreement shall include power to purchase land by agreement for the purpose of providing substituted sites or facilities for the owners, lessees and occupiers of land that may be acquired by the Council under any enactment.

Power to  
reinstate  
owners or  
occupiers  
of property.

10.—(1) The Council may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired or to be acquired by the Council under any enactment with respect to his reinstatement.



(2) Any such agreement may provide for the exchange of land, and for that purpose the Council may pay or receive money for equality of exchange.

PART II  
—cont.

11.—(1) The Council, by means of an order made by the Council and submitted to and confirmed by the confirming authority, may be authorised to create in favour of the Council in, over or under any land which under any enactment the Council may be authorised to acquire compulsorily, any easement or other right in, over or under or in relation to such land which, in the opinion of the confirming authority, is essential to the full enjoyment or use of any land or building owned or occupied, or intended to be acquired or occupied, by the Council for the purposes of any of their undertakings, powers or duties:

Provided that the Council may not exercise the powers of this section in circumstances where they may be authorised to acquire such rights by virtue of section 47 of the Highways Act, 1971. 1971 c. 41.

(2) The confirming authority shall not confirm any order under this section unless the confirming authority determine that the easement or right can be created without material detriment to the land in, over or under or in relation to which it is proposed to be created or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house.

(3) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of the said Act of 1946 and as if— 1946 c. 49.

(a) the expression “ compulsory purchase of land ” in the said Act of 1946 included the creation of such easement or right as is mentioned in subsection (1) of this section; and

(b) paragraphs 9 and 10 of Schedule 1 to the said Act of 1946 applied to the creation of such easement or right as is mentioned in the said subsection (1), whether it is created in, over or under any land to which either of those paragraphs relates or in, over or under any other land in which the person entitled to the benefit of the paragraph has an easement or other right which if it were land would be land to which the paragraph relates.

(4) No such easement or right as is mentioned in subsection (1) of this section shall be deemed part of a house, building or manufactory or of a park or garden belonging to a house within section 8 of the Compulsory Purchase Act, 1965.

1965 c. 56



PART II  
—cont.

(5) In this section the expression “confirming authority” means the authority having power to authorise the purchase compulsorily of the land for the enjoyment or use of which the easement or other right is required or which would have had such power if such land were not already owned by the Council.

Reservation  
of easements,  
etc., by  
Council.

12. Where on the sale by them of land to any person there is made or imposed by the Council any reservation, condition or restriction, the same may be enforced by the Council against persons deriving title under that person in respect of that land as if the Council were possessed of adjacent land and as if the reservation, condition or restriction had been expressed to be made for the benefit of such land.

Disposal of  
land.

1963 c. 29.

13. In respect of land acquired by the Council for the benefit or improvement of the county under section 157 or 158 of the Act of 1933 (as extended by section 1 of the Local Authorities (Land) Act 1963) or otherwise, section 165 of the Act of 1933 shall have effect with the omission of the words “and which is not required for the purpose for which it was acquired or is being used”.

Undertakings  
and  
agreements  
binding  
successive  
owners.

14.—(1) Every undertaking given to the Council by the owner of a 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 either on the passing of plan or otherwise in connection with the land; and
- (b) expressed to be given or made in pursuance of this section;

shall, if registered in the local land charges register, be enforceable by the Council against the person who entered into or joined as a party to such undertaking or agreement and all persons deriving title by, through or under him.

(2) Any person against whom such an undertaking or agreement is enforceable shall be entitled to require from the Council a copy thereof.

Power to  
require  
information  
as to  
ownership  
of premises.

15.—(1) The Council may for the purpose of enabling them to perform any of their functions under—

- (a) any enactment in force at the passing of this Act which authorises the Council to acquire land compulsorily and which does not contain power to require information as to the ownership of premises;
- (b) any enactment mentioned in Schedule 1 to this Act; and
- (c) any local enactment in force on the passing of this Act which authorises the Council to serve notice upon the owner or occupier of premises requiring the execution

by such owner or occupier of works on such premises, or which authorises the Council to execute works on premises within the county;

PART II  
—cont.

require—

- (i) the occupier of, and any person having an interest in, any premises in the county, and any person who either directly or indirectly receives rent in respect of such premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest in those premises, whether as freeholder, mortgagee, lessee or otherwise, and the name and address of any person known to him to receive either directly or indirectly the rent in respect of those premises; and
- (ii) any person who has sold, or otherwise disposed of, leased or let any premises in the county to state in writing the name and address of the person to whom he has sold, or otherwise disposed of, leased or let those premises.

(2) Any person who having been required by the Council in pursuance of this section to give to them any information fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding fifty pounds.

(3) For the purposes of this section “interest” includes any legal estate or interest in the premises or in any rentcharge issuing out of those premises.

16. The provisions of this Part of this Act (other than the provisions of section 6 (Covenants or restrictions affecting certain land)) which apply to the Council shall also apply to a local authority and, for that purpose, shall have effect as if, for references therein to the Council and to the county, there were substituted references to the local authority and to their district, and subject to any other necessary modifications.

Application to local authorities of provisions of Part II.

### PART III

#### PLANNING AND AMENITIES

17.—(1) A local authority, for the purpose of ascertaining whether or not an offence has been committed under section 1 of the Caravan Sites and Control of Development Act, 1960, may by notice, signed by their clerk or his lawful deputy, require the owner or reputed owner of any land in their district on which a caravan is stationed, or any person who, either directly or indirectly, receives rent in respect of such land, to state in

Information as to occupiers of land on which caravans are stationed.

1960 c. 62.

PART III  
—cont.

writing the name and address of the occupier of such land, and any person who, having been required by a local authority in pursuance of this section to give to them any information, fails without good cause to give that information within twenty-eight days of being so required, or knowingly makes any misstatement in respect thereof, shall be liable on summary conviction to a fine not exceeding twenty pounds.

(2) In this section “occupier” has the meaning assigned to it by section 1 (3) of the said Act of 1960.

Open spaces  
and verges,  
etc., of  
housing  
estates.

18.—(1) Where any grass verge, garden or space has been provided by a local authority in pursuance of the Act of 1957 or by a housing association in pursuance of arrangements made with a local authority under that Act, or any enactment repealed by that Act, or by any other person, and is maintained in an ornamental condition or mown the Council or the local authority (as the case may be) may by notice prohibit any person from—

- (i) causing or permitting motor vehicles or caravans to enter upon such grass verge, garden or space; or
- (ii) entering upon such garden.

(2) Any such notice as is referred to in the foregoing subsection shall be conspicuously posted on, or in proximity to, the land to which it relates and shall comply with any regulations or directions made or given by the Secretary of State in pursuance of sections 54 and 55 of the Act of 1967.

(3) If any person (except in a case of emergency) contravenes a notice so posted he shall be liable to a fine not exceeding twenty pounds.

(4) Before exercising their powers under subsection (1) of this section in relation to any grass verge, garden or space provided by a housing association, the local authority shall consult the association.

(5) The powers of this section shall not be exercisable in relation to any land which forms part of a highway maintainable at the public expense.

Byelaws for  
controlling  
river Hamble.

19. The Council may make byelaws for the purpose of restricting the speed of vessels, or of prohibiting or controlling water ski-ing or any similar activity on the river Hamble (whether or not within the limits of the river Hamble navigation prescribed by article 18 of the River Hamble Harbour Revision Order, 1969), or such part thereof as may be specified in the byelaws, and either generally or during specified periods.



## PART IV

## HIGHWAYS AND STREETS

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

Protection of trees, grass verges and gardens.

- (a) to plant trees or shrubs or other plants or place containers in which to grow trees or shrubs or other plants;
- (b) to attach containers for plants to posts or standards provided by the highway authority or, with the consent of the owner thereof, to any other posts or standards;
- (c) to lay out any grass verge, garden or space, and to place thereon such objects or structures as may appear to the highway authority conducive to the enhancement of amenity;
- (d) to provide guards or fences, and otherwise do anything expedient for the maintenance or protection of any such tree, shrub or plant, container, grass verge, garden or space, object or structure;
- (e) to cut down any such tree, shrub or plant, to remove any such container, guard, fence, object or structure, and to alter the nature of any such grass verge, garden or space or enlarge or diminish the area thereof;
- (f) by notice to prohibit persons from entering upon, or causing or permitting horses, cattle, vehicles or caravans to enter upon, any grass verge laid out under this section and maintained in an ornamental condition or mown, or any garden or space so laid out;
- (g) by notice to prohibit the playing of any game on any such grass verge, garden or space as aforesaid which is likely to cause damage thereto.

(2) Any such notice as is referred to in paragraph (f) of subsection (1) of this section shall be indicated by such traffic sign as may be approved for the purpose pursuant to sections 54 and 55 of the Act of 1967 conspicuously posted on, or in proximity to, the grass verge, garden or space to which it relates.

(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) A local authority who are not the highway authority may exercise the powers conferred on the highway authority by subsection (1) of this section in relation to any street vested in them

PART IV  
—cont.

and, with the consent of the highway authority, in relation to any street in their district which is a highway maintainable at the public expense.

(5) Any person (except in a case of emergency) who contravenes a notice so posted in pursuance of the said paragraph (f) or any person who contravenes a notice so posted in pursuance of the said paragraph (g) shall be liable to a fine not exceeding twenty pounds and the court may order the payment of such further amount as appears reasonable compensation for any damage caused by such contravention to such grass verge, garden or space, which last-mentioned amount shall be paid to the highway authority or local authority, as the case may be.

1925 c. 68.

(6) Section 82 of the Act of 1959 shall cease to apply to highways vested in the Council or a local authority, or to any such land as is referred to in subsection (1) of this section; and anything done by the Council or a local authority or a parish council under that section, or under section 1 of the Roads Improvement Act, 1925, with respect to such highways or land before the passing of this Act shall be deemed to have been done under this section.

(7) Nothing in this section shall affect the duty of the Council or a local authority to provide a footway or grass or other margins under section 67 or section 70 of the Act of 1959.

(8) Subject to the restrictions for the time being imposed by any enactment on their expenditure, a parish council may, with the consent of the highway authority, exercise the powers conferred by subsection (1) of this section with respect to any highway in the parish maintainable at the public expense.

(9) (a) 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.

(b) 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.

(10) Section 251 of the Act of 1959 shall apply to the exercise of the powers of this section.

(11) In this section the definition of the expression "highway authority" in subsection (2) of section 3 (Interpretation) of this Act shall have effect as if paragraph (a) of that definition were omitted.



21.—(1) No person (other than a person selling, offering or exposing for sale or depositing for sale any food, goods, provisions, articles or things at any market or fair for which a toll, stallage or rent is payable) shall provide, erect, place or use any shed, hut, shelter, booth, shop, stall or other erection whether on wheels or not or any vehicle or any container used, with or without a stall, on the verge of any highway to which this section applies, or on any common land, unenclosed moorland or other unenclosed land of whatsoever description adjacent to, and within 15 yards of, any highway to which this section applies, for the purpose of selling, offering, depositing or exposing for sale any food, goods, provisions, articles or things whatsoever other than newspapers.

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—cont.  
Sale of food  
and articles  
on verges.

(2) Any person who contravenes the provisions of this section shall be liable on conviction to a fine not exceeding fifty pounds; and if the use of any such shed, hut, shelter, booth, shop, stall or other erection, or any such vehicle or container is continued after the conviction, he shall be guilty of a further offence and liable on conviction to a daily fine not exceeding five pounds.

(3) (a) This section applies to—

- (i) all trunk roads and roads which are classified as principal roads by the Secretary of State under the Local Government Act, 1966; and
- (ii) any other county road, or part of a county road, in the county to which the highway authority may by order apply this section.

1966 c. 42.

(b) Before making an order under this subsection the highway authority shall cause to be published, once in each of two successive weeks in a local newspaper circulating in the locality in which the road is situated, a notice stating the general effect of the intended order and stating that within a period specified in the notice (not being less than twenty-eight days after the first publication of the notice) any person may object to the application by sending notice of his objection and of the grounds thereof to the highway authority.

(c) If, before the expiration of the period specified in the notice, any objection to the application is received by the highway authority, the highway authority shall consider any such objection and shall afford to any objector an opportunity of being heard by a committee of the council of the highway authority before making the order.

(4) Nothing in this section shall apply to—

- (a) any shed, hut, shelter, booth, shop, stall or other erection or any vehicle or container provided, erected or placed on private property by or with the consent of the owner of such property;



PART IV  
—cont.  
1925 c. 20.

(b) any building erected or work constructed with the consent of the Secretary of State in pursuance of section 194 of the Law of Property Act, 1925, or of any other statutory provision or any scheme made pursuant to a statute; or

(c) the sale of food, goods, provisions, articles or things from a vehicle when in use solely for the purpose of itinerant trading with the occupants of premises adjoining any highway, verge, common land or other land to which this section applies.

(5) In this section—

(a) the expression “container” includes any basket, pail, tray, package or receptacle of any kind, whether open or closed;

(b) the expression “private property” does not include common land;

(c) the expression “vehicle” means a vehicle of any description, whether drawn or propelled by mechanical power or not.

Prohibition of parking or camping on highway verges, etc.

22.—(1) (a) The highway authority may by order prohibit the placing and leaving of any vehicle, trailer, caravan or tent on the verge of, or on unenclosed land adjacent to, any part or parts of any road in the county.

(b) In this subsection “unenclosed land” means any waste land adjacent to and within 15 yards of the road and any common land or other unenclosed land of whatsoever description within that distance from the road.

(2) Any person who contravenes the provisions of an order under this section shall be liable to a fine not exceeding twenty pounds and to a daily fine not exceeding five pounds.

(3) Before determining to make an order under this section, the highway authority shall have regard to the availability of—

(a) suitable parking facilities (whether on or off the road and whether provided by the highway authority or by some other person) for use as an alternative to any verge or land which, before the making of the order, has been lawfully used for parking; and

(b) public sanitary conveniences in convenient situations.

(4) (a) An order made under this section shall—

(i) take effect from such date as may be specified in the order;

(ii) specify the road or roads and any unenclosed land to which it is to apply; and

- (iii) specify the days and hours between 9 o'clock in the evening and 9 o'clock in the morning during which the prohibition applies;

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—cont.

and may specify exceptions (other than those provided in subsection (9) of this section) from the prohibition thereby imposed.

(b) An order made under this section may at any time be altered or revoked by a subsequent order made in like manner.

(5) Before making any order under this section in relation to any road or land, the highway authority shall publish in one or more local newspapers circulating in the area in which the road or land is situated a notice—

- (a) stating the general effect of the order;
- (b) specifying the offices of every local authority in whose district the road or land is situated where a copy of the draft order may be inspected by any person free of charge at all reasonable hours during a period of twenty-eight days after the date of the first publication of the notice; and
- (c) stating that, within the said period, any person may by notice to the Secretary of State object to the making of the order.

(6) The highway authority shall also publish a notice in the London Gazette stating that they are about to make an order under this section, naming the area in which any road or land to which the order will apply is situated, specifying the offices of every local authority in whose district any part of the road or land is situated where a copy of the draft order may be inspected, and giving the name and date of issue of a local newspaper in which the notice explaining the general effect of the order will be found.

(7) (a) If before the expiration of a period of twenty-eight days after the first publication of the notice referred to in subsection (5) of this section or of twenty-five days from the publication of the notice in the London Gazette, an objection to the making of the order to which the notice relates is duly made to the Secretary of State and the objection is not withdrawn, the order shall not take effect until it is confirmed by the Secretary of State.

(b) Where the Secretary of State receives any objection to the making of an order, he shall send to the highway authority a copy of every such objection and the Secretary of State, after considering every such objection and causing, if he thinks fit, a local inquiry to be held, may confirm the order, with or without modifications.



PART IV  
—cont.

(8) Where an order has been made and confirmed under this section, the highway authority shall erect, or cause to be erected, on or near any road or land to which such an order applies notices indicating the nature and extent of the prohibitions imposed by the order.

(9) (a) No order made under this section shall apply to the placing and leaving on a verge or land of—

- (i) any vehicle, trailer, caravan or tent if it is not left for more than two hours;
- (ii) any vehicle, trailer, caravan or tent by or with the consent of the occupier of the land;
- (iii) any vehicle, trailer or caravan placed and left because of, or in connection with, mechanical breakdown;
- (iv) any vehicle, trailer, caravan or tent placed and left because of the illness of any person accompanying any such vehicle, trailer, caravan or tent;
- (v) any vehicle when in use solely for the purpose of itinerant trading with the occupants of premises adjoining a verge or land;
- (vi) any vehicle, trailer, caravan (not used for human habitation) or tent used by any statutory undertaker or the British Railways Board in the exercise of their statutory powers or by the highway authority or the local authority in, or in connection with, the exercise of their statutory functions;
- (vii) any caravan when occupied solely by a person who is a gipsy as defined in the Caravan Sites Act, 1968.

1968 c. 52.

(b) No order made under this section shall apply to any land on which tents or caravans are erected or placed in accordance with the terms of a licence granted under section 269 of the Act of 1936 or in accordance with any terms and conditions on which permission has been given for development by the local planning authority under the provisions of the Act of 1962 or in respect of which a site licence is for the time being in force under Part I of the Caravan Sites and Control of Development Act, 1960.

1960 c. 62.

(10) A prohibition on the parking of vehicles on the verge of any road operating by virtue of this section shall be indicated by such traffic sign as may be approved for the purpose pursuant to sections 54 and 55 of the Act of 1967.

Parking places  
in parks, etc.

23.—(1) For the purpose of providing a parking place under section 28 of the Act of 1967, the Council or a local authority may, with the consent of the Secretary of State, utilise any part of a park, pleasure ground or open space provided by them or under their management and control:

Provided that the part of any park, pleasure ground or open space utilised under this section shall not exceed one-eighth of the total area thereof, or one acre, whichever is the less.

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—cont.

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

1906 c. 25.

(3) No power conferred upon the Council or a local authority by this section shall be exercised in such a manner—

(a) as to be at variance with an express trust subject to which land or a building is held, managed or controlled by them, without an order of the High Court, or of the Charity Commissioners or of the Secretary of State or, where the trust instrument reserves to the donor, or any other person, the power to vary the trust, without the consent of the donor or that other person; or

(b) as to contravene a covenant or condition subject to which a gift or lease of land or a building has been accepted by, or granted to, them without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

24.—(1) Subject to the provisions of section 26 (Saving for land held on charitable trusts) of this Act where for the convenience of persons using a trunk road or county road it appears to the Council to be necessary to provide parking places for vehicles, they shall have for such purpose the powers of a local authority under the provisions of sections 28 to 32 of the Act of 1967, other than subsections (1), (2), (5) and (7) of section 29 of that Act, to provide, in the county, parking places (other than underground parking places); and the said powers, as extended to the Council by virtue of this section, shall include powers to provide and maintain any camping places, refreshment rooms, office accommodation, shelters, cloakrooms or other conveniences for use in connection with any such parking place:

Provision of parking places on trunk roads and county roads.

Provided that, where any parking place is to be provided for the convenience of persons using a trunk road, that parking place and any such convenience as aforesaid shall only be provided with the consent of the Secretary of State.

(2) Accordingly, the said provisions of sections 28 to 32, in their application to the Council, shall have effect as if—

(a) references to a parking place were construed as including references to any such camping places, refreshment rooms, office accommodation, shelters, cloakrooms or other conveniences;

(b) in section 28 (1) for the words “purpose of relieving or preventing congestion of traffic” there were substituted



PART IV  
—cont.  
1959 c. 25.

the words “convenience of persons using a trunk road or county road within the meaning of the Highways Act 1959” and the words “whether above or below ground and” were omitted;

(c) for section 28 (5) there were substituted the following subsection:—

“ (5) Any power conferred by this section to provide a parking place includes power to maintain it and any buildings comprised in it ”; and

(d) in section 28 (6) the words from “and for the purposes of this section” to the end of the subsection were omitted;

(e) section 28 (8) and section 31 (5) were omitted.

(3) Where the Council propose to acquire any land or to utilise any land appropriated by them for the purposes of subsection (1) of this section, they shall, before carrying the proposal into effect—

(a) cause notice of the proposal (specifying the land to which it relates and notifying the period, which shall not be less than twenty-eight days after the date of publication, within which any representations relating to the proposal shall be sent in writing to the Council) to be published in at least one newspaper circulating in the area in which the land is situated and a copy of the notice to be posted for not less than fourteen days on, or adjacent to, the land; and

(b) consider any representations which are sent to them in writing within the time fixed in that behalf and give notice of their decision on the representations to the person by whom they were made.

(4) The Council shall not themselves provide or sell refreshments at any refreshment room or other premises provided for the purposes of subsection (1) of this section, and any refreshment room or other premises so provided shall be disqualified for receiving a licence granted by licensing justices under the Licensing Act, 1964, other than a restaurant licence within the meaning of Part IV of that Act.

1964 c. 26.

Extension of  
parish councils’  
powers to  
provide  
parking  
places.

**25.—**(1) Subject to the provisions of section 26 (Saving for land held on charitable trusts) of this Act the powers of a parish council under section 46 of the Act of 1967 to provide parking places for bicycles and motor-cycles shall extend so as to authorise a parish council to provide parking places for other vehicles (whether or not consisting of buildings) in the circumstances and subject to the conditions prescribed by that section and by section 47 of the said Act.

(2) For the purpose of exercising the powers of the said section 46 as extended by the foregoing subsection the following provisions of the Act of 1967 shall apply to a parish council as they apply to a local authority, namely:—

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—cont.

- subsections (5) and (8) of section 28;
- subsections (1) to (3), (5) to (7) and (9) of section 29;
- section 30;
- subsections (1) to (4), (5) and (6) of section 31; and
- section 96.

(3) The provisions of section 48 of the Act of 1967 shall apply to the exercise by a parish council of the powers of this section as they apply to such a council in the exercise of the powers of section 46 of that Act and section 49 of the Act shall have effect accordingly.

26. No power conferred by subsection (3) of section 29 of the Act of 1967 as applied respectively to the Council and to any parish council by subsection (1) of section 24 (Provision of parking places on trunk roads and county roads) and by subsection (1) of section 25 (Extension of parish councils' powers to provide parking places) of this Act shall be exercised in such a manner—

Saving for  
land held on  
charitable  
trusts.

- (a) as to be at variance with an express trust subject to which land or a building is held, managed or controlled by such council, without an order of the High Court, or of the Charity Commissioners, or of the Secretary of State for Education and Science, or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of the donor or that other person; or
- (b) as to contravene a covenant or condition (other than a covenant or condition which was subsisting before the date of the gift or lease to such council) subject to which a gift or lease of any land or a building has been accepted by, or granted to, such council, without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

27. The Council may enter into an agreement—

- (a) with any person for the provision by him of any public sanitary conveniences which the Council have power to provide; and
- (b) with the owner and occupier of any such premises as are referred to in section 89 (1) of the Act of 1936 or the owner and occupier of any premises comprising a petroleum filling station, as defined in the Petroleum

Extension of  
power to  
provide public  
conveniences.



## PART IV

—cont.

1928 c. 32.

(Consolidation) Act, 1928, for the provision by him, in addition to any sanitary conveniences provided for the use of persons employed at or frequenting such premises, of additional sanitary conveniences for the use of members of the public;

and any such agreement may contain such incidental and consequential provisions as appear to the Council to be necessary or expedient for the purposes of the agreement including in particular, but without prejudice to the generality of the foregoing, provision for—

- (i) a contribution, whether by way of a loan or otherwise, by the Council towards the reasonable expenses incurred by any person in providing and maintaining sanitary conveniences for the use of members of the public;
- (ii) the charges to be made to persons making use of any such conveniences, other than urinals;
- (iii) the regulation of the use of any such conveniences.

Control of  
goods service  
areas.

28.—(1) The local authority may by order made for the purposes of this section designate land, being land to which this section applies, as a service area:

Provided that—

- (a) land shall not be so designated unless it is expedient to do so to prevent or reduce traffic congestion in a street in their district caused by the loading or unloading of vehicles standing on any such street;
- (b) the land shall not be so designated unless either—
  - (i) it belongs to the Council or the local authority;
  - or
  - (ii) it has been provided as an area for the loading or unloading of vehicles pursuant to planning permission;
- (c) where the land is in the curtilage of premises and used in connection with only one shop, the order shall relate only to such part of the land as is required for loading or unloading vehicles, including obtaining access to or egress from the point at which vehicles are loaded or unloaded for the purpose of the business conducted at those premises.

(2) No person shall cause or permit any vehicle to wait on a service area designated under this section between the hours of 8 o'clock in the morning and 6 o'clock in the afternoon on a weekday otherwise than for the loading or unloading of that vehicle.

(3) This section applies to such part of any land within the curtilage or vicinity of shop premises as is used or intended to be used as a place where vehicles may wait for the loading or unloading of goods and includes a roadway not being a public highway.

(4) Any person who contravenes the provisions of subsection (2) of this section shall be liable to a fine not exceeding twenty pounds.

(5) (a) If the local authority consider that an order should be made under this section they shall give notice thereof to the owner and occupier of the land stating that objections to the said order may be made in writing within one month after the date of service of the notice.

(b) The local authority shall consider all such objections and shall afford to any owner or occupier who has made objection an opportunity of being heard by a committee of the local authority before the order is made.

(6) (a) After considering any objections made under the last foregoing subsection the local authority may make an order.

(b) Any such order shall come into operation at the expiration of the period of one month after the service of the notice in pursuance of subsection (7) of this section or if an appeal is lodged when an appeal is disposed of or withdrawn or fails for want of prosecution and shall have effect for such period not exceeding five years as the local authority may determine but without prejudice to their power to make a further order in the same manner as the original order.

(7) When an order has been made by the local authority under this section they shall give notice thereof and of the right to appeal to the owner and occupier of the land and any such owner or occupier who is aggrieved by the order may appeal to a magistrates' court.

(8) In this section, "shop premises" has the meaning assigned to it by section 1 of the Offices, Shops and Railway Premises Act, 1963, and for the purposes of subsection (2) of this section 1963 c. 41. the reference therein to the loading or unloading of a vehicle shall include the carrying out of any operation which is required on the occasion of any such loading or unloading for compliance with the need for hygiene in connection with the sale of ice-cream to the public.

(9) This section shall not apply to any land belonging to the British Railways Board or any statutory undertakers and primarily used by them for the purposes of their respective undertakings.



PART IV  
—cont.

Temporary  
stoppage of  
footpaths and  
bridleways.

29.—(1) For the purpose of the execution of any works on or near a public footpath or bridleway in the county, the Council may restrict or prohibit temporarily the use of that footpath or bridleway, or of any part thereof:

Provided that—

(a) the Council shall not exercise the powers of this section so as to deprive persons with or without animals bona fide going to or from any building or land of reasonable access to the building or land;

(b) the exercise by the Council of the powers of this section in relation to any footpath or bridleway in the county shall not prevent statutory undertakers from obtaining access to any apparatus nor prejudice or affect the rights of the statutory undertakers—

(i) to place, maintain, inspect, repair, renew or remove any telegraphic line within the meaning of the Telegraph Act, 1878, or apparatus belonging to or used or maintained by them which may for the time being be under, in, upon, over, along or across that footpath or bridleway; or

(ii) for the purpose of such placing, maintenance, inspection, repair, renewal or removal, to enter upon or break open that footpath or bridleway.

(2) In exercising the powers of this section the Council shall whenever reasonably practicable provide a proper temporary substitute footpath or bridleway before interrupting the user of any footpath or bridleway.

(3) The foregoing provisions of this section shall apply to a local authority and for that purpose those provisions shall have effect as if for references therein to the Council and the county there were substituted references to the local authority and to their district respectively.

1878 c. 76.

Access to new  
street.

30.—(1) Where a plan and sections of a new street deposited with a local authority in pursuance of new 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, planting or retention of any structure or hedge 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:

Provided that—

(a) no such notice shall affect any structure or hedge existing at the time of the deposit until both the new street and that other street have become highways maintainable at the public expense;

(b) no such notice shall apply to the erection of any structure in accordance with a planning permission given in pursuance of an application therefor made to the local planning authority under the Act of 1971.

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—cont.

(2) Such a 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 a notice under this section he shall be liable to a fine not exceeding one hundred pounds; and the local authority 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. 1925 c. 22. 1926 c. 11.

31.—(1) Where a plan and sections of a new street deposited with the local authority in pursuance of new street byelaws are approved by them, they may, for the purpose of securing the proper laying out or development of any estate through which the street is to run, by notice require that such provision shall be made—

Adjustment  
of boundaries  
of estates in  
connection  
with streets.

(a) for adjusting and altering the boundaries of the estate, and any other estate adjacent or near thereto, and for effecting exchanges of land in connection therewith; and

(b) for the removal, modification or imposition of covenants, restrictions and conditions attaching to the land comprised in the estate, or any such other estate;

as may be necessary or desirable having regard to the line and layout of the new street.

(2) The notice shall be given to the owners of all the estates affected thereby and shall require the person upon whom the notice is served to provide the Council with information—

(a) as to the nature and duration of the interest of such person in the estate; and

(b) where such information is in the knowledge of the person, as to whether there is a mortgage of the interest of such persons or of any other persons interested in the estate, and if so as to the name and address of the mortgagee under the mortgage;

and a copy of the notice shall be served upon any mortgagee whose name and address is supplied to the local authority by any such owner.

(3) The powers conferred by subsection (1) of this section may also be exercised on the approval of a plan for the widening of an existing street or for the widening or adaptation of a road, footpath or way so as to form a new street.



PART IV  
—cont.

(4) The provision so to be made and the terms and conditions upon which it is to be made shall, failing agreement between the local authority and the persons interested (including mortgagees whose identity is ascertained under subsection (2) of this section and whether or not in possession) in the respective estates, be determined by a single arbitrator appointed, in default of agreement, by the Secretary of State.

(5) An agreement or award made under this section may provide for the payment of money by the local authority; but no such award shall provide for the payment of money by any other person without his consent.

(6) An award made under this section shall operate to effect any adjustment or alteration of boundaries or exchange of land and any removal, modification or imposition of covenants, restrictions and conditions attaching to any land, which may be provided for by the award, and shall be duly stamped accordingly.

(7) The costs and expenses of any arbitration under this section shall, unless and except in so far as the award may otherwise provide, be paid by the local authority.

(8) Any land or money received by any person in respect of an adjustment or alteration of boundaries or exchange of land under this section shall be held by him subject to the same trusts if any, as the land exchanged therefor.

(9) Any land received by any person as aforesaid shall also be held subject to the same mortgages, covenants, restrictions and conditions, if any, so far as the same are applicable, as the land exchanged therefor; and any such mortgages, covenants, restrictions or conditions shall be deemed to be applicable unless otherwise provided in an agreement or award made under this section.

(10) The local authority may purchase land by agreement for the purposes of this section and, until they dispose of the land or appropriate it for any other purpose, may manage the land in such manner as they think fit.

(11) In this section “estate” includes any parcel of land and “mortgage” and “mortgagee” respectively include a legal charge and a legal chargee.

Awnings over  
footways.

**32.—**(1) If a person erects, or permits to be erected, over the footway of a street in a district, being a highway maintainable at the public expense, an awning which—

(a) projects over any part of the footway which is less than two feet from the carriageway; or

(b) obscures a traffic sign from the view of persons driving or riding vehicles on the carriageway;

he shall be liable to a fine not exceeding twenty pounds.

An awning that can be folded up or rolled up without being dismantled shall be treated for the purposes of this subsection as being in its extended position.

(2) If an awning over such a footway is dangerous or inconvenient to the public, the local authority 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 remove the danger or inconvenience.

(3) In this section—

“awning” includes a blind, shade or other covering; and

“traffic sign” has the meaning assigned to it by section 54 of the Act of 1967.

33.—(1) No person shall mix or deposit mortar or any like substance in any street in the county which is a highway maintainable at the public expense except upon a board or in a receptacle which will protect the street from such mortar or substance: Mixing of mortar in streets.

Provided that this section shall not apply to the mixing or deposit in any street of mortar or any like substance for the purposes of making up, repairing, reinstating, altering or improving a street or any bridge over or under a street.

(2) If any person contravenes the provisions of this section, he shall be liable to a fine not exceeding twenty pounds.

34.—(1) This section applies to any excavation made after the passing of this Act on any land in the county within 30 feet from any highway maintainable at the public expense where any part of the excavation will, within the said distance of 30 feet, meet a plane drawn downwards in the direction of the excavation at an angle of 45 degrees to the horizontal from the line formed by the intersection of the plane of the level of the base of the foundations of the highway with the vertical plane of the boundary of the highway nearest to the excavation. Excavations near highways.

(2) Any person who makes, or executes works for the making of, an excavation to which this section applies shall take, in connection with the making of the excavation, or the execution of such works, such steps as may be necessary to prevent the withdrawal of support (whether vertical or lateral) for the highway, and if the making of any such excavation, or the execution of works for the making of any such excavation, causes the withdrawal of support as aforesaid for the highway so that, for the purpose of removing danger so caused, it is reasonably necessary to restrict or prohibit the use of the highway by pedestrians or vehicles, or by vehicles of any particular class or description (not being vehicles of excessive weight to which section 62 of the Act of 1959 applies), the person responsible for the making of the excavation or the



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—cont.

execution of such works as aforesaid shall, without prejudice to any obligation or liability to which he or any other person may be subject apart from this section, be guilty of an offence under this section.

(3) A person guilty of an offence under this section shall be liable, on conviction on indictment or on summary conviction, to a fine:

Provided that an offence under this section shall not be punishable on summary conviction by a fine exceeding one hundred pounds.

(4) Proceedings for an offence under this section may be brought by the highway authority for the highway to which the proceedings relate.

(5) Subject to the provisions of section 35 (Exemption of owner from liability on conviction of actual offender) of this Act, for the purposes of this section the owner of the land on which an excavation is made shall be taken as being the person responsible for the making of the excavation or the execution of works for the making of the excavation.

(6) In any proceedings for an offence under this section it shall be a defence to prove—

- (a) that all practicable steps were taken to prevent the withdrawal of support; or
- (b) that before works for the making of the excavation were commenced, plans, sections and particulars thereof were submitted to the highway authority and approved by them and the said works were executed and the excavation made in accordance with the plans, sections and particulars so approved.

Exemption of owner from liability on conviction of actual offender.

35.—(1) Where proceedings are brought for an offence under section 34 (Excavations near highways) of this Act against the owner of any land or building, he shall be entitled, on information duly laid by him and on giving to the prosecution, not less than three days before the date of the hearing, notice in writing of his intention to do so, to have brought before the court in the proceedings—

- (a) any other person who has undertaken to be responsible for the making of the excavation in question or the execution of the works in question;
- (b) any other person who, by reason of the fact that he has in his charge or subject to his direction the making of

the excavation or the execution of the works or part thereof (as the case may be), ought to be taken to be responsible as aforesaid;

PART IV  
—cont.

ing the person whom the owner charges as the offender; and after the commission of the offence has been proved, the owner proves to the satisfaction of the court that the offence was committed by the person whom the owner charges as the offender that person shall be convicted of the offence, and, if the owner further proves that the offence was committed without his consent, connivance or wilful default, he shall be acquitted of the offence.

(2) (a) The prosecution as well as the person whom the owner charges as the offender shall have the right in any such case as aforesaid to cross-examine the owner, if he gives evidence, and any witnesses called by him in support of his charge 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.

(3) Where the Council, the highway authority or the local authority (as the case may be) are reasonably satisfied—

(a) that a person other than the owner has undertaken to be responsible, or ought to be taken to be responsible, as aforesaid and should be charged as the offender; and

(b) that the offence has been committed without the consent, connivance or wilful default of the owner;

they shall proceed against the person whom they consider to be the offender without first proceeding against the owner.

36.—(1) The provisions of section 34 (Excavations near highways) of this Act shall not apply to—

Exemption  
for river  
authorities  
and statutory  
undertakers.  
1950 c. 39.

(a) any excavation made in the course of carrying out undertakers' works to which the Public Utilities Street Works Act, 1950, applies; or

(b) any other excavation made by a river authority, or any statutory undertakers, in the exercise of their statutory powers in respect of which the following conditions have been fulfilled—

(i) not less than twenty-eight days before commencing the excavation plans are submitted to the highway authority for their reasonable approval;



PART IV  
—cont.

(ii) the excavation is not commenced until the plans have been approved in writing by the highway authority or settled by arbitration:

Provided that if the highway authority do not, within twenty-eight days after the submission to them of any such plans signify in writing their disapproval thereof they shall be deemed to have approved thereof;

(iii) the excavation is carried out in accordance with the plans approved, deemed to have been approved or settled by arbitration.

(2) Any question arising between the highway authority and river authority or any statutory undertakers under this section shall be determined by arbitration.

(3) In this section—

“ plans ” includes sections and particulars; and

“ river authority ” includes the Conservators of the River Thames and any drainage authority within the meaning of the Land Drainage Act, 1930.

1930 c. 44.

Street  
cleansing.

37. Between one hour after sunrise and one hour before sunset the provisions of any order made under or having effect by virtue of the Act of 1967 prohibiting the driving of vehicles on any specified road in the county otherwise than in a specified direction shall not apply to any mechanically propelled and operated street cleansing vehicles provided by a local authority when engaged in the cleansing of any street.

Recovery of  
street works  
charges where  
owner  
unknown.

38.—(1) Where any street works in the county have been completed by a street works authority but they are unable to recover the amount due from the owner of any premises or otherwise under the code of 1892 by reason of the fact that such owner is unknown and cannot, after diligent inquiry, be found when the said amount becomes due and at reasonable intervals thereafter, be found, the street works authority may, at any time after the expiration of twelve years after the date when the said amount becomes due, apply to the county court, and the court may, on the receipt of such application and on being satisfied that the provisions of this subsection have been complied with, make an order vesting the said premises in the street works authority absolutely, and thereupon the street works authority may appropriate the said premises subject to, and in accordance

with, the provisions of section 163 of the Act of 1933, as if the said premises were land which was not required for the purpose for which it was acquired.

PART IV  
—cont.

(2) Where the county court makes an order under subsection (1) of this section the Lands Tribunal shall, for the purpose of determining the value of the said premises, nominate one of their members selected in accordance with subsection (6) of section 1 and section 3 of the Lands Tribunal Act, 1949, and the member nominated shall determine the same accordingly and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof, and the street works authority shall thereupon pay into court a sum equal to the amount of such valuation, after deduction of the amount of the final apportionment in respect of the said premises, with interest thereon for a period of six years at the rate of 5 per cent. per annum, or at such other rate as may have been fixed by order of the Secretary of State under section 212 of the Act of 1959 together with all costs and expenses reasonably incurred by the street works authority. 1949 c. 42.

(3) Any payment into court under subsection (2) of this section shall be made in accordance with section 25 of the Compulsory Purchase Act, 1965, and subsection (5) of section 9 of that Act shall apply to any such payment into court. 1965 c. 56.

(4) The powers conferred by subsection (1) of this section shall be exercisable by the street works authority in addition to any existing rights, powers and remedies for the recovery of expenses and shall be exercisable by the street works authority in respect of all street works whether completed before or after the passing of this Act.

(5) In relation to a street works authority which is the council of an urban district this section shall have effect as if for reference to the code of 1892 there were substituted reference to the code of 1875 or the code of 1892, whichever shall be the appropriate code.

(6) In this section "street works" and "street works authority" have the same respective meanings as in section 213 of the Act of 1959 and "code of 1875" and "code of 1892" have the same respective meanings as in section 173 of that Act.

39. The council of a rural district in the county may at any time resolve to bear the whole or a portion of the expense of any street works in their district under the code of 1892, as defined in section 173 of the Act of 1959, and where such a council so resolve the

Power for rural district councils to contribute to cost of private street works.



PART IV  
—cont.

liabilities of the owners of premises in respect of those expenses shall be treated as discharged, or as proportionately reduced, accordingly.

## PART V

## FIRE PROTECTION, PUBLIC SAFETY AND PUBLIC ORDER

Underground  
parking  
places.

40.—(1) Where plans of any proposed work deposited with a local authority in pursuance of building regulations include proposals for the construction, alteration or extension of an underground parking place or the alteration of a building for use as an underground parking place the local authority shall, notwithstanding anything in section 64 of the Act of 1936, reject the plans unless there are put before them such proposals as appear to them, after consultation with the Council, to be satisfactory for preventing or reducing danger from fire, being proposals relating to all or any of the following matters:—

- (a) the construction of the underground parking place and the approaches thereto and the materials to be used in such construction;
- (b) the means of ventilation of the underground parking place;
- (c) the electrical and mechanical and heating equipment in the underground parking place;
- (d) the provision of a satisfactory emergency lighting system in connection with the underground parking place;
- (e) fire-fighting equipment and appliances in connection with the underground parking place;
- (f) the means of ingress to and egress from the underground parking place;
- (g) the provision of adequate means of preventing flammable substances from being admitted to any drainage system forming part of the underground parking place;
- (h) the means of access to the underground parking place for fire brigade appliances and personnel:

Provided that where the local authority, after consultation as aforesaid, are satisfied that the nature and situation of the work is such that notwithstanding the absence of proposals for compliance with this subsection they should do so, they may dispense with the requirements of this subsection.

(2) Subsection (2) of section 64 and subsections (2) to (5) of section 65 of the Act of 1936 shall have effect as if this section were a section of that Act.

(3) If any question arises between the local authority and a person who has executed or proposes to execute any work—

PART V  
—cont.

- (a) whether the work is such as is mentioned in subsection (1) of this section;
- (b) whether the local authority ought to have dispensed with the requirements of the said subsection (1); or
- (c) whether the local authority ought to have treated as satisfactory any proposal put before them in pursuance of the said subsection;

that question may, on the application of that person, be referred to the Secretary of State for determination, and the Secretary of State shall determine any question submitted to him under paragraph (a) of this subsection or, as the case may be, may direct the local authority to treat as satisfactory the said proposal or the said proposal as modified by him.

(4) If, after plans of any underground parking place have been passed by the local authority in consequence of any proposals made under subsection (1) of this section, it appears to the local authority that any such proposal has not been carried into effect or is not being observed, the local authority may by notice to the owner or occupier of the underground parking place prohibit its use as an underground parking place until the proposal has been carried into effect or is being observed.

(5) Any person on whom a notice has been served under subsection (4) of this section who uses the underground parking place or permits it to be used as an underground parking place without giving effect to or securing the observance of any proposal specified in the notice shall be liable to a fine not exceeding fifty pounds and to a daily fine not exceeding five pounds.

**41.**—(1) Without prejudice to the provisions of section 40 (Underground parking places) of this Act, the local authority may by notice to the owner or occupier of any underground parking place in the district which is first brought into use after the passing of this Act require compliance with such conditions as to the use of the underground parking place as may be specified in the notice for the purpose of preventing or reducing danger from fire therein, and in the case of any underground parking place as aforesaid in respect of which plans are not deposited with the local authority in pursuance of building regulations the local authority may by notice to the owner or occupier thereof require him to comply with such conditions as aforesaid and with such other conditions with regard to the matters specified in paragraphs (b) to (h) of subsection (1) of the said section 40 as the local authority think fit.

Further provision as to underground parking places.



**PART V**  
—*cont.*

(2) Any person on whom a notice under this section has been served who fails to comply with any requirements specified in the notice shall be liable to a fine not exceeding fifty pounds and to a daily fine not exceeding five pounds.

(3) A person on whom a notice under this section has been served may within twenty-one days of the service of the notice appeal to the Secretary of State on the ground that any requirement specified in the notice is not justified by this section or is unreasonable in character or extent or is unnecessary.

(4) If so required by any such person the local authority shall deliver to him a certificate signed by their clerk stating the grounds on which the local authority have made any requirement under this section, and where such person appeals to the Secretary of State against such requirement the certificate shall be submitted by him to the Secretary of State at the same time that notice of appeal is given, or as soon as possible after the receipt by such person of the certificate.

(5) On consideration of any such appeal the Secretary of State may, if he thinks fit, confirm, modify, alter or annul any requirement made by the local authority under this section.

Interpretation  
and powers  
of entry for  
purposes of  
last two  
foregoing  
sections.  
1928 c. 32.

42.—(1) In the last two foregoing sections the expression “underground parking place” means a building or part of a building (other than a building or part of a building in respect of which a licence issued by a local authority or the Secretary of State under section 2 or 3 of the Petroleum (Consolidation) Act, 1928, is in force or a building or part of a building to which regulations made by the Secretary of State under section 10 of that Act apply) which provides waiting space or storage space, either alone or in addition to any other facility or service, for motor cars or other vehicles and of which any part of the floor is situated more than 4 feet below the surface of the ground adjoining such building or part of a building.

(2) For the purposes of paragraph (a) of subsection (1) of section 287 of the Act of 1936 as applied by this Act the provisions of the last two foregoing sections shall be provisions which it is the duty of the local authority to enforce.

Building  
plans: access  
for fire  
brigade.

43.—(1) Subject to the provisions of subsection (3) of this section, where plans for the erection of a building are in accordance with building regulations deposited with a local authority, the local authority, after consultation with the Council, shall reject the plans if they show—

(a) that the building will not be provided with such means of access by the fire brigade as are necessary to enable a fire in the building to be fought effectively; or

- (b) that the building will interfere with the means of access by the fire brigade to a neighbouring building to such an extent as to render those means insufficient to enable a fire in the neighbouring building to be fought effectively.

PART V  
—cont.

(2) Subject as aforesaid, where plans for the extension of a building are in accordance with building regulations deposited with a local authority, the local authority, after consultation with the Council, shall reject the plans if they show—

- (a) that the extension will be such as to affect the adequacy of the means of access by the fire brigade to the building and that the building as extended will not be provided with such means of access by the fire brigade as are necessary to enable a fire in the building to be fought effectively; or
- (b) that the extension will interfere with the means of access by the fire brigade to a neighbouring building to such an extent as to render those means insufficient to enable a fire in the neighbouring building to be fought effectively.

(3) This section shall not apply in relation to the erection or extension of a building in pursuance of a planning permission given under the Act of 1971 unless notice of the provisions of this section is endorsed on or accompanies the planning permission so given.

(4) In this section “access by the fire brigade” means access by members of one or more fire brigades and their appliances, and references to a neighbouring building are, in relation to a neighbouring building for the erection, alteration or extension of which plans have been passed, references to the neighbouring building as erected, altered or extended in accordance with those plans.

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

(6) Any question arising under this section between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the local authority ought to pass the plans may, on the application of that person, be determined by a magistrates’ court.



PART V  
—cont.Firemen's  
switches for  
luminous  
tube signs.

44.—(1) This section applies to apparatus consisting of luminous tube signs designed to work at a voltage normally exceeding 650 volts, or other equipment so designed, and of the transformers required to raise the voltage so as to operate the signs or equipment, not being apparatus which is inside a building and is attended while in operation.

(2) As from the coming into operation of this section, apparatus to which this section applies in the county shall be provided with a cut-off switch on the low-voltage side of the transformer, and the switch shall be so placed, and coloured or otherwise marked, as to satisfy such reasonable requirements as the Council may impose to secure that it shall be readily accessible to, and recognisable by, firemen.

(3) Not less than fourteen days before work is begun to install apparatus to which this section applies, the consumer shall give notice to the Council showing where the cut-off switch is to be placed and how it is to be coloured or otherwise marked.

(4) Where apparatus to which this section applies has been installed before the date of the coming into operation of this section, the consumer shall, not less than fourteen days before that date, give notice to the Council—

- (a) in the case of apparatus already provided with a cut-off switch on the low-voltage side of the transformer, showing where the switch is placed and how it is coloured or otherwise marked;
- (b) in the case of apparatus not already provided with such a cut-off switch as aforesaid, showing where the switch is to be placed and how it is to be coloured or otherwise marked.

(5) Where notice has been given to the Council as required by subsection (3) or subsection (4) of this section, the proposed or, as the case may be, actual position, colouring or marking of the switch shall be deemed to satisfy the requirements of the Council unless, within ten days from the date of the service of the notice, if the notice is served under subsection (3) of this section, or within twenty-one days from the date of the service of the notice, if the notice is served under subsection (4) of this section, the Council have served on the consumer a counter-notice stating that their requirements are not satisfied.

(6) A cut-off switch which complies with the regulations of the Institution of Electrical Engineers shall for the purposes of this section be deemed to satisfy the requirements of the Council.

(7) A person aggrieved by a counter-notice served by the Council under subsection (5) of this section may appeal to a magistrates' court and the court, if it allows the appeal, shall order the cancellation of the counter-notice.

(8) If the owner or the occupier of any premises where apparatus to which this section applies is installed does not comply with subsection (2) of this section he shall be liable to a fine not exceeding twenty pounds and to a daily fine not exceeding forty shillings.

(9) If any person fails to give notice as required by subsection (3) or subsection (4) of this section, he shall be liable to a fine not exceeding twenty pounds.

(10) The provisions of this section shall not affect the requirements of the Electricity Supply Regulations, 1937, or any regulations that may be made under section 60 of the Electricity Act, 1947, under the Factories Act, 1961 or the Offices, Shops and Railway Premises Act, 1963.

1947 c. 54.  
1961 c. 34.  
1963 c. 41.

(11) This section shall not apply to apparatus installed on or in premises, or any part of premises, in respect of which a licence under the Cinematograph Acts, 1909 and 1952, or the Theatres Act, 1968, is for the time being in force:

1968 c. 54.

Provided that where any luminous tube sign to which, but for this subsection, this section would apply is proposed to be fitted on or in any such premises, the owner or occupier thereof shall, before such apparatus is fitted, give notice under subsection (3) of this section to the Council informing them of the position in which it is proposed to place the cut-off switch.

(12) This section shall not apply to apparatus forming part of a lifting barrier installation at a railway level crossing.

(13) This section shall come into operation in the county at the expiration of a period of two months beginning with the date on which this Act is passed.

(14) (a) The Council shall, as soon as may be after the passing of this Act, cause public notice to be given of the effect of the foregoing provisions of this section by advertisement in two or more newspapers circulating in the county, and otherwise in such manner as the Council think fit.

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



PART V  
—cont.Oil-burning  
equipment.

45.—(1) As from the appointed day, any person intending to install or place oil-burning equipment in any building in a district, whether the building is erected before or after the passing of this Act, or on any land in the district, shall give not less than fourteen days' notice to the local authority of his intention so to do.

(2) (a) The Council, if requested by the local authority to do so, may make byelaws for securing that, in relation to any oil-burning equipment so installed or placed after the coming into operation of the byelaws, proper arrangements will be made for preventing or reducing danger from fire.

(b) Byelaws made under this section may include provisions prescribing in connection with the installation or placing of oil-burning equipment in any such building or on any such land as aforesaid, the works, apparatus and fittings and fire-fighting appliances to be provided and the mode of arrangement and requirements as to maintainance of any such works, apparatus, fittings and appliances.

(c) Byelaws made under this section shall be subject to the provisions contained in subsections (2), (3), (4), (5), (6) and (7) of section 250 and in section 252 of the Act of 1933.

(3) (a) Any oil-burning equipment installed or placed in any building or on any land in a district in accordance with plans and specifications submitted to, and passed by, the local authority shall, for the purposes only of this section, be deemed to be approved by the local authority as complying with the appropriate specification for such equipment contained in byelaws made under this section in respect of all matters shown in the plans and specifications so passed.

(b) If the local authority do not, within two months from the submission of plans and specifications of any equipment under this subsection, notify the person by whom they were submitted of the rejection or passing of the said plans and specifications, they shall be deemed to have passed them.

(4) If, in relation to the installation or placing of any oil-burning equipment in any building or on any land in a district, the local authority are satisfied, after consultation with the Council, that proper arrangements will be made for preventing or reducing danger from fire, they may, on the application of the person proposing to install or place such equipment, approve the installation or placing of the equipment notwithstanding that it may not comply with the appropriate specification for such equipment contained in byelaws made under this section.

(5) (a) Any person aggrieved by the refusal of the local authority to approve the installation or placing of any equipment

under subsection (4) of this section may within twenty-one days from the receipt of notification of the refusal appeal to the Secretary of State.

PART V  
—cont.

(b) Where an appeal is brought under this subsection the Secretary of State may dismiss or allow the appeal or may vary the decision of the local authority against which the appeal is made.

(c) The decision of the Secretary of State on any such appeal shall have effect as if it were a decision of the local authority given under the byelaws.

(6) (a) If any person installs oil-burning equipment in any building or on any land in a district without giving notice to the local authority in accordance with subsection (1) of this section he shall be liable to a fine not exceeding fifty pounds.

(b) If any person contravenes any byelaw made under subsection (2) of this section other than pursuant to an approval granted under subsection (4) of this section, he shall be liable to a fine not exceeding fifty pounds, and if—

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

(ii) any other person after notice of the conviction has been served on him by the local authority;

uses the oil-burning equipment in contravention of that byelaw he shall be liable to a fine not exceeding ten pounds for each day on which he so uses it.

(7) Nothing in this section or any byelaws made thereunder shall apply to—

(a) any oil-burning equipment if the storage tank or tanks supplying or designed or adapted to supply oil to the boiler has or have a total capacity not exceeding 750 gallons; or

(b) the installation of any oil-burning equipment in any building in respect of which a licence under the Cinematograph Acts, 1909 and 1952, or the Theatres Act, 1968, 1968 c. 54. is for the time being in force; or

(c) the installation of any oil-burning equipment by any statutory undertakers authorised to supply electricity or gas or the British Railways Board for the purposes of their respective undertakings:

Provided that the exemption conferred by virtue of this paragraph shall not extend—

(i) to a house; or

(ii) to a building used as offices or showrooms other than, in the case of the British Railways Board, a building so used which forms part of a railway station.



PART V  
—cont.1961 c. 34.  
1963 c. 41.

(8) The provisions of any byelaw made under this section shall cease to apply in relation to any premises to which the Factories Act, 1961, or the Offices, Shops and Railway Premises Act, 1963, apply on the coming into force in relation to those premises of regulations made under either of those Acts and relating to the same subject-matter as this section.

(9) (a) In this section—

“ apparatus and fittings ” includes pipes and pipe fittings, taps, valves, pumps, gauges, vessels, fans and filters;

“ boiler ” means a boiler, furnace, heater, oven or similar plant;

“ house ” means a dwelling-house, whether a private dwelling-house or not, and includes a flat and maisonette;

“ oil-burning equipment ” means a boiler designed or adapted for the combustion of oil and includes the burner, the storage tanks and the apparatus, fittings, devices and catchpits, and any other equipment used for or in connection with the heating of the boiler;

“ storage tank ” means a tank, container or device designed or adapted for the purpose of supplying oil to a boiler.

(b) References in this section to the installation or placing of oil-burning equipment in any building or on any land shall be construed as including the installation or placing of oil-burning equipment which is partly in a building and partly on land outside the building.

Preventing  
fire in public  
or other  
buildings.

46.—(1) If it appears to a local authority that for the purpose of preventing fire in any such building in its district as is referred to in subsection (5) of section 59 of the Act of 1936 or for the purpose of preventing injury or danger to persons resorting thereto—

(a) the apparatus or fittings for lighting or heating the building require alteration; or

(b) the arrangement of the chairs and seating requires alteration; or

(c) any floor requires strengthening in order to prevent overloading; or

(d) any of the materials from which any fireplaces, flues, chimney vents or other like parts of such building are constructed are unsuitable;

the local authority may by notice require the owner or occupier of the building to make such provision in regard to the matters aforesaid as may be necessary:

Provided that—

PART V  
—cont.

- (i) for the purposes of this subsection any fireplace, flue, chimney vent or other like part of such building which complies with building regulations for the time being in force made under section 4 of the Public Health Act, 1961, shall not be deemed to have been constructed of unsuitable materials; 1961 c. 64.
- (ii) this subsection shall not apply to premises in respect of which a licence under the Cinematograph Acts, 1909 and 1952, or the Theatres Act, 1968, is for the time being in force; 1968 c. 54.
- (iii) nothing in this section shall apply to premises subject to the Factories Act, 1961, or the Offices, Shops and Railway Premises Act, 1963, or any regulation or order made thereunder. 1961 c. 34. 1963 c. 41.

(2) The provisions of section 290 of the Act of 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.

47.—(1) No building of the warehouse class and no building used or intended to be used for the purpose of trade or manufacture shall be erected in the county of a cubic extent exceeding 7,000 cubic metres or extended to exceed that extent unless (in accordance with plans and particulars submitted in accordance with building regulations and approved for the purposes of this section after consultation with the Council and the inspector of factories for the district by the local authority of the district in which the building is to be erected or is situate)—

Fire precautions in certain large buildings.

- (a) it is provided with all such means of escape therefrom in case of fire as may be reasonably required; and
- (b) if the local authority so require, it is fitted with fire alarms (whether automatic or otherwise) and a fire extinguishing system or with either such alarms or such system to the satisfaction of the local authority after consultation with the Council:

Provided that nothing in paragraph (a) of this subsection shall apply to—

- (i) a factory to which section 40 of the Factories Act, 1961, applies;
- (ii) buildings to which section 59 of the Act of 1936 applies;
- (iii) premises to which the Offices, Shops and Railway Premises Act, 1963, applies; or
- (iv) premises to which building regulations imposing requirements as to the provision of means of escape in case of fire apply.

(2) (a) The person proposing to erect or cause to be erected or extend or cause to be extended any building to which subsection (1) of this section applies shall, when submitting plans



PART V  
—cont.

and particulars in accordance with building regulations, deposit with the local authority particulars showing how it is proposed to comply with the requirements of paragraphs (a) and (b) of subsection (1) of this section.

(b) A local authority at any time within a period of two months after the deposit of the particulars, irrespective of any decision under building regulations—

(i) may refuse to approve them; or

(ii) may approve them subject to such conditions (if any) as, after consultation with the fire authority, they think fit.

(c) Where a local authority refuse to approve the particulars or approve them subject to conditions, they shall give to the person who deposited the particulars notice stating their reasons for refusal or for the imposition of conditions:

Provided that if within the period of two months mentioned in paragraph (b) of this subsection the local authority fail to give such notice, they shall be deemed to have approved the said particulars.

(3) (a) If any building to which the preceding subsections of this section are applicable is erected or extended in contravention of any of the requirements of paragraph (a) or (b) of subsection (1) of this section, the local authority, without prejudice to their rights to take proceedings for penalties in respect of the contravention, may by notice require the person erecting or causing to be erected the building or extension either to pull down and remove it or, if he so elects, to effect such alterations therein as may be necessary in order to comply with the said requirements.

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

(4) All means of escape provided in any building to which this section applies under the requirements of subsection (1) (a) of this section or under building regulations imposing requirements as to the provision of means of escape in case of fire, and any fire alarms and fire extinguishing systems fitted under the requirements of subsection (1) (b) of this section shall be properly maintained and kept free from obstruction.

(5) (a) A person who erects or causes to be erected or extends or causes to be extended a building in contravention of any of the provisions of this section shall be guilty of an offence under this section.

(b) The occupier of any premises who fails to maintain the means of escape provided and any fire alarms and fire extinguishing systems fitted under the requirements of paragraph (a)

or (b) of subsection (1) of this section, or to keep them free from obstruction, shall be guilty of an offence under this section.

PART V  
—cont

(c) A person who commits an offence under this section shall on summary conviction be liable to a fine not exceeding fifty pounds and to a daily fine not exceeding ten pounds.

(6) Any person aggrieved by—

- (a) a requirement of a local authority; or
- (b) a refusal by a local authority to approve particulars; or
- (c) a condition subject to which approval of particulars is given by a local authority;

under subsection (1) or (2) of this section may appeal to a magistrates' court and on any such appeal the court may confirm, reverse or vary such requirement, refusal or condition.

(7) Any member of the fire brigade of the county or an officer of the local authority or the Council who is duly authorised for the purpose shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter at all reasonable times any building to which subsections (1) to (3) of this section apply—

- (a) for the purpose of ascertaining whether there is, or has been, in or in connection with the building any contravention of the provisions of this section;
- (b) for the purpose of ascertaining whether or not circumstances exist which would authorise a local authority to take any action under this section.

(8) The provisions of subsections (2), (3), (4) and (5) of section 287 of the Act of 1936 shall apply to entry into a building for the purposes of subsection (7) of this section as they apply to entry into premises for the purposes of subsection (1) of that section.

(9) Nothing in this section shall apply to any building—

- (a) in respect of which a licence under the Cinematograph Acts, 1909 and 1952, or the Theatres Act, 1968, is for 1968 c. 54. the time being in force; or
- (b) exempted from the provisions of Part II of the Act of 1936 with respect to building regulations by paragraph (c) of section 71 of that Act; or
- (c) which is divided by compartment walls or compartment floors, constructed in accordance with the Building Regulations, 1972, in such a manner that no division of the building is of cubic extent exceeding 7,000 cubic metres, or, being fitted throughout with such automatic sprinkler system as accords with the requirements of those regulations, is so divided in such manner that no division of the building is of cubic extent exceeding 14,000 cubic metres.



PART V  
—cont.

(10) Any reference in this section to plans deposited in accordance with building regulations shall be construed as including a reference to any sections, specifications and written particulars deposited with the plans in accordance with the regulations or this section.

Fire precautions in registered clubs.  
1964 c. 26.

**48.**—(1) A fire officer authorised in writing by the chief fire officer of the Council may, on giving not less than forty-eight hours' notice to the secretary of a club in the county registered under the Licensing Act, 1964, and on production of his authority enter and inspect, as regards any matter affecting fire risks, the premises occupied by the club at any reasonable time on such day as may be specified in the notice; but the chief fire officer shall not so authorise a fire officer unless in his opinion special reasons exist making it necessary that the premises should be inspected for the proper discharge of functions in relation to any matter affecting fire risks.

(2) Any person obstructing a fire officer in the exercise of the power conferred by this section shall be liable to a fine not exceeding twenty pounds.

1971 c. 40.

(3) This section shall cease to have effect upon the designation by order under section 1 of the Fire Precautions Act, 1971, of the use of premises for purposes of a registered club as a use for which a fire certificate is required.

Fire precautions on demolition of buildings.  
1961 c. 64.

**49.** In its application to a district section 29 of the Public Health Act, 1961 (which relates to the demolition of buildings) shall have effect as if, in subsection (5) thereof, there were inserted the following paragraph:—

“(b) to take such precautions as the local authority may reasonably require with regard to the burning on the site of materials or rubbish or of any structure so as to prevent the spread of fire from the site and to minimise danger from fire or explosion to persons using or in the vicinity of the site.”

Instructions, lectures, etc., on questions relating to fire services, etc.

**50.**—(1) The Council may arrange for—

- (a) the publication of information on questions relating to fire services, fire fighting and precautions for avoiding the occurrence of fires in the county;
- (b) the delivery of lectures and addresses and the holding of discussions on such questions; and
- (c) the display of pictures, cinematograph films or models or the holding of exhibitions relating to such questions

(2) The Council may prepare, or join in, or contribute to the cost of, the preparation of, pictures, films, models or exhibitions relating to such questions to be displayed or held whether within or outside the county.

- 51.**—(1) Subject to the provisions of this section, a local authority shall consult with the Council as the fire authority—
- PART V**  
—*cont.*
- (a) before granting, with or without conditions, a petroleum spirit licence under the Petroleum (Consolidation) Act, 1928; Consultation by local authorities with fire authority.
- (b) before exercising their functions under section 59 or 60 of the Act of 1936 (which require a local authority to reject building plans for certain public and other buildings unless satisfactory exits, entrances and passages are provided and to reject building plans for certain high buildings unless means of escape from fire are provided) in relation to premises other than premises as respects which a fire certificate within the meaning of the Fire Precautions Act, 1971, is required; 1928 c. 32.  
1971 c. 40.
- (c) before issuing a site licence, with or without conditions to which this paragraph applies or altering any such conditions attached to a site licence, or providing a site for caravans under the Caravan Sites and Control of Development Act, 1960; 1960 c. 62.
- (d) before passing any plans of a type referred to in section 40 (Underground parking places) of this Act;
- (e) before rejecting any plan in accordance with subsection (1) or (2) of section 43 (Building plans: access for fire brigade) of this Act;
- (f) before approving under subsection (4) of section 45 (Oil-burning equipment) of this Act the installation or placing of equipment which does not comply with the appropriate specification contained in byelaws made under that section;
- (g) before approving particulars of the matters referred to in paragraphs (a) and (b) of subsection (1) of section 47 (Fire precautions in certain large buildings) of this Act.
- (2) Paragraph (c) of subsection (1) of this section applies to conditions for securing that proper measures are taken for preventing and detecting the outbreak of fire and that adequate means of fire fighting are provided and maintained, and consultation in respect of the matters specified in that paragraph shall only be required in relation to such measures for preventing and detecting the outbreak of fire and such means of fire fighting.
- (3) Nothing in this section shall affect the validity of any exercise by a local authority of their functions under any enactment without compliance with this section.

**52.**—(1) No person shall within the county dispose of or deposit any container which has been used for the storage of a flammable, explosive or poisonous substance and is no longer used for that purpose unless he takes all such steps as may be Disposal of dangerous containers.



PART V  
—cont.

reasonably necessary to prevent danger from the container to any person or property.

(2) If any person contravenes the provisions of subsection (1) of this section he shall be liable to a fine not exceeding fifty pounds and the local authority may take such steps as may be reasonably necessary to prevent danger from the container and may recover from that person the expenses incurred by them in so doing.

(3) In this section “poisonous substance” means a substance specified in the poisons list for the time being in force under section 17 of the Pharmacy and Poisons Act, 1933.

1933 c. 25.

Protection  
of dangerous  
excavations.

**53.**—(1) Where there is on any land in their district a pond, well, mineshaft, quarry or other excavation which, by reason of its being unfenced or inadequately fenced or otherwise inadequately protected, constitutes a danger to children or other persons, a local authority may pay, or contribute to the payment of, any expenses incurred in the execution, by any body or person who has the right to do so, of any works of repair, protection or enclosure which may be required to obviate the danger:

Provided that, in the case of an excavation in respect of which any person may, under section 144 of the Act of 1959 or section 151 of the Mines and Quarries Act, 1954, be required to execute works to obviate the danger, the local authority shall only pay, or contribute to the payment of, the expenses of executing such works where they are satisfied that it would be unreasonable in the circumstances of the case for such body or person to be required to bear the expense, or the whole of the expense (as the case may be), of executing such works.

1954 c. 70.

(2) If in the case of any such pond, well, mineshaft, quarry or other excavation as aforesaid on any land in their district—

(a) the local authority are unable, after making reasonable inquiry, to ascertain the name and address of the owner or occupier of the land; or

(b) the local authority have, by notice given to the owner or occupier of the land, requested the execution of such works of repair, protection or enclosure as they may consider necessary to obviate the danger, and, despite an offer made by the local authority to pay or contribute to the payment of any expenses incurred by the owner or occupier in the execution of such works, the works are not executed within such reasonable time thereafter as may be necessary for the purpose;

the local authority may, subject to the provisions of subsection (3) of this section, themselves execute such works.

(3) (a) Where, in a case referred to in paragraph (b) of subsection (2) of this section, the local authority propose themselves to execute works on any land they shall, before carrying

the proposal into effect, serve notice on the owner or occupier of the land specifying—

PART V  
—cont.

- (i) the place where the local authority propose to execute such works;
- (ii) the nature of the works proposed;
- (iii) the effect of paragraphs (b) and (c) of this subsection; and
- (iv) the period, which shall not be less than twenty-eight days, within which notice of objection to the proposal may be sent in writing to the local authority.

(b) The local authority shall consider any notice of objection sent to them by the owner or occupier of the land within the period so specified and give notice of their decision on the objection to the person by whom it was made.

(c) If that person is aggrieved by the decision of the local authority he may, within twenty-one days after receiving notice thereof, appeal to a magistrates' court, and the court shall have power to make such order with respect to the execution of the works by the local authority as it considers reasonable but in so doing shall have regard, as between an owner and occupier, to the terms and conditions (whether contractual or statutory) of any tenancy.

(4) If in pursuance of subsection (2) of this section, or of an order of a court made under paragraph (c) of subsection (3) of this section, the local authority themselves execute works of repair, protection or enclosure on any land they shall, unless otherwise agreed in writing between the local authority and the owner or occupier of the land and unless otherwise provided in any such order of the court, maintain those works.

(5) The Council may pay such contributions as they think fit towards any expenses incurred by any person (including a local authority) in executing works in relation to any such pond, well, mineshaft, quarry or other excavation in the county for the purpose of obviating danger to persons.

54.—(1) If it appears to a local authority that, for the prevention of danger to persons generally or to property, any tree in their district should be lopped, cut, removed or felled, the local authority may serve a notice on the owner or occupier of the premises on which the tree is growing or situated, requiring him within twenty-one days to lop, cut, remove or fell the tree or execute such other works as the local authority may consider necessary to prevent the danger. Removal, etc.,  
of dangerous  
trees.

(2) The provisions of section 276 of the Act of 1936 relating to the sale of certain materials shall for the purposes of this section have effect as if the expression "materials" included timber.



PART V  
—cont.

(3) The provisions of section 290 of the Act of 1936 in their application to notices given under this section shall have effect as if—

(a) for paragraph (a) of subsection (3) thereof there were substituted the following paragraph :—

“(a) that the notice or requirement is unreasonable;” and

(b) in subsection (6) thereof the words after “in so doing” were omitted.

(4) In any case where the removal or cutting down of, or the execution of works in relation to, any tree—

(a) will interfere with the exercise by a river authority of any of its functions; or

(b) will cause injury or damage to or otherwise interfere with any drainage work;

the local authority shall (except in case of emergency) consult with the river authority before serving notice under this section.

Prohibition on solicitation of school children to sell or exchange articles, etc., at schools.

**55.**—(1) Where any child is entering or leaving any school in the county, or is entering or leaving any yard or playground appurtenant to any such school, or is in any such yard or playground, no person shall solicit such child—

(a) to sell to such person any article or thing;

(b) to exchange with such person any article or thing for any other article or thing.

(2) Any person who contravenes the provisions of this section shall be liable to a fine not exceeding twenty pounds.

(3) In this section the expression “child” has the same meaning as in section 114 of the Education Act, 1944, and the expression “article or thing” includes any animal, fish, bird or other living thing.

1944 c. 31.

## PART VI

## PUBLIC HEALTH AND HOUSING

Interpretation of sections 56 to 59 of this Act.

**56.** In sections 56 to 59 of this Act—

“the board” means the South Hampshire Main Drainage Board;

“pipe” includes a tunnel;

“ sludge main ” means a pipe or system of pipes (together with any pumps or other machinery and any outfall or other works associated therewith) for the conveyance or disposal of the residue of sewage treated in any sewage disposal works vested in the board or in a local authority, or partly for that purpose and partly for the conveyance or disposal of any such residue or trade effluent as is referred to in paragraph (b) of subsection (1) of section 57 (Powers as to provision and maintenance of sludge mains) of this Act;

PART VI  
—cont.

and any expression which is also used in Part II of the Act of 1936 shall, except where the context otherwise requires, have the same meaning as in the said Part II.

57.—(1) Without prejudice to any other powers so enabling them, the board may—

(a) provide and maintain sludge mains; and

(b) permit a pipe which is used or intended to be used solely for the purpose of conveying—

(i) the residue of sewage treated in a sewage disposal works (not being a sewage disposal works vested in the board); or

(ii) any trade effluent (as defined in subsection (1) of section 11 of the Rivers (Prevention of Pollution) Act, 1951) or the residue thereof;

1951 c. 64.

to be connected with and its contents to be discharged into a sludge main and in giving such permission the board may attach thereto such requirements as to the treatment of the said residue or trade effluent or otherwise and such other terms and conditions (including the payment of money to the board) as the board may think fit.

(2) Subject to sections 56 to 59 of this Act, the provisions of sections 14 to 42 and 330 of the Act of 1936 and sections 1 (2) and 90 and Part XII of that Act so far as they relate to those provisions shall apply and have effect in relation to a sludge main as they apply and have effect in relation to a public sewer of the board:

Provided that section 333 of the Act of 1936 shall in relation to the British Transport Docks Board so apply as if subsection (4) were omitted therefrom.

(3) The Public Utilities Street Works Act, 1950, shall have effect in relation to a sludge main as it has effect in relation to a sewer which is not a public sewer. 1950 c. 39.



PART VI  
—cont.  
Notices, etc.

58.—(1) The board shall not, in pursuance of the power conferred on them by sections 56 to 59 of this Act, lay or construct a sludge main outside the area of the board except in accordance with proposals which have been agreed in writing by the council of the administrative county in which the sludge main is proposed to be laid or, in default of agreement, in accordance with proposals approved (with or without modifications) by the Secretary of State in the exercise of his power under subsection (3) of this section.

(2) Where the board propose to lay or construct a sludge main outside the area of the board they shall—

- (a) give notice to any owner or occupier of land directly affected by the proposals of the board;
- (b) publish by advertisement in a local newspaper circulating in the district in which the proposed work is to be executed a notice describing the nature of the proposal and specifying the land in or on which they propose to execute any work and naming a place in the said district where a plan illustrative of the proposals may be inspected at all reasonable hours by any person free of charge;
- (c) serve, not later than the date of the publication of the advertisement, a copy of the notice on the local authority of the district in which the proposed work is to be executed.

(3) If, within twenty-eight days after the publication of the notice referred to in the last foregoing subsection, notice of objection to the proposals is served on the board either by the local authority of the district in which the proposed work is to be executed or by any such owner or occupier, they shall not proceed with the proposals unless all objections so made are withdrawn or the Secretary of State, after a local inquiry, has approved the proposals either with or without modification.

(4) The council of a county shall be entitled to be heard at any local inquiry held in pursuance of the provisions of the last foregoing subsection if the inquiry relates to proposals which have been agreed in writing by them under subsection (1) of this section, and the board shall give to any council entitled to be so heard such notice as may be reasonably practicable of the time and place at which the inquiry is to be held.

(5) The provisions of paragraphs (b) and (c) of subsection (2) and of subsection (3) of this section shall not apply where the work the board propose to carry out consists only of the laying or construction of a sludge main in a highway maintainable at the public expense and the board are, or have obtained the consent of, the highway authority.

PART VI  
—cont.Temporary  
stopping up  
of streets.

59.—(1) For the purpose of laying, constructing, inspecting, repairing, renewing or removing a sludge main the board may temporarily stop up, divert and interfere with any highway and may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway from passing along and using the same.

(2) The board shall provide reasonable access for persons (whether on foot or proceeding by vehicle and whether with or without animals) bona fide going to or from any such land, house or building.

(3) Before exercising the powers of this section the board shall make or secure the making of such arrangements as shall be reasonably necessary so as to cause as little interference with traffic as may be reasonably practicable during the exercise of the powers of this section and may execute and do all necessary works and things for keeping any street open to traffic.

(4) The board shall not exercise the powers of this section—

(a) as respects any trunk road, without the consent of the Secretary of State; or

(b) as respects any other highway without the consent of the highway authority, which consent shall not be unreasonably withheld and may be given subject to such reasonable conditions as the highway authority may require, and any question whether such consent is unreasonably withheld or any conditions so imposed are reasonable shall be determined by the Secretary of State; or

(c) so as to obstruct or interfere with the access to, or exit from, any station or depot of the British Railways Board or passenger road transport operators without the consent, as the case may be, of the board, or those operators; or

(d) with respect to any highway upon which a service of stage carriages or express carriages is operated unless not less than forty-eight hours' previous notice is given to the traffic commissioners and to the holders of the road service licence under which that service is authorised.

(5) In exercising the powers of this section the board shall whenever possible provide a proper temporary substitute way before interrupting the traffic on any highway.

60.—(1) As from the appointed day it shall not be lawful for any authority, body or person to form a deposit of refuse or continue to add refuse to an existing deposit or otherwise dispose Refuse dumps.



PART VI  
—cont.

of refuse except in a place for which the written consent of the Council has been given and in accordance with any terms and conditions attached to such consent; and any such consent shall be so given only—

- (i) in the case of an authority, body or person, not being a local authority, after consultation by the Council with the local authority and the river authority concerned;
- (ii) in the case of a local authority, after consultation by the Council with the river authority concerned:

Provided that this subsection shall not apply—

- (a) to the deposit or disposal of sewage by any local or other public authority acting under the powers of any enactment; or
- (b) to the disposal of manure or fertilizer at or on a farm, garden, allotment or nursery and intended to be used solely for horticultural, agricultural or farming purposes; or
- (c) to the tipping of spoil and refuse by the British Railways Board for the purpose of constructing, widening or maintaining any railway works; or
- (d) to the deposit of any spoil or material by a river authority; or
- (e) to the deposit in the exercise of their functions by statutory power of any spoil or material by any drainage board constituted, or treated as having been constituted, under the Land Drainage Act, 1930, or by any other body of persons having power to make or maintain works for the drainage of land; or
- (f) to the deposit by any statutory water undertakers (within the meaning of the Water Act, 1945, other than for the purposes of Part II of that Act) on any land in the county belonging to them of any spoil or refuse for the purpose of constructing or altering any work which they are authorised by any enactment to construct or alter, or other spoil or refuse produced from any works or operations carried on by them for the purposes of or in connection with their undertaking; or
- (g) to the deposit or tipping of refuse by any person duly authorised by any local authority upon a tip established and maintained by a local authority within their district:

Provided always that such deposit or tipping accords with the terms and conditions of any consent granted by the Council in relation to that tip; or

1930 c. 44.

1945 c. 42.

- PART VI  
—cont.
- (h) to the deposit of refuse within the curtilage of a building, being refuse which the local authority have undertaken to remove; or
- (i) to the deposit of refuse at a place provided for that purpose by a local authority pursuant to the powers of section 18 of the Civic Amenities Act, 1967; or 1967 c. 69
- (j) to the deposit or disposal by the highway authority of sweepings or spoil or material resulting from the cleansing, maintenance, construction or improvement of a highway; or
- (k) to the deposit of spoil or refuse from a mine or quarry on a tip which for the purposes of the Mines and Quarries (Tips) Act, 1969, is associated with such mine or quarry; 1969 c. 10.  
or
- (l) to the deposit or tipping of spoil or refuse by the Gas Council, the Southern Gas Board, the Central Electricity Generating Board or the Southern Electricity Board—
- (i) on any land belonging to the said council or any of the said boards for the purpose of constructing or altering any work which they are respectively authorised by or under any enactment to construct or alter; or
- (ii) on a tip established by the said council or by any of the said boards on their operational land:

Provided always that before such deposit or tipping shall be commenced or first continued after the appointed day the said council or board, as the case may be, shall have given not less than twenty-eight days' prior notice in writing to the Council and from time to time thereafter as reasonably required by the Council they consult with the Council as to the operation of such tip.

(2) The Council may grant or withhold their consent under subsection (1) of this section or may make the granting of their consent subject to such terms and conditions as they think fit and may withdraw any such consent previously given:

Provided that—

- (a) a consent previously given shall not be withdrawn without notice in writing given by the Council which, except in case of emergency (in which case, if necessary, a further notice of withdrawal of consent may be served), shall not take effect until the expiration of six months from the date of the said notice;
- (b) if the Council shall not notify the applicant for any such consent of their decision upon such application within two months after the receipt thereof or within such



PART VI  
—cont.

extended period as may be agreed upon in writing between the applicant and the Council the Council not so notifying shall be deemed to have refused consent.

(3) Any person aggrieved by the refusal of any such application as aforesaid or by the withdrawal of any consent or by any conditions imposed upon him may within twenty-eight days after the date of such refusal or withdrawal or imposition of conditions or such longer period as the Secretary of State may allow appeal to the Secretary of State and the Secretary of State may dismiss or allow the appeal either unconditionally or subject to such conditions as he thinks proper to impose. The decision of the Secretary of State on an appeal under this subsection shall have effect as if it were a decision of the Council.

(4) Subject to the provisions of section 61 (Power to stop, etc., deposit of refuse in certain circumstances) of this Act, where any person appeals in accordance with the provisions of the last foregoing subsection against a decision of the Council to withdraw a consent previously given it shall be lawful for that person to continue to add refuse to the deposit of refuse to which the consent applies in accordance with the conditions of the consent until he is informed of the Secretary of State's decision in regard to the appeal.

(5) Any person offending against the provisions of subsection (1) of this section or infringing any of the terms or conditions subject to which a consent under that subsection shall have been granted shall be liable to a fine not exceeding four hundred pounds and in the case of a continuing offence to a daily fine not exceeding one hundred pounds.

(6) Where on the appointed day any authority, body or person is required by the provisions of this section to obtain the consent of the Council to continue to add refuse to any deposit of refuse which is in existence at the passing of this Act, and such authority, body or person has applied to the Council for such consent, it shall be lawful for such authority, body or person to continue to add refuse of a similar nature to that deposit until he is informed of the decision with regard to his application, and, if the Council refuse their consent or grant their consent subject to conditions, until such time as is provided by subsection (3) of this section for appealing has expired or, when an appeal is lodged, until the appeal is disposed of or withdrawn or fails for want of prosecution.

(7) In this section—

“ the local authority concerned ” and “ the river authority concerned ” mean respectively the local authority for the district and the river authority for the area in which the deposit or disposal of refuse, for which consent is applied, shall be intended to be made;

“ refuse ” means house refuse and trade refuse, industrial refuse, liquid refuse, toxic solid waste and any other similar matter but does not include refuse in a deposit comprised solely of waste coal ash resulting from the generation of electricity by coal firing; and

“ river authority ” includes the Conservators of the River Thames.

PART VI  
—cont.

(8) Nothing in this section shall apply to—

- (a) the deposit or disposal of refuse to which the law relating to the discharge of trade effluent applies;
- (b) refuse disposed of by incineration in an incinerator to which the Clean Air Act, 1968, or the Alkali, &c., Works Regulation Act, 1906, applies but for the purposes of this subsection any residue resulting from the incineration of refuse shall not be deemed to have been disposed of thereby.

61.—(1) Following the withdrawal in case of emergency of any consent granted under the last foregoing section of this Act, the Council may at any time before the expiry of the period of twenty-eight days within which under subsection (3) of that section a person aggrieved may appeal to the Secretary of State, or before the giving of the decision of the Secretary of State on such an appeal, serve on the person in whose favour the consent was given a further notice (in this section referred to as a “ stop notice ”) referring to, and having annexed to it a copy of, the notice of the withdrawal of the consent and prohibiting the addition of refuse, or of refuse of such description as may be specified in the stop notice, to the deposit of refuse to which the consent applies, or so prohibiting except in compliance with conditions other than the conditions of that consent.

Power to stop, etc., deposit of refuse in certain circumstances.

(2) A stop notice—

- (a) shall specify the date (not earlier than three nor later than fourteen days from the day on which the notice is first served on any person) when it is to take effect;
- (b) in relation to any person served with it, shall have effect as from that date or the third day after the date of service on him, whichever is the later; and
- (c) shall, without prejudice to subsection (4) below, cease to have effect upon the expiry of the period of twenty-eight days referred to in subsection (1) of this section or (as



PART VI  
—cont.

the case may be) upon the giving of the decision of the Secretary of State upon an appeal against withdrawal of the consent.

(3) If while a stop notice has effect in relation to him a person carries out, or causes or permits to be carried out, any operation prohibited by the notice, he shall be guilty of an offence and liable on summary conviction to a fine of not more than four hundred pounds and in the case of a continuing offence to a daily fine not exceeding one hundred pounds.

(4) The Council may at any time withdraw a stop notice (without prejudice to their power to serve another) by serving notice to that effect on any person who was served with the stop notice, which shall cease to have effect as from the date of service of the notice under this subsection.

(5) Where a person (in this subsection called “the contractor”) is under contract to another person (in this subsection called “the developer”) to carry out any operations on land and—

- (a) a stop notice takes effect (whether in relation to the developer or the contractor, or both) prohibiting the carrying out or continuance of those operations; and
- (b) the operations are countermanded or discontinued by the contractor accordingly;

then, unless and in so far as the contract makes provision explicitly to the contrary of this subsection, the developer shall be under the same liability in contract as if the operations had been countermanded or discontinued on instructions given by him in breach of the contract.

This subsection applies only to contracts entered into on or before the end of the period of one year after the appointed day.

(6) Where a stop notice ceases to have effect, a person who at the time when it was first served, had an interest in the land to which it relates shall, in any of the circumstances mentioned in subsection (7) below, be entitled to be compensated by the Council in respect of any loss or damage directly attributable to the prohibition contained in the notice.

(7) A person shall be entitled to compensation under subsection (6) above in respect of a prohibition contained in a stop notice in any of the following circumstances:—

- (a) the Secretary of State’s decision, in regard to any appeal regarding withdrawal of the consent, allows the appeal unconditionally or upon conditions at variance with any terms or conditions of the stop notice; or
- (b) the stop notice is withdrawn.

(8) A claim for compensation under this section shall be made to the Council within the period of six years from the date of service of the stop notice and, in the event of dispute, shall be settled by the Lands Tribunal under and in accordance with the Land Compensation Act, 1961.

PART VI  
—cont.

1961 c. 33.

(9) The loss or damage in respect of which compensation is payable under this section in respect of a prohibition shall include a sum payable in respect of a breach of contract caused by the taking of action necessary to comply with the prohibition or of any liability arising by virtue of subsection (5) of this section.

62. In its application to a district subsection (3) of section 76 of the Act of 1936 (which prohibits interference with dustbins and refuse tips) shall have effect as if, in paragraph (b) thereof, after the words "in any place provided" there were inserted the words "or used".

63.—(1) Where plans of a building have been deposited with a local authority in pursuance of building regulations the local authority may, notwithstanding anything in section 64 of the Act of 1936, reject the plans if the local authority are not satisfied that they show that—

- (a) adequate provision will be made for the storage of refuse and for related facilities; and
- (b) adequate means of access from a highway to the place of storage of the refuse so as to facilitate the removal of refuse to the local authority refuse vehicles will be provided:

Provided that this section shall not apply to a private dwelling-house not forming part of a building comprising more than one dwelling-house within the same curtilage.

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

(3) Any question arising under this section between the local authority and the person by or on whose behalf plans are deposited as to whether the method of storage and collection of refuse with the related facilities or the means of access shown on the plans are adequate may, on the application of that person, be determined by a magistrates' court:

Provided that no such application shall be entertained unless it is made before the proposed building has been substantially commenced.



PART VI  
—cont.

Sanitary  
conveniences  
at places of  
public  
exhibition,  
betting  
offices, etc.  
1963 c. 2.

64.—(1) A local authority may by notice require the owner or occupier of any premises or place in their district at which any exhibition, performance, amusement, game or sport to which the public are or will be admitted, is held, given or provided or is about to be held, given or provided, or in respect of which there is for the time being in force a licence under section 9 of the Betting, Gaming and Lotteries Act, 1963, to provide to the reasonable satisfaction of the local authority and thereafter to the like satisfaction maintain during the continuance of such exhibition, performance, amusement, game or sport or during the continuance of the licence in a suitable position such numbers of sanitary conveniences for the use of the public resorting to such premises or place as may be reasonable.

(2) Any person aggrieved by a requirement of the local authority under subsection (1) of this section may appeal to magistrates' court.

(3) If any person fails to comply with a notice served on him under this section within such reasonable period, not being less than the appropriate period after the date of the service of the notice as may be specified therein, and the public are thereafter admitted to the premises or place for any such exhibition, performance, amusement, game or sport or for effecting betting transactions, he shall be liable to a fine not exceeding twenty pounds:

Provided that—

(a) in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the local authority's requirements or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the premises; and

(b) no proceedings shall be taken against a person who has contravened a notice served on him under this section if, on the date when the public are admitted to the premises or place in respect of which the notice was served, he has ceased to be the owner or occupier thereof.

(4) (a) The provisions of section 89 of the Act of 1936 shall in their application to the local authority, have effect as if they were inserted in subsection (1) of that section the words "refreshment-house" for the words "refreshment-house or place of public entertainment".

(b) Nothing in this section shall apply to premises to which the said section 89, as amended by this subsection, applies.

reason only of the holding therein of any exhibition, performance, amusement, game or sport to which the public are admitted.

PART VI  
—cont.

(5) This section shall not apply to—

- (a) premises or places in respect of which byelaws for preserving sanitary conditions at pleasure fairs and roller-skating rinks may be made by the local authority under section 75 of the Public Health Act, 1961; 1961 c. 64.
- (b) premises in respect of which there is in force a licence under the Cinematograph Acts, 1909 and 1952.

(6) In this section “appropriate period” means either a period of one month, or, in the application of subsection (1) of this section to any temporary exhibition, performance, amusement, game or sport or place in respect of which there is such a licence or permit, a period of seven days.

65. The local authority may by notice require a contractor engaged in or upon any building operations in their district, or in or upon the construction or reconstruction of any works therein, within such time as may be specified in the notice—

Sanitary conveniences for persons employed on construction work.

- (a) to provide sufficient and satisfactory sanitary conveniences for the workpeople employed thereon; and
- (b) where the workpeople employed thereon comprise both men and women, to provide as aforesaid for men and women separately;

if it is reasonably practicable so to do:

Provided that this section shall not apply to building operations or works—

- (i) to which section 127 of the Factories Act, 1961, applies; 1961 c. 34.  
or
- (ii) at any mine or quarry within the meaning of the Mines and Quarries Act, 1954. 1954 c. 70.

66.—(1) Where a local authority have under section 16 of the Act of 1957 accepted an undertaking that a house will not be used for human habitation, or where the local authority have—

Securing of unoccupied houses under Act of 1957.

- (a) by a closing order made under sections 17, 18, 26 or 35 of the Act of 1957, ordered any house or building or any part thereof to be closed; or
- (b) by a clearance order under section 44 of the Act of 1957, ordered any building or any part thereof to be vacated and, in such a case, it appears to the local



PART VI  
—cont.

authority that the building or the part thereof (as the case may be) will not be, or is unlikely to be, demolished within six weeks from the date when, in pursuance of the order, the premises are vacated;

they may, if the premises are not effectively secured so as to prevent the entry into the premises when unoccupied of any person other than a person authorised by the owner or the local authority, after giving to the owner not less than forty-eight hours' notice of their intention to do so, themselves do such things in relation to the house or building or part thereof as will so secure the premises against entry.

(2) Nothing in this section shall prejudice the powers of a local authority to take steps to deal with any dangerous, ruinous or dilapidated house or building under any enactment.

(3) In this section—

“house” has the same meaning as in the Act of 1957;

“owner” includes any person deemed to be the person having control of the house for the purposes of Part I of that Act.

Repair of  
walls, etc.

67. If it appears to a local authority that any party or boundary wall of any court, courtyard, yard or garden attached to, or forming part of, any house or other premises in their district or the fence or door of any such court, courtyard, yard or garden—

(a) has collapsed or been pulled down; or

(b) is in danger of collapsing; or

(c) is in such a state of disrepair as to be a source of serious inconvenience to the occupants of the premises or to the public;

the local authority may by notice require the owner or occupier of the premises, or, in the case of a party wall, the owners or occupiers of both premises, to carry out such works (including the rebuilding, reinstatement, removal or repair of any such wall, fence or door) as are reasonably necessary.

Expenses of  
executing  
demolition  
orders.

68.—(1) Any expenses adjudged to be payable to the local authority consequent upon the exercise of their powers under subsection (1) of section 23 or subsection (3) of section 44 of the Act of 1957 (which relate to the demolition of buildings pursuant to demolition orders or clearance orders made under that Act) shall, until recovered, be a charge on the premises in respect of

which the expenses were incurred and on all estates and interests herein.

PART VI  
—cont.

(2) The local authority shall for the purpose of enforcing a charge under this section have all the powers and remedies under the Law of Property Act, 1925, and otherwise of mortgagees by deed having powers of sale and lease of accepting surrenders of leases and of appointing a receiver. 1925 c. 20.

69. In its application to a district the Act of 1957 shall have effect as if—

Amendment  
of Act of 1957  
relating to  
closing  
orders.

(1) in section 27 (which makes provision for the determination of a closing order made under that Act)—

(a) at the end of subsection (2) there were inserted the following proviso:—

“ Provided that where the local authority are satisfied that part of any premises as respects which a closing order has been made has been rendered fit for human habitation, they may determine the order so far as it relates to that part ”;

(b) in paragraph (b) of subsection (3) after the word “ determine ” there were inserted the words “ in whole or in part ”;

(c) at the end of subsection (5) there were inserted the following words:—

“ or by the owner of part of any premises where such a closing order is in force in respect of that part ”;

(2) at the end of section 28 (which makes provision for the revocation of such a closing order and the substitution of a demolition order) there were inserted the following proviso:—

“ Provided that a demolition order shall not be made by virtue of this section in relation to any premises in respect of which a closing order has been determined so far as it relates to a part of those premises.”.

## PART VII

### FINANCE

70.—(1) The Council may borrow—

Power to  
borrow.

(a) such sums as may be necessary for any of the purposes of this Act;



PART VII  
—cont.

(b) without the consent of any sanctioning authority, such sums as may be necessary for paying the costs, charges and expenses of this Act;

and, subject to the provisions of this section, Part IX of the Act of 1933 shall have effect as if money borrowed under this section were borrowed under that Part.

(2) A local authority may borrow such sums as may be necessary for any of the purposes of this Act.

(3) The Council shall repay sums borrowed under paragraph (b) of the foregoing subsection within ten years from the date of borrowing.

(4) It shall not be lawful to exercise the powers of borrowing conferred by paragraph (a) of subsection (1) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act, 1946.

1946 c. 58.

General  
insurance  
fund.

71.—(1) The Council may establish a fund to be called “the insurance fund” with a view to providing a sum of money which shall be available for making good all such losses, damages, costs and expenses as may from time to time be specified in a resolution of the Council (in this section referred to as “the specified risks”).

(2) The establishment of an insurance fund under this section shall not prevent the Council from insuring in one or more insurance offices against the whole or any part of all or any of the specified risks.

(3) In each financial year after the establishment of the insurance fund the Council shall pay into that fund either—

(a) such a sum as shall in their opinion be not less than the aggregate amount of the premiums which would be payable if the Council fully insured in some insurance office of good repute against the specified risks; or

(b) if the Council insure in some insurance office against the whole or part of all or any of the specified risks such sum as will together with the premiums paid for the last-mentioned insurance be not less than the aggregate amount aforesaid.

(4) When the insurance fund shall amount to the prescribed amount (as hereinafter defined) the Council may (if they think fit) discontinue the yearly payments to the fund but if the fund is at any time reduced below the prescribed amount the Council

PART VII  
—cont.

shall recommence and continue the yearly payments to that fund in accordance with subsection (3) of this section until the fund be restored to the prescribed amount and if at any time the Council reduce the prescribed amount so that there are more moneys in the insurance fund than the sum so prescribed, such moneys shall be transferred to the county fund, and shall be apportioned between the several accounts of that fund in such proportions as the Council consider equitable.

(5) The Council shall provide the yearly payments aforesaid by contributions from the revenue moneys of the county fund and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking, department or service of the Council which, if the specified risks were insured against in an insurance office, would be properly chargeable with the payment of the premium of such insurance.

(6) (a) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses, damages, costs and expenses in respect of the specified risks, all moneys for the time being standing to the credit of the fund shall, unless applied in any other manner authorised by any enactment, be invested in statutory securities, and the interest and other annual proceeds received by the Council in respect of such investments shall be carried to the county fund.

(b) In addition to the sum required to be paid into the insurance fund by subsection (3) of this section the Council shall in every financial year, so long as the fund is less than the prescribed amount, carry to the credit of that fund out of the revenue moneys of the county fund an amount equal to the interest and other annual proceeds carried to the county fund in pursuance of the last foregoing paragraph.

(c) If and so long as the insurance fund amounts to the prescribed amount the interest and other annual proceeds received by the Council in respect of or on investments forming part of the insurance fund and carried to the county fund may be apportioned in the accounts of the Council between the several undertakings, departments or services liable to contribute to the insurance fund in such shares or proportions as may be equitable.

(7) For the purposes of this section the Council may, if they deem it expedient, include in the specified risks, risks of accident to any teacher, caretaker or other person employed in any voluntary school or controlled community home in the county.

(8) (a) The insurance fund shall be applied to meet any losses, damages, costs or expenses sustained by the Council in respect of the specified risks in the order of the dates on which such



PART VII  
—cont.

losses, damages, costs or expenses become ascertained, and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses, damages, costs or expenses, the Council may, with the sanction of the Secretary of State, borrow at interest under and subject to the provisions of Part IX of the Act of 1933 such sums of money as will be necessary to make up the deficiency.

(b) The amounts of the annual charges in respect of interest on and repayment of principal of any sums so borrowed and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the county fund and charged in the accounts of the Council under the separate headings or divisions in respect of such undertakings, departments or services of the Council, and in such proportions as the Council may determine having regard to the risks through which such deficiencies arise.

(9) Any covenant or obligation binding on the Council to insure against any risk shall (except in so far as the terms of such covenant or obligation otherwise specifically provide) be deemed to be satisfied by a resolution of the Council under subsection (1) of this section and that risk shall be one of the specified risks.

(10) In the event of the insurance fund ceasing to be required to meet losses, damages, costs and expenses in respect of the specified risks, the insurance fund may be carried to and form part of any capital fund established by the Council under section 1 of the Local Government (Miscellaneous Provisions) Act, 1953, or (if the Council so determine) shall be applied in such other manner as the Secretary of State may approve towards the discharge of any debt of the Council or otherwise for any purpose for which capital money may properly be applied.

(11) In this section—

(a) “ insurance office ” means—

(i) an insurance company; or

(ii) an underwriter being a member of an association of underwriters;

(b) “ financial year ” means a period of twelve months ending on 31st March;

(c) “ prescribed amount ” means such sum as may from time to time be prescribed by the Council;

(d) “ statutory securities ” means any securities in which trustees are for the time being authorised by law to invest trust moneys or in which the Council are by

section 6 (Extension of power to invest superannuation fund moneys) of the Hampshire County Council Act, 1970, authorised to invest money forming part of the superannuation fund maintained by the Council under Part I of the Act of 1937; and

PART VII  
—cont.

1970 c. xii.

- (e) “controlled community home” has the same meaning as in the Children and Young Persons Act, 1969. 1969 c. 54.

72.—(1) Section 12 of the Prices and Incomes Act, 1968, shall—

(a) apply to all houses within the meaning of the Housing (Financial Provisions) Act, 1958, belonging to the Council; and

(b) as so applied, extend to a reduction as well as to an increase of rent.

Notice of alteration of rents without notice to quit.  
1968 c. 42.  
1958 c. 42.

(2) Accordingly the said section 12 shall have effect as if in subsection (1)—

- (a) the words “on a weekly or other periodical tenancy” were omitted;
- (b) after the word “increased” there were inserted the words “or reduced”; and
- (c) after the word “increase” there were inserted the words “or reduction”;

and as if in subsection (4) the Council were included in the definition of “local authority”, for the definition of “local authority houses” there were substituted the words “‘local authority houses’ are houses belonging to the local authority” and after the word “increase” there were inserted the words “or reduction”.

73.—(1) The Council may pay to any of their officers who act in any of the following capacities:—

(a) as the receiver appointed by an order made under Part VIII of the Mental Health Act, 1959;

(b) as the administrator of the estate of a deceased person acting by virtue of a grant made to him as the nominee of the Council;

(c) as a surety to a bond required by law from an officer acting in accordance with paragraph (a) of this subsection;

Officers of Council acting as receivers, etc.

1959 c. 72.

the amount of any sum forfeited by him to the Crown or the principal probate registrar or the amount of any payment which he is liable to make by reason of his acting in the course of his duties as an officer of the Council in any such capacity as aforesaid.

(2) The Council may pay the amount of any premiums upon an insurance policy indemnifying an officer acting in any of the



**PART VII**  
—*cont.*

capacities mentioned in subsection (1) of this section against any act, neglect or default whether his own or that of any other person occurring in the course of the receivership or administration.

(3) Any payments which the Council have power to make under the provisions of subsection (1) of this section and any of the risks referred to in subsection (2) of this section may be specified by the Council as specified risks in accordance with section 71 (General insurance fund) of this Act and that section shall be construed accordingly.

**Recovery of  
sums paid to  
employees, etc.**

**74.**—(1) Where the Council have paid in advance to any employee the amount of his emoluments and such employee dies before the expiration of the period in respect of which such payment is made, the Council shall not be required to demand the return of such portion thereof, not exceeding the sum of one hundred pounds (or such other sum as the Council may from time to time resolve to substitute for that sum), as the Council may determine.

(2) In this section—

“employee” means any officer or servant of the Council or any officer or servant whose salary or wages is or are payable by the Council;

“emoluments” means in relation to an officer or servant his salary or wages (as the case may be).

**Application  
of Part VII to  
local  
authorities  
and others.**

**75.**—(1) The provisions of this Part of this Act mentioned in subsection (2) of this section shall apply to a local authority and the said provisions shall accordingly have effect with any necessary modifications, including the substitution of “local authority” for “Council”.

(2) The provisions hereinbefore referred to are—

Section 71 (General insurance fund);

Section 72 (Notice of alteration of rents without notice to quit);

Section 74 (Recovery of sums paid to employees, etc.).

(3) In its application to a local authority the said section 71 shall have effect as if—

(i) for the words “county fund” there were substituted the words “general rate fund of the district”;

(ii) in subsection (5) after the words “in respect of” there were inserted the words “the housing revenue account or” and at the end of that subsection the following proviso were added:—

“Provided that any payments by contribution from the housing revenue account shall not exceed the

proportion of the total yearly payments which in the opinion of the local authority properly relates to the specified risks arising from the purposes for which that account is kept ”;

PART VII  
—cont.

(iii) in paragraph (c) of subsection (6) after the word “services” there were inserted the words “(including the housing revenue account)”.

(4) The provisions of this Part of this Act mentioned in subsection (5) of this section shall apply to the Hampshire Police Authority and the Hampshire Magistrates’ Courts Committee respectively and those provisions shall accordingly have effect with any necessary modification, including the substitution of “Hampshire Police Authority” or “Hampshire Magistrates’ Courts Committee” for “Council”, as the case may be, and for the removal of doubt) under such provisions a justices’ clerk shall be deemed to be employed by the Magistrates’ Courts Committee by whom he was appointed or is deemed to have been appointed.

(5) The provisions referred to in subsection (4) of this section are—

Section 71 (General insurance fund);

Section 72 (Notice of alteration of rents without notice to quit);

Section 74 (Recovery of sums paid to employees, etc.).

(6) (a) In its application to the Hampshire Police Authority the said section 71 shall have effect as if for the words “county fund” there were substituted the words “police fund”.

(b) For the avoidance of doubt it is hereby declared that any expenses incurred by the Hampshire Magistrates’ Courts Committee under the said section 71 shall be deemed to be expenses referred to in subsection (1) (c) of section 26 of the Justices of the Peace Act, 1949, and section 27 of that Act shall have effect accordingly. 1949 c. 101.

(7) The provisions of this Part of this Act mentioned in subsection (8) of this section shall apply to the Hampshire Probation and After-Care Committee and the Hampshire River Authority respectively and those provisions shall accordingly have effect with any necessary modification, including the substitution of “Hampshire Probation and After-Care Committee” or “Hampshire River Authority” for “Council”, as the case may be.



PART VII  
—cont.

(8) The provisions referred to in subsection (7) of this section are—

Section 71 (General insurance fund);

Section 72 (Notice of alteration of rents without notice to quit);

Section 74 (Recovery of sums paid to employees, etc.).

(9) In its application to the Hampshire Probation and After-Care Committee the said section 71 shall have effect as if for the words “county fund” there were substituted the words “fund of the Hampshire Probation and After-Care Committee”.

(10) In its application to the Hampshire River Authority the said section 71 shall have effect as if for the words “county fund” there were substituted the words “appropriate account of the Hampshire River Authority”.

## PART VIII

## SUPERANNUATION

Pensions of officers transferred under the River Hamble Harbour Revision Order, 1969.

76. For the avoidance of doubt it is hereby declared that—

(a) the Council shall have power and shall be deemed always to have had power, as respects any officer transferred to the service of the Council pursuant to Part III (Transfer of Staff of Docks Board) of the River Hamble Harbour Revision Order, 1969, to make such payments to any company or person as the Council may think fit for the provision or maintenance for such officer, his spouse and dependants of pensions or other like benefits;

1972 c. 11.

(b) notwithstanding anything in the Superannuation Act, 1972, any regulations made thereunder, or in any other enactment, an officer in respect of whom payments are or have been before the passing of this Act made by the Council as authorised by paragraph (a) of this section shall not, by virtue of his employment by the Council before or after the passing of this Act, be deemed to be or to have been a contributory employee for the purposes of the said Act or regulations.

## PART IX

## WELFARE AND EDUCATION

77.—(1) The Council may upon and subject to such terms and conditions (if any) as may be agreed between them and any body rendering public service by means of cultural activities carried on either wholly or partly in the county contribute such sum or sums as they may from time to time determine to be the reasonable expenses of such body. Contributions to cultural bodies.

(2) For the purposes of this section—

“body” includes an association, institution, society or similar organisation and a company howsoever constituted;

“cultural activities” includes the provision of public entertainment having cultural value.

78. The Council or a local authority may undertake investigations and research into matters affecting the county relating to— Research into matters concerning social conditions, etc.

(a) social or economic conditions;

(b) archaeology or social history; or

(c) health or hygiene;

and may contribute by grants or otherwise towards the cost of similar investigations and research undertaken by other bodies or persons.

79.—(1) For the purpose of rehabilitating any family (hereafter in this section referred to as “a special family”) residing in the county which or any member of which requires special treatment to fit them or him to be useful members of the community the Council may— Social rehabilitation.

(a) either within or without the county provide, equip, staff and maintain training centres for the accommodation and training of special families or any member thereof;

(b) employ persons specially skilled by experience or training in social work (hereafter in this section referred to as “social workers”) to give advice or training to special families in their homes;



**PART IX**  
—*cont.*

(c) supply to any special family such furniture, fittings and conveniences as the Council may think fit and for that purpose buy furniture, fittings and conveniences.

(2) Instead of themselves providing training centres and employing special home visitors, the Council may make arrangements with any voluntary organisation for the provision by that organisation of training centres or for the employment by them of social workers as aforesaid and may make contribution towards the expenses of any such voluntary organisation as aforesaid.

(3) The Council may recover from any person to whom any furniture, fittings or conveniences have been supplied under paragraph (c) of subsection (1) of this section such charges (if any) as having regard to the cost of the furniture, fittings or conveniences the Council may determine whether generally or in the circumstances of any particular case.

1948 c. 29.  
1948 c. 43.  
1970 c. 42.

(4) For the purposes of the National Assistance Act, 1948, the Children Act, 1948, and the Local Authority Social Services Act, 1970, a person in accommodation provided by the Council under this section without the county shall be deemed to be ordinarily resident in the area, if any, in which he was ordinarily resident immediately before he was admitted to such accommodation whether or not he in fact continues to be ordinarily resident in that area.

Publication  
of bulletins,  
etc.

**80.**—(1) The Council, a local authority or a parish council may publish and sell or dispose of bulletins, journals, periodicals, maps and leaflets and documents of historical or literary interest having a local connection or relating to the functions of the Council, the local authority or the parish council, as the case may be.

(2) Nothing in this section shall affect the rights of any person under the law for the time being in force relating to copyright.

Pupils' work  
experience  
schemes.

**81.**—(1) Notwithstanding anything in any other enactment the Council may make arrangements for the provision of work experience for pupils who have attained an age not less than one year below the upper limit of compulsory school age.

(2) For the purposes of subsection (1) of this section the Council may enter into agreements with other persons on such terms and conditions (including terms and conditions as to the payment of money to persons other than pupils) as they think fit.

(3) Whilst a pupil is engaged pursuant to such arrangements as aforesaid in gaining work experience he shall be deemed to be a young person for the purposes of any enactment relating to the prohibition or regulation of the employment of children and young persons.

(4) The foregoing provisions of this section shall have effect for the period until 31st December, 1977, and thereafter shall cease.

(5) (a) The Council may enter into a contract with any person whereby, in consideration of payments made by way of premium or otherwise by the Council, that person undertakes to pay to the Council such sums as may be provided in the contract in the event of any person, whilst engaged pursuant to an agreement made pursuant to subsection (2) of this section in gaining work experience, meeting with a personal accident, whether fatal or not, or suffering any disease or sickness, whether fatal or not, as a result of being so engaged.

(b) Any sum received by the Council under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by the Council to, or to the personal representatives of, the person who suffered the accident, disease or sickness in respect of which the sum is received.

(c) The provisions of the Life Assurance Act, 1774, shall not apply to any such contract, but any such contract shall be deemed for the purposes of the Companies Act, 1967, to be a contract of insurance against risks specified in the definition of "personal accident insurance business" in section 59 (8) of that Act. 1774 c. 48. 1967 c. 81.

(6) Expressions used in this section to which meanings are assigned by the Education Acts, 1944 to 1971, shall have the same respective meanings in this section as in those Acts.

## PART X

### MISCELLANEOUS

82.—(1) The powers of a burial authority in relation to a burial ground maintainable by them shall include power—

- (a) to put, and keep, in order any memorial therein;
- (b) to level any grave therein;
- (c) to remove the whole or any part of a memorial therein;
- (d) to alter the position of any such memorial.

Extension of power to maintain burial grounds.

(2) Before exercising a power conferred by paragraph (b), (c) or (d) of the foregoing subsection the burial authority shall—

- (a) publish a notice of their intention to do so once in each of two successive weeks in a local newspaper circulating in the area, with an interval between the dates of publication of not less than six clear days;



PART X  
—cont.

- (b) display a notice thereof in a conspicuous position in the burial ground; and
- (c) serve a notice thereof 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 the owner, or of a relative of such person, can be ascertained.

## (3) Each of the notices shall—

- (a) contain brief particulars of the burial authority's proposals, and specify an address at which full particulars of the proposals can be obtained, unless the brief particulars are of proposals incapable of further statement;
- (b) specify the date on which it is intended that the burial authority will begin to carry out the proposals, which shall be not earlier than the fourteenth day after the date of the later of the two publications, or than the twenty-first day after the date on which the notice in the burial ground is first displayed, or, where notice is required to be served, than the twenty-first day after the date of service whichever is the latest; and
- (c) state the effect of the next following subsection.

(4) If notice of objection to a proposal, and of the ground thereof, is given to the burial authority before the date specified under paragraph (b) of the last foregoing subsection, that proposal shall not be carried out without the consent of the Secretary of State unless the notice is withdrawn.

(5) The burial authority may put to such use as they think appropriate, or destroy, any memorial removed under this section, unless it is claimed and removed by the person claiming it or some person acting on his behalf within three months after the date of the earlier of the two publications of the notice required by paragraph (a) of subsection (2) of this section, or where notice has been served under paragraph (c) thereof, after the date of such service, whichever is the later.

(6) Where a memorial is removed by the burial authority under this section, the burial authority may erect at their own expense in substitution, a memorial of a value not exceeding twenty-five pounds.

(7) The burial authority shall cause a record to be made of each memorial taken from the burial ground under this section containing—

- (a) a copy of any inscription on it; and
- (b) if it is intended to preserve the memorial, a statement showing where it has been taken to;

and shall deposit a copy of the record with the Registrar General

(8) (a) Nothing in the foregoing provisions of this section shall relieve the burial authority from any obligation to which they are subject apart from those provisions to obtain for any work a faculty or licence of a consistory court.

(b) Subsections (2) to (4) of this section shall not have effect in relation to any work for which the burial authority obtain such a faculty or licence; and subsection (5) thereof shall not have effect in relation to any memorial for whose removal such a faculty or licence was obtained.

(9) In this section—

“burial authority” means any body or authority exercising powers under the Burial Acts, 1852 to 1906, the Public Health (Interments) Act, 1879, the Cremation Acts, 1902 and 1952, or any local Act relating to the provision or maintenance of a burial ground; 1879 c. 31.

“burial ground” has the same meaning as in the Open Spaces Act, 1906; 1906 c. 25.

“grave” includes a grave space;

“memorial” means any object erected, placed or planted for the commemoration of the dead, and includes any wall, kerb or railing protecting, enclosing or marking a grave or memorial.

83.—(1) In this section—

“the Commission” means the Commonwealth War Graves Commission;

“Commonwealth war burial” means a burial of any officer or man of the naval, military or air forces of His Majesty fallen in the war of 1914 to 1921 or in the war of 1939 to 1947.

For protection  
of Common-  
wealth War  
Graves  
Commission.

(2) In relation to any burial ground to which the provisions of section 82 (Extension of power to maintain burial grounds) of this Act apply and in which there are situated any Commonwealth war graves relating to the war of 1914 to 1921 or to the war of 1939 to 1947, the burial authority shall—

(a) not later than the date upon which such notice is first published in a newspaper circulating in their area, serve upon the Commission a copy of any notice which the burial authority are required to publish pursuant to the said section 82;

(b) give written notification to the Commission of their intention to apply for a faculty or licence of a consistory court for the purposes of exercising a power conferred by paragraph (b), (c) or (d) of subsection (1) of the said section 82;



PART X  
—cont.

and in any such case shall have due regard to any written representations made by the Commission within a period of one month from the service of the notice or the giving of the notification, as the case may be.

(3) The burial authority shall not in pursuance of the powers of the said section 82 remove any memorial placed or erected over any Commonwealth war grave unless they have first given to the Commission satisfactory assurances in writing in regard to all or such of the following matters as the Commission consider appropriate, namely:—

- (a) that no other memorial shall be placed or erected over such grave;
- (b) that any Commonwealth war burial in such grave shall at all times be protected from interference or disturbance otherwise than interference or disturbance authorised by a licence granted by the Secretary of State or authorised by a faculty or licence of a consistory court after prior notification to the Commission of the application for any such licence or faculty;
- (c) that in the case of any headstone placed or erected by the Commission over any such grave such memorial shall be removed only in accordance with such arrangements and in such manner including disposal of the memorial as shall be agreed in writing between the burial authority and the Commission.

(4) If a Commonwealth war burial would be affected by a consent given by the Secretary of State under subsection (4) of the said section 82, the burial authority shall, not later than the date on which the matter is referred to the Secretary of State, inform the Commission in writing of such reference and the Secretary of State shall consider any representations submitted to him by the Commission within a period of twenty-eight days from the date of reference to the Secretary of State.

Provisions as to motor vehicles let for hire.

1847 c. 89.

1875 c. 55.

**84.**—(1) A local authority to which this section applies may make byelaws for applying, with such consequential modifications as may be provided for in the byelaws, any of the provisions of—

- (a) sections 37 to 67 of the Town Police Clauses Act, 1847, and section 171 of the Public Health Act, 1875, as subsequently amended, as they apply with respect to hackney carriages and their proprietors and drivers; and
  - (b) any byelaws made by the local authority and in force with respect to such carriages, proprietors and drivers;
- to private hire vehicles and their proprietors and drivers.

(2) In this section "private hire vehicle" means a motor vehicle (within the meaning of the Road Traffic Act, 1960), not being a vehicle licensed under the provisions of the Town Police Clauses Act, 1847, with respect to hackney carriages, which is kept wholly or mainly for the purpose of being let out for hire with a driver for the carrying of passengers in such circumstances that it does not require to be licensed under the said provisions, but does not include—

PART X  
— cont.

1960 c. 16.

1847 c. 89.

- (a) a vehicle which is kept and used wholly or mainly for the purpose of being let out for hire by the day or for longer periods of hire;
- (b) a vehicle kept by any person in connection with any business carried on by him as a funeral director or undertaker and used wholly or mainly in connection with that business;
- (c) a public service vehicle as defined in section 117 of the said Act of 1960; or
- (d) a vehicle belonging to or used by the British Railways Board for the purpose of carrying passengers or their luggage from any of their railway stations, railway or dock premises to any other such premises of the board.

(3) This section applies to the council of the rural district of New Forest and councils of urban districts in the county within which the provisions mentioned in paragraph (a) of subsection (1) of this section are for the time being in force.

85.—(1) In its application to the Council section 1 of the Local Authorities (Goods and Services) Act, 1970, shall have effect as if the definition of the expression "public body" in subsection (4) of that section extended to any voluntary organisation providing for the care of persons who are mentally or physically handicapped, or aged or children, being an organisation in receipt of a grant lawfully made by the Council within twelve months of the exercise of the powers of that section by the Council.

Amendment  
of section 1 of  
the Local  
Authorities  
(Goods and  
Services)  
Act, 1970.  
1970 c. 39.

(2) The powers of this section shall cease to have effect upon the coming into force of an order or orders made in relation to England and Wales under subsection (5) of section 1 of the said Act of 1970 specifying as public bodies for the purposes of that Act bodies embracing every voluntary organisation of the description contained in subsection (1) of this section.

86.—(1) Notwithstanding anything contained in any enactment, the Council may destroy any documents of the Council, other than minute books, of which they have made microfilm recordings and have made provision for the retention of such recordings:

Microfilming  
of documents.



PART X  
—cont.

Provided that—

1958 c. 51.

1962 c. 56.

(a) the Council shall not under this section destroy records deposited with them under the Public Records Act, 1958 or acquired or accepted by them under section 2 of the Local Government (Records) Act, 1962;

(b) the Council shall afford to the public the same right of access to a microfilm recording made under this section as would have been available in respect of the document so recorded if this section had not been enacted.

(2) Notwithstanding anything contained in any enactment or any rule of law, an enlargement of a microfilm recording of a document which has been destroyed shall be admissible in evidence for any purpose for which the document would have been admissible in any proceedings in any court in England or Wales if the clerk of the Council certifies that—

(a) the document has been destroyed in pursuance of this section; and

(b) a microfilm recording of the document has been made and

(c) the enlargement is an enlargement of that microfilm recording.

(3) In this section unless the context otherwise requires—

(a) “document” means the whole or part of a register, book, record, letter, map, plan, drawing, photograph or other document and includes a notice, licence, certificate, scheme or order made, passed or granted by the Council or any committee of the Council;

(b) references to documents of the Council are references to documents belonging to, or permanently in the possession of, the Council other than in pursuance of an express trust; and

(c) “microfilm recording” means a reproduction of a document on film or other material which is a product of photography or any process akin to photography and is in general beyond legibility with the naked eye.

As to use of  
computer  
equipment.  
1970 c. 39.

87.—(1) The Council may provide services and facilities for the processing of data for any person (other than a public body) within the meaning of the Local Authorities (Goods and Services) Act, 1970) by computer or by any other equipment which the Council may possess, and the Council may make such charges as may be agreed for the provision of those services and facilities

(2) Information obtained by any employee of the Council in the course of the provision of such services or facilities shall not, without the consent of the person from whom it was obtained, be disclosed by that employee except for the purpose of performing his duties in relation to those services and facilities or in such cases as may be required by law.

PART X  
—cont.

88.—(1) In this section—

“lost property” means any property coming into the custody of the Council after being left on or in any premises occupied by the Council to which the public have access; and

Disposal of  
lost and  
uncollected  
property.

“uncollected property” means any property deposited in any cloakroom or parcels store provided by the Council for the use of the public in which there is exhibited a notice containing a statement of the effect of subsections (2) and (3) of this section.

(2) Where any lost or uncollected property is contained in a package, bag or other receptacle, the Council may cause such receptacle to be opened and the contents examined, if they deem it necessary to do so, for the purpose either of identifying and tracing the owner of the property or of ascertaining the nature of its contents.

(3) If, within the period of three months from the date on which it came into the custody of the Council, any lost or uncollected property is not proved to the reasonable satisfaction of the Council to belong to any claimant, it shall upon the expiration of that period vest in the Council:

Provided that any lost or uncollected property which is of a perishable nature, and any lost property the custody of which involves unreasonable expense or inconvenience, may, notwithstanding that it has not vested in the Council under this section, be disposed of at such time and in such manner as the Council may think fit, and, if it is sold, the proceeds of sale shall vest in the Council at the expiration of the period of three months from the date on which the property came into their custody.

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

(5) In the case of any uncollected property which is placed in the custody of the Council on express terms inconsistent with the rights of the Council under this section, this section shall have effect subject to those terms.



PART X  
—cont.

(6) Where lost property (or the proceeds of sale thereof) has been vested in the Council under subsection (3) of this section and a person employed by the Council shows to their reasonable satisfaction that, before vesting, such property belonged to him and was left at a place where he worked, he shall be entitled to the return of the property or, if it has been disposed of, to receive the estimated value thereof from the Council.

(7) This section shall not apply to any specimen, work of art, book or document coming into the custody of the Council after being left at any museum, art gallery, library, archives or other building of the Council for the purpose of identification or otherwise.

Disposal of  
unsuitable  
specimens.

**89.**—(1) The Council may sell, lend, exchange or give or otherwise dispose of, any specimen, work of art, book or document—

- (a) vested in them which in the opinion of the Council is not required for exhibition or use in any museum, art gallery, library, archives or other building of the Council or
- (b) coming into the custody of the Council after being left at any museum, art gallery, library, archives or other building of the Council for purpose of identification or otherwise and which has been in the possession of the Council for a period of not less than three months:

Provided that in the case of any object to which paragraph (b) of this subsection applies, the powers of this subsection shall be subject to any express terms on which that object was placed in the custody of the Council.

(2) The Council may make arrangements by way of sale, loan, exchange or gift with any person being the owner of any museum, art gallery, library or archives for the transfer to that person of any specimen, work of art, book or document vested in the Council which in the opinion of the Council is more suitable for exhibition or use in the museum, art gallery, library or archives of that person than in a museum, art gallery, library, archives or other building of the Council.

(3) Where any object has become vested in the Council by virtue of a gift or bequest—

- (a) the Council shall, if reasonably practicable, consult with the donor or with the personal representatives or trustees of the donor before exercising the powers of this section; and
- (b) the powers conferred by this section shall not, during a period of thirty-five years commencing on the date on which it became vested, be exercisable as respects that object in any manner inconsistent with any condition

attached to the gift or bequest, except with the consent of the donor or the personal representatives or trustees of the donor.

PART X  
—cont.

(4) Any moneys received by the Council on the disposal under this section of any object vested in them by virtue of a gift or bequest shall, subject to the terms of any trust affecting the said object where the moneys so received exceed fifty pounds, be applied in the purchase of specimens, works of art, books or documents, or paid into the art fund maintained by the Council under section 15 of the Public Libraries and Museums Act, 1964. 1964 c. 75.

(5) The Council shall take all reasonable steps to bring the powers of this section to the notice of the donor or other person giving or leaving with the Council after the passing of this Act any object to which this section applies.

(6) The foregoing provisions of this section shall apply to the mayor, aldermen and citizens of the city of Winchester (hereinafter in this subsection called "the corporation") and, for that purpose, for references in those provisions to the Council there shall be substituted references to the corporation, and subject to any other necessary modifications.

90.—(1) A committee lawfully authorised by the Council to exercise any powers of the Council under any enactment may, subject to any direction of the Council, appoint such sub-committees consisting either wholly or partly of members of the committee as the committee think fit, and subject as aforesaid may delegate with or without restrictions or conditions any of their functions to a sub-committee so appointed. Delegation of powers to sub-committees.

(2) A sub-committee appointed under this section (other than a sub-committee of a committee for regulating and controlling the finances of the Council or of the county) may include persons who are not members of the Council.

(3) A majority of the members of any such sub-committee shall be members of the Council and wherever at any meeting of any such sub-committee the members present thereat do not include a majority of members of the Council any decision of the sub-committee shall have no effect unless it is confirmed by the committee.

(4) Nothing in this section shall authorise the appointment of a sub-committee for any purpose for which any committee of the Council are authorised to appoint a sub-committee under any other enactment.



PART X  
—cont.

Application  
to certain  
authorities of  
provisions of  
Part X.

91.—(1) The provisions of this Part of this Act mentioned in subsection (2) of this section shall apply to a local authority and for that purpose, shall have effect as if, for references therein to the Council and to the county, there were substituted references to the local authority and to their district respectively, and subject to any other necessary modifications.

(2) The provisions hereinbefore referred to are—

Section 86 (Microfilming of documents);

Section 87 (As to use of computer equipment);

Section 88 (Disposal of lost and uncollected property);

Section 90 (Delegation of powers to sub-committees).

PART XI

GENERAL

Compensation:  
how to be  
determined.

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

Proof of  
resolutions,  
etc.

93. Section 286 of the Act of 1936 in its application to the Council and to any local authority in the county shall have effect as if after the word "Act" there were inserted the words "or any other enactment".

Confirming  
authority for  
byelaws.

94. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Secretary of State.

Arbitration.

95. Save as otherwise expressly provided in this Act, in arbitrations under this Act the reference shall be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of any party (after giving notice in writing to the other party or parties) by the President of the Institution of Civil Engineers.

Protection  
of members  
and officers  
from personal  
liability.  
1875 c. 55.

96. Section 265 of the Public Health Act, 1875, shall apply to the Council and a local authority as if any reference in that section to the said Act of 1875 included a reference to this Act and as if references in that section to a member of a local authority included reference to a member of a committee or a sub-committee of the Council or of a local authority.

Local  
inquiries

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

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

PART XI  
—cont.

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

1946 c. 31.

98. Proceedings in respect of an offence created by or under any provision of this Act, or under any byelaw made under any such provision, shall not, without the written consent of the Attorney-General, be taken by any person other than a party aggrieved, a constable, or the Council, the highway authority, the local authority, or the parish council (as the case may be), having an interest in the enforcement of the provision or byelaw in question.

Restriction  
on right to  
prosecute.

99.—(1) Where an offence under any of the provisions of this Act mentioned in subsection (2) of this section committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

Liability of  
directors, etc.

(2) The provisions hereinbefore referred to are the following:—

- Section 17 (Information as to occupiers of land on which caravans are stationed);
- Section 21 (Sale of food and articles on verges);
- Section 22 (Prohibition of parking or camping on highway verges, etc.);
- Section 28 (Control of goods service areas);
- Section 30 (Access to new street);
- Section 33 (Mixing of mortar in streets);
- Section 44 (Firemen's switches for luminous tube signs);
- Section 45 (Oil-burning equipment);
- Section 52 (Disposal of dangerous containers);
- Section 64 (Sanitary conveniences at places of public exhibition, betting offices, etc.).

(3) In this section "director" in relation to any body corporate established by or under any enactment for the purpose of carrying



PART XI  
—cont.

on, under national ownership, any industry, or part of any industry, or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body.

Appeals.

**100.**—(1) Section 300 of the Act of 1936 shall apply with respect to appeals to a magistrates' court under any enactment in this Act (except Part IV (Highways and streets) of this Act) as it applies with respect to appeals to a magistrates' court under any enactment in that Act, and section 301 and section 302 of that Act shall apply accordingly.

(2) Where any requirement, refusal or other decision of the Council or the fire authority or a highway authority or local authority against which a right of appeal is conferred by this Act involves the execution of any work or the taking of any action 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 no proceedings shall be taken in respect of any failure to execute the work or take the action nor shall the Council, fire authority, highway authority or local authority, as the case may be, themselves execute the work or take the action.

For protection  
of certain  
statutory  
undertakers.

**101.** For the protection of the undertakers the following provisions shall, unless otherwise agreed in writing between the authority and the undertakers, apply and have effect:—

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

“the authority” means the Council, a local authority, a parish council or the highway authority as the case may require;

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

“the undertakers” means—

the Gas Council;

the Southern Gas Board;

the Central Electricity Generating Board;

the Southern Electricity Board;

the West Hampshire Water Company;

the Mid Southern Water Company; and

the Post Office;

or any of them, as the case may be:

- (2) Nothing in the following sections of this Act shall relieve the authority or any person acting with the consent of or on the requirement of the authority from liability for damage caused by them or him to any apparatus in the exercise of the powers of the said sections and the said powers shall be so exercised as not to render unreasonably inconvenient the access to any apparatus or operational land:—

PART XI  
—cont.

Section 18 (Open spaces and verges, etc., of housing estates);

Section 20 (Protection of trees, grass verges and gardens);

Section 23 (Parking places in parks, etc.);

Section 24 (Provision of parking places on trunk roads and county roads);

Section 25 (Extension of parish councils' powers to provide parking places);

Section 27 (Extension of power to provide public conveniences);

Section 53 (Protection of dangerous excavations);

Section 54 (Removal, etc., of dangerous trees);

Section 59 (Temporary stopping up of streets):

- (3) Nothing in section 18 (Open spaces and verges, etc., of housing estates) or section 20 (Protection of trees, grass verges and gardens) of this Act shall affect the rights of the undertakers, their employees, agents and contractors with respect to any apparatus (including the placing of apparatus) in any open space, grass verge, garden or space:

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

- (4) Notwithstanding anything in section 28 (Control of goods service areas) of this Act, the undertakers may cause or permit their vehicles to wait at any time on any service area designated under the said section 28 for any such period as may be necessary for placing, inspecting, repairing, maintaining, renewing or removing apparatus:

- (5) (a) Notwithstanding anything in section 31 (Adjustment of boundaries of estates in connection with streets) of this Act, the undertakers shall not, under the provisions



PART XI  
—cont.

of that section, be required to adjust or alter the boundaries of or exchange any operational land except with their consent, which shall not be unreasonably withheld, and any difference as to whether any such consent is withheld unreasonably shall be determined by arbitration under subsection (4) of that section;

- (b) Nothing in subsection (1) of the said section 31 shall apply to any covenant, restriction, or condition for the benefit of, or for preventing interference with the use of, or for securing access to operational land or apparatus of the undertakers:
- (6) Nothing in section 53 (Protection of dangerous excavations) of this Act shall authorise the authority to enter on or execute works or do anything on operational land without the consent of the undertakers, which consent shall not be unreasonably withheld:
- (7) Notwithstanding the temporary stopping up or diversion of or interference with any street or the diversion temporarily of traffic therefrom or the prevention of persons from using the street under the powers of section 59 (Temporary stopping up of streets) of this Act, the undertakers, their employees, agents and contractors shall be at liberty at all times to enter upon the street with any necessary vehicles to execute and do all such works and things in any such street as may be necessary for placing, inspecting, repairing, maintaining, renewing or removing apparatus:
- (8) (a) When the authority serve any notice under section 66 (Securing of unoccupied houses under Act of 1957) of this Act they shall at the same time send a copy of such notice to the undertakers;
- (b) Nothing in the said section 66 shall prejudice the right of the undertakers to enter upon any premises in the exercise of their statutory powers in that behalf:
- Provided that, without prejudice to any other obligation or liability arising in respect of any entry in exercise of statutory powers, the undertakers in exercising such powers of entry in respect of any premises required to be secured under the said section 66 shall ensure that the premises are not left less secure by reason of the entry:
- (9) (a) Except as provided in paragraph (5) of this section, any question or difference which may arise between the authority and the undertakers under this section shall be determined by arbitration;

(b) In settling any question or difference under this section, the arbitrator shall have regard to any duty or obligation which the undertakers may be under in respect of any apparatus and may, if he thinks fit, require the authority 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.

PART XI  
—cont.

**102.** For the protection of the Conservators of the River Thames (in this section referred to as “the conservators”) the following provisions shall, unless otherwise agreed in writing between the South Hampshire Main Drainage Board (in this section referred to as “the board”) and the conservators, apply and have effect:—

For protection  
of Conserva-  
tors of River  
Thames.

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

“protected work” means a drainage or other work for the time being vested in or under the control of the conservators for the purposes of the Land Drainage Acts, 1930 and 1961, or the Water Resources Act, 1963; 1963 c. 38.

“watercourse” means a watercourse, as defined in the Land Drainage Act, 1930, subject to the control of the conservators: 1930 c. 44.

(2) The board shall not without the consent of the conservators carry out any work under sections 56 to 59 of this Act so as to obstruct access to a protected work or watercourse by the conservators and their officers, servants, workmen, contractors and agents together with any vehicles, plant and machinery as may be reasonably necessary, but such consent shall not be unreasonably withheld and may be given subject to reasonable terms and conditions:

(3) Any difference which may arise between the board and the conservators, other than a difference as to the meaning hereof, shall be referred to and settled by arbitration.

**103.** Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act shall authorise the Council or any local authority to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description belonging to Her Majesty in right of Her Crown and under the management

Crown  
rights.



PART XI  
—cont.

of the Crown Estate Commissioners or belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of those commissioners on behalf of Her Majesty or, as the case may be, the consent in writing of that government department first had and obtained for that purpose.

Saving for  
Town and  
Country  
Planning  
Act, 1971.

**104.** Section 289 of the Act of 1971 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the session 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Act as if it had been passed during that session; and accordingly the Act of 1971 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

Application  
of general  
enactments.

**105.**—(1) The sections of the Act of 1936 mentioned in Part I of Schedule 2 to this Act shall have effect as if references therein to that Act included reference to this Act, except Part IV (Highways and streets) and sections 56 to 58 of this Act.

(2) The sections of the Act of 1959 mentioned in Part II of Schedule 2 to this Act shall have effect as if references therein to that Act included reference to Part IV (Highways and streets) of this Act.

(3) The sections of the Act of 1936 mentioned in Part III of Schedule 2 to this Act shall have effect as if references therein to that Act included reference to Part II (Lands), Part III (Planning and amenities), Part V (Fire protection, public safety and public order) and to Part VI (Public health and housing) of this Act other than sections 56 to 58.

(4) The section of the Act of 1936 mentioned in Part IV of Schedule 2 to this Act shall have effect as if references therein to that Act included reference to section 32 (Awnings over footways), section 54 (Removal, etc., of dangerous trees), section 65 (Sanitary conveniences for persons employed on construction work) and section 67 (Repair of walls, etc.) of this Act.

(5) The section of the Act of 1936 mentioned in Part V of Schedule 2 to this Act shall have effect as if references therein to that Act included reference to the following provisions of this Act:—

Section 7 (Agreements with developers);

Section 14 (Undertakings and agreements binding successive owners);

- PART XI  
—cont.
- Section 17 (Information as to occupiers of land on which caravans are stationed);
- Section 40 (Underground parking places);
- Section 41 (Further provision as to underground parking places);
- Section 43 (Building plans: access for fire brigade);
- Section 44 (Firemen's switches for luminous tube signs);
- Section 45 (Oil-burning equipment);
- Section 46 (Preventing fire in public or other buildings);
- Section 52 (Disposal of dangerous containers);
- Section 53 (Protection of dangerous excavations);
- Section 54 (Removal, etc., of dangerous trees);
- Section 60 (Refuse dumps);
- Section 61 (Power to stop, etc., deposit of refuse in certain circumstances);
- Section 63 (Refuse disposal);
- Section 64 (Sanitary conveniences at places of public exhibition, betting offices, etc.);
- Section 65 (Sanitary conveniences for persons employed on construction work);
- Section 66 (Securing of unoccupied houses under Act of 1957);
- Section 67 (Repair of walls, etc.).

**106.** Where, under the provisions of any enactment, the Council or a local authority execute any works of common benefit to two or more buildings belonging to different owners, and those expenses or any part of them are recoverable by the Council or the local authority, they shall (if no provision is made in the enactment, or in any other enactment applied thereto or incorporated therein, as to the incidence of the expenses so recoverable) be paid by the owners of such buildings in such proportions as shall be determined by the Council or the local authority (as the case may be) or, in case of dispute, by a magistrates' court.

Apportionment of expenses in case of joint owners.

**107.** The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the county fund or out of moneys to be borrowed under this Act.

Costs of Act.



**SCHEDULES**

Section 15.

**SCHEDULE 1****ENACTMENTS MENTIONED IN SECTION 15 OF THIS ACT**

1930 c. 44.	Land Drainage Act, 1930.
1950 c. 28.	Shops Act, 1950.
1960 c. 62.	Caravan Sites and Control of Development Act, 1960.
1961 c. 48.	Land Drainage Act, 1961.
1961 c. 64.	Parts IV and VI of the Public Health Act, 1961.
1967 c. 69.	Civic Amenities Act, 1967.

## SCHEDULE 2

Section 105.

## GENERAL ENACTMENTS APPLIED

## PART I

SECTIONS OF ACT OF 1936 APPLIED TO THIS ACT, OTHER THAN PART IV  
AND SECTIONS 56 TO 58 OF THIS ACT

Section	Marginal note
271	Interpretation of "provide".
283	Notices to be in writing; forms of notices, &c.
288	Penalty for obstructing execution of Act.
296	Summary proceedings for offences.
297	Continuing offences and penalties.
301	Appeals to quarter sessions against decisions of justices.
302	Effect of decision of court upon an appeal.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.
341	Power to apply provisions of Act to Crown property.

## PART II

## SECTIONS OF ACT OF 1959 APPLIED TO PART IV OF THIS ACT

Section	Marginal note
269	Summary proceedings for offences.
270	Continuing offences.
273	Notice to be given of right of appeal.
274	Appeals and applications to magistrates' courts.
275	Appeals to quarter sessions from decisions of magistrates' courts.
277	Effect of decision of court upon an appeal.
278	Judges and justices not to be disqualified by liability to rates.
280	Notices, etc., to be in writing; forms of certain documents.
281	Authentication of documents, etc.
282	Service of notices, etc.



SCH. 2  
—cont.

## PART III

SECTIONS OF ACT OF 1936 APPLIED TO PARTS II, III, V AND VI OF THIS  
ACT OTHER THAN SECTIONS 56 TO 58

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.
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.
293	Recovery of expenses, &c.
294	Limitation of liability of certain owners.
295	Power of local authority to grant charging orders.
299	Inclusion of several sums in one complaint, &c.
329	Saving for certain provisions of the Land Charges Act, 1925.

## PART IV

SECTION OF ACT OF 1936 APPLIED TO SECTIONS 32, 54, 65 AND 67 OF  
THIS ACT

Section	Marginal note
290	Provisions as to appeals against, and the enforcement of notices requiring execution of works.

## PART V

SECTION OF ACT OF 1936 APPLIED TO SECTIONS 7, 14, 17, 40, 41, 43 TO  
46, 52 TO 54, 60, 61 AND 63 TO 67 OF THIS ACT

Section	Marginal note
287	Power to enter premises.

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# Hampshire County Council Act 1972

## CHAPTER xlvii

### ARRANGEMENT OF SECTIONS

#### PART I

##### PRELIMINARY

Section

1. Short title.
2. Division of Act into Parts.
3. Interpretation.
4. The appointed day.

#### PART II

##### LANDS

5. Suspension of restrictive covenants.
6. Covenants or restrictions affecting certain land.
7. Agreements with developers.
8. Compensation may be in land.
9. Provision of substituted sites.
10. Power to reinstate owners or occupiers of property.



## Section

11. Compulsory acquisition of easements.
12. Reservation of easements, etc., by Council.
13. Disposal of land.
14. Undertakings and agreements binding successive owners.
15. Power to require information as to ownership of premises.
16. Application to local authorities of provisions of Part II.

## PART III

## PLANNING AND AMENITIES

17. Information as to occupiers of land on which caravans are stationed.
18. Open spaces and verges, etc., of housing estates.
19. Byelaws for controlling river Hamble.

## PART IV

## HIGHWAYS AND STREETS

20. Protection of trees, grass verges and gardens.
21. Sale of food and articles on verges.
22. Prohibition of parking or camping on highway verges, etc.
23. Parking places in parks, etc.
24. Provision of parking places on trunk roads and county roads.
25. Extension of parish councils' powers to provide parking places.
26. Saving for land held on charitable trusts.
27. Extension of power to provide public conveniences.
28. Control of goods service areas.
29. Temporary stoppage of footpaths and bridleways.
30. Access to new street.
31. Adjustment of boundaries of estates in connection with streets.
32. Awnings over footways.
33. Mixing of mortar in streets.
34. Excavations near highways.
35. Exemption of owner from liability on conviction of actual offender.
36. Exemption for river authorities and statutory undertakers.
37. Street cleansing.
38. Recovery of street works charges where owner unknown.
39. Power for rural district councils to contribute to cost of private street works.

PART V

FIRE PROTECTION, PUBLIC SAFETY AND PUBLIC  
ORDER

Section

40. Underground parking places.
41. Further provision as to underground parking places.
42. Interpretation and powers of entry for purposes of last two foregoing sections.
43. Building plans: access for fire brigade.
44. Firemen's switches for luminous tube signs.
45. Oil-burning equipment.
46. Preventing fire in public or other buildings.
47. Fire precautions in certain large buildings.
48. Fire precautions in registered clubs.
49. Fire precautions on demolition of buildings.
50. Instructions, lectures, etc., on questions relating to fire services, etc.
51. Consultation by local authorities with fire authority.
52. Disposal of dangerous containers.
53. Protection of dangerous excavations.
54. Removal, etc., of dangerous trees.
55. Prohibition on solicitation of school children to sell or exchange articles, etc., at schools.

PART VI

PUBLIC HEALTH AND HOUSING

56. Interpretation of sections 56 to 59 of this Act.
57. Powers as to provision and maintenance of sludge mains.
58. Notices, etc.
59. Temporary stopping up of streets.
60. Refuse dumps.
61. Power to stop, etc., deposit of refuse in certain circumstances.
62. Control of refuse tips.
63. Refuse disposal.
64. Sanitary conveniences at places of public exhibition, betting offices, etc.
65. Sanitary conveniences for persons employed on construction work.
66. Securing of unoccupied houses under Act of 1957.
67. Repair of walls, etc.
68. Expenses of executing demolition orders.
69. Amendment of Act of 1957 relating to closing orders.



## PART VII

## FINANCE

## Section

- 70. Power to borrow.
- 71. General insurance fund.
- 72. Notice of alteration of rents without notice to quit.
- 73. Officers of Council acting as receivers, etc.
- 74. Recovery of sums paid to employees, etc.
- 75. Application of Part VII to local authorities and others.

## PART VIII

## SUPERANNUATION

- 76. Pensions of officers transferred under the River Hamble Harbour Revision Order, 1969.

## PART IX

## WELFARE AND EDUCATION

- 77. Contributions to cultural bodies.
- 78. Research into matters concerning social conditions, etc.
- 79. Social rehabilitation.
- 80. Publication of bulletins, etc.
- 81. Pupils' work experience schemes.

## PART X

## MISCELLANEOUS

- 82. Extension of power to maintain burial grounds.
- 83. For protection of Commonwealth War Graves Commission.
- 84. Provisions as to motor vehicles let for hire.
- 85. Amendment of section 1 of the Local Authorities (Goods and Services) Act, 1970.
- 86. Microfilming of documents.
- 87. As to use of computer equipment.
- 88. Disposal of lost and uncollected property.
- 89. Disposal of unsuitable specimens.
- 90. Delegation of powers to sub-committees.
- 91. Application to certain authorities of provisions of Part X.

PART XI

GENERAL

Section

- 92. Compensation: how to be determined.
- 93. Proof of resolutions, etc.
- 94. Confirming authority for byelaws.
- 95. Arbitration.
- 96. Protection of members and officers from personal liability.
- 97. Local inquiries.
- 98. Restriction on right to prosecute.
- 99. Liability of directors, etc.
- 100. Appeals.
- 101. For protection of certain statutory undertakers.
- 102. For protection of Conservators of River Thames.
- 103. Crown rights.
- 104. Saving for Town and Country Planning Act, 1971.
- 105. Application of general enactments.
- 106. Apportionment of expenses in case of joint owners.
- 107. Costs of Act.

SCHEDULES:

Schedule 1—Enactments mentioned in section 15 of this Act.

Schedule 2—General enactments applied—

Part I—Sections of Act of 1936 applied to this Act, other than Part IV and sections 56 to 58 of this Act.

Part II—Sections of Act of 1959 applied to Part IV of this Act.

Part III—Sections of Act of 1936 applied to Parts II, III, V and VI of this Act other than sections 56 to 58.

Part IV—Section of Act of 1936 applied to sections 32, 54, 65 and 67 of this Act.

Part V—Section of Act of 1936 applied to sections 7, 14, 17, 40, 41, 43 to 46, 52 to 54, 60, 61 and 63 to 67 of this Act.