

Birmingham Corporation Act, 1958

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CHAPTER xlix

An Act to confer further powers upon the lord mayor aldermen and citizens of the city of Birmingham and to make further provision for the improvement health local government and finances of the city and for other purposes. [1st August 1958.]

WHEREAS—

(1) The city of Birmingham (hereinafter referred to as “the city”) is a county borough under the management and local government of the lord mayor aldermen and citizens of the city (hereinafter referred to as “the Corporation”):

(2) It is expedient to confer further powers upon the Corporation and to make further provision with reference to the improvement health and local government of the city and to the finances of the Corporation:

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

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

(5) 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 and
collective
titles.

1.—(1) This Act may be cited as the Birmingham Corporation Act 1958.

(2) The Birmingham Corporation Acts 1876 to 1954 and this Act may be cited jointly as the Birmingham Corporation Acts 1876 to 1958.

Division of
Act into
Parts.

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

Part I.—Preliminary.

Part II.—Streets buildings and sanitary matters.

Part III.—Weights and measures.

Part IV.—Finance and superannuation.

Part V.—Miscellaneous.

Part VI.—General.

Interpretation.

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

(2) In this Act unless the subject or context otherwise requires the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated with this Act shall have the same respective meanings and—

“ the Act of 1925 ” “ the Act of 1933 ” “ the Act of 1936 ”
“ the Act of 1937 ” and “ the Act of 1947 ” mean
respectively the Rating and Valuation Act 1925 the
Local Government Act 1933 the Public Health Act
1936 the Local Government Superannuation Act 1937
and the Town and Country Planning Act 1947;

“ the Act of 1935 ” means the Birmingham Corporation
Act 1935;

“ the Birmingham Stock Order 1880 ” means the Birmingham
Corporation Stock Order 1880 confirmed by the Local
Government Board’s Provisional Orders Confirmation
(Bethesda &c.) Act 1880 as amended by the Birmingham
Corporation Stock Order 1881 confirmed by the Local
Government Board’s Provisional Order Confirmation
(Birmingham) Act 1881 by the provisional order made
by the Local Government Board dated the third day of
May eighteen hundred and eighty-two and confirmed by

the Local Government Board's Provisional Orders Confirmation (No. 3) Act 1882 by the Birmingham Corporation (Stock) Act 1900 and by the Birmingham Corporation Act 1924;

- “ the city ” means the city of Birmingham;
- “ the commission ” means the British Transport Commission;
- “ the Corporation ” means the lord mayor aldermen and citizens of the city;
- “ the council ” means the council of the city;
- “ daily fine ” means a fine for each day on which an offence is continued by a person after conviction;
- “ enactment ” includes this Act and any general or local Act order byelaw or regulation for the time being in force within the city;
- “ financial year ” means the period of twelve months ending on the thirty-first day of March;
- “ the general rate fund ” and “ the general rate ” mean respectively the general rate fund and the general rate of the city;
- “ magistrates’ court ” has the same meaning as in subsection (1) of section 124 of the Magistrates’ Courts Act 1952;
- “ the Minister ” means the Minister of Housing and Local Government;
- “ public service vehicle ” has the meaning assigned to that expression by section 39 of the Road Traffic Act 1956;
- “ statutory securities ” means securities in which trustees are for the time being authorised by law to invest trust moneys and any mortgage bond debenture debenture stock stock or other security created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Corporation;
- “ the town clerk ” and “ the surveyor ” mean respectively the town clerk and the surveyor of the city;
- “ trust deed ” means the trust deed dated the third day of August nineteen hundred and thirty-four and made between the Corporation of the first part Horace Edward Goodby Frank Henry Cufaude Wiltshire and John Robert Johnson of the second part and Alfred Henry James Samuel John Grey Harold Roberts John Thomas Ingall Frank Harold Cureton and Rupert Chamberlin of the third part as amended by section 81 (Widows’ and orphans’ pension scheme) of the Act of 1935 and

PART I
—cont.

by the Birmingham Corporation Act 1940 and by the deeds of amendment dated respectively the sixth day of March nineteen hundred and fifty-three the twentieth day of July nineteen hundred and fifty-six the twenty-seventh day of July nineteen hundred and fifty-six and the thirty-first day of July nineteen hundred and fifty-seven.

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

PART II

STREETS BUILDINGS AND SANITARY MATTERS

Damage to
footways etc.
during
building
operations.

4.—(1) If any person takes a vehicle or causes or permits a vehicle to be taken across a grass verge or kerbed or paved footway in a highway repairable by the inhabitants at large in the city for the purpose of building operations on premises abutting on that highway (whether the Corporation have or have not granted their consent to the taking of vehicles across that verge or footway for a specified period) the Corporation may recover from such person the cost of making good any damage to the grass verge or footway caused by vehicles being taken across or machinery being on or the loading or unloading or stacking of materials on any part of the grass verge or footway forming part of so much of the highway as abuts upon those premises during the period during which building operations are in progress.

(2) In this section the expression “building operations” includes rebuilding operations demolition excavations structural alterations of or additions to buildings and other operations normally undertaken by a person carrying on business as a builder or contractor.

Amendment
of section 43
of Birmingham
Corporation
Act 1954.

5. Section 43 (Dual carriageway roads) of the Birmingham Corporation Act 1954 shall not apply to any mechanical road cleansing vehicle of the Corporation while proceeding along any road between the hours of half-past eleven in the afternoon and half-past five in the forenoon.

Noise
nuisance.

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

Provided that—

(a) in any proceedings brought by virtue of this section under the said Part III in respect of a noise occasioned in the course of any trade or business it shall be a defence for the defendant to prove that he has used the

best practicable means for preventing or mitigating the noise having regard to the cost and to other relevant circumstances;

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

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

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

7.—(1) In this section—

“ the Act of 1937 ” means the Public Health (Drainage of Trade Premises) Act 1937;

“ average sewage ” means the average sewage (including trade effluent) received into the disposal works of the Birmingham Tame and Rea District Drainage Board; and

“ trade effluent ” has the meaning assigned to that expression by section 14 of the Act of 1937.

Charges in
respect of
trade effluent.

(2) The Act of 1937 shall in its application to the Corporation have effect as if the matters with respect to which the Corporation may attach conditions under subsection (3) of section 2 thereof when granting their consent to the discharge of trade effluent included the following matters in addition to the matters mentioned in that subsection (that is to say):—

(a) the making and from time to time varying by the Corporation of a charge for the reception and conveyance of trade effluent such charge being calculated by reference to the cost of such reception and conveyance and based upon—

(i) the average flow of sewage and trade effluent conveyed in the sewers for foul water drainage vested in the Corporation for such period as may be specified in the condition; and

(ii) the cost in so far as not met from borrowed money of providing or maintaining the Corporation's sewers for foul water drainage (including pumping stations and other works connected therewith); and

(iii) the interest on moneys borrowed by the Corporation for the purpose of such sewers and the appropriations instalments or sinking fund payments in respect of such moneys;

PART II
—cont.

- (b) the making and from time to time varying by the Corporation of a charge for the treatment of trade effluent such charge being calculated by reference to the cost of such treatment;
- (c) the making by the Corporation of a minimum annual charge of five pounds for the reception conveyance and treatment of trade effluent:

Provided that in calculating the charge to be made under paragraph (b) of this subsection for the treatment of any trade effluent regard shall be had to the cost of treating average sewage and to the nature of the trade effluent to which the charge relates.

(3) If the Corporation when granting their consent to any person to discharge trade effluent attach conditions relating to any matter mentioned in subsection (2) of this section they shall at the time of granting such consent inform that person in writing of the charge to be made for the reception conveyance and treatment of the trade effluent to which the consent relates during the then current financial year.

(4) Section 3 of the Act of 1937 shall apply to a condition attached under subsection (2) of this section or deemed under subsection (5) of this section to have been so attached as it applies to a condition attached to the consent of a local authority under section 2 of the Act of 1937:

Provided that pending the hearing and determination by the Minister of any appeal under section 3 of the Act of 1937 as applied by this subsection the Corporation may continue to make and recover such charges for the reception and treatment of trade effluent as if such appeal had not been made but unless such appeal is dismissed the Corporation shall repay to the person so appealing the difference between the sum so charged and paid and the sum which would have been charged if the variation or determination (as the case may be) made by the Minister had been made by the Corporation before such charge had been made.

(5) Any condition attached to a consent granted by the Corporation under section 2 of the Act of 1937 after the seventh day of November nineteen hundred and fifty-six and before the passing of this Act which could lawfully have been so attached if such consent had been granted after the passing of this Act shall as from the passing of this Act be deemed to have been attached to such consent under the powers of this section.

(6) Nothing in this section shall affect the operation of section 4 or subsection (2) of section 5 of the Act of 1937.

PART III

WEIGHTS AND MEASURES

8.—(1) In this Part of this Act unless the subject or context otherwise requires the following expressions have the following meanings:—

Interpretation
and applica-
tion of this
Part of Act.

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

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

“ vehicle ” includes any lorry cart handcart waggon truck or other means of conveying goods or commodities by land but does not include a railway truck or waggon.

(2) In the following sections of this Act (namely):—

Section 14 (Drivers of vehicles to take them to weighing-machines on request);

Section 15 (Byelaws regulating weighing-machines);

Section 16 (Offences by weighing-machine keepers and others);

Section 17 (Penalties on persons committing frauds);

Section 18 (Further offences in relation to weighing-machines); and

Section 19 (Prohibition of double weighing);

the expression “ weighing-machine ” means a weighing-machine available for the use of the public for the purpose of ascertaining the weight of any vehicle or the loading thereof.

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

Application
of Act of
1889.

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

(b) the following sections of this Act:—

Section 13 (Sale in sacks of coal etc. in quantities exceeding two hundredweight); and

Section 20 (Deficient weight measure or number).

(2) (a) In their application to the city sections 20 to 22 24 to 27 and 29 of and the Third Schedule to the Act of 1889 shall extend to wood fuel and accordingly any reference in the said sections and schedule to coal in unspecified quantities shall be construed as a reference to coal or wood fuel and any references in the said sections 21 22 and 24 to coal in quantities exceeding or not exceeding two hundredweight shall be construed as a reference

PART III
—cont.

to coal or wood fuel in quantities respectively exceeding or as the case may be not exceeding two hundredweight:

Provided that the said sections 20 and 25 shall not extend to the sale of wood fuel in quantities not exceeding fourteen pounds.

(b) In their application to the city in relation to wood fuel such of the said sections as are hereinafter mentioned shall be construed as if the words "in the city" were inserted—

- (i) in subsection (1) of section 20 after the word "sold" where it first occurs;
- (ii) in subsection (1) of section 21 after the word "delivered" where it first occurs;
- (iii) in subsection (1) of section 22 after the word "conveyed";
- (iv) in section 24 after the word "delivers";
- (v) in subsection (1) of section 25 after the word "place" where it first occurs;
- (vi) in subsection (1) of section 27 after the word "bulk";
- (vii) in subsection (1) of section 29 after the word "place" where it first occurs and after the word "stop".

Byelaws
relating to
wood fuel.

10. The Corporation may make byelaws—

- (a) regulating for the purposes of this Part of this Act and of the Act of 1889 the sale of wood fuel in quantities exceeding fourteen pounds but not exceeding two hundredweight; and
- (b) requiring either generally or in specified classes of cases a weighing instrument of a form approved by the Corporation to be carried with any vehicle in which wood fuel is carried for sale or delivery to a purchaser; and
- (c) prescribing the distance beyond which wood fuel is not to be required to be carried for the purpose of being weighed or reweighed in pursuance of section 27 of the Act of 1889 as applied and amended by this Part of this Act.

Penalty on
fraudulent
sale of solid
fuel.

11.—(1) If any coal coke or wood fuel is being or has been sold delivered offered for sale exposed for sale or carried on a vehicle for sale or delivery in the city and any person wilfully makes any false statement as to the weight thereof or wilfully increases the weight of any such coal coke or wood fuel by damping the same or wilfully does any other act by which the seller or the purchaser or prospective purchaser of coal coke or wood fuel is or may be defrauded not being a false statement or an act (as the case may be) to which section 17 (Penalties on persons committing frauds) of this Act applies he shall be liable

to a fine not exceeding for a first offence five pounds and for any subsequent offence ten pounds and in respect of any offence the court may in lieu of or in addition to imposing a fine impose any term of imprisonment not exceeding two months.

PART III
—cont.

(2) Section 23 of the Act of 1889 shall cease to apply to the city.

12. Proviso (a) to section 27 of the Act of 1889 in its application to the city shall have effect as if in that proviso the words "two miles" were substituted for the words "half a mile".

Amendment
of section 27
of Act of
1889.

13.—(1) Where—

Sale in sacks
of coal etc. in
quantities
exceeding
two hundred-
weight.

(a) any quantity exceeding two hundredweight of coal coke or wood fuel is carried by means of any one vehicle on any one journey for delivery in the city to more than one purchaser; or

(b) any person sells or exposes or offers or carries for sale in the city coal coke or wood fuel from or on any vehicle in quantities exceeding two hundredweight;

and such coal coke or wood fuel or any part thereof is carried or delivered in sacks the net weight of coal coke or wood fuel in any one sack shall be equal to one hundredweight or one-half of a hundredweight and each sack shall be legibly marked so as to show the net weight of coal coke or wood fuel carried in such sack.

(2) If any of the requirements of subsection (1) of this section are contravened the seller of the coal coke or wood fuel or the person responsible for loading the coal coke or wood fuel on such vehicle shall be liable to a fine not exceeding five pounds and if the net weight of coal coke or wood fuel in any such sack is less than the weight shown thereon or stated in the ticket or note referred to in the said section 21 of the Act of 1889 the said persons or the person in charge of such vehicle shall be liable to the like fine.

(3) A person against whom proceedings are brought in respect of an offence under this section (hereafter in this section referred to as "the original defendant") shall upon information duly laid by him and on giving to the prosecutor not less than three clear days' notice of his intention be entitled to have any other person to whose act or default he alleges that the offence was due brought before the court in the proceedings and if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person that other person may be convicted of the offence and if

PART III
—cont.

the original defendant further proves that he has used all due diligence to secure that the provisions in question were complied with he shall be acquitted of the offence.

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

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

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

Drivers of
vehicles to
take them to
weighing-
machines on
request.

14.—(1) The driver of any vehicle in the city loaded with any goods (other than coal coke or wood fuel) to be sold by reference to the weight of such loaded vehicle shall at the request of the buyer or seller of any such goods or the person on whose behalf the same shall be consigned or of any of their respective agents or of an inspector of weights and measures of the Corporation take such vehicle with or without the loading thereof to be weighed by any weighing-machine stamped by an inspector of weights and measures.

(2) If such vehicle shall be required to go a greater distance from the regular course of the road by which it would be otherwise necessary to pass than two miles the owner of such vehicle shall be paid one shilling and sixpence for every half-mile that such vehicle shall be taken out of the direct road as aforesaid.

(3) All such charges for carriage made under subsection (2) of this section together with the tolls or fees to be paid for weighing or reweighing any such vehicle shall be paid by the person requiring the same to be weighed and such charges for carriage shall if demanded be paid before the driver of such vehicle shall be obliged to go out of his way for the purpose of having the same weighed.

(4) If the driver of any such vehicle shall not upon being requested take such vehicle to such weighing-machine as is hereinbefore provided he shall be liable to a fine not exceeding ten pounds and if the driver of any such vehicle shall refuse to assist in the weighing of the same in such manner as the drivers of vehicles are used and accustomed to do he shall be liable to a fine not exceeding five pounds.

(5) In this section the expression “ driver ” includes the owner or other person in charge of any vehicle.

15. The Corporation may make byelaws for regulating the manner in which weighing-machines are used.

PART III
—cont.

Byelaws
regulating
weighing-
machines.

16. Any person keeping or purporting to act on behalf of a keeper of a weighing-machine in the city who shall—

Offences by
weighing-
machine
keepers and
others.

- (a) during ordinary business hours wilfully neglect duly to weigh with or without its loading any vehicle that shall come to the machine kept by him to be weighed which does not exceed the dimensions of the weighing platform or the maximum load which that machine is constructed to weigh;
- (b) not fairly weigh any such vehicle with or without its loading and without the driver of such vehicle or any other person in or on such vehicle or on the scale platform;
- (c) not deliver to the purchaser of any such loading or any person interested therein on application a ticket or account containing the true weight of such loading;
- (d) give to any person a false ticket or account of the weight of such vehicle or the loading thereof;
- (e) weigh any vehicle with or without its loading knowing that alteration has been made affecting the weight thereof or that anything has been added to or taken away from the vehicle or its loading as the case may be between the times of the said vehicle being weighed with or without its loading and shall not give immediate notice thereof to the person interested therein;
- (f) knowingly assist in or connive at any fraud committed or attempted concerning the weighing or weight of any such vehicle with or without its loading or shall make or connive at making any false representation of the weight of the vehicle or its loading;
- (g) fail to make immediately after the weight of any vehicle with or without its loading has been ascertained a true record of the weight thereof and to retain such record for a period of six months or fail upon a request made within that period by an inspector of weights and measures of the Corporation to produce such record for his inspection and permit him to examine and copy such record; or
- (h) issue particulars of any vehicle with or without its loading which he has not personally ascertained;

shall be liable to a fine, not exceeding for a first offence ten pounds and for any subsequent offence fifty pounds and in

PART III
—cont.

respect of any such subsequent offence if the court is of opinion that such offence was committed with intent to defraud the court may in lieu of or in addition to imposing a fine impose any term of imprisonment not exceeding three months.

Penalties on
persons
committing
frauds.

17. Any person who in regard to the weighing or purported weighing of a vehicle at a weighing-machine in the city—

- (a) at or before the time of weighing it shall place or knowingly leave any matter or thing in or about the vehicle other than the proper loading thereof;
- (b) shall alter any ticket denoting the weight of any such vehicle or of the loading thereof;
- (c) shall make or use or be privy to the making or using of any false or fraudulent ticket or knowingly give a false statement to a weighing-machine keeper respecting the weight of any vehicle or the loading thereof;
- (d) after the weighing of the vehicle with the loading thereof shall remove any part of the loading and afterwards dispose or attempt to dispose of the residue of the loading as being the full loading denoted by the ticket;
- (e) after the vehicle with or without the loading thereof shall have been so weighed shall substitute or attempt to substitute any vehicle with or without the loading thereof or shall for the purpose of fraud change the wheels of the vehicle which shall have been so weighed or make any alteration or do any other act to the vehicle before it shall be brought back to the machine to be again weighed with or without the loading thereof as the case may be;
- (f) when a vehicle shall have been weighed with the loading thereof at a weighing-machine if required by any person referred to in section 14 (Drivers of vehicles to take them to weighing-machines on request) of this Act shall refuse to bring it back without alteration to be weighed with or without the loading at the same machine; or
- (g) shall permit any of the above things to be done;

shall be liable to a fine not exceeding for a first offence ten pounds and for any subsequent offence fifty pounds and in respect of any such subsequent offence the court may in lieu of or in addition to imposing a fine impose a term of imprisonment not exceeding three months.

Further
offences in
relation to
weighing-
machines.

18.—(1) Any person who in the city—

- (a) knowingly delivers or passes off or who knowingly causes or permits to be delivered or passed off with or in

connection with a particular vehicle or the loading thereof any ticket which has been issued by a person keeping or acting as a keeper of a weighing-machine to denote the weight of a different vehicle or loading;

- (b) knowingly commits or attempts to commit any fraud or assists in or connives at any fraud committed or attempted in regard to the weighing or weight of any vehicle with or without its loading which shall be weighed or brought to be weighed at any weighing-machine or which shall be alleged to have been weighed at any such machine;

shall be liable to a fine not exceeding for a first offence ten pounds and for any subsequent offence fifty pounds and in respect of any such subsequent offence the court may in lieu of or in addition to imposing a fine impose any term of imprisonment not exceeding three months.

(2) Any person in charge of a vehicle who in regard to the weighing of such vehicle at any weighing-machine in the city refuses after being requested so to do by any person keeping or acting as keeper of the weighing-machine or any inspector of weights and measures of the Corporation to give his name and address and the names and addresses of the consignor and consignee of the load or who wilfully gives an incorrect name or address shall be liable to a fine not exceeding ten pounds.

19.—(1) It shall not be lawful to use a weighing-machine in the city to ascertain the gross or tare weight of any vehicle or combination of vehicles unless the weighing-machine has a platform or platforms of sufficient size to accommodate completely such vehicle or combination of vehicles and is of sufficient capacity to permit of the weighing of such vehicle or combination of vehicles when so accommodated on the platform or platforms:

Prohibition
of double
weighing.

Provided that—

- (a) it shall not be a contravention of this section to weigh a vehicle or combination of vehicles otherwise than in accordance with the provisions of this section if at the time of weighing there is not available in the city a weighing-machine of such size and capacity as aforesaid;
- (b) when the gross or tare weight of a combination of vehicles has to be ascertained it shall not be a contravention of this section if each vehicle shall be entirely disconnected and weighed separately and a weight certificate issued in respect of each separate vehicle.

(2) Any person who keeps or acts as keeper of a weighing-machine and who contravenes the provisions of this section shall be liable for every such offence on the first occasion to a fine not exceeding five pounds and on any subsequent occasion to a fine not exceeding ten pounds.

PART III
—cont.Deficient
weight
measure or
number.

20.—(1) Any person who in the city sells or delivers or makes up keeps offers or exposes for sale or delivery by weight measure or number any article or articles of which the weight measure or number (as the case may be) is less than the weight measure or number thereof which has been represented by such person shall be guilty of an offence and shall be liable to a fine not exceeding for a first offence five pounds and for any subsequent offence ten pounds.

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

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

- (a) that such deficiency was due to a bona fide mistake or accident or other causes beyond his control and that he took all reasonable precautions and exercised all due diligence to prevent the occurrence of such deficiency; or
- (b) that the alleged deficiency was due to unavoidable evaporation or drainage and that due care and precaution had been taken to avoid such deficiency; or
- (c) in case of a prepacked article that he purchased the article in the wrapper or container in which he sold it from a person carrying on business at an address in the United Kingdom and that the wrapper or container had remained unopened and that he had no reason to believe that this section was being contravened.

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

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

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

(6) Where it appears to the Corporation that an offence has been committed in respect of which proceedings might be taken under this section against some person and the Corporation are reasonably satisfied that the offence of which complaint is made was due to an act or default of some other person and that the first-mentioned person could establish a defence under subsection (4) of this section they may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person.

In any such proceedings the defendant may be charged with and on proof that the contravention was due to his act or default be convicted of the offence with which the first-mentioned person might have been charged.

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

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

- (a) the sale of coal coke or wood fuel nor to any article of food to which section 1 of the Sale of Food (Weights and Measures) Act 1926 applies; or
- (b) the sale or supply of any article or material which subsequent to such sale or supply is used or incorporated in another article by a person in the course of carrying on a business (not being a retail business).

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

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

Powers of
entry
inspection
etc.

- (a) enter any building or other place in the city in which he has reasonable cause to believe that any article is sold or is made up kept offered or exposed for sale by weight measure or number; or

PART III
—cont.

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

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

(2) If the inspector of weights and measures has reasonable cause to believe that the weight measure or number of any article or articles made up kept offered or exposed for sale or delivery by weight measure or number in the city is or are less than the weight measure or number thereof which has been represented by the person who has made up kept offered or exposed the same for sale or delivery he may for the purposes of proceedings under the last foregoing section seize impound and convey such article or articles to an office provided for the purpose by the Corporation.

(3) In any proceedings the court shall make such order as it thinks fit for the disposal of any article seized under the provisions of subsection (2) of this section.

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

Personal
weighing-
machines.

22.—(1) In this section—

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

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

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

the expressions “in use” and “used” mean in use and used in the city and include exposed for use in the city.

(2) The Corporation may make byelaws—

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

PART III
—cont.

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

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

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

(c) On and after the expiration of the said period all weights in use with personal weighing-machines shall be correct weights and stamped with a stamp of verification within the meaning of the Weights and Measures Acts 1878 to 1936 and any person using or exposing for use with a personal weighing-machine any weight which is not so stamped or which is false or unjust shall

PART III
—cont.

be liable to a fine not exceeding for a first offence forty shillings and for any subsequent offence five pounds and the weight shall be liable to be forfeited.

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

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

(b) Any person who knowingly sells utters disposes of or exposes for sale any personal weighing-machine with such forged or counterfeit mark or stamp thereon or which has been unlawfully marked or stamped with a mark or stamp removed from another machine shall be liable to a fine not exceeding ten pounds.

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

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

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

(c) The foregoing provisions of this subsection shall apply to weights in use with any personal weighing-machine as they apply to personal weighing-machines.

PART III
—cont.

(7) For the purposes of this section—

(a) a personal weighing-machine shall not be deemed to be used in the city unless either—

(i) a charge is made or is proposed to be made for the use of the machine; or

(ii) the machine is kept in any premises or place to which the public have access; and

(b) a personal weighing-machine shall not be deemed to be marked or stamped by reason of its bearing a cancelled distinguishing mark or stamp.

(8) For the purposes of this section a person shall not be held to be in possession or in charge of a personal weighing-machine by reason solely of the fact that it is situate on his premises by virtue of a licence or agreement under which some other person is responsible for the maintenance of such machine.

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

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

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

PART IV

FINANCE AND SUPERANNUATION

23.—(1) The Corporation may if they think fit establish a fund to be called “the museum and art gallery fund” to provide for the purchasing of any pictures sculptures display material or other objects of artistic scientific or historic interest which in their opinion it is desirable at any time to acquire for exhibition in and as additions to the collection in the art gallery and museum or other premises of the Corporation and such fund

Museum and
art gallery
fund.

PART IV
—cont.

shall be formed by annually appropriating thereto out of the revenues of the general rate such an amount as the Corporation may from time to time determine not exceeding in any financial year (in addition to any amount carried to the credit of the museum and art gallery fund under subsection (2) of this section) the equivalent of one-quarter of the product of a penny rate as ascertained or estimated for the purposes of section 9 of the Act of 1925:

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

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

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

Amendment
of stock
regulations.

24.—(1) Article II of the Birmingham Stock Order 1880 shall have effect as if—

(a) the word “issue” were substituted for the word “creation” in sub-division (1);

(b) the following were substituted for sub-division (2):—

“(2) The stock shall be charged indifferently on all the revenues of the Corporation from whatever source arising including the general rate”;

(c) the words “waterworks gasworks” and “the same or” in sub-division (5) were deleted;

(d) the words “waterworks gasworks” and “which or on” in sub-division (6) were deleted;

(e) the words “waterworks gasworks” and “or are” in sub-division (7) were deleted;

(f) the following were substituted for sub-divisions (12) and (20):—

“(12) (a) The Corporation shall keep in respect of stock of each description a register wherein shall be entered the names and addresses of all persons who are for the time being holders of stock of that

description and the amounts of stock of that description of which they are respectively for the time being holders;

(b) In the event of the redemption of stock of any description the register relating to that stock may be permanently closed for transfers of amounts of that stock on any day not more than one month immediately preceding the date on which redemption is to take effect;

(c) Any such register shall be prima facie evidence of any matters directed or authorised by any enactment for the time being in force to be entered therein and of the title of the persons whose names are entered therein as holders of amounts of stock ”;

(g) in sub-division (13) the words “ on demand ” and the words “ and for every such certificate the Corporation may demand any sum not exceeding two shillings and sixpence ” were omitted;

(h) the following were substituted for sub-division (16):—

“ (16) Stock shall subject to the provisions of this article relative to stock in respect of which stock certificates to bearer are issued be transferable in law by instrument in writing in any usual or common form executed by all parties to the transfer and delivered to and retained by the Corporation ”;

(i) the following were substituted for sub-division (17):—

“ (17) (a) If the ownership of any stock has been transmitted by any lawful means other than by instrument in writing or by the death of the stockholder satisfactory evidence of the transmission shall be furnished to the Corporation by a statutory declaration of one or more competent persons or in such other manner as the Corporation may require;

(b) Upon production of such evidence as aforesaid the Corporation shall give effect to the transmission as if it had been effected by instrument in writing and the provisions of these regulations shall apply accordingly;

(c) For purposes of this regulation the expression ‘ transmission ’ includes any case of apparent transmission in consequence of the change of name of the stockholder although the actual ownership of the stock may remain unaltered ”;

(j) in sub-divisions (22) (24) and (30) for the word “ deed ” there were substituted the words “ instrument in writing ”;

PART IV
—cont.

(k) the following were substituted for sub-division (35):—

“ (35) Except as provided by this article no notice of any trust express implied or constructive shall be entered in any register required to be kept by these regulations or in a certificate or be receivable by the Corporation and notwithstanding that the holder of an amount of stock of any description is described as mentioned in sub-division (17B) of this article or that the amount is standing on an account otherwise designated as mentioned in that article it shall not be necessary for the Corporation to inquire concerning the propriety of anything done in relation to that amount or any part thereof ”;

(l) the following were substituted for sub-division (36):—

“ (36) Interest on stock shall be paid half-yearly on such days as the Corporation may determine on the issue of the stock ”;

(m) the following additional sub-divisions were inserted:—

“ (13A) (a) Where the names of two or more persons are entered in the register relating to stock of any description as joint holders of an amount of stock of that description nothing contained in the foregoing provisions of this article shall be construed as requiring the Corporation to issue more than one certificate in respect of that amount of stock and delivery of a certificate to one of several joint holders shall be sufficient delivery to all of them;

(b) An entry of the issue of a stock certificate or a duplicate certificate as the case may be shall be made in the register;

(c) Where an amount of stock of any description is transferred and the conditions specified in paragraphs (a) (b) and (c) of sub-division (16C) of this article have been satisfied in respect of an amount of stock of that description exceeding the amount specified in the instrument of transfer the person by whom the amount was transferred shall be entitled to a certificate representing the amount of the excess:

(16A) The Corporation may decline to recognise an instrument of transfer relating to an amount of stock of any description unless the following requirements are complied with:—

(a) the execution of the instrument by each party to the transfer must be attested by a credible witness not being a party thereto;

- (b) the witness must append to his signature a statement of his occupation or description and his usual place of abode or place of business:

PART IV
—cont.

(16B) Where the execution by a party of an instrument of transfer relating to an amount of stock of any description is otherwise than by signature the Corporation may decline to register the instrument unless there is furnished to them such evidence as they may reasonably require (whether by way of a statement written on the instrument and signed by the person witnessing the execution of the instrument by that party or otherwise) that the effect of the instrument was understood by that party:

(16c) The Corporation may decline to give effect to a transfer of an amount of stock of any description unless—

- (a) the instrument of transfer is accompanied by a certificate representing or certificates representing in the aggregate an amount of stock of the description specified in the instrument of transfer not falling short of the amount so specified being a certificate or certificates wherein the transferor is specified as the holder of the stock; or
- (b) there is furnished to the Corporation such evidence as may reasonably be required that a certificate representing or certificates representing in the aggregate an amount of stock of the description specified in the instrument of transfer not falling short of the amount so specified being a certificate or certificates wherein the transferor is specified as the holder of the stock has or have been lost or destroyed; or
- (c) the instrument of transfer is accompanied by a certificate representing or certificates representing in the aggregate an amount of stock of the description specified in the instrument of transfer equal to a part of the amount so specified being a certificate or certificates wherein the transferor is specified as the holder of the stock and as to the residue thereof there is furnished to the Corporation such evidence as may reasonably be required that a certificate representing or certificates representing in the aggregate an amount of stock of that description not falling short of the residue being a certificate

PART IV
—cont.

or certificates wherein the transferor is specified as the holder of the stock has or have been lost or destroyed; and

- (d) where paragraph (b) or paragraph (c) of this sub-division has effect there is given to the Corporation such indemnity against all claims in respect of lost or destroyed certificates as may reasonably be required:

(16D) The Corporation may decline to give effect to a transfer of an amount of stock of any description other than as aforesaid unless there is furnished in addition to the evidence furnished by virtue of the production of a certificate or under sub-division (16C) of this article such evidence as may reasonably be required of the right of the transferor to make the transfer:

(16E) The Corporation shall not be required to give effect to a transfer of an amount of stock of any description until the expiration of whichever of the periods hereinafter mentioned last expires that is to say:—

- (a) the period of ten days beginning with the day next following that on which the instrument of transfer is delivered to them; or
- (b) if before the expiration of the said period the Corporation send to the person specified in the instrument of transfer as being the transferor or where two or more persons are specified in the said instrument as being the transferors to one of those persons a written notice informing him of the proposed transfer the period of three days beginning with the day next following that on which a reply from that person would be delivered to the Corporation in the ordinary course of post if the said notice were delivered in the ordinary course of post and the reply were posted immediately after the receipt of the notice:

(16F) The Corporation shall give effect to a transfer of an amount of stock of any description by entering in the register relating to that stock such particulars as are requisite to show the effect of the transfer and the transferee shall be entitled to a new stock certificate in his name:

(16G) The transferor of an amount of stock of any description shall be deemed to remain the holder thereof until the Corporation has given effect to the transfer:

(17A) (a) An amount of stock of any description entered in a register in the name of a deceased person shall be transferable by his personal representative but in a case in which there are two or more personal representatives of the deceased person the Corporation may decline to give effect to the transfer unless the instrument of transfer is executed by all the representatives;

(b) The production to the Corporation of any document which is by law sufficient evidence of there having been a grant to some person of probate of the will or letters of administration of the estate or confirmation as executor of a deceased person shall be accepted by the Corporation as sufficient evidence of the grant;

(c) If two or more persons are registered as holders of any stock those persons shall be deemed to be joint holders with right of survivorship between them:

(17B) (a) The account on which an amount of stock of any description is standing in the register relating to stock of that description may be designated in such manner as the holder of the amount may specify and in particular the holder of the amount may be described as trustee of a specified trust or as trustee without specifying a trust or in any other manner indicating the capacity in which he holds the amount;

(b) Where the holder of an amount of stock of any description occupies an office or official position his official description may be entered in the register relating to stock of that description in lieu of his name and where in relation to an amount of stock of any description any such official description is so entered an instrument of transfer and an instrument containing directions with respect to the payment of interest on that amount shall if executed by the person for the time being occupying that office or position be as effectual as if his name were entered as the holder of that amount;

(c) Notwithstanding anything in the preceding provisions of this sub-division the Corporation shall not be required—

- (i) to enter in any register any designation or description which appears to them unreasonably long or elaborate; or

PART IV
—cont.

(ii) to enter in any register both the name of a holder of stock and any such official description as could under paragraph (b) of this subdivision be so entered in lieu of his name:

(17c) An authority to execute an instrument of transfer relating to an amount of stock of any description must be in writing and the execution of the instrument containing any such authority must be attested by a credible witness:

(17D) Nothing in these regulations shall be construed as authorising a body corporate to execute an instrument otherwise than in accordance with the rules of law and the provisions of any instrument (including an Act of Parliament) regulating the constitution of that body with respect to the execution of instruments by that body:

(36A) (a) The Corporation may as regards stock of any description close the register during the whole or any part of the period of one calendar month next before the day on which the dividend on that stock is payable;

(b) In lieu of closing the register in the manner aforesaid the Corporation may strike the balance for a dividend on stock of any description on any day not being more than thirty-seven days before the day on which the dividend on that stock is payable;

(c) Any person who on the date on which the register relating to any stock is closed or the balance is struck as aforesaid is entered in the register as the holder of an amount of that stock shall as between himself and any transferee of that stock be entitled to the then current dividend thereon."

(2) Article II of the Birmingham Stock Order 1880 shall accordingly have effect as set out in the First Schedule to this Act.

Payments for additional employment as instructor excluded for superannuation.

25. The salary wages fees and other payments paid or made by the Corporation to an employee of the Corporation as an instructor at or for the purposes of classes where such employment is in addition to his ordinary employment shall not be remuneration within the meaning of the Local Government Superannuation Acts 1937 and 1953 or any other enactment affecting the superannuation fund maintained by the Corporation under those Acts and the service of any such employee in any such employment shall not be reckoned as service for any of the purposes of those Acts unless otherwise agreed by the Corporation and the employee.

26.—(1) If a contributory employee of the Corporation is dismissed or resigns or otherwise ceases to hold employment in consequence of an offence of a fraudulent character or grave misconduct the Corporation may transfer from the superannuation fund maintained by them to the general rate fund an amount not exceeding the whole or any part of any contributions not returned to him or paid to his wife or family under subsection (4) of section 10 of the Act of 1937 or the amount of loss suffered by the Corporation in consequence of the contributory employee's offence or misconduct whichever is the less.

PART IV
—cont.

Transfer of certain sums from superannuation fund.

(2) In this section the expression "contributory employee" has the same meaning as in the Act of 1937.

27. The trust deed shall have effect as if the following clause were substituted for clause 2:—

"Object of scheme.

2. The scheme is established to provide pensions for the widows and orphans (without regard to their financial resources) of—

Extension of widows' and orphans' pension scheme.

(a) deceased officers and superannuitants of the Corporation; and

(b) other deceased persons who were contributors to the superannuation fund maintained by the Corporation under the Local Government Superannuation Act 1937 and to whom the scheme may have applied;

who were members at the dates of their respective deaths or had ceased to be members on the award of a superannuation allowance."

28. Section 91 (Payment of pension &c. of person of unsound mind) of the Act of 1935 shall have effect as if in subsection (3) thereof for the words "one hundred pounds" wherever used there were substituted the words "four hundred pounds".

Amendment of section 91 of Act of 1935.

PART V

MISCELLANEOUS

29.—(1) The Corporation may pay to any person displaced from any premises acquired by them such reasonable allowance as they may think fit towards the loss which in their opinion he will sustain by reason of his having to quit the premises or by reason of the disturbance of his trade or business.

Allowances to displaced persons.

(2) In estimating the said loss the Corporation shall have regard to the period for which the premises occupied by that person might reasonably have been expected to be available for the purpose of his trade or business and the availability of other premises suitable for that purpose.

PART V
—cont.

(3) The provisions of this section shall be in addition to and not in derogation of any enactment or any rule of law relating to compensation for disturbance.

Further
powers as to
libraries.

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

- (a) the power to prescribe a period not being less than seven days within which any article borrowed from the library must be returned thereto;
- (b) the power to recover from any person who fails to return to the library within the prescribed period any article borrowed from it by him such reasonable sum as the Corporation may prescribe in respect of each week or broken part of a week elapsing after the expiration of the prescribed period during which the failure has continued together with any expenses incurred by the Corporation in sending to him notices in respect of the article;
- (c) the power to prohibit any such person from borrowing any article from any library provided by the Corporation under those Acts until he has paid any such sum as is due from him to the Corporation under paragraph (b) of this subsection;
- (d) the power to prescribe different periods and charges for the purposes of this section in relation to different articles or kinds of articles:

Provided that the sums prescribed by the Corporation for the purposes of paragraph (b) of this subsection shall not exceed one shilling or such greater sum as may be approved from time to time by the Minister of Education.

(2) In this section the expression “article” includes a book gramophone record picture film filmstrip lantern slide map plan print engraving photograph or specimen of art.

Derelict
petrol tanks.

31.—(1) Where a tank or other fixed container which has been used for the storage of petroleum spirit and is no longer used for that purpose is kept on any premises in the city the occupier of the premises and if the premises are unoccupied the owner of the premises shall take all such steps as may be reasonably necessary to prevent danger from such container.

(2) Any officer of the Corporation duly authorised by them may on producing a copy of his authority purporting to be signed by the town clerk require the occupier of the premises on which is situated any tank or other fixed container which has been used for the storage of petroleum spirit and is no longer

used for that purpose to show him such container and permit him to ascertain whether steps have been taken to comply with the provisions of this section.

PART V
—cont.

(3) If any person after due warning contravenes the provisions of subsection (1) of this section he shall be liable to a fine not exceeding ten pounds and the Corporation may take such steps as may be reasonably necessary to prevent danger from the container to which the warning relates and may recover from such person the expenses incurred by them in so doing.

(4) In this section the expression "petroleum spirit" has the same meaning as in the Petroleum (Consolidation) Act 1928.

32.—(1) No person shall within the city dispose of or deposit any container (including a container attached to a vehicle or machine) which has been used for the storage of inflammable or explosive substance and is no longer used for that purpose unless he takes all such steps as may be reasonably necessary to prevent danger from such container. Disposal of dangerous containers.

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

(3) This section shall not apply to any tank or fixed container to which section 31 (Derelict petrol tanks) of this Act applies.

33. Notwithstanding anything contained in the Accommodation Agencies Act 1953 the Corporation may demand and accept charges in consideration of registering or undertaking to register or renew the registration of the name and requirements of any person seeking the exchange or transfer of a tenancy of a house: Charges for registration of persons seeking exchange of houses.

Provided that such charges shall not exceed ten shillings in respect of each registration or undertaking to register and ten shillings in respect of each renewal of a registration.

34.—(1) If the Corporation wish to provide for the future widening straightening or improvement of any river in the city or forming part of the boundary of the city (not being a river in respect of which the Corporation were authorised to execute works by the Birmingham Corporation (Rivers Improvement) Act 1929) they may with the approval of the Minister from time to time prescribe lines (in this section referred to as the "prescribed lines") between which it appears to the Corporation to be necessary to prohibit building and tipping in order that such widening straightening or improvement may be carried out. Prescribed lines for improvement of rivers streams and watercourses.

PART V
—cont.

(2) In the case of a river which forms the boundary of the city the Corporation shall not formally define a prescribed line in respect thereof in any borough or county district outside the city except with the consent of the council of such borough or county district but such consent shall not be unreasonably withheld and any question as to whether any such consent is unreasonably withheld shall be determined by the Minister.

(3) The prescribed lines which in any case the Corporation propose to define shall be distinctly marked and shown on a plan to be signed by and deposited with the surveyor and such plan shall be at all reasonable times thereafter open for the inspection of the public without charge and one month at least before the Corporation formally prescribe and define the lines they shall give notice of the deposit of the said plan and of the liabilities imposed by this section to every occupier and to every owner interested whose name and address they can ascertain and in cases where such name and address cannot with reasonable diligence be ascertained by affixing such notice to or on the premises.

(4) The said notice shall in each case specify the land of the owner or occupier to whom the notice is given which is affected by the prescribed lines which the Corporation propose to define and shall state a date (not being less than twenty-one days from the date of the notice) by which and the manner in which any person aggrieved by the proposals may make representations thereon to the Minister and shall require that any such person shall at the same time send a copy of his representations to the town clerk.

(5) Before signifying approval of the prescribed lines proposed in any case the Minister shall consider any representations which may be duly made with respect to the proposal and may signify approval of the said proposal with or without modifications or may withhold such approval.

(6) Before signifying such approval the Minister may and if any representation is duly made and is not withdrawn shall (unless the representation appears to him to be frivolous) cause a local inquiry to be held.

(7) The Corporation shall give at least fourteen days' notice of the intention to hold such inquiry by advertisement in a local newspaper circulating in the city and shall also give similar notice in writing to every person who has made any representation and has not withdrawn the same.

(8) (a) At any time after prescribing lines under this section or after varying the position of prescribed lines under this subsection the Corporation may and if required by directions of the Minister shall vary the position of or cancel the prescribed lines.

(b) The provisions of subsections (2) to (7) of this section shall apply mutatis mutandis to a variation or cancellation of prescribed lines under this subsection as they apply to the prescribing of lines under this section.

(c) If any prescribed lines are varied under this subsection the provisions of subsections (9) to (12) of this section shall apply to the prescribed lines as so varied.

(9) No new building shall be erected and no material or spoil shall be tipped or deposited between the prescribed lines except with the consent of the Corporation which may be given for such period and upon and subject to such terms and conditions as the Corporation may deem expedient.

(10) (a) Any person aggrieved by the withholding by the Corporation of consent under subsection (9) of this section or by any terms or conditions attached to such consent may appeal to the Minister.

(b) On any such appeal the Minister may allow or dismiss the appeal or may vary any term or condition to which the appeal relates.

(c) The decision of the Minister on an appeal under this subsection shall have effect as if it were a decision of the Corporation under subsection (9) of this section.

(11) Compensation shall be paid by the Corporation to any person in respect of loss suffered by him in any case in which the Corporation—

(a) withhold their consent under subsection (9) of this section; or

(b) attach any terms or conditions to such consent;

and the amount of such compensation shall be determined in case of dispute in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949:

Provided that where as a result of the withholding of consent or the imposition of terms or conditions in any such consent land or any part thereof has become incapable of reasonably beneficial use to the owner thereof the compensation to be paid by the Corporation to any owner who suffers loss shall be calculated as if the Corporation were authorised to acquire the interest of such owner compulsorily in accordance with the provisions of Part V of the Act of 1947 such compensation to be calculated in accordance with values as at the date of the decision to withhold consent or impose conditions as the case may be.

PART V
—cont.

(12) If any person contravenes the provisions of subsection (9) of this section he shall be liable to a fine not exceeding twenty pounds and the Corporation may remove the building or (as the case may be) the material or spoil and recover the expenses of so doing from that person:

Provided that if any person under subsection (10) of this section appeals to the Minister against the withholding by the Corporation of their consent to the erection of a building or the tipping or deposit of material or spoil or against any terms or conditions attached to that consent any proceedings under this subsection with respect to that building or that material or spoil shall stand adjourned until the appeal is determined.

(13) Any resolution of the council prescribing lines under this section shall be registered as a local land charge in the local land charges registry.

(14) On the Corporation prescribing a line under this section in respect of a stream section 49 (Building upon banks of streams) of the Birmingham Corporation Act 1922 shall cease to apply thereto.

(15) In this section—

the expression “building” includes a structure of any description; and

the expression “river” includes a stream or watercourse but does not include a canal or inland navigation of the commission.

(16) This section shall not apply to any land occupied and used by any railway undertakers for the purposes of their undertaking without the consent of such undertakers:

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

(17) This section shall not apply to any river which is for the time being part of the main river of the Trent River Board.

Maintenance
of certain
roads in
Radnor.

35. Notwithstanding anything contained in section 20 (Maintenance of roads bridle roads and footpaths) of the Birmingham Corporation Act 1940 the Corporation and the county council of the administrative county of Radnor may enter into and carry into effect an agreement whereby all or any roads bridle roads and footpaths constructed by the Corporation under the powers of that Act in the said administrative county shall cease to be maintained by the Corporation and shall vest in and be maintained by the said county council.

36.—(1) If the Corporation have reason to think that some injury to or defect in a supply pipe which they are not under obligation to maintain is causing or is likely to cause waste of water or injury to person or property they may execute such work as they think necessary or expedient in the circumstances of the case without being requested so to do and if any injury to or defect in the pipe is discovered the expenses reasonably incurred by the Corporation in discovering it and in executing repairs shall be recoverable by them from the owner of the premises supplied but without prejudice to the rights and obligations as between themselves of the owner and the occupier of the premises:

PART V
—cont.
Power to
repair supply
pipes.

Provided that (except in case of emergency) admission to any premises for the purpose of exercising the powers of this section shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

(2) Where several houses or other buildings in the occupation of different persons are supplied with water by one common supply pipe belonging to the owners or occupiers of the houses or buildings the amount of any such expenses as aforesaid may be recovered from the owners of those premises in such proportions as in case of dispute may be settled by the court but without prejudice to the rights and obligations as between themselves of the owners and occupiers of those premises respectively.

(3) In this section the expression "supply pipe" has the same meaning as in the Third Schedule to the Water Act 1945.

37. The Corporation may in or abutting on any subway provided by them under the powers of section 55 of the Road Traffic Act 1930 or otherwise provide shops kiosks show or display cases advertisement sites automatic prepayment machines for the sale of goods and facilities to increase the attraction and amenity of such subways and may let the same or let sites for the erection thereof on such terms and conditions as the Corporation may think fit.

Provision of
shops etc. in
subways.

38. The rent for the time being recoverable by the Corporation under a tenancy of any premises forming part of any housing accommodation belonging to the Corporation may be increased or reduced or the terms and conditions of that tenancy may be varied amended or added to by the service by the Corporation on the tenant of a notice specifying the amount of the increase or reduction of rent or the variation or amendment of or addition to the terms and conditions whether or not such notice is accompanied by a notice to quit but such increase reduction variation amendment or addition shall not take effect until such date as may be specified in the notice not being earlier than four weeks after the service thereof:

Notice of
variation of
rent etc.

PART V
—cont.

Provided that if before the date specified in the notice the tenant upon whom such notice has been served serves a counter-notice upon the Corporation requiring them to treat the notice as a notice to quit the notice shall be deemed to be a notice to quit the premises on the said date.

Amendment
of section 62
of Birmingham
Corporation
Water Act
1892.

39. Section 62 (As to supply to local authorities) of the Birmingham Corporation Water Act 1892 shall have effect as if—

- (1) subsections (4) and (6) were deleted;
- (2) in subsection (8) for the words “twenty-five gallons per head” there were substituted the words “fifty gallons per head”;
- (3) after the said subsection (8) there were inserted the following additional subsections:—

“(8A) If at any time the quantity of water which it is necessary for the Corporation to deliver into the aqueduct for the purpose of supplying—

- (a) the population of the limits within which the Corporation are for the time being authorised to supply water; and
- (b) the authorities who have required supplies under this section;

equals or exceeds seventy-five million gallons per day the water so delivered shall be allocated in accordance with the following priorities:—

Firstly the use or supply by the Corporation in such manner and for such purposes as they may think fit of so much water as would be required to provide twenty-five gallons per head per day for—

- (i) the population of the city for the time being; and
- (ii) the population for the time being of the water limits of the Corporation as those limits existed on the twenty-seventh day of June eighteen hundred and ninety-two in so far as those limits are for the time being outside the city;

Secondly the satisfaction of any demand for a supply made by an authority under this section by notice given under subsection (5) of this section before the first day of June nineteen hundred and fifty-eight;

Thirdly the satisfaction of any demand for a supply made under this section by notice given under subsection (5) of this section before the first

day of June nineteen hundred and sixty-eight by an authority specified in the first column of the Second Schedule to the Birmingham Corporation Act 1958 if and so far as the quantity of water so demanded does not when added to the quantities of water (if any) already demanded by that local authority exceed the daily quantity specified opposite to that authority in the second column of that schedule;

Fourthly the use or supply by the Corporation in such manner and for such purposes as they may think fit of so much water as would be required to provide—

(i) a further twenty-five gallons per head per day for the populations mentioned in paragraphs (i) and (ii) firstly set out in this subsection; and

(ii) a quantity of fifty gallons per head per day for the population of those parts of the water limits for the time being of the Corporation which shall have been added thereto since the twenty-seventh day of June eighteen hundred and ninety-two and which shall for the time being be outside the city;

Fifthly the satisfaction of any demand made by an authority under this section which is not entitled to a higher priority under this subsection;

Sixthly the use or supply by the Corporation at their discretion of any remaining quantities of water:

Provided that—

(a) for the purposes of this subsection only a supply of water given by the Corporation before the first day of June nineteen hundred and sixty-nine to an authority entitled to make a demand under this section to the extent of the daily quantity specified in relation to that authority in the second column of the Second Schedule to the Birmingham Corporation Act 1958 shall (notwithstanding the provisions of any agreement entered into before the passing of that Act) unless otherwise hereafter agreed between the Corporation and that authority be deemed to be given in response to such a demand and as if such demand had been made by notice under subsection (5) of this section;

PART V
—cont.

(b) if an authority shall become a constituent member of a joint water board the rights of such authority may be exercised by that board but for the purpose of the exercise of those rights the limits of supply of the board shall be deemed to be limited to the area of that authority.

(8B) Notwithstanding the provisions of any agreement entered into before the passing of the Birmingham Corporation Act 1958 being an agreement under which a supply of water is given by the Corporation to an authority entitled to make a demand under this section the Corporation shall not terminate such agreement by notice given after the first day of June nineteen hundred and sixty-six:

Provided that after that date the price to be paid by that authority for water supplied under the agreement shall be such price as shall be agreed between the Corporation and the authority or failing agreement as shall be determined by the Minister."

Appointment
of guardian
ad litem.

40. Any person appointed by the justices for the city to act under subsection (4) of section 8 of the Adoption Act 1950 as guardian ad litem of an infant may with the consent of the Corporation be remunerated as if such person were appointed by the said justices in pursuance of the provisions of section 61 (Appointment of persons to assist justices) of the Birmingham Corporation Act 1946 and the provisions of subsections (2) (3) and (4) of the said section 61 shall apply to such appointment accordingly.

PART VI
GENERAL

Confirming
authority for
byelaws.

41. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Act of 1933 shall be the Minister except that in the case of byelaws made under the sections mentioned in the first column of the following table the confirming authority shall be the authority respectively mentioned in the second column of that table:—

1	2
Section 10 (Byelaws relating to wood fuel) ...	The Board of Trade.
Section 15 (Byelaws regulating weighing-machines)	The Board of Trade.
Section 22 (Personal weighing-machines) ...	The Board of Trade.

Local inquiries.

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

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

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

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

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

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

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

(3) Either—

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

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

44. Proceedings in respect of an offence created by or under this Act (except Part III (Weights and measures) thereof) shall not without the written consent of the Attorney-General be taken by any person other than a party aggrieved or the Corporation. Restriction on right to prosecute.

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

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

- (a) involves the execution of any work or the taking of any action; or

PART VI
—cont.

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

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

(i) no proceedings shall be taken in respect of any failure to execute the work or take the action nor shall the Corporation themselves execute the work or take the action; and

(ii) that person may carry on that business and use those premises for that purpose.

Protection of
members of
council and
officers from
personal
liability.

46. The provisions of section 265 of the Public Health Act 1875 affording protection to local authorities and their members and officers from personal liability shall enure for the benefit of any member of the council or of a committee of the council and any officer of the Corporation or other person acting under their direction in relation to the execution by the Corporation or such officer or person of the provisions of any local enactment as if any reference in that section included a reference to that enactment.

Application
of general
provisions of
Act of 1936.

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

Provided that in the case of section 288 of the Act of 1936 such reference shall not include a reference to section 22 (Personal weighing-machines) of this Act.

(2) The sections of the Act of 1936 mentioned in Part II of the said schedule shall have effect as if references therein to that Act included a reference to Part II (Streets buildings and sanitary matters) of this Act and to the following sections of this Act:—

Section 31 (Derelict petrol tanks);

Section 32 (Disposal of dangerous containers);

Section 34 (Prescribed lines for improvement of rivers streams and watercourses); and

Section 36 (Power to repair supply pipes).

(3) The section of the Act of 1936 mentioned in Part III of the said schedule shall have effect as if references therein to that Act included a reference to the Part and sections of this Act mentioned in subsection (2) of this section and to section 22 (Personal weighing-machines) of this Act

48.—(1) The following enactments are hereby repealed:—

PART VI
—cont.

Birmingham Corporation Act 1922—

Section 58 (Offences by weighing-machine keepers and others);

Section 59 (Drivers of vehicles to take them to weighing-machines on request);

Section 60 (Penalties on persons committing frauds);

Section 61 (Penalty on purchaser committing fraud in weighing):

Birmingham Corporation (General Powers) Act 1929—

Section 26 (Power to Corporation to repair communication pipes);

Section 52 (Penalty on fraudulent sale);

Section 78 (Public weighing-machines):

The Act of 1935—

Section 58 (Nuisance by noise).

Repeal.

(2) Section 57 (Names of weighing-machine keepers to be written on premises) of the Birmingham Corporation Act 1922 shall cease to have effect on the coming into operation of byelaws made under this Act and relating to the same subject-matter.

49. The following provisions of the Birmingham Corporation Application (Consolidation) Act 1883 so far as they are applicable in that behalf shall with any necessary modifications extend and apply to the exercise of the powers of this Act in the same manner as if those provisions were re-enacted in this Act (namely):—

Section 8 (Power to appoint committees); and

Section 9 (Proceedings of committees).

50. This Act shall be deemed to be an enactment passed before and in force at the passing of the Act of 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Saving for town and country planning.

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

Costs of Act.

SCHEDULES

FIRST SCHEDULE

ARTICLE II OF THE BIRMINGHAM STOCK ORDER 1880 AS AMENDED

Article II.—The local Acts and the confirming Acts mentioned in Part II of the said First Schedule so far as they relate to the borough shall be altered and amended in such a manner that it shall be lawful for the Corporation from time to time subject to the provisions of this order to determine by resolution that any perpetual annuities payable by them or that the whole or any portion of their debt then subsisting on security of outstanding mortgages or bonds of the Corporation whether such annuities mortgages and bonds have been issued and created before or after the commencement of this order and under the provisions of any of the local Acts and provisional orders confirmed by the confirming Acts mentioned in the said First Schedule or under the provisions of any other Act of Parliament general or special passed or to be passed or any other provisional order made or to be made and for the time being in force may be converted into stock not exceeding an amount to be specified in such resolution to be called “the Birmingham Corporation stock” (hereinafter referred to as “stock”) either by agreement with the holders of such annuities mortgages or bonds or by paying off such mortgages or bonds when due and issuing stock of a corresponding amount regard being had to such extent as the Corporation shall think fit to any difference in the rates of interest instead of reborrowing the sums so paid off and also from time to time subject to the provisions of this order to determine by resolution that the whole or any part to be defined in and by such resolution of any moneys which the Corporation shall have authority to raise by borrowing under the powers of any of the said Acts or orders and which shall not then have been raised may be raised by the creation and issue of stock of a corresponding amount instead of borrowing the same and with respect to the stock so created and issued the following provisions shall have effect:—

- (1) The stock shall be issued by the Corporation in such amounts in such manner at such price and times and subject to such conditions as the Corporation before the issue thereof may from time to time determine:

Provided always that the Corporation shall reserve to themselves the right to redeem such stock upon terms to be determined and stated by them previous to the issue thereof:

- (2) The stock shall be charged indifferently on all the revenues of the Corporation from whatever source arising including the general rate:
- (3) The stock shall be distributable transmissible and transferable as and shall in other respects have the incidents of personal estate:
- (4) The dividends from time to time payable on the stock and the principal from time to time due in respect of the stock shall be paid by and recoverable from the Corporation as if it were interest or principal due on securities issued by the

Corporation under and subject to the provisions of the Local Loans Act 1875 and the holders from time to time of the stock shall have the like rights and remedies by mandamus the appointment of a receiver and otherwise for the recovery of such dividends and principal as if they were the holders of securities issued by the Corporation under and subject to the provisions of the Local Loans Act 1875 and charged on the like securities as those on which the stock is charged:

- (5) Nothing in this order contained shall affect any power or duty of the Corporation to sell lease or otherwise dispose of any land or property belonging to them although the revenues thereof may be charged as security for the stock or shall affect any power or duty of the Corporation to apply the moneys arising from any such sale lease or disposition in discharge of such liabilities and securities as are a charge on the same in priority to the stock:
- (6) Subject as hereinbefore provided all moneys received by the Corporation on the sale or by way of fine or premium on the lease of any land or property on the revenues of which the stock is charged shall be applied in redemption of such stock or shall be carried to the credit of the loans fund hereinafter referred to in addition to the other moneys required by this order to be carried to such fund:
- (7) When any land or other property is sold or otherwise disposed of by the Corporation the same shall in the hands of any person or body corporate to whom the same shall have been sold or disposed and his or their heirs executors administrators successors and assigns be absolutely freed from all claims charges or obligations in respect of any stock granted or issued under this order and such person or body corporate shall not be bound to see to or inquire into the application by the Corporation of the money arising from such sale or disposition or be in any way responsible for the non-application or misapplication thereof:
- (8) The Corporation may from time to time apply all or any of the moneys standing to the credit of any sinking fund which they are required to set aside under any of the local Acts or confirming Acts or the provisional orders thereby confirmed or any other Act of Parliament or provisional order for the time being in force in the purchase and redemption of stock provided that all stock so purchased and redeemed shall be ipso facto cancelled and that the Corporation shall in every such case so soon as conveniently may be thereafter carry an equivalent amount of the loans fund to the credit of such sinking fund and also pay into such sinking fund in each year and accumulate until the whole of the moneys for the repayment of which the sinking fund has been established are discharged a sum equivalent to the interest which would have been produced by the sinking fund or part of the sinking fund so applied:

1st SCH.
—cont.

(9) Nothing in this order contained shall in anywise prejudice or affect the rights remedies and priorities of the holders of annuities or mortgages or bonds of the Corporation created or issued before the first creation or issue of stock under this order nor be deemed to give to the Corporation the right to convert any annuities existing at the commencement of this order into stock or otherwise to disturb or interfere with the same without the previous consent in writing of the respective owners of such annuities nor shall anything in this order contained be deemed to authorise the Corporation to pass any resolution for the conversion of any such annuities into stock unless the consent in writing of the respective owners of such annuities has previously been obtained or unless it be declared in such resolution that such consent shall be obtained prior to such conversion:

(10) On the issue of any portion of Corporation stock the statutory borrowing power in exercise whereof that stock is issued shall be affected as follows namely:—

(a) If the stock is issued for the whole term limited for the continuance of any loan or for the continuance of payment of or in respect of any mortgage bond debenture stock annuity rentcharge rent or other security granted or created by the Corporation under that statutory borrowing power then that power to the extent of the money raised by that stock shall be and the same is by virtue of this Act extinguished;

(b) If the stock is issued for part only of that term then so much of the money raised by that stock as represents the balance which should be outstanding may be reborrowed by the Corporation for the residue of that term or any part thereof and so from time to time:

Provided that if stock issued by the Corporation for the purposes of the Birmingham Corporation Water Acts be issued for part only of the term aforesaid then notwithstanding any other provisions governing the payments to be made into the loans fund the Corporation may increase the payments to be made to the loans fund under these provisions to such an extent as may be necessary to provide for the redemption of such stock within the period for which it is issued and may for the purpose of recouping the funds out of which the additional payments shall have been made reborrow from time to time the amounts of the said additional payments including any accumulations thereon:

Provided further that all amounts reborrowed shall be repaid within the term aforesaid:

(11) No holder of any portion of stock shall have any priority or preference by reason of the creation or issue of such portion of stock before the creation or issue of any other portion of stock:

(12) (a) The Corporation shall keep in respect of stock of each description a register wherein shall be entered the names

and addresses of all persons and corporations who are for the time being holders of stock of that description and the amounts of stock of that description of which they are respectively for the time being holders;

- (b) In the event of the redemption of stock of any description the register relating to that stock may be permanently closed for transfers of amounts of that stock on any day not more than one month immediately preceding the date on which redemption is to take effect;
- (c) Any such register shall be prima facie evidence of any matters directed or authorised by any enactment for the time being in force to be entered therein and of the title of the persons whose names are entered therein as holders of amounts of stock:
- (13) The Corporation shall deliver to every holder of stock a certificate stating the amount of such stock held by him and such certificate shall have the common seal of the Corporation attached thereto and the same may be according to the form in the Second Schedule hereto or to the like effect:
- (13A) (a) Where the names of two or more persons are entered in the register relating to stock of any description as joint holders of an amount of stock of that description nothing contained in the foregoing provisions of this article shall be construed as requiring the Corporation to issue more than one certificate in respect of that amount of stock and delivery of a certificate to one of several joint holders shall be sufficient delivery to all of them;
- (b) An entry of the issue of a stock certificate or a duplicate certificate as the case may be shall be made in the register;
- (c) Where an amount of stock of any description is transferred and the conditions specified in paragraphs (a) (b) and (c) of sub-division (16C) of this article have been satisfied in respect of an amount of stock of that description exceeding the amount specified in the instrument of transfer the person by whom the amount was transferred shall be entitled to a certificate representing the amount of the excess:
- (14) Every such certificate may be admitted in all courts as prima facie evidence of the title of such stockholder his executors administrators successors or assigns to the sum therein specified:
- (15) If any such certificate be worn out or damaged then the same may upon the production thereof be cancelled and another similar certificate may be given to the holder of the stock therein specified or if such certificate be lost or destroyed then upon proof to the satisfaction of the Corporation of such loss or destruction a similar certificate may be given to the holder of the stock specified in the certificate so lost or destroyed and in either case a due entry of the substituted certificate shall be made in the said register and for every such substituted certificate the Corporation may demand any sum not exceeding two shillings and sixpence:

1ST SCH.
—cont.

- (16) Stock shall subject to the provisions of this article relative to stock in respect of which stock certificates to bearer are issued be transferable in law by instrument in writing in any usual or common form executed by all parties to the transfer and delivered to and retained by the Corporation:
- (16A) The Corporation may decline to recognise an instrument of transfer relating to an amount of stock of any description unless the following requirements are complied with:—
- (a) the execution of the instrument by each party to the transfer must be attested by a credible witness not being a party thereto;
- (b) the witness must append to his signature a statement of his occupation or description and his usual place of abode or place of business:
- (16B) Where the execution by a party of an instrument of transfer relating to an amount of stock of any description is otherwise than by signature the Corporation may decline to register the instrument unless there is furnished to them such evidence as they may reasonably require (whether by way of a statement written on the instrument and signed by the person witnessing the execution of the instrument by that party or otherwise) that the effect of the instrument was understood by that party:
- (16C) The Corporation may decline to give effect to a transfer of an amount of stock of any description unless—
- (a) the instrument of transfer is accompanied by a certificate representing or certificates representing in the aggregate an amount of stock of the description specified in the instrument of transfer not falling short of the amount so specified being a certificate or certificates wherein the transferor is specified as the holder of the stock; or
- (b) there is furnished to the Corporation such evidence as may reasonably be required that a certificate representing or certificates representing in the aggregate an amount of stock of the description specified in the instrument of transfer not falling short of the amount so specified being a certificate or certificates wherein the transferor is specified as the holder of the stock has or have been lost or destroyed; or
- (c) the instrument of transfer is accompanied by a certificate representing or certificates representing in the aggregate an amount of stock of the description specified in the instrument of transfer equal to a part of the amount so specified being a certificate or certificates wherein the transferor is specified as the holder of the stock and as to the residue thereof there is furnished to the Corporation such evidence as may reasonably be required that a certificate representing or certificates representing in the aggregate an amount of stock of that description not falling short of the residue being a certificate or certificates wherein the transferor is specified as the holder of the stock has or have been lost or destroyed; and

(d) where paragraph (b) or paragraph (c) of this sub-division has effect there is given to the Corporation such indemnity against all claims in respect of lost or destroyed certificates as may reasonably be required:

(16D) The Corporation may decline to give effect to a transfer of an amount of stock of any description other than as aforesaid unless there is furnished in addition to the evidence furnished by virtue of the production of a certificate or under sub-division (16C) of this article such evidence as may reasonably be required of the right of the transferor to make the transfer:

(16E) The Corporation shall not be required to give effect to a transfer of an amount of stock of any description until the expiration of whichever of the periods hereinafter mentioned last expires that is to say:—

(a) the period of ten days beginning with the day next following that on which the instrument of transfer is delivered to them; or

(b) if before the expiration of the said period the Corporation send to the person specified in the instrument of transfer as being the transferor or where two or more persons are specified in the said instrument as being the transferors to one of those persons a written notice informing him of the proposed transfer the period of three days beginning with the day next following that on which a reply from that person would be delivered to the Corporation in the ordinary course of post if the said notice were delivered in the ordinary course of post and the reply were posted immediately after the receipt of the notice:

(16F) The Corporation shall give effect to a transfer of an amount of stock of any description by entering in the register relating to that stock such particulars as are requisite to show the effect of the transfer and the transferee shall be entitled to a new stock certificate in his name:

(16G) The transferor of an amount of stock of any description shall be deemed to remain the holder thereof until the Corporation has given effect to the transfer:

(17) (a) If the ownership of any stock has been transmitted by any lawful means other than by instrument in writing or by the death of the stockholder satisfactory evidence of the transmission shall be furnished to the Corporation by a statutory declaration of one or more competent persons or in such other manner as the Corporation may require;

(b) Upon production of such evidence as aforesaid the Corporation shall give effect to the transmission as if it had been effected by instrument in writing and the provisions of these regulations shall apply accordingly;

(c) For purposes of this regulation the expression "transmission" includes any case of apparent transmission in consequence of the change of name of the stockholder although the actual ownership of the stock may remain unaltered:

1ST SCH.
—cont.

- (17A) (a) An amount of stock of any description entered in a register in the name of a deceased person shall be transferable by his personal representative but in a case in which there are two or more personal representatives of the deceased person the Corporation may decline to give effect to the transfer unless the instrument of transfer is executed by all the representatives;
- (b) The production to the Corporation of any document which is by law sufficient evidence of there having been a grant to some person of probate of the will or letters of administration of the estate or confirmation as executor of a deceased person shall be accepted by the Corporation as sufficient evidence of the grant;
- (c) If two or more persons are registered as holders of any stock those persons shall be deemed to be joint holders with right of survivorship between them:
- (17B) (a) The account on which an amount of stock of any description is standing in the register relating to stock of that description may be designated in such manner as the holder of the amount may specify and in particular the holder of the amount may be described as trustee of a specified trust or as trustee without specifying a trust or in any other manner indicating the capacity in which he holds the amount;
- (b) Where the holder of an amount of stock of any description occupies an office or official position his official description may be entered in the register relating to stock of that description in lieu of his name and where in relation to an amount of stock of any description any such official description is so entered an instrument of transfer and an instrument containing directions with respect to the payment of interest on that amount shall if executed by the person for the time being occupying that office or position be as effectual as if his name were entered as the holder of that amount;
- (c) Notwithstanding anything in the preceding provisions of this sub-division the Corporation shall not be required—
- (i) to enter in any register any designation or description which appears to them unreasonably long or elaborate; or
- (ii) to enter in any register both the name of a holder of stock and any such official description as could under paragraph (b) of this sub-division be so entered in lieu of his name:
- (17C) An authority to execute an instrument of transfer relating to an amount of stock of any description must be in writing and the execution of the instrument containing any such authority must be attested by a credible witness:
- (17D) Nothing in these regulations shall be construed as authorising a body corporate to execute an instrument otherwise than in accordance with the rules of law and the provisions of any instrument (including an Act of Parliament) regulating the

constitution of that body with respect to the execution of instruments by that body:

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- (18) The Corporation shall not be bound to register any transfer except upon production of the certificate relating to the stock to be transferred:
- (19) Upon any sub-division of stock by transfer the Corporation may upon the delivery up to them of the original certificate grant to the transferees new certificates for the sums of stock so transferred:

* * * * *

- (21) The Corporation may issue to a stockholder a stock certificate to bearer that is to say a certificate of title to his stock or any part thereof with coupons annexed entitling the bearer of the coupons to the dividends of the stock:
- (22) Where a stock certificate to bearer is outstanding the stock represented thereby shall cease to be transferable by instrument in writing:
- (23) A stock certificate to bearer shall entitle the bearer to the stock therein described and shall be transferable by delivery:
- (24) The bearer of a stock certificate to bearer may on delivery of his certificate and of all unpaid coupons belonging thereto to the Corporation and on compliance with any regulations made under this order require the Corporation to enter him in the register as a holder of the stock described in such stock certificate and thereupon that stock shall be re-entered in the register and shall become transferable by instrument in writing and the dividends thereon shall be payable as if no stock certificate to bearer had been issued in respect of that stock:
- (25) The coupons annexed to a stock certificate to bearer shall comprise the dividends to be payable in respect of the stock therein described for not less than five years from the date of the certificate:
- (26) On the expiration of that period fresh coupons shall be issued for a further period of not less than five years each during the continuance in force of the stock certificate but the Corporation may if they think fit in lieu of issuing fresh coupons in respect of a stock certificate to bearer give in exchange a fresh stock certificate to bearer with coupons annexed:
- (27) The payment to the bearer of a coupon of the amount expressed therein shall be a full discharge to the Corporation from all liability in respect of that coupon and the dividend represented thereby:
- (28) A trustee shall not apply for or hold a stock certificate to bearer or coupon unless authorised to do so by the terms of his trust and any contravention of this provision by a trustee shall be deemed a breach of trust but this provision shall not

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impose on the Corporation any obligation to inquire whether a person applying for a stock certificate to bearer or coupon is or is not a trustee or subject the Corporation to any liability in the event of their issuing a stock certificate to bearer or coupon to a trustee or invalidate any stock certificate to bearer or coupon so issued:

- (29) If a stock certificate to bearer or a coupon is lost or destroyed the Corporation shall issue a new certificate or coupon on receiving an indemnity to their satisfaction:
- (30) Stock described in a stock certificate to bearer shall be deemed to be charged on the same securities and to be subject to the same powers of redemption and save in so far as such stock certificate is a negotiable security and save as relates to the mode of transfer and payment of dividends thereon shall be subject to the same incidents in all respects as if it had continued entered in the register as stock transferable by instrument in writing:
- (31) On the issue of a stock certificate to bearer the Corporation may demand any sum not exceeding two shillings and sixpence on every one hundred pounds of stock included in the certificate and a proportionate amount for any less sum of stock:
- (32) No fee shall be charged on the issue of a stock certificate to bearer in exchange for a like certificate:
- (33) On the re-entry by the Corporation of the stock included in a stock certificate to bearer a fee not exceeding five shillings shall be payable to the Corporation:
- (34) The Corporation may from time to time issue any forms required for carrying into effect the provisions of this article and may from time to time make any regulations not inconsistent with this order and when made may alter vary or repeal any such regulations relating to the following matters:—
- (a) the time for which coupons are to be given;
 - (b) the mode in which the Corporation are to act in issuing stock certificates to bearer or entering in the register the holders of stock certificates to bearer or their nominees;
 - (c) the mode of proving the title of or identifying any person applying for a stock certificate to bearer;
 - (d) the mode of proof of the loss or destruction of a stock certificate to bearer or coupon;
 - (e) any other matter necessary to carry this article into effect:
- (35) Except as provided by this article no notice of any trust express implied or constructive shall be entered in any register required to be kept by these regulations or in a

certificate or be receivable by the Corporation and notwithstanding that the holder of an amount of stock of any description is described as mentioned in sub-division (17B) of this article or that the amount is standing on an account otherwise designated as mentioned in that article it shall not be necessary for the Corporation to inquire concerning the propriety of anything done in relation to that amount or any part thereof:

(36) Interest on stock shall be paid half-yearly on such days as the Corporation may determine on the issue of the stock:

(36A) (a) The Corporation may as regards stock of any description close the register during the whole or any part of the period of one calendar month next before the day on which the dividend on that stock is payable;

(b) In lieu of closing the register in the manner aforesaid the Corporation may strike the balance for a dividend on stock of any description on any day not being more than thirty-seven days before the day on which the dividend on that stock is payable;

(c) Any person who on the date on which the register relating to any stock is closed or the balance is struck as aforesaid is entered in the register as the holder of an amount of that stock shall as between himself and any transferee of that stock be entitled to the then current dividend thereon:

(37) When any stock has been created and issued under this order in order to raise any loan or any portion of any loan authorised by any Act of Parliament or provisional order the money raised thereby shall be deemed to have been borrowed under and for the purposes of such Act or order and shall be applied accordingly but no holder of such stock shall be bound to inquire into the application of the money advanced or be in any way responsible for the non-application or misapplication thereof:

(38) Any person who holds any security or annuity granted by the Corporation whether before or after the commencement of this order and who is one of the persons enabled by the Lands Clauses Consolidation Act 1845 section seven to sell land under that Act may in the manner and to the extent in the said section provided consent to any arrangement authorised by this order for the conversion of such security or annuity into stock and to the payment of such security before the time limited for the payment thereof:

(39) The expenses from time to time incurred by the Corporation in payment of composition for stamp duty in respect of stock shall be deemed to be expenses incurred by the Corporation for the several purposes for which the stock or as the case may be the annuities mortgages or bonds converted into stock is or have been issued and such expenses may be charged as capital expenses.

SECOND SCHEDULE

Column 1 Name of authority	Column 2 Gallons per day
BRECKNOCKSHIRE	
Builth Wells Urban District Council	50,000
Builth Rural District Council	150,000
Total	<u>200,000</u>
HEREFORDSHIRE	
Hereford Corporation	275,000
Leominster Corporation	50,000
Bromyard Urban District Council	25,000
Kington Urban District Council	25,000
Bromyard Rural District Council	120,000
Dore and Bredwardine Rural District Council	35,000
Hereford Rural District Council	150,000
Kington Rural District Council	90,000
Leominster and Wigmore Rural District Council	165,000
Weobley Rural District Council	100,000
Total	<u>1,035,000</u>
RADNORSHIRE	
Knighton Urban District Council	16,000
Rhayader Rural District Council	75,000
Knighton Rural District Council	129,000
Llandrindod Wells Urban District Council ...	235,000
Presteigne Urban District Council	59,000
Paincastle Rural District Council	100,000
New Radnor Rural District Council	78,000
Colwyn Rural District Council	53,000
Total	<u>745,000</u>
SALOP	
Ludlow Corporation	110,000
Ludlow Rural District Council	387,500
Bridgnorth Rural District Council	536,200
Total	<u>1,033,700</u>
STAFFORDSHIRE	
Seisdon Rural District Council	36,500
WORCESTERSHIRE	
Kidderminster Corporation	550,000
Kidderminster Rural District Council	475,000
Tenbury Rural District Council	250,000
Total	<u>1,275,000</u>

THIRD SCHEDULE

SECTIONS OF PUBLIC HEALTH ACT 1936 APPLIED

PART I

SECTIONS APPLIED GENERALLY

Section	Marginal note
271	Interpretation of "provide".
283	Notices to be in writing; forms of notices &c.
286	Proof of resolutions &c.
288	Penalty for obstructing execution of Act.
296	Summary proceedings for offences.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.

PART II

SECTIONS APPLIED TO PART II AND SECTIONS 31 32 34 AND 36 OF THIS ACT

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Power of local authority to sell certain materials.
277	Power of councils to require information as to ownership of premises.
289	Power to require occupier to permit works to be executed by owner.
291	Certain expenses recoverable from owners to be a charge on the premises: Power to order payment by instalments.
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 III

SECTION APPLIED TO PART II AND SECTIONS 22 31 32 34 AND 36 OF THIS ACT

Section	Marginal note
287	Power to enter premises.

Table of Statutes referred to in this Act

Short title	Session and chapter
Lands Clauses Consolidation Act 1845 ...	8 & 9 Vict. c. 18.
Public Health Act 1875	38 & 39 Vict. c. 55.
Local Loans Act 1875	38 & 39 Vict. c. 83.
Local Government Board's Provisional Orders Confirmation (Bethesda &c.) Act 1880	43 & 44 Vict. c. clxxviii.
Local Government Board's Provisional Order Confirmation (Birmingham) Act 1881	44 & 45 Vict. c. lxxviii.
Local Government Board's Provisional Orders Confirmation (No. 3) Act 1882	44 & 45 Vict. c. lxi.
Birmingham Corporation (Consolidation) Act 1883	46 & 47 Vict. c. lxx.
Weights and Measures Act 1889	52 & 53 Vict. c. 21.
Birmingham Corporation (Stock) Act 1900	63 & 64 Vict. c. lxxiv.
Birmingham Corporation Water Act 1892	55 & 56 Vict. c. clxxiii.
Acquisition of Land (Assessment of Com- pensation) Act 1919	9 & 10 Geo. 5 c. 57.
Birmingham Corporation Act 1922 ...	12 & 13 Geo. 5 c. lxxvi.
Birmingham Corporation Act 1924 ...	14 & 15 Geo. 5 c. lxxv.
Land Charges Act 1925	15 & 16 Geo. 5 c. 22.
Rating and Valuation Act 1925	15 & 16 Geo. 5 c. 90.
Sale of Food (Weights and Measures) Act 1926	16 & 17 Geo. 5 c. 63.
Petroleum (Consolidation) Act 1928 ...	18 & 19 Geo. 5 c. 32.
Birmingham (Rivers Improvement) Act 1929	19 & 20 Geo. 5 c. lxx.
Birmingham Corporation (General Powers) Act 1929	20 Geo. 5 c. xxxviii.
Road Traffic Act 1930	20 & 21 Geo. 5 c. 43.
Local Government Act 1933	23 & 24 Geo. 5 c. 51.
Birmingham Corporation Act 1935 ...	25 & 26 Geo. 5 c. cxxii.
Public Health Act 1936	26 Geo. 5 & 1 Edw. 8 c. 51.
Public Health (Drainage of Trade Premises) Act 1937	1 Edw. 8 & 1 Geo. 6 c. 40.
Local Government Superannuation Act 1937	1 Edw. 8 & 1 Geo. 6 c. 68.
Birmingham Corporation Act 1940 ...	3 & 4 Geo. 6 c. xix.
Water Act 1945	8 & 9 Geo. 6 c. 42.
Ministers of the Crown (Transfer of Functions) Act 1946	9 & 10 Geo. 6 c. 31.
Birmingham Corporation Act 1946 ...	9 & 10 Geo. 6 c. lii.
Town and Country Planning Act 1947 ...	10 & 11 Geo. 6 c. 51.
Lands Tribunal Act 1949	12 & 13 Geo. 6 c. 42.
Adoption Act 1950	14 Geo. 6 c. 26.
Magistrates' Courts Act 1952	15 & 16 Geo. 6 & 1 Eliz. 2 c. 55.
Accommodation Agencies Act 1953 ...	1 & 2 Eliz. 2 c. 23.
Local Government Superannuation Act 1953	1 & 2 Eliz. 2 c. 25.
Birmingham Corporation Act 1954 ...	2 & 3 Eliz. 2 c. xliv.
Road Traffic Act 1956	4 & 5 Eliz. 2 c. 67.

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SIR JOHN ROUGHTON SIMPSON, C.B.

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament
LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

Price 3s. 0d. net

PRINTED IN GREAT BRITAIN