

[1 & 2 GEO. 6.]

*Aldridge Urban  
District Council Act, 1938.*

[Ch. xxv.]



**CHAPTER xxv.**

An Act to make further and better provision for the improvement health local government and finances of the urban district of Aldridge and for other purposes. A.D. 1938.  
[2nd June 1938.]

**W**HEREAS the urban district of Aldridge (in this Act referred to as "the district") is an urban district under the government of the urban district council of Aldridge (in this Act referred to as "the Council"):

And whereas it is expedient that further and better provision should be made in regard to streets buildings sewers and drains in the district and that the powers of the Council in relation to the health local government and improvement of the district should be enlarged as in this Act provided:

And whereas it is expedient that the provisions in regard to the finances of the Council which are contained in this Act should be made:

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

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

And whereas in relation to the promotion of the Bill for this Act the requirements of sections 253 254 and 255 of the Local Government Act 1933 have been observed:

23 & 24  
Geo. 5. c. 51.

A.D. 1938.

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

## PART I.

## PRELIMINARY.

Short title.

1. This Act may be cited as the Aldridge Urban District Council Act 1938.

Division of  
Act into  
Parts.

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

Part I.—Preliminary.

Part II.—Streets and buildings.

Part III.—Sewers drains &c.

Part IV.—Infectious disease and sanitary provisions.

Part V.—Human food.

Part VI.—Public buildings parks &c.

Part VII.—Lands.

Part VIII.—Financial.

Part IX.—Miscellaneous.

Incorporation of  
Lands  
Clauses  
Acts.  
8 & 9 Vict.  
c. 18.

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

Interpre-  
tation.26 Geo. 5. &  
1 Edw. 8.  
c. 49.

4.—(1) In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith or by the Public Health Act 1936 have the same respective meanings unless there be something in the subject or context repugnant to such construction.

[1 & 2 GEO. 6.] *Aldridge Urban* [Ch. xxv.]  
*District Council Act, 1938.*

(2) In this Act unless the subject or context otherwise requires— A.D. 1938:

“The Council” means the urban district council of Aldridge;

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 PART I.  
 —cont.

“The district” means the urban district of Aldridge;

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

“The Lands Clauses Acts” means the Lands Clauses Acts as modified by the Acquisition of Land (Assessment of Compensation) Act 1919; 9 & 10 Geo. 5. c. 57.

“The Public Health Acts” means the Public Health Act 1875 and the Acts amending and extending the same; 38 & 39 Vict. c. 55.

“The county council” means the council of the administrative county of Stafford;

“County road” means any road which is for the time being vested in the county council;

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

41 & 42 Vict.  
 c. 76.

“The Birmingham Canal Company” means the Company of Proprietors of the Birmingham Canal Navigation;

“Food” has the meaning assigned to it by section 34 of the Food and Drugs (Adulteration) Act 1928; 18 & 19 Geo. 5. c. 3.

“The Minister” means the Minister of Health;

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

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

“Statutory borrowing power” means any power whether or not coupled with a duty of borrowing or continuing on loan or re-borrowing

A.D. 1938.

PART I.  
—cont.

money or of redeeming or paying off or creating or continuing payment of or in respect of any annuity rentcharge rent or other security representing or granted in lieu of consideration money for the time being existing under any Act of Parliament public or local passed or to be passed or under any Provisional Order confirmed by Act of Parliament passed or to be passed or under any order or sanction of any Government department made or given or to be made or given by authority of any Act of Parliament passed or to be passed but does not include the power to borrow by way of temporary loan or overdraft which is conferred by paragraph (a) of subsection (1) of section 215 of the Local Government Act 1933;

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

“ Statutory security ” means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other 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 Council.

38 & 39 Vict.  
c. 83.

## PART II.

## STREETS AND BUILDINGS.

Adjust-  
ment of  
boundaries  
of streets.

5.—(1) The Council may enter into and carry into effect agreements with any owner of lands adjoining any street for the adjustment of the boundary of any such street and for such purpose may give up to such owner

land including land forming part of the street in exchange for other land For the purposes of this section the Council shall be deemed to be the owners of the land forming the site of the street and shall be entitled to convey the same in accordance with an agreement entered into in pursuance of this section.

A.D. 1938.

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PART II.  
—cont.

(2) Provided that no such agreement shall be entered into until the expiration of one month from the date on which notice of the proposals has been given by advertisement in some local newspaper circulating in the district and during such period of one month any four inhabitant householders of the district by themselves or their agent may appeal to a court of summary jurisdiction against the proposals and subsections (2) to (7) of the section of this Act of which the marginal note is "As to appeals" shall apply to any such appeal as if the proposals were a decision of the Council.

(3) Provided that the Council shall not enter into and carry into effect any agreement under this section in regard to a county road without the consent of the county council.

(4) Notwithstanding any agreement entered into under this section the Postmaster-General shall continue to have the same powers and rights in respect of any telegraphic line belonging to or used by him which remains in under upon over along or across the site of any such street as if the same had continued to be part of the street and if by reason or in consequence of any such agreement it becomes necessary to alter any such telegraphic line the enactments contained in section 7 of the Telegraph Act 1878 shall apply to any such alteration as though the Council or the owner of the adjoining land (as the case may be) were "undertakers" within the meaning of the said Act.

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

6.—(1) Subject to the provisions of this section a court of summary jurisdiction if satisfied on the application of the Council that a highway within the

Stopping  
up and  
diversion of  
highways.

A.D. 1938.

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PART II.  
—cont.

district is unnecessary may by order authorise the stopping up thereof and if so satisfied that a highway within the district can be diverted so as to make it nearer or more commodious to the public may by order authorise it to be so diverted :

Provided that the Council shall not make an application under this section in regard to a county road.

Any such application or order may be made with respect to any length of a highway and in the subsequent provisions of this section any reference to a highway shall be construed as a reference to that length thereof to which the application or order relates.

(2) No order shall be made under subsection (1) of this section unless the court is satisfied that notice of the intention to make the application specifying the time and place at which it is to be made and the order which will be asked for and embodying a plan showing what will be the effect of the order asked for—

(a) has at least twenty-eight days before the date on which the application is made been served either personally or by registered post on the owners or reputed owners and the occupiers of all land abutting on the highway and (in any case in which the Council are aware of the existence in or under the highway of any mains pipes wires cables or apparatus for conveying or transmitting gas or electricity and the owners of such mains pipes wires cables or apparatus are known to the Council) on such owners and (when the application relates to a classified road as defined in the Local Government Act 1929) on the Minister of Transport and the county council; and

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

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

19 & 20  
Geo. 5. c. 17.

(3) On the hearing of such an application the Council and any person who is interested in land abutting on or served by the highway or uses the highway or is otherwise aggrieved shall have a right to be heard and an appeal against the decision of the court may be brought to quarter sessions either by the Council or by any such person as aforesaid who was or claimed to be heard by the court.

(4) For the purposes of the provisions of the Summary Jurisdiction Act 1879 as amended by the Summary Jurisdiction (Appeals) Act 1933 with respect to appeals to quarter sessions—

(a) a refusal by a court of summary jurisdiction to make an order under this section shall be deemed to be an order;

(b) in a case where more than two persons were heard or claimed to be heard in opposition to an application under this section it shall be sufficient if a notice of appeal against a refusal to make an order upon that application is served upon any two of those persons in addition to the clerk to the court of summary jurisdiction but any of those persons whether served with such a notice or not may appear at quarter sessions as respondents to the appeal;

(c) any appeal under this section whether against an order or against a refusal to make an order shall be in the nature of a re-hearing.

(5) Every order made under this section shall have annexed thereto a plan signed by the chairman of the court and shall be binding on all persons whatsoever.

(6) Provided that—

(i) nothing in this section shall authorise the diversion over any land of any highway unless the written consent of every person having a legal interest in that land is produced to and deposited with the court; and

(ii) an order under this section authorising the diversion of a highway shall not authorise the stopping up of any part thereof until the new part to be substituted for the part stopped up has been completed to the

A.D. 1938.

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PART II.  
—cont.

42 & 43 Vict.  
c. 49.  
23 & 24  
Geo. 5. c. 38.

A.D. 1938.

PART II.  
—cont.

satisfaction of two justices and a certificate to that effect signed by them has been transmitted by their clerk to the clerk of the peace.

(7) Where an order is made by a court of summary jurisdiction under this section authorising the stopping up or diversion of a highway the clerk of the court shall forthwith transmit the order to the clerk of the peace together if the order be for diverting a highway with the written consents produced to the court and the clerk of the peace shall enrol any documents so transmitted to him and any certificates transmitted to him under subsection (6) of this section among the records of quarter sessions.

(8) Where any highway is diverted in accordance with an order made under this section the substituted highway shall be repairable by the person (if any) by whom the original highway was repairable.

(9) Any application or order under this section—

- (a) may include two or more highways which are connected with each other;
- (b) may relate to the stopping up or diversion of a highway for the purposes of all traffic or subject to the reservation of a bridleway or footway.

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

Power to  
vary width  
of carriage-  
ways and  
footways.

7.—(1) The Council may if they think fit in any case vary the relative widths of the carriageway and footway or footways in any street repairable by the inhabitants at large not being a county road. Provided that twenty-one days before commencing any work under this section which will materially reduce the width of any carriageway or footway the Council shall send notice of the proposed work to the Minister of Transport.

(2) The Council shall not exercise the powers of this section in respect of any street situate upon a bridge over the railway of the London Midland and Scottish Railway Company or upon the approaches thereto without the previous consent in writing of the said railway company.



8.—(1) The Council may at any time after A.D. 1938. prescribing the improvement line of any street in pursuance of the power conferred upon them by section 33 of the Public Health Act 1925 on giving six months' previous notice in writing to the owner require that any building or erection which or any part of which was beyond or in front of any such improvement line at the date when the same was so prescribed shall be pulled down set back or altered so that the same shall not project beyond or in front of such improvement line.

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PART II.  
—cont.

Further powers as to future line of street.

15 & 16  
Geo. 5. c. 71.

(2) The owner may and if so required by the Council shall notwithstanding any contract lease or agreement or any provision therein contained enter upon any land building or erection affected by any requirement of the Council under this section and carry out such requirement.

(3) In the event of any building or erection being pulled down set back or altered in accordance with any requirement of the Council under this section the Council shall make compensation to any owner lessee or tenant of any such building or erection for any loss or damage sustained by him in consequence of complying with such requirement.

(4) The amount of any compensation payable under this section and any other question under this section the determination whereof is not otherwise provided for by this Act shall in default of agreement be determined in accordance with the provisions of the Lands Clauses Acts but in estimating the amount of any such compensation the benefit arising from the widening or improvement of the street and accruing to the property in respect of which such compensation shall be payable shall be fairly estimated and set off against such compensation.

(5) Any person who shall fail to comply with a requirement of the Council under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

9.—(1) When any street repairable by the inhabitants at large (not being a county road) shall be opened or broken up by any person he shall with all convenient speed complete the work on account of which the same

Streets broken up to be reinstated.

A.D. 1938.

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PART II.  
—cont.

shall have been broken up and fill in the ground and reinstate and make good to the reasonable satisfaction of the surveyor and with materials to be reasonably approved by him the street so opened or broken up.

(2) Any person offending against the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Crossings  
for horses  
or vehicles  
over foot-  
ways.

**10.**—(1) Where the owner or occupier of any premises fronting or abutting on any street repairable by the inhabitants at large habitually uses or permits to be used any kerbed footway or paved footway in such street as a crossing for any horse or horse-drawn or mechanically propelled vehicle (other than a motor-cycle) in passing to and from such premises the Council may either—

- (a) require the construction across such footway of a carriage-crossing for the purpose aforesaid constructed of such materials and in such manner as they may prescribe; or
- (b) allow the use of the footway for the purpose aforesaid subject to the condition that the footway is strengthened or adapted in such manner as the Council may prescribe or subject to such other reasonable conditions (if any) as they may impose.

(2) If the Council require the construction of any carriage-crossing across the footway or allow the use of the footway subject to a condition that it is strengthened or adapted they may execute such works as may be necessary to secure compliance with such requirement or condition and may recover the expenses of so doing from the owner or occupier.

(3) If the Council allow the use of the footway as a crossing for any horse or horse-drawn or mechanically propelled vehicle other than a motor-cycle subject to any condition other than the strengthening or adaptation of the footway any person who knowingly uses or permits to be used the footway as a crossing as aforesaid in contravention of that condition shall be liable to a penalty not exceeding five pounds.

(4) Notwithstanding the provisions of section 18 of the Public Health Acts Amendment Act 1907 every person desirous of forming a carriage-crossing across a footway in any street or of strengthening or adapting any part of any such footway as a carriage-crossing shall apply in writing to the Council for an estimate of the cost thereof and after having obtained such estimate may deposit with the Council the amount thereof. When such deposit shall have been made the Council shall with all convenient speed carry out the works and any difference between the sum so deposited and the actual cost of the works shall be paid to or by the Council by or to such person as the case may require.

A.D. 1938.  
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PART II.  
—cont.  
7 Edw. 7.  
c. 53.

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

(6) Nothing in this section shall apply to a county road.

**11.**—(1) The Council may cause to be put up or painted on a conspicuous part of any house building or place at or near to the corner of any street signs indicating the classified road number of such street and the direction or the distance to towns railway stations public buildings and other places of a public character. Direction signs.

(2) Before putting up or painting a sign on a house building or place the Council shall give to the owner of such house building or place notice of their decision so to do.

(3) Any person who shall wilfully and without the consent of the Council obliterate deface obscure remove or alter any such sign otherwise than in the course of demolishing or altering the house or building shall be liable to a penalty not exceeding forty shillings and the Council may recover the expenses of replacement and making good from such person.

(4) The exercise of the powers conferred by this section shall be subject to the provisions of the Road Traffic Acts 1930 to 1934 with respect to traffic signs and to any regulations made or any general or other directions given by the Minister of Transport in pursuance of the said provisions.

A.D. 1938.

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PART II.  
—cont.  
Signs over  
streets.

12.—(1) In this section “sign” means any banner streamer notice board sign or lettering for the purposes of advertisement or announcement (including the supports thereof) which is suspended or extends for more than two feet over any street or which extends for more than six inches over any street and is more than two feet six inches in height from the top to the bottom thereof.

(2) (a) If it appears to the Council that any sign which is placed over any street at the passing of this Act is a source of danger or objectionable by reason of its size construction or situation or an injury to the amenities of the street over which it is placed they may by notice in writing require the owner of or person responsible for the placing of such sign to remove it or to comply with such conditions as may be specified in the notice within such period not being less than seven days as may be specified in the notice.

(b) For a period of two years from the passing of this Act the foregoing provisions of this subsection shall not apply to any sign which was in use on the first day of November one thousand nine hundred and thirty-seven.

(3) (a) After the passing of this Act no person shall without the consent of the Council place any sign over any street.

(b) The consent of the Council under this subsection shall not be withheld except on the ground that in their opinion the sign would be a source of danger or objectionable by reason of its size construction or situation or an injury to the amenities of the street and such consent may be given subject to such conditions as the Council may think fit.

(4) Any person who (a) neglects or refuses to comply with the requirement of any such notice as is referred to in subsection (2) of this section or (b) after the passing of this Act places any sign over any street without the consent of the Council or without complying with any conditions attached to any such consent shall be liable to a penalty not exceeding twenty shillings and to a daily penalty not exceeding ten shillings and the Council may themselves remove any such sign and any expense incurred by them in so doing may be recovered by them from such person.

**13.**—(1) Any person erecting setting up or placing any blind shade covering or awning over any footway shall so erect set up or place the same that no part thereof shall project over any part of the footway which is less than one foot six inches from the outer edge of the kerb of such footway.

A.D. 1938.

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PART II.

—cont.

Window  
blinds &c.

(2) Every such blind shade covering or awning shall be constructed and maintained so as to secure in accordance with the requirements of the Council the safety and convenience of the public.

(3) Every person who shall offend against the provisions of this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

**14.**—(1) If the Council shall by resolution determine that any stall structure or other erection on any forecourt is by reason of its character injurious to the amenities of the street in which such forecourt is situate they may by notice in writing require the owner of or person responsible for such stall structure or other erection within such period (not being less than seven days) as may be specified in the notice to make such alterations to such stall structure or other erection as may be necessary to prevent the same from being injurious to the amenities of such street.

Provisions  
as to fore-  
courts.

(2) Any person neglecting or refusing to comply with the requirement of any such notice shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

**15.**—(1) In any case in which the forecourt of any premises adjoining a street or any steps or projection placed in any such forecourt or any goods placed therein whether for sale or not are a source of danger obstruction or inconvenience to the public the Council may require the owner of the premises well and sufficiently to fence such forecourt from the street.

Fencing of  
forecourts.

(2) Any person who shall fail to comply with any requirement under this section shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

A.D. 1938.

PART II.

—cont.

As to  
erection of  
retaining  
walls.

**16.**—(1) Before any person shall erect on any land within the district a retaining wall of greater height than six feet abutting on or adjacent to or within twelve feet of any street he shall submit to the Council plans sections and specifications thereof and no such wall shall be erected except in accordance with such plans sections and specifications as may be approved by the Council.

(2) Any person who shall erect a retaining wall contrary to the provisions of this section or any owner who after erection shall after reasonable notice in writing from the Council requiring him so to do fail to put such wall in proper repair shall without prejudice to any other right or remedy of the Council be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

(3) The provisions of this section shall not extend or apply to (a) any land belonging to or which may hereafter be acquired by a railway company or the Birmingham Canal Company or to any retaining wall erected thereon or (b) the erection of any retaining wall by the county council in connection with the construction widening or improvement of a county road.

Planting  
of trees in  
private  
streets.

**17.** The Council when carrying out any private street works may with the consent in writing of a majority in number and rateable value of the owners of houses and land in such street cause trees or shrubs to be planted and grass margins to be laid out in such street and erect guards or fences and otherwise do everything expedient for the protection of such trees shrubs and grass margins and any expense incurred by the Council under this section shall be deemed part of the expenses of carrying out the private street works in any such street Provided that no such tree shrub grass margin guard or fence shall be placed or laid out in such a situation as to hinder the reasonable use of the highway by any person entitled to the use thereof or so as to be a nuisance or injurious to the owner or occupier of any land or premises adjacent to the said street :

Provided also that for the purposes of section 7 of the Telegraph Act 1878 any work done in exercise of the powers conferred by this section shall be deemed

to be work done in the execution of an undertaking authorised by an Act of Parliament and the Council shall be deemed to be the undertakers.

A.D. 1938.

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PART II.  
—cont.

**18.** Where in the opinion of the Council repairs the cost of which will not exceed twenty pounds are required in the case of any street not being a highway repairable by the inhabitants at large to obviate or remove danger to any passenger or vehicle in the street the Council may execute such repairs as they deem necessary and may themselves pay such cost and the execution of such repairs and the payment of such cost shall not prejudice or affect any statutory provisions for the time being in force relating to private street works and private improvement expenses or similar matters or of section 19 (As to urgent repairs to private streets) of the Public Health Acts Amendment Act 1907.

As to  
urgent  
repairs of  
private  
streets.

**19.**—(1) In this section the expression “private street works” has the same meaning as in section 6 of the Private Street Works Act 1892.

Amendment  
of Private  
Street  
Works Act  
1892 in  
relation to  
parts of  
streets  
which are  
public foot-  
ways or  
otherwise re-  
pairable by  
inhabitants  
at large.  
55 & 56 Vict.  
c. 57.

(2) Notwithstanding anything contained in the Private Street Works Act 1892 where it appears to the Council that by reason of additions made otherwise than by the Council to an existing footpath bridle path or other right of way repairable by the inhabitants at large (not being or comprising a carriageway) a new street has been formed the Council may in respect of such street carry out private street works under the provisions of the said Act and apportion the expenses thereof on the premises fronting adjoining or abutting on such street as if no part of the said street was so repairable.

(3) Notwithstanding anything contained in the Private Street Works Act 1892 the Council may under the provisions of that Act carry out private street works throughout the width of a street notwithstanding that part of the width consists of a highway repairable by the inhabitants at large but save in a case falling within the provisions of subsection (2) of this section the Council shall be entitled to apportion against the premises liable to be charged therewith only such part of the expenses as relates to the portion of the street which is not so repairable.

A.D. 1938.

PART II.  
—cont.

(4) For the purposes of any apportionment under subsection (3) of this section premises fronting adjoining or abutting on a street shall be deemed to front adjoin or abut on the portion of the street which is not repairable by the inhabitants at large.

Extension  
of power to  
contribute  
to expenses  
of private  
street  
works.

**20.** The power of the Council under section 15 of the Private Street Works Act 1892 to contribute the whole or a portion of the expenses incurred by them in executing private street works with respect to any street or part of a street shall be extended so as to cover also the contribution of the whole or any portion of the amount which would otherwise be apportioned and charged under that Act in respect of the said expenses against any premises of which only a flank fronts adjoins or abuts on such street or part of a street and the amount which would otherwise so be apportioned and charged against any such premises shall be reduced by the amount of the contribution made by the Council under this section in respect of such premises.

As to  
evasion by  
owners of  
private  
street  
works  
expenses.

**21.** If—

- (i) any owner of land fronting adjoining or abutting on a street as defined by the Private Street Works Act 1892 and situate in the district conveys sells leases or otherwise disposes of the part or any portion of the part of that land which fronts adjoins or abuts on that street; and
- (ii) any expenses of works executed by the Council under the Private Street Works Act 1892 in or in relation to that street are apportioned on such part or portion of that land; and
- (iii) the Council are unable to recover such expenses in whole or in part from the person to whom such part or portion of that land was conveyed sold leased or disposed of or by the sale of such part or portion of that land; and
- (iv) a court of summary jurisdiction is satisfied that such conveyance sale lease or disposal was intended for the purpose of evading the payment of any expenses under the Private Street Works Act 1892;



then such expenses or so much thereof as has not been recovered by the Council may to such extent as the court may determine be recovered from that owner in the same manner as expenses of the execution of works under the Private Street Works Act 1892 may be recovered as though he had not made such conveyance sale lease or disposal and as though the said amount of the said expenses had been apportioned on the land of that owner which before such conveyance sale lease or disposal was made fronted adjoined or abutted on such street.

A.D. 1938.

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PART II.  
—cont.

22.—(1) Whenever application shall be made to the Council to approve the laying out of or notice shall be given to the Council of intention to lay out a new street the Council may require the applicant or the person giving such notice to furnish them with plans and particulars of the proposed development of any neighbouring land belonging to him the development of which is in their opinion likely substantially to affect or be affected by the determination of the site of the proposed street and in such case the date of the making of application or of the giving of notice as aforesaid shall for the purposes of any enactments or provisions in force for the time being with respect to the laying out of new streets be deemed to be the date on which plans and particulars required as aforesaid shall be so furnished.

Develop-  
mentscheme  
may be  
required in  
connection  
with new  
streets.

(2) In this section the expression "lay out a new street" includes the formation of a new street or the widening of an existing street or the widening or adaptation of a road footpath or way so as to form a new street.

(3) If after receiving the plans and particulars referred to in subsection (1) of this section the Council shall approve the laying out of any such new street either unconditionally or subject to any modification of such plans and particulars neither the owner of the lands nor his successors in title shall carry out the development of such lands in such a manner as to conflict substantially with such plans and particulars as approved.

(4) If any person shall offend against the provisions of this section he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

A.D. 1938.

PART II.  
—cont.

(5) The owner may at any time submit to the Council for their approval any alteration in the said plans and particulars and the Council may if they think fit approve such alteration.

(6) Nothing in this section shall be deemed to authorise any contravention of any byelaw or statutory provision in force in the district.

Adjust-  
ment of  
boundaries  
of estates.

**23.**—(1) For the purpose of securing the proper laying out or development of any estate or lands in respect of or in connection with which plans for any new street (including in that expression the widening of an existing street or the widening or adaptation of a road footpath or way so as to form a new street) are submitted to the Council for approval the Council may require that provision shall be made for adjusting and altering the boundaries of any such estate or lands or any lands adjacent or near thereto and for effecting such exchanges of land and the removal imposition or other regulation of covenants restrictions and conditions attaching to such lands as may be necessary or convenient for such purposes and the provision so to be made and the terms and conditions upon which such provision is to be made shall failing agreement between the Council and the respective persons interested in such estate or lands be determined on the application of the Council or any such person by an arbitrator to be appointed by the Minister and the Council may for securing the execution of any such purposes agree to pay and may and shall pay to any such person or persons such sums as may be agreed upon or in default of agreement be determined by arbitration as aforesaid :

Provided that the payment of money by any such person shall not be made a term or condition of any award made under this section otherwise than with his consent.

(2) Any award made under the provisions of this section shall operate to effect any adjustment or alteration of boundaries or exchange of lands or the removal imposition or other regulation of covenants restrictions and conditions attaching to such lands which may be provided for by such award or be necessary for giving effect thereto and shall be duly

stamped accordingly and the costs charges and expenses of any such arbitration shall unless and except in so far as the award shall otherwise provide be borne and paid by the Council.

A.D. 1938.  
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PART II.  
—cont.

(3) Any lands or moneys received by any person in or in respect of any adjustment or alteration of boundaries or exchange of lands under the provisions of this section shall be held by such person subject to the same trusts (if any) and any lands so received shall also be held subject to the same covenants restrictions and conditions (if any) so far as the same are applicable as the lands exchanged therefor Where any such covenants restrictions or conditions shall in any case be agreed to be inapplicable or be determined by the arbitrator to be inapplicable the same shall be indicated in any agreement or award made under the provisions of this section.

(4) For the purpose of the adjustment or alteration of the boundaries of any such estate or lands as aforesaid the Council may themselves purchase any land and may sell or lease the land so purchased in whole or in part at such time or times at such price or prices and on such conditions as they may think fit or may appropriate the same for any public purpose approved by the Minister and until such sale or appropriation may occupy manage or let the same or any part thereof in such manner as the Council may think reasonable.

24.—(1) Every person who intends to lay out a new street shall in addition to the information required to be supplied to the Council by virtue of any enactment or byelaw with respect to streets and buildings from time to time in force within the district distinctly define and mark on a plan drawn to such scale as the Council may require and to be prepared and submitted by such person to the Council for their approval the proposed line of frontage of any house or building to be erected in or fronting such street (in this section called "the building line") and the Council shall be deemed to have approved any building line unless within one month after the date of submission thereof they shall have signified to the person submitting the same their disapproval thereof.

Frontage  
line in new  
streets.

A.D. 1938.

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PART II.  
—cont.

(2) The Council may also prescribe the building line to be observed in those parts of any street (not being a highway maintainable by them or by any highway authority) already formed upon which buildings have not already been erected.

(3) It shall not be lawful to erect or bring forward in any such street any house or building or any part thereof or any addition to any house or building if the building line for such street has been disapproved by the Council or before the expiration of the one month aforesaid without their approval nor without the approval of the Council beyond or in front of the building line approved or prescribed by the Council and any person offending against this enactment shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

51 & 52 Vict.  
c. 52.

(4) The provisions of section 3 of the Public Health (Buildings in Streets) Act 1888 shall not apply to any house or building erected or proposed to be erected on lands in respect of which a building line as aforesaid shall have been approved or prescribed by the Council.

(5) In the event of the Council requiring as a condition of their approval of any such plan the setting back of the building line shown on the plan to a greater distance from the centre of a new street than one-half of the width of the street and ten feet in addition or in the case of a street already formed to a greater distance from the centre of the street than the line at which buildings could be erected having regard to the provisions of the byelaws with respect to streets and buildings in force within the district or of the Public Health (Buildings in Streets) Act 1888 the Council shall make compensation to the owner of any land lying between the said distance from the centre of the street and the building line as set back for any damage sustained by him by reason of his being unable to build upon such land.

(6) For the purposes of this section the surveyor shall by certificate under his hand at or before the time of the approval of the building line by the Council determine the centre of any street or intended street.

(7) The amount of any compensation payable under this section shall in default of agreement be determined by arbitration in accordance with the provisions of the Lands Clauses Acts.

A.D. 1938.  
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PART II.  
—cont.

**25.**—(1) Where plans and sections of a new street have been deposited with and approved by the Council no person except with their consent shall in any such street commence to erect any new building or to excavate for the foundation thereof until he has defined by posts or in some other suitable manner the approved line width and level of so much of the street as abuts upon or adjoins the land on which the building is to be erected or any land which will be occupied in connection with that building and it shall not be lawful for any person except with such consent to erect the building or any fence nearer to the centre of the street than the posts or other marks by which the width of the street has been defined.

No building allowed until street defined.

(2) Any person who shall offend against this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

**26.**—(1) Any person who lays out or intends to lay out a new street or part of a new street shall before any building is begun to be erected abutting on such new street or part of a new street if required by the Council so to do construct the carriageway of such new street or such part of the new street as may be required by the Council in accordance with the byelaws for the time being in force with respect to new streets and shall also if required sewer such street or such part of such street :

No buildings to be erected until street formed.

Provided that where any new street is or is intended to be constructed of a length exceeding one hundred yards the Council shall not be empowered to require such new street to be constructed in its entire length by one operation but such new street may be constructed in parts and in such event nothing in this section shall prevent the erection of a new building abutting on any part of such street in reference to which the foregoing provisions of this section have been complied with.

A.D. 1938.

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PART II.  
—cont.

(2) The execution of any works under the provisions of this section shall not relieve any person of any liability under the Private Street Works Act 1892 or under the local Acts for the time being in force within the district.

(3) Any person offending against this enactment shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

Provision  
for inter-  
secting  
streets.

**27.**—(1) On the approval of any plan for a new street or new streets submitted to the Council under any byelaw or enactment for the time being in force the Council may require provision for such intersecting streets as may be reasonably required.

(2) The expression “intersecting street” in subsection (1) of this section means a side or cross street forming a junction with another street.

(3) Any person who fails to comply with any requirement of the Council under subsection (1) of this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

Prohibition  
on use of  
unsuitable  
land for  
erection of  
dwelling-  
houses.

**28.**—(1) The Council may by order prohibit or restrict—

(a) the erection of buildings intended or adapted for use as dwelling-houses on any land which in their opinion is liable to flooding; or

(b) the erection of dwelling-houses on land which in their opinion would by reason of the nature of the subsoil involve danger or injury to health.

(2) Before any order made under this section shall come into force the Council shall submit the order to the Minister for his approval and shall give notice of the proposals of the order to the owner of any land affected by the order and by advertisement in a local newspaper circulating in the district and in the London Gazette and in such other manner (if any) as the Minister may direct.

The said notice shall name a place where copies of the order can be obtained free of charge 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 order may make representations thereon to the Minister and that any such person shall at the same time send a copy of his representations to the clerk.

A.D. 1938.

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PART II.  
—cont.

(3) The Minister shall consider any order submitted to him by the Council and any representations thereon which may be duly made and may approve the order submitted to him with or without modifications or may disapprove the order.

(4) Before approving any such order the Minister may and if any representation is duly made and is not withdrawn shall (unless the representation appears to him to be frivolous) direct a local inquiry to be held.

(5) The Council shall give at least fourteen days' notice of the intention to hold such local inquiry with particulars of any proposed order by advertisement in a local newspaper circulating in the district and shall also give similar notice in writing to each person who has duly made any representation and has not withdrawn the same.

(6) The order shall take effect as approved by the Minister and shall come into force on a date to be fixed by him.

(7) The Council shall give notice of the provisions of any order approved by the Minister under this section by advertisement in a local newspaper circulating in the district and otherwise in such manner as may be directed by the Minister.

(8) Any person who commits any breach of any order which has come into force under this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(9) (a) If at any time it appears to the Council that by reason of the execution of works of drainage or for any other reason an order made under this section may properly be revoked in whole or in part or any conditions imposed by such an order may properly be relaxed the Council may by order revoke the original order in whole or in part or relax any conditions imposed thereby.

A.D. 1938.

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PART II.  
—cont.

(b) The Council if requested by the owner of any land affected shall take into consideration the question of making an order under this subsection and if any difference arises between the Council and an owner as to whether the original order ought to be revoked in whole or in part or whether the conditions thereof ought to be relaxed and if so to what extent that difference may be referred by either party to the Minister and the Minister whose decision shall be final may make any order in the matter which the Council might have made.

Means of  
access to  
buildings.

29.—(1) At any time within one month after the deposit of the plans of any new building intended or adapted for use as a house (or where such plans have been approved but the erection of the building has not been commenced before the passing of this Act at any time before the erection of such building has been commenced) the Council may by notice in writing require the provision either before the building is erected or before it is sold let or occupied (as the Council shall specify) of sufficient means of communication between the building and a street which is either a highway repairable by the inhabitants at large or has been laid out and constructed in accordance with the byelaws or other provisions for the time being in force with respect to new streets.

(2) If it appears to the Council to be necessary that the means of communication to be provided under this section shall be in the form of a street the Council may by their notice require a new street to be laid out and if the construction of such means of communication appears to them necessary they may by their notice require constructional work in connection with such means of communication not exceeding that required for a new street by the byelaws or other provisions in force with respect to the construction of new streets.

(3) The Council may if they think fit contribute towards the cost of the provision of means of communication or of the work required under this section.

(4) Where notice of a requirement under this section has been given by the Council to any person such person shall not begin to erect or proceed with



the erection of any building to which the notice relates nor sell let or occupy such building (as the notice shall specify) until the notice of the Council has been complied with or until security has been given to the satisfaction of the Council that the notice will be complied with.

A.D. 1938.

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PART II.  
—cont.

(5) Any person who shall offend against the provisions of this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding five pounds.

**30.**—(1) (a) No wall fence hoarding or other similar structure (in this section referred to as "structure") of a greater height than six feet six inches above the level of the ground at the nearest boundary of the street shall be erected or brought forward on any land in any street—

As to  
hoardings  
and similar  
structures.

- (i) beyond any building line prescribed by the Council in respect of the land under the provisions of any Act; or
- (ii) if there be no such line beyond any line which is enforceable by the Council for buildings under subsection (2) of section 140 of the Housing Act 1936; or
- (iii) if there be neither of such lines beyond the line to which any house or building erected or brought forward on the land would have to conform under the provisions of the Public Health (Buildings in Streets) Act 1888.

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

(b) Any person who shall offend against the provisions of this subsection shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and the Council may take down or remove any structure erected in contravention of those provisions and recover the expenses incurred by them in so doing from the offender.

(2) (a) The Council may by notice in writing require the owner or occupier of any land upon which any structure exists at the passing of this Act which would (if erected after the passing of this Act) have contravened the provisions of subsection (1) of this section to remove or alter such structure within such time (not being less than six days) as may be specified in the

A.D. 1938.

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PART II.  
—cont.

notice in such a manner as to comply with those provisions and the Council shall on demand repay to the owner or occupier of such land the reasonable expenses incurred by him in so doing.

(b) Any person who shall neglect or refuse to comply with a notice from the Council given in pursuance of this subsection shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and the Council may at their own expense take down or remove and if required by the owner or occupier shall re-erect so as not to contravene the provisions of subsection (1) of this section any structure erected or maintained in contravention of those provisions.

(3) The provisions of this section shall not be enforceable with regard to any structure existing at the passing of this Act for a period of five years from such date and shall not apply to any wooden structure fence or hoarding of a moveable or temporary character erected by a builder for his use during the construction alteration or repair of any building unless the same is not taken down or removed immediately after such construction alteration or repair is complete.

(4) The provisions of this section shall not apply to any wall erected on land belonging to a railway company so long as such land is used by the railway company primarily for railway purposes.

(5) The provisions of this section shall not apply to any wall (not being the wall of a house warehouse or office) erected on land belonging to the Birmingham Canal Company so long as such land is used by such company primarily for canal purposes.

Height of  
obstructions  
to view at  
street  
corners.

**31.**—(1) For the purpose of facilitating traffic by removing obstructions to view within a distance of twelve yards from the corner of any street the Council may give notice to the owner or occupier of any land situate within such distance prescribing the height not being less than four feet six inches above the level of the ground at the nearest boundary of such street of fences hoardings boundary walls banks hedges trees shrubs and similar obstructions within such distance

of such corner and the following provisions shall have effect:—

A.D. 1938.

PART II.  
-cont.

(a) Unless such notice is withdrawn by the Council no person shall erect a fence hoarding boundary wall bank or similar obstruction or permit a hedge tree or shrub to grow at a greater height than that prescribed contrary to the requirements of the notice;

(b) If required by the Council the owner or occupier of such land shall reduce the height of any fence hoarding boundary wall bank hedge tree shrub or similar obstruction which exceeds that prescribed by the notice to a height not exceeding that so prescribed.

(2) Any person who contravenes the provisions of paragraph (a) of subsection (1) of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings and the Council may reduce the height of such fence hoarding boundary wall bank hedge tree shrub or similar obstruction to the height prescribed by them.

(3) If any person for the period of one month after the service of a notice upon him by the Council of a requirement under paragraph (b) of subsection (1) of this section fails to comply therewith the Council may themselves carry out the requisition of their notice doing no unnecessary damage.

(4) Where any tree hedge or shrub within fifteen yards of such corner obstructs such view as is referred to in subsection (1) of this section the Council may serve a notice on such owner or occupier requiring him to cut lop or top the tree hedge or shrub within fourteen days so as to prevent such obstruction and such notice shall be sufficient authority to the person so served to execute the work prescribed in the notice. In default of compliance the Council may themselves carry out the requisition of their notice doing no unnecessary damage.

(5) Any person appealing under the section of this Act whereof the marginal note is "As to appeals" against any requirement of the Council under this section shall do so within fourteen days from the date of the service of the notice.

A.D. 1938.

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PART II.  
—cont.

(6) The provisions of this section shall not be enforceable with regard to any fence hoarding boundary wall or similar obstruction existing at the passing of this Act and used for advertising purposes for a period of five years from such date and shall not apply to any wooden structure fence or hoarding of a moveable or temporary character erected by a builder for his use during the construction alteration or repair of any building unless such structure fence or hoarding is not taken down or removed immediately after such construction alteration or repair is complete.

(7) The provisions of this section shall not apply to any wall (not being the wall of a house) constructed by or belonging to or which may hereafter be constructed by or belong to the London Midland and Scottish Railway Company where the wall forms part of or is necessary for the maintenance of their undertaking.

Restrictions  
on adver-  
tisement  
hoardings.

**32.**—(1) For the purpose of preserving the amenities of the district it is hereby enacted that it shall not be lawful after the passing of this Act to erect in or within fifteen feet of any street in the district any hoarding or similar structure to be used either partly or wholly for advertising purposes to a greater height than twelve feet above the level of such street without the consent of the Council and such consent may be given subject to such conditions as to the submission of a plan and elevation and as to the dimensions and maintenance of such hoarding or similar structure as the Council may determine.

(2) Any person acting in contravention of this section or of the terms and conditions (if any) of such consent shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

(3) The consent of the Council under this section shall not be required for a hoarding or similar structure erected within any railway station or upon any property of a railway company for the purposes of such railway company except in so far as such hoarding or similar structure fronts upon a street repairable by the inhabitants at large.

**33.**—(1) The Council may by notice in writing require— A.D. 1938.

- PART II.  
—cont.  
Repair of  
hoardings  
&c.
- (a) the owner of any hoarding wall or similar structure used for advertising purposes to maintain the same in good order and condition;
- (b) the person using any hoarding wall or similar structure for advertising purposes to maintain any advertising matter thereon in good order and condition.

(2) If such owner or other person shall neglect or refuse to comply with any such notice the Council may carry out such alterations or repairs as may be reasonably necessary and recover summarily as a civil debt from such owner or other person any expense incurred by them in so doing.

**34.**—(1) Every person intending to erect any stand or structure for affording sitting or standing accommodation for not less than twenty persons shall not less than fourteen days prior to the commencement of the erection thereof submit to the Council a plan and section thereof and shall comply with such conditions as the Council may prescribe for securing the stability of such stand or structure and protection against fire and for securing the safety of persons to be accommodated thereon. Restriction  
on erection  
of stands.

(2) Any person acting in contravention of this section or offending against any such condition shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

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

**35.**—(1) Section 61 of the Public Health Act 1936 is hereby extended so as to enable the Council to make byelaws providing in such manner as they may think necessary that any person intending to erect a new building in any street specified in the byelaws shall furnish the Council with drawings or other sufficient indication of the design or external appearance of the building including such indication of the materials to Elevations  
of new  
buildings.

A.D. 1938.

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PART II.  
—cont.

be used in its construction as may be necessary for the purpose (which drawings and particulars are in this section included in the expression "specifications").

(2) Where the specifications of any building proposed to be erected are required to be submitted to the Council by a byelaw made under the said section 61 as extended by this section the Council shall within one month after the submission to them of the specifications by notice in writing—

(a) approve the specifications; or

(b) if they shall consider that having regard to the character of the locality and of the neighbouring buildings in the street the building to which the specifications relate would seriously disfigure the street whether by reason of the height of the building or its design or external appearance disapprove the specifications and in that event the notice shall be accompanied by a statement of the grounds for the disapproval.

(3) The grounds on which a person may appeal against any such disapproval to a court of summary jurisdiction under the section of this Act of which the marginal note is "As to appeals" shall include the ground that compliance with the Council's decision would involve an increase in the cost of the building which would be unreasonable having regard to the character of the locality and of the neighbouring buildings.

(4) Where the specifications of a building have been disapproved under this section it shall not be lawful to erect the building until the specifications thereof have been approved by the Council and any person who offends against the provisions of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(5) Notwithstanding anything contained in this section the Council shall not disapprove the specifications of any building proposed to be erected by the mayor aldermen and burgesses of the borough of Walsall for use as a sub-station in connection with their gas or electricity undertakings by reason only of the height of such building being less than the height of the neighbouring buildings in the street.

(6) The provisions of this section shall to the extent that the subject matters thereof are dealt with by provisions in a planning scheme coming into operation after the passing of this Act cease to have effect upon the coming into operation of such provisions.

A.D. 1938.

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PART II.  
—cont.

**36.**—(1) Every chimney erected in the district after the passing of this Act for carrying smoke or steam or for the conveying away of any noisome or deleterious gases or effluvia from any buildings used for manufacturing or other purposes shall within such time as may be specified in that behalf in a notice in writing given by the Council to the owner of such chimney be raised to such height measured from the level of the centre of the street nearest thereto as the Council shall reasonably require having regard to the use of such chimney the position of houses or other buildings near thereto the description of such buildings the levels of the neighbouring ground and any other condition requisite for consideration in determining such height and the Council may if they think fit contribute towards the cost of raising the chimney to comply with any such requirement.

Height of  
chimneys.

(2) Provided that before exercising the powers conferred by this section in relation to any chimney situated within one mile of an aerodrome licensed pursuant to an order made under the Air Navigation Act 1920 or any Act amending replacing or consolidating that Act the Council shall obtain the consent of the Secretary of State for Air.

10 & 11  
Geo. 5. c. 80.

(3) Any person who shall offend against any provision of this section shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

**37.** It shall be lawful for a court of summary jurisdiction upon complaint by the Council in pursuance of a report by the medical officer or the sanitary inspector that any smoke gas or vapour from any chimney flue or pipe of a washhouse or outbuilding forming part of or in proximity to a house in the district is a nuisance to any of the inhabitants of the district to make an order requiring the owner of such chimney flue or pipe within such time as shall be specified in such order to cause the same to be raised

Power to  
order  
alteration of  
chimneys.

A.D. 1938.

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PART II.  
—cont.

or such other means for preventing or mitigating such nuisance to be adopted as may seem fitting to such court and as shall not involve an expenditure exceeding twenty pounds and any such owner as aforesaid who shall neglect or refuse to obey such order shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Powers on  
inspection.

**38.** In exercising any powers of entry upon and inspection of any building or works in course of construction the surveyor and his assistants shall have from the builder or contractor for such building or works free of expense all reasonable use and assistance of ladders scaffolding and plant in and about such building or works Any person who shall refuse such use and assistance as aforesaid or shall obstruct the surveyor or his assistants in the use of such ladders scaffolding and plant as aforesaid shall be guilty of an offence and shall be liable on summary conviction to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

Sanitary  
conveni-  
ences for  
workmen  
engaged on  
buildings.

**39.**—(1) The contractor or builder engaged in or upon the erection of a new building or the construction or reconstruction of any works shall where practicable and if required by the Council provide to the reasonable satisfaction of the Council and until the completion of any such erection construction or reconstruction maintain such water or other closets and urinals in or in connection with such building or works as may be sufficient for the accommodation of the workmen employed.

1 Edw. 8. &  
1 Geo. 6.  
c. 67.

Nothing in this section shall affect the operation of the Factories Act 1937 or any regulation or order made thereunder.

(2) Any person who shall offend against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

Conversion  
of ashpits.

**40.** Any ashpit existing at the passing of this Act shall if required by the Council and to their reasonable approval be converted by the owner of the premises upon which the same exists into a receptacle in which the dustbin or dustbins provided in respect of such



premises shall be placed and one-half of the reasonable cost of such conversion shall be repaid to the owner by the Council.

A.D. 1938.

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PART II.  
—cont.

41. For the protection of the lord mayor aldermen and citizens of the city of Birmingham and the mayor aldermen and burgesses of the borough of Walsall (each of whom are in this section referred to as "the corporation") the following provisions shall unless otherwise agreed in writing between the Council and the corporation apply and have effect (that is to say):—

For protection of Birmingham and Walsall corporations.

(1) In this section the expression "apparatus" means and includes all or any mains pipes lines cables kiosks feeder pillars works or other apparatus for conveying or transmitting gas water or electricity and belonging to the corporation:

(2) (a) Whenever the Council in the exercise of the powers of the section of this Act of which the marginal note is "Adjustment of boundaries of streets" shall give up land forming part of a street in exchange for other land there being in such first-mentioned land at the date of such giving up any apparatus the Council shall give notice in writing to the corporation of such exchange with a plan showing the position and dimensions of the portion of the street so exchanged and the corporation may if the alteration shall be reasonably necessary and shall if required by the Council alter the position of such apparatus to such other position as may be reasonable having regard to the circumstances and in the case of underground apparatus to such depth as may be reasonable;

(b) Notwithstanding any exchange under the said section the corporation shall continue to have the same powers and rights in respect of any apparatus which remains in under upon over along or across the site of any portion of a street which is the subject of any such exchange as if the same had continued to be part of the street:

A.D. 1938.

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PART II.  
—cont.

(3) (a) If it shall be agreed between the Council and the corporation or (in case of difference) determined by arbitration that in consequence of the stopping up or diversion of a highway or part of a highway under the powers of the section of this Act of which the marginal note is "Stopping up and diversion of highways" it is reasonably necessary that any apparatus belonging to the corporation and situate in or under the highway or part of a highway stopped up or diverted should be removed or diverted or that similar apparatus equally suitable in lieu of such existing apparatus should be laid in the highway (if any) substituted for the highway so stopped up or diverted the corporation may remove or divert the apparatus or provide and lay similar apparatus accordingly;

(b) Any such diversion of apparatus or any laying of similar apparatus shall be carried out in accordance with plans sections and particulars to be previously submitted by the corporation to and reasonably approved by the Council. Provided that if such plans sections and particulars are not disapproved by the Council within twenty-eight days from the receipt thereof the Council shall be deemed to have approved the said plans sections and particulars;

(c) Forthwith after the completion of any such removal or diversion of apparatus the corporation shall fill in the excavation and make good the surface of the ground to the reasonable satisfaction of the Council:

(4) Not less than twenty-eight days before the Council in the exercise of the powers of the section of this Act of which the marginal note is "Power to vary width of carriageways and footways" add to the carriageway of a street any portion of the footway in under or over which any apparatus is for the time being situate the Council shall give notice in writing to the corporation of such proposals accompanied (in the case of the addition of a part

A.D. 1938.

PART II.  
—cont.

of the footway to the carriageway) by a plan and section and the corporation may if the alteration shall be reasonably necessary and shall if required by the Council alter the position of any such apparatus in under or over such footway to such other position in under or over either the carriageway or the footway and (in the case of underground apparatus) to such depth as may be reasonable :

- (5) The corporation shall give to the Council not less than twenty-eight days' notice of their intention to alter (otherwise than by the requirement of the Council) the position of any apparatus under the provisions of subsection (2) or subsection (4) of this section and shall at the same time deliver to the Council a plan and section of the proposed alteration. If such plan and section are not disapproved by the Council within twenty-eight days from the receipt thereof the depth and position of the apparatus shown thereon shall be deemed to be reasonable and the alteration of the position of the apparatus shall be deemed to be reasonably necessary :
- (6) The Council shall repay to the corporation the reasonable expenses incurred by the corporation in connection with—
- (a) the alteration of position of any apparatus under subsections (2) or (4) of this section; and
- (b) the removal or diversion of any apparatus or the provision and laying of any similar apparatus under subsection (3) of this section :
- (7) (a) Any difference between the Council and the corporation under this section (other than a difference as to the meaning or construction of the section) shall be referred to arbitration ;
- (b) In settling any difference under this section between the Council and the corporation the arbitrator shall have regard to any duties or obligations which the corporation may be under in respect of their apparatus and may

A.D. 1938.

PART II.  
—cont.

if he thinks fit require the Council to execute any temporary or other works so as to avoid as far as may be reasonably possible interference with any purpose for which the apparatus of the corporation is used.

Saving for  
railway  
companies  
and Bir-  
mingham  
Canal  
Company.

42. Nothing contained in the sections in this Part of this Act of which the marginal notes are—

“ Further powers as to future line of street ”;

“ As to urgent repairs of private streets ”;

“ Frontage line in new streets ”;

“ Height of chimneys ”;

shall extend or apply to any building (not being a house or building used as offices other than a building so used which forms part of a railway station) railway wharf or work constructed by or belonging to or which may hereafter be constructed by or belong to any railway company or the Birmingham Canal Company in the exercise of their statutory powers or to any lands held or acquired or which may hereafter be held or acquired by any such company with the authority of Parliament so long as any such building railway wharf work or land is used or held by such company primarily for railway or canal purposes as the case may be.

## PART III.

## SEWERS DRAINS &amp;C.

Separate  
sewers for  
sewage and  
surface  
water.

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

Improper  
construction  
or repair  
of water-  
closet or  
drain.

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

(2) Provided that where a person is charged with an offence under this section he shall be entitled upon information duly laid by him to have any other person being his agent servant or workman whom he charges as the actual offender brought before the court at the time appointed for hearing the charge and if the person charged proves to the satisfaction of the court that he has used due diligence to prevent the commission of the offence and that the said other person committed the offence without his knowledge consent or connivance he shall be exempt from any penalty and the said other person may be summarily convicted of the offence.

A.D. 1938.  
 —  
 PART III.  
 —cont.

45. Section 81 of the Public Health Act 1936 shall extend to empower the Council to make byelaws for preventing slop water from any house or premises from being discharged or thrown or suffered to be discharged or thrown or to pass into any street gully in the district.

Byelaws  
 as to  
 throwing  
 slop water  
 into street  
 gullies.

46.—(1) Where the Council resolve to construct a sewer in a street or part of a street within the district repairable by the inhabitants at large which has not been previously sewered and the resolution states that the construction of the sewer will in the opinion of the Council increase the value of premises fronting adjoining or abutting on such street or part of a street then subject to the provisions of the section of this Act of which the marginal note is "Provisions applicable to the last two preceding sections" the expenses incurred by the Council in constructing the sewer so far as they do not exceed the sum authorised by that section shall be apportioned by the Council on the premises fronting adjoining or abutting on the street or part of a street according to the frontages of the respective premises as existing at the date when the resolution becomes operative.

Apportion-  
 ment to  
 frontagers  
 of expenses  
 of sewer  
 constructed  
 under public  
 highway.

(2) Such resolution as aforesaid shall become operative when but not until notice thereof is published in a local newspaper circulating in the district Copies of the newspaper containing the notice shall be sufficient evidence of the publication thereof.

(3) Nothing in this section shall authorise the apportionment of any sum on any land in contravention of any agreement between the Council and the owner of the land.

A.D. 1938.

—  
PART III.

—cont.

Apportionment to frontagers of expenses of construction of sewer before land became a street.

47.—(1) Where the Council have incurred expenses in constructing after the passing of this Act a length of sewer in or under land within the district and that land has subsequently become a street (whether repairable by the inhabitants at large or not) then subject to the provisions of the next succeeding section the expenses so incurred so far as they do not exceed the sum authorised by that section shall be apportioned by the Council on the premises fronting adjoining or abutting on the street according to the frontages of the respective premises.

(2) Where on the construction of the length of sewer compensation became due to the owner of any land in on or over which the length of sewer was constructed in respect of the damage he sustained by reason of such construction and any sum was set off against such compensation on account of the value of land belonging to such owner having been enhanced by the construction of the length of sewer this section shall not apply to the length of sewer or to such part thereof as was constructed in on or over such land as aforesaid.

(3) Nothing in this section shall authorise the apportionment of any sum on any land in contravention of any agreement between the Council and the owner of the land.

Provisions applicable to the last two preceding sections.

48.—(1) The sum apportionable under either of the two last preceding sections shall not exceed the sum certified by the surveyor to be at the time the average cost per lineal yard of providing a sewer having an internal diameter of nine inches in a private street in the district multiplied by the extent in lineal yards (as so certified) of the sewer or length of sewer in question.

(2) As soon as the apportionment has been made the Council shall serve on the owners of the several premises affected notice in writing of the sums respectively apportioned to them and the notice shall state the right of appeal hereinafter conferred.

(3) Any owner on whose premises any sum has been apportioned shall be entitled within fourteen days of the service upon him of such notice as aforesaid to appeal to a court of summary jurisdiction against

the amount of the sum so apportioned and may on such appeal dispute the correctness of the surveyor's certificate.

A.D. 1938.

PART III.

—cont.

If the court finds that the certificate of the surveyor is erroneous the court shall order the revision of the sums apportioned not only to the appellant but also to the owners of the other premises affected.

(4) Whenever a new building (other than a building not requiring a foul water drainage system) is erected on any premises fronting adjoining or abutting on the street or part of the street after the date when the resolution became operative or the street was laid out (as the case may be) the sum apportioned on those premises shall be recoverable to an extent proportional to the frontage on the street or part of the street of the site of and the land occupied with the new building :

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

For the purposes of this subsection—

(a) a building shall be deemed to be a new building erected after the date in question unless the erection of the building was completed before that date;

(b) any such re-erection alteration or extension of a building as is mentioned in the Third Schedule to the Restriction of Ribbon Development Act 1935 shall be deemed to be the erection of a new building Provided that references in the said schedule to the date on which the restrictions came into force shall for the purposes of this subsection be construed as references to the date when the resolution became operative or the street was laid out as the case may be.

25 & 26

Geo. 5. c. 47.

(5) The sum apportioned on any premises shall notwithstanding that no part thereof is immediately recoverable be treated as a local land charge for the

A.D. 1938.

PART III.

—cont.

15 &amp; 16

Geo. 5. c. 22.

purposes of the Land Charges Act 1925 and where part thereof has become recoverable the balance shall be so treated.

(6) No interest shall be chargeable on any apportioned sum or any part thereof until it becomes recoverable.

(7) Where such a resolution as is mentioned in the section of this Act of which the marginal note is "Apportionment to frontagers of expenses of sewer constructed under public highway" has been passed but the construction of the sewer to which it relates has not been completed within two years from the date when the resolution became operative all liabilities of frontagers consequent thereon shall cease to have effect.

(8) If any person from whom an apportioned sum or any part thereof becomes recoverable proves that by reason of the length of frontage of the land occupied with the building in respect of which the sum so recoverable is payable the amount recoverable is disproportionate to the benefit accruing to the premises the Council or on appeal a court of summary jurisdiction may remit such part of that sum as they may think just but in such case if another new building is subsequently erected on the land occupied with the first-mentioned building the sum remitted or such part thereof as is proportional to the frontage of the site of and land occupied with that other building shall become recoverable.

(9) Where under this section any sum becomes recoverable in respect of any premises that sum together with interest from the date of service of a demand therefor may be recovered summarily as a civil debt by the Council from the person who is the owner of the premises at the date when a demand for payment is served and as from that date that sum and interest accrued due thereon shall until recovered be a charge on the premises and on all estates and interests therein and the following provisions of the Public Health Act 1936 shall apply as if they were re-enacted in this Act and in terms made applicable thereto (that is to say):—

Subsections (2) to (4) of section 291;

Subsection (2) of section 293;

Section 329.



49. If on a complaint by the Council to a court of summary jurisdiction it is proved to the satisfaction of the court—

- (i) that the owner of any land has conveyed sold leased or otherwise disposed of a portion of the land; and
- (ii) that by reason of such disposition any part of the land has ceased to be or has not become land fronting adjoining or abutting on a street within the meaning of the section of this Act of which the marginal note is “Apportionment to frontagers of expenses of sewer constructed under public highway” or as the case may be of the section of this Act of which the marginal note is “Apportionment to frontagers of expenses of construction of sewer before land became a street”; and
- (iii) that the disposal of such portion of the land was effected with the intention and for the purpose of the evasion of the payment of expenses under the sections in question;

then the court shall order that such expenses shall be apportioned on the land which immediately before the date of such conveyance sale lease or disposal included the land so conveyed sold leased or disposed of and thereafter such expenses may be recovered from the owner of any part of that land on which a new building within the meaning of the last preceding section of this Act is erected and shall be a charge on any such part of that land and on all estates and interests therein to the same extent and in the same manner as any sum apportioned under either of the said sections of this Act of which the marginal notes are “Apportionment to frontagers of expenses of sewer constructed under public highway” and “Apportionment to frontagers of expenses of construction of sewer before land became a street” may be recovered and is charged on the premises under the said last preceding section of this Act.

50.—(1) The Council during and for the purpose of the execution of sewerage works may temporarily stop up divert and interfere with any street and may

A.D. 1938.

PART III.

—cont.

As to  
evasion by  
owners of  
sewerage  
expenses.

Closing of  
roads for  
sewerage  
works.

A.D. 1938.

PART III.

—cont.

for any reasonable time divert traffic therefrom and prevent all persons other than those bona fide going to or from any house in the street from passing along and using the same.

(2) The Council shall give reasonable access for foot passengers bona fide going to and from any such house.

(3) Provided that the Council shall not stop up or divert traffic under this section from—

(a) any trunk road without the consent of the Minister of Transport;

(b) any county road without the consent of the county council.

## PART IV.

## INFECTIOUS DISEASE AND SANITARY PROVISIONS.

Information to be furnished in case of notifiable disease.

**51.**—(1) The occupier of any building which is used for human habitation and in which there is or has been any person suffering from a notifiable disease shall on the application of the medical officer at any time during the illness of such person or within six weeks from the existence of such illness furnish such information within his knowledge as the medical officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease.

(2) Any occupier refusing to furnish such information or knowingly furnishing false information shall be liable to a penalty not exceeding forty shillings.

Parents &c. to notify certain diseases.

**52.**—(1) As from the commencement of this section any parent or other person having the care or charge of a child attending at a school in the district who is aware of or has reason to suspect the occurrence of any disease to which this section applies in any person residing with him or is himself suffering from such a disease and who fails forthwith to notify such occurrence to the head teacher principal or superintendent of the school shall be liable to a penalty not exceeding twenty shillings.

In any proceeding under this subsection a certificate purporting to be under the hand of the head teacher principal or superintendent of the school at which

the child named in the certificate is in attendance stating that he has or has not received any notification as required under this section shall be evidence of the facts stated in such certificate unless the defendant shall require that the person by whom the certificate has been signed shall be called as a witness.

A.D. 1938.

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PART IV.  
—cont.

(2) The diseases to which this section applies are notifiable diseases as defined in section 343 of the Public Health Act 1936 and any other disease which the Minister by regulation made under section 143 of the Public Health Act 1936 declares to be a notifiable disease for the purpose of this section.

(3) For the purposes of this section the expression "school" shall include a Sunday school.

**53.**—(1) If the Council or any committee of the Council acting on the advice of the medical officer with the view of preventing the spread of a disease to which this section applies require the closing of any Sunday school or day school or any department thereof or the exclusion of certain children therefrom for a specified time or the exclusion of children from places of public entertainment or assembly for a specified time such requirement shall be at once complied with.

Power to  
close schools  
and exclude  
children  
from enter-  
tainments.

(2) Any person responsible for the conduct or management of any Sunday school or day school or any department thereof or place of public entertainment or assembly wilfully failing to comply with any such requirement shall for every such failure be liable to a penalty not exceeding five pounds.

(3) The diseases to which this section applies are notifiable diseases as defined in section 343 of the Public Health Act 1936 and any other disease which the Minister by regulation made under section 143 of the Public Health Act 1936 declares to be a notifiable disease for the purpose of this section.

(4) In this section the expression "day school" means a school (not being a school provided by a local education authority) at which some or all of the children are not boarders but the provisions of this section shall not apply to the attendance at a day school of children who are boarders at that school.

A.D. 1938.

PART IV.  
—cont.Restrictions on  
attendance  
at schools  
and places  
of assembly.

54.—(1) As from the commencement of this section no person of or exceeding the age of sixteen years who has the custody charge or care of a child—

- (a) who is or has been attending any school or any part thereof which for the time being is closed by order of the Council or of the education committee of the county council with the view of preventing the spread of a disease to which this section applies; or
- (b) who is suffering from a disease to which this section applies; or
- (c) who with the view of preventing the spread of a disease to which this section applies has been prohibited from attending school by the medical officer or school medical officer;

shall permit such child to attend any Sunday school or day school or place of public entertainment or assembly without having procured from the medical officer or school medical officer or the medical practitioner attending the child a certificate (which if granted shall be granted free of charge upon application) that in his opinion such child may attend such Sunday school or day school or place of public entertainment or assembly without undue risk of communicating disease to others.

(2) The diseases to which this section applies are notifiable diseases as defined in section 343 of the Public Health Act 1936 and any other disease which the Minister by regulation made under section 143 of the Public Health Act 1936 declares to be a notifiable disease for the purpose of this section.

(3) In this section the expression “day school” means a school (not being a school provided by a local education authority) at which some or all of the children are not boarders but the provisions of this section shall not apply to the attendance at a day school of children who are boarders at that school.

(4) Any person who offends against the provisions of this section shall be liable to a penalty not exceeding forty shillings.

55.—(1) If the medical officer has reasonable cause to believe that in any premises there is a person who is suffering or who has recently suffered from

Entry into  
premises  
in case of  
disease.

a notifiable disease he may on obtaining a warrant from a justice of the peace which such justice is hereby authorised to grant enter such premises and examine any person found therein with a view to ascertaining whether he is suffering or has recently suffered from such disease :

A.D. 1938.

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PART IV.  
—cont.

Provided that the medical officer shall not under the powers of this section—

- (a) enter any premises except between the hours of seven in the morning and ten in the evening; or
- (b) examine a person who is already under the treatment of a medical practitioner except with the consent of the latter.

(2) Any person who obstructs the medical officer in the exercise of his power under this section shall in addition to any other punishment to which he may be subject be liable to a penalty not exceeding five pounds.

**56.** If any person at the request of the Council or the medical officer stop his employment for the purpose of preventing the spread of a notifiable disease the Council may make compensation to him for any loss occasioned by reason of such stoppage.

Compensation to persons for ceasing employment to prevent spread of disease.

**57.** The Council may provide and supply (with or without charge therefor) to any registered medical practitioner antidotes and remedies against any notifiable disease.

Supply of antidotes against notifiable disease.

**58.—**(1) If the medical officer certifies in writing that any person in the district—

Removal of infirm and diseased persons in certain cases.

- (a) is aged or infirm or physically incapacitated and resides in premises which are insanitary owing to any neglect on the part of the occupier thereof or under insanitary conditions; or

- (b) is suffering from any grave chronic disease;

and that such person is unable to devote to himself or to receive from persons with whom he resides proper care and attention and that thorough inquiry and consideration have shown the necessity in the

A.D. 1938.

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PART IV.  
—cont.

interest of the health of such person and for preventing injury to the health of or serious nuisance to other persons that he should be removed from the premises in which he is residing the medical officer may make application to a court of summary jurisdiction and such court upon oral proof of the allegations in such certificate and subject to examination of such person by a registered medical practitioner to be nominated by them (if they think fit) may make an order for the removal of such person to a suitable hospital infirmary or other institution or other suitable place provided within the district or within a convenient distance of the district and for the detention and maintenance of such person therein for such period not exceeding three months as may be determined by such order or such further period or periods each not exceeding three months as may be determined by any further order or orders made under and in accordance with the provisions of this section.

(2) The medical officer shall give to any person proposed to be removed under the provisions of this section or to some person being in charge of such person three clear days' notice of his intention to make such application and of the time and place when and where such application will be made.

(3) The cost of the removal of any person to a hospital infirmary or other institution or place as aforesaid and of his detention and maintenance therein in pursuance of an order made under this section shall be borne by the Council and during any period for which a person is so detained the Council may and if so required by the court shall make towards the maintenance of any dependants of that person such contributions as the Council think fit or as may be directed by the court as the case may be :

Provided that where the institution to which the said person is to be removed is a public assistance institution the authority to which the institution belongs may in the exercise of their powers under any scheme made under Part I of the Local Government Act 1929 assume such obligations with regard to the maintenance of the said person and his dependants as may be agreed between that authority and the Council.

[1 & 2 GEO. 6.]

*Aldridge Urban  
District Council Act, 1938.*

[Ch. xxv.]

(4) An order under this section may be addressed to such officer of the Council as the court making the same may think expedient and any person who wilfully disobeys or obstructs the execution of such order shall be liable to a penalty not exceeding ten pounds.

A.D. 1938.

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PART IV.  
—cont.

(5) At any time after but not before the expiration of six clear weeks from the making of the order an application may be made to a court of summary jurisdiction acting for the same place as the court which made the order by or on behalf of the person in respect of whom the order was made for the rescission of the order and such court may make a rescission order accordingly if having regard to the circumstances of the case they are of opinion that it is right and proper that such rescission order should be made.

Such person or other the person making the application shall give to the medical officer not less than three clear days' notice of his intention to make the application and of the time and place when and where the application will be made.

(6) The powers of this section shall not be put into operation by the medical officer unless he is authorised by a resolution of the Council so to do either generally or in any particular case in which those powers are proposed to be exercised and no order shall be made under the provisions of this section for the removal of any person to any hospital or other institution without the consent in writing of the authority or body having the control thereof.

**59.**—(1) No dealer shall sell or expose for sale any second-hand furniture mattress bed linen or similar articles if the same are to his knowledge infested with bed bugs or if by taking reasonable precautions he could have known the same to be so infested.

Prohibition  
on sale of  
verminous  
furniture.

(2) Any dealer offending against the provisions of this section shall be liable to a penalty not exceeding five pounds.

(3) Any officer of or other person duly authorised by the Council in that behalf may enter any premises in which second-hand furniture mattresses bed linen or similar articles are sold or exposed for sale for the purpose of examining whether there be any contravention of the provisions of this section.

A.D. 1938.

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PART IV.  
—cont.

(4) Every dealer who refuses to permit any officer or authorised representative of the Council to enter any premises or make any inspection which such officer or authorised representative is authorised under the provisions of this section to enter or make or obstructs any such officer or representative in the execution of his duty under such provisions shall be liable to a penalty not exceeding five pounds.

(5) In this section the expression "dealer" means any person (other than a pawnbroker) who trades in second-hand furniture mattresses bed linen or similar articles for reward as part of his trade or business.

Byelaws as  
to stables.

**60.** The Council may make byelaws for securing the proper ventilation and lighting of any existing stable used for the accommodation of horses (whether the same is used as such at the passing of this Act or not) and for the prevention of insanitary conditions (a) in or about or arising out of any such stable or (b) in or about or arising out of or with regard to the situation in reference to other buildings of any stable erected after the passing of this Act.

Byelaws  
as to  
burning of  
refuse.

**61.** The Council may make byelaws prescribing the times and the days of the week during which trade refuse may be set fire to or burned in yards and gardens.

Byelaws as  
to tipping  
refuse.

**62.**—(1) Section 81 of the Public Health Act 1936 shall extend to empower the Council to make byelaws for regulating the tipping of dust spoil and refuse and for prohibiting the use of any refuse tip so as to be a nuisance to the occupiers of any premises in the neighbourhood thereof.

(2) The Council may by any byelaws made by them in pursuance of this section impose on offenders against the same such penalties as they think fit not exceeding the sum of fifty pounds for each offence and in the case of a continuing offence a daily penalty not exceeding ten pounds.

(3) Without prejudice to any other remedy available the Council if satisfied of the existence of any conditions constituting a breach of any byelaw made in pursuance of this section may proceed in the same way as they are by the Public Health Act 1936



authorised to proceed with respect to a statutory nuisance of the existence of which they are satisfied and sections 93 to 98 inclusive and section 100 of that Act shall apply accordingly.

A.D. 1938.

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PART IV.  
—cont.

(4) Provided that a person offending against any byelaws made in pursuance of this section shall not in respect of such offence be subjected both to a penalty under the byelaws and to a penalty under section 94 of the Public Health Act 1936 as applied by subsection (3) of this section nor shall any such offender be subjected in respect of one and the same period both to a further penalty under the byelaws for the continuance of his offence after conviction and to a penalty under section 95 of the Public Health Act 1936 (as so applied) for failing to comply with an order or contravening an order.

(5) No byelaw under this section shall extend to regulate or control the tipping of spoil and refuse by a railway company or the Birmingham Canal Company for the purpose of constructing widening or maintaining any railway or canal works as the case may be.

**63.**—(1) In any case in which premises are being used for the carrying on of an offensive trade within the meaning of section 107 of the Public Health Act 1936 and the Council by resolution decide that it is inexpedient in the interests of public health or having regard to any change since the date of the establishment of such offensive trade in the character of the neighbourhood in which such premises are situate that such trade should be carried on in such premises the Council may serve on the owner or occupier of such premises notice in writing stating the effect of the resolution and requiring him before the expiration of six months from the date of the notice to cease to use such premises for the carrying on of such offensive trade.

Discon-  
tinuance  
of offensive  
trade.

(2) Any person who fails or neglects to comply with any requirement of the Council under the provisions of subsection (1) of this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings.

(3) If the Council require any person to cease to use such premises for the carrying on of an offensive trade they shall pay to such person compensation for

A.D. 1938.

PART IV.  
—cont.

any loss sustained by him in consequence of the action of the Council Provided that this subsection shall not apply in the case of any premises with respect to which the consent of the Council shall have been given for a period only unless the Council shall have required that the user of such premises for the carrying on of an offensive trade shall cease before the expiration of such period.

(4) The powers of this section shall be in addition to and not in derogation of any other powers of the Council with reference to offensive trades.

Power to  
close  
slaughter-  
houses if  
injurious to  
health.

64.—(1) (a) The Council may by written notice to the owner and occupier of any registered slaughter-house within the district which from its situation or construction is in the opinion of the Council injurious or prejudicial to health or which shall have remained unused as a slaughter-house for a period of six months require that the premises shall cease to be used as a slaughter-house on and after such date (not being less in the case of a slaughter-house which is in the opinion of the Council injurious or prejudicial to health than six months from the service of such notice) as may be specified in the notice and no person shall after such date slaughter in the way of trade any cattle horse sheep or pig on the said premises.

(b) Provided that not less than three months before making any such requirement in the case of any slaughter-house which from its construction is in their opinion injurious or prejudicial to health the Council shall give notice in writing to the owner or occupier thereof specifying the respects in which such slaughter-house is in their opinion so injurious or prejudicial and also specifying their requirements with regard thereto and if within the said period of three months the owner or occupier of such slaughter-house shall have removed the grounds of objection thereto no such written notice as is first above mentioned shall be given to them by the Council.

(c) Provided also that such owner or occupier may within one month after receiving any such notice in writing from the Council object thereto on the ground that the requirements contained therein are unreasonable and unnecessary in the interests of public

health and any such objection shall failing agreement between the Council and the owner or occupier making the same be determined on appeal to the Minister by the Minister and unless and until the Minister shall have determined that the said requirements are reasonable and necessary no such written notice as is first above mentioned shall be given to the owner or occupier of the slaughter-house in question.

A.D. 1938.

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PART IV.  
—cont.

(2) The Council shall make compensation to the owner or occupier of any registered slaughter-house (other than a slaughter-house which has remained unused as a slaughter-house for a period of six months) who shall be injuriously affected by any requirement of the Council under subsection (1) of this section such compensation in case of difference to be settled in manner provided by the Public Health Act 1875 Provided always that in the case of a slaughter-house which is defective or otherwise open to objection on sanitary grounds the arbitrator shall have regard thereto in settling the amount of compensation (if any) which shall be awarded in pursuance of this section.

(3) If any person acts in contravention of the provisions of subsection (1) of this section he shall be liable for each offence to a penalty not exceeding five pounds.

#### PART V.

#### HUMAN FOOD.

**65.** As from the commencement of this section—

(1) No premises shall be used for any of the following purposes (that is to say):—

(a) the sale or the manufacture for purposes of sale of any commodity consisting of ice-cream or any substance similar thereto or the storage of any such commodity intended for sale; or

(b) the preparation or manufacture of sausages or potted pressed pickled or preserved meat fish or other food intended for sale;

unless the premises are registered under this section for that purpose by the Council:

Registration of premises used in connection with sale of ice-cream or preserved food.

A.D. 1938.

PART V.  
—cont.

(2) If any person uses any premises in contravention of this section he shall be guilty of an offence and liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings :

(3) Every application for the registration of premises under this section shall be made by the owner or occupier of the premises or by the person intending to occupy them :

(4) If the Council are satisfied that any premises are unsuitable for use for any purpose for which they have been registered under this section or for which application for registration has been made under this section the Council may serve upon—

(a) the occupier for the time being of the premises or the person on whose application they were registered; or

(b) the person applying for registration ;  
as the case may be a notice requiring him to appear before them on such day not being earlier than seven days after the date of the notice as may be specified therein in order to show cause why the Council should not for the reasons specified in the notice revoke the registration of the premises for the said purpose or refuse the application and if that person fails to show cause to the satisfaction of the Council why they should not do so the Council may revoke the registration of the premises for that purpose or refuse the application Any such notice shall state the effect of the two next succeeding subsections :

(5) If the Council revoke the registration or refuse the application they shall if required by such occupier or person as aforesaid deliver to him within seven days of the receipt of such requirement a statement in writing of the ground or grounds upon which such revocation or refusal is based :

(6) Any person appealing (under the section of this Act of which the marginal note is "As to appeals") against any decision of the Council under this section shall do so within fourteen days after the date of such decision :

A.D. 1938.  
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PART V.  
—cont.

(7) The medical officer the sanitary inspector or any other officer of the Council appointed for the purpose shall have power at all reasonable times to enter any premises in the district to which he has reasonable cause to believe that the provisions of this section apply for the purpose of ascertaining—

(a) whether there is occurring therein any contravention of the said provisions ;  
or

(b) in the case of premises which have been registered by the Council under this section for any of the purposes specified in subsection (1) thereof or in respect of which application for such registration for any of those purposes has been made to them whether the premises are suitable for that purpose or any of the purposes specified in subsection (1) of this section :

Provided that in exercising the powers conferred on them by this section at any premises owned or used by a railway company the Council shall conform to such reasonable requirements of the company as are necessary to prevent obstruction to or interference with the working of the traffic of the railway thereat and the railway company shall not be liable for any accident or injury happening to any officer servant or agent of the Council upon any lines of rails belonging to the company or upon any land immediately adjoining any such lines of rails :

(8) For the purpose of this section the preparation of meat or fish by any process of cooking shall be deemed to be the preservation thereof :

A.D. 1938.

PART V.  
—cont.

(9) In relation to any premises used as a theatre music hall or cinema this section shall have effect as if in paragraph (a) of subsection (1) of this section the words "the sale or" and the words "or the storage of any such commodity intended for sale" were omitted therefrom :

(10) This section shall not apply in relation to any premises used as a club hotel or restaurant or in respect of which a justices licence for the sale of intoxicating liquors by retail has been granted and is in force.

For  
regulating  
manu-  
facture  
and sale of  
ice-cream  
&c.

**66.**—(1) Any person being a manufacturer or vendor of or merchant or dealer in ice-cream or other similar commodity within the district who omits on the occurrence of any notifiable disease amongst the persons employed in his business or residing in any premises which are used by him for the manufacture of ice-cream or other similar commodity to give notice thereof to the medical officer shall be liable to a penalty not exceeding forty shillings.

(2) In the event of any person so employed or resident suffering from any notifiable disease the medical officer or the sanitary inspector or any other officer who is duly authorised by the Council in that behalf may seize and destroy all ice-cream or similar commodity or materials for the manufacture of the same in any of the said premises and the Council shall compensate the owner of the ice-cream or similar commodity or materials so destroyed Provided that no compensation shall be payable in respect of any ice-cream or similar commodity or materials for the manufacture of the same manufactured or brought upon the said premises after such seizure and while any such person is suffering from a notifiable disease.

(3) The medical officer and the sanitary inspector and any other officer duly authorised by the Council in that behalf shall at all reasonable times have the same power of inspection of the materials or commodities or articles of food in the premises of any manufacturer or vendor of or merchant or dealer in ice-cream or other similar commodity and of any cart barrow or other vehicle or stand pail container or receptacle in

from or on which the same are offered for sale as an officer of the Council would have under section 72 (Precautions against contamination of food intended for sale) of the Public Health Act 1925 in the cases therein mentioned and any person refusing inspection of the materials or commodities or articles of food in any such premises cart barrow or other vehicle stand pail container or receptacle or obstructing such officer as aforesaid in the execution of his duty shall be liable to a penalty not exceeding five pounds.

(4) The provisions of this section shall not apply to theatres music halls or cinemas.

**67.**—(1) Section 72 of the Public Health Act 1925 (except paragraphs *(d)* and *(e)* of subsection (2) of that section) shall apply so far as applicable to a yard in which food is prepared for sale or in which any food other than food contained in receptacles so closed as to exclude all risk of contamination is sold or is stored or kept with a view to future sale and to which yard the Factories Act 1937 or any regulation made under the Public Health (Regulations as to Food) Act 1907 does not apply.

(2) The said section shall in its application to the district be read and have effect as if the following provision were added after subsection (2) thereof (that is to say):—

“The occupier of any room to which this section applies and which is used for the preparation of food for sale or (except in the case of food contained in receptacles so closed as to exclude all risk of contamination) for the sale of food shall cause to be provided in connection with the room—

- (a) a satisfactory water supply; and
- (b) suitable washing sinks with a sufficient supply of hot water together with an adequate supply of soap and towels for the use for toilet purposes of persons employed therein.”

**68.**—(1) On any inspection of any room or yard carried out by the medical officer sanitary inspector or any other officer of the Council under the provisions of subsection (5) of section 72 of the Public Health Act 1925 as extended by the last preceding section of this

A.D. 1938.

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PART V.  
—cont.

Extension of powers of section 72 of Public Health Act 1925.

7 Edw. 7.  
c. 32.

As to inspection of premises used for storage of food.

A.D. 1938.

—  
PART V.  
—cont.

Act such officer shall have power to take samples of any such materials commodities or articles of food found therein making reasonable payment therefor and if he intends to submit any sample to analysis or bacteriological examination he shall forthwith notify to the occupier of such room or yard or his agent his intention to have the same analysed by the public analyst or examined by a bacteriologist appointed by the Council or employed by them for the purpose and shall divide the sample into three parts to be then and there separated and each part to be marked and sealed or fastened up in such manner as its nature will permit and shall if required to do so deliver one of the parts to such occupier or agent The officer shall afterwards retain one of the said parts for future comparison and submit the third part if he deems it right to have the sample analysed or examined to the public analyst or such bacteriologist.

(2) The expression "public analyst" in this section means the analyst appointed in pursuance of section 15 of the Food and Drugs (Adulteration) Act 1928.

(3) If any such officer as aforesaid has reasonable ground for suspecting that any material commodity or article of food of which he takes a sample under the powers of this section is likely to cause the occurrence of food poisoning he may by notice in writing delivered to the occupier of the room or yard in which such material commodity or article is found or his agent require that such material commodity or article or any part thereof shall not during such time not exceeding forty-eight hours as may be appointed by such notice or during any longer time which may with the consent of such occupier or his agent be appointed by a further notice delivered as aforesaid be removed except to any such place as may be specified in the notice.

As to sale  
of food from  
barrows &c.

**69.**—(1) As from the commencement of this section every dealer in any article intended for food vending his wares from any cart barrow or other vehicle or stall or from a basket pail tray or other receptacle used without a cart barrow or other vehicle or stall shall have his name and address legibly painted inscribed or displayed on such cart barrow or other vehicle or basket pail tray



or other receptacle or clearly exhibited on such stall and any person who shall fail to comply with this section shall be liable to a penalty not exceeding forty shillings : A.D. 1938.  
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PART V.  
—cont.

Provided that no person shall be liable to a penalty under the provisions of this subsection if the offence is one to which the provisions of section 6 of the Milk and Dairies (Consolidation) Act 1915 or any regulations made under the Public Health (Regulations as to Food) Act 1907 apply. 5 & 6 Geo. 5.  
c. 66.

(2) In this section the expression "stall" includes any structure or erection from which food is offered for sale in a street or other open space.

**70.**—(1) The Council may make byelaws for promoting and securing sanitary and cleanly conditions in the transport or exposure for sale in the open air of any article intended to be sold for food. Byelaws as to food.

(2) At least one month before applying to the Minister for confirmation of any byelaws made under this section applicable to the transport of food by a railway company the Council shall give notice to the company of their intention to make such application and such notice shall be accompanied by a copy of the proposed byelaws and such company shall be entitled to make representations to the Minister with regard thereto.

(3) The medical officer and the sanitary inspector and any other officer duly authorised by the Council in that behalf shall be entitled at all reasonable times to enter into and inspect any premises on which he suspects that there is any contravention of a byelaw made under this section and any person refusing such entry or inspection or obstructing any such officer as aforesaid in the execution of his duty shall be liable to a penalty not exceeding forty shillings.

**71.**—(1) Where it is shown that any article liable to be seized under sections 116 to 119 of the Public Health Act 1875 as amended by section 28 of the Public Health Acts Amendment Act 1890 and found in the possession of any person was sold to him by another person for food (the proof that the same was not sold for food resting with the party charged) and when so sold Penalty on original vendor of unsound food. 53 & 54 Vict. c. 59.

A.D. 1938.

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PART V.  
—cont.

was in such a condition as to be liable to be so seized and to be condemned under section 117 of the Public Health Act 1875 the person who so sold the same shall be punishable as mentioned in the last-mentioned section unless he proves that at the time he sold the said article he did not know and had no reason to believe that the said article was in such condition.

(2) Where any article of food has been condemned by a justice under the said section 117 as amended by the said section 28 the person to whom the same belongs or did belong at the time of deposit of such article for the purpose of sale or of preparation for sale as well as the persons in those sections mentioned shall also be punishable as mentioned in the said section 117 unless he proves that at the time of such deposit he did not know and had no reason to believe that the said article was in such a condition as to be liable to be so condemned.

(3) Before any article liable to be condemned under the said section 117 as amended by the said section 28 and this section is dealt with by a justice the medical officer or the sanitary inspector shall inform the person in whose custody or possession the same was at the time when it was inspected by the medical officer or sanitary inspector of the intention of the medical officer or sanitary inspector to have the same dealt with by a justice and any person who may be liable in respect of such article to a prosecution under the aforesaid provisions shall be entitled to attend the proceedings before the justice and to be heard with his witnesses upon the application for the condemnation of any such article.

Further  
powers in  
relation to  
unsound  
food.

**72.** Sections 116 to 118 of the Public Health Act 1875 as amended by section 28 of the Public Health Acts Amendment Act 1890 shall extend to authorise the medical officer or the sanitary inspector to inspect examine and search any cart or other vehicle or any basket sack bag or package whether open or closed in which he has reason to suspect that there is any animal or any of the articles referred to in the said sections intended for sale for food or in the course of delivery after sale for food and the provisions of such sections shall apply accordingly :

Provided that nothing in this section shall authorise the inspection examination or search of any cart or other vehicle belonging to a railway company and used by them for the purposes of their traffic or of any basket sack bag or package in the possession of such company as carriers thereof.

A.D. 1938.

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PART V.  
—cont.

**73.**—(1) Every registered medical practitioner attending on a person in the district who is or is suspected to be suffering from food poisoning shall forthwith on becoming aware that such person is or is suspected to be so suffering send to the medical officer a notification of the case stating the name of such person and the place at which such person is.

Medical practitioners to notify cases of food poisoning.

(2) The Council shall pay to every registered medical practitioner for each notification duly sent by him in accordance with this section a fee of two shillings and sixpence if the case occurs in his private practice and of one shilling if the case occurs in his practice of medical officer of any public body or institution.

**74.**—(1) If the medical officer shall certify that any person is suffering from tuberculosis of the respiratory tract and is in an infectious state and that he is employed within the district in the cooking preparation or handling of food intended for consumption by persons other than himself or members of his household and that his continuance in such employment would in the judgment of the medical officer be detrimental to the public health the Council may request such person to stop his employment and on such request being made the Council may if they think fit make compensation to him in respect of any loss which he may sustain by reason of such stoppage.

Power to prohibit persons in advanced state of tuberculosis from selling &c. food.

(2) If any such person shall fail to comply with such request the Council may apply to a court of summary jurisdiction for an order requiring him to stop his employment and the court shall have power to make such an order if after consideration of all the circumstances it thinks fit to do so and may direct that such compensation as it deems equitable shall be paid by the Council to such person.

A.D. 1938.

PART V.  
—cont.

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

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

## PART VI.

### PUBLIC BUILDINGS PARKS &C.

Power to  
provide  
concert  
halls &c.

**75.**—(1) The Council may provide concert halls entertainment rooms reading rooms pavilions and band-stands with all necessary and suitable offices refreshment rooms kitchens cloak rooms lavatories conveniences and appliances.

(2) For the purposes aforesaid the Council may—

- (a) erect or adapt buildings on any public park or pleasure ground belonging to them;
- (b) acquire buildings or acquire land and erect buildings thereon;
- (c) with the consent of the Minister adapt any premises or erect buildings on any land belonging to them but not already appropriated to entertainment purposes;

and may provide erect and maintain shops and offices as part of the buildings so acquired or erected.

(3) The Council may furnish and equip any premises provided by them under this section.

(4) Notwithstanding anything contained in this section the Council shall not (without the consent in writing of the county council) use for the purposes thereof any land acquired by them as an open space where the county council have prior to the passing of this Act contributed to the purchase or the acquisition of such land.

Power to  
provide &c.  
entertain-  
ments.

**76.**—(1) The Council may use or allow to be used or let any premises provided under subsection (1) of the last preceding section for concerts and other entertainments and may themselves provide or arrange for the provision of or contribute towards the expenses of

any such concerts or entertainments and may make or allow to be made such charges as they think fit in connection therewith :

A.D. 1938:

—  
PART VI.

—cont.

Provided that—

- (a) the Council shall not themselves use any such premises for a cinematograph theatre except for the exhibition of a cinematograph film relating to the functions of county councils or other local authorities nor shall they grant or let the use of any such buildings for the purposes of a theatre music hall or cinematograph theatre except on the best terms that can be obtained;
- (b) the power of the Council themselves to provide entertainments shall include a power to provide concerts and pierrot or other entertainments whether costume is or is not used in connection therewith and either with or without appropriate scenery but save as aforesaid the Council shall not provide or arrange for the provision of stage plays performed by persons other than members of any amateur dramatic society or any entertainment for which scenery or theatrical costume is used and which forms a complete programme of variety entertainments as usually given at a music hall;
- (c) the net amount of the expenses incurred by the Council under this section when added to the net amount of the expenses incurred by them in the provision of entertainments under section 56 of the Public Health Act 1925 shall not in any one year exceed the amount (calculated in accordance with the rules made from time to time by the Minister under sections 9 and 58 of the Rating and Valuation Act 1925) which would be produced by a rate of one penny and a third in the pound Provided that the limitation hereby imposed shall not apply in respect of any excess rate which may be approved by the Minister under the provisions of subsection (3) of section 56 of the Public Health Act 1925.

15 & 16  
Geo. 5. c. 90.

A.D. 1938.

PART VI.  
—cont.

(2) The Council may provide and sell or authorise the provision and sale of programmes of any concert or entertainment given in pursuance of this section.

(3) The Council may make byelaws for securing good and orderly conduct during any concerts or entertainments given in pursuance of this section.

(4) Nothing in this or in the last preceding section shall be taken to dispense with the consent of the Board of Education to any appropriation lease or other disposition of any lands of the Council in any case in which such consent would have been required if this section had not been passed.

Saving for  
licensing  
powers.

**77.** Nothing in the sections of this Act of which the marginal notes are "Power to provide concert halls &c." and "Power to provide &c. entertainments" shall affect the provisions of any enactment by virtue of which a licence is required for the public performance of stage plays or for public music or dancing or any public contest or display of boxing or wrestling or other public entertainment of the like kind or a cinematograph exhibition.

Boating  
pools.

**78.—**(1) Subject to the provisions of this Act the Council may in any park recreation ground or open space belonging to them construct and maintain boating pools together with such buildings works appliances and conveniences as may be necessary or proper in connection therewith.

(2) The Council may make such reasonable charges as they may think fit for the admission to and use of any boating pools by this Act authorised to be constructed or any part thereof or any works appliances or conveniences provided in connection therewith or any other buildings erected with the approval of the Minister and the Council may if they think fit let any such works appliances conveniences and buildings.

(3) The provisions of subsection (2) of section 44 of the Public Health Acts Amendment Act 1890 shall apply as if a boating pool were a lake or piece of water in a park or pleasure ground provided by the Council.

(4) The Council may make byelaws for regulating the use of any such boating pool and works appliances and conveniences in connection therewith.

**79.** When any portion of any park or place of public resort or recreation is set apart by the Council for any purpose under section 76 of the Public Health Acts Amendment Act 1907 the Council may permit the exclusive use by any club or other body or persons of any part of any park or place of public resort or recreation set apart as aforesaid and of any pavilions buildings or refreshment or other rooms or conveniences subject to such charges and conditions as the Council may think fit :

Provided that nothing in this section shall empower the Council to permit at one and the same time the exclusive use of more than thirty-three and one-third per centum of the total area of any park or place of public resort or recreation for the time being belonging to them or under their control.

**80.** The provisions of section 68 of the Public Health Act 1925 as amended by section 16 of the Restriction of Ribbon Development Act 1935 shall extend to enable the Council from time to time to utilise as lands which may lawfully be appropriated as a parking place or as parking places for vehicles such part or parts of their parks recreation grounds or pleasure grounds not exceeding in the case of any park recreation ground or pleasure ground one acre as the Minister may sanction and the provisions of the said section relating to the utilisation for parking places of land not forming part of a street shall *mutatis mutandis* apply and have effect for the purposes of this section :

Provided that the powers of subsection (1) and subsection (3) of section 16 of the Restriction of Ribbon Development Act 1935 shall not be exerciseable by the Council in respect of any part of a park recreation ground or pleasure ground utilised as a parking place for vehicles.

**81.**—(1) The Council may procure officers appointed by them for securing the observance of this Part of this Act and of the provisions of all other Acts relating to parks and pleasure grounds and of the byelaws and regulations made thereunder to be sworn in as constables for that purpose but any such officer shall not act as a constable unless in uniform or provided with a warrant.

A.D. 1938.

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PART VI.—*cont.*Charges for  
and letting  
of parks &c.  
for games.As to use  
of parts of  
recreation  
grounds for  
parking  
places.Officers  
may be  
sworn in as  
constables.

A.D. 1938. (2) Nothing in this section shall be deemed to  
 — render applicable to any such officer the provisions of  
 PART VI. the Police Pensions Act 1921 or any other enactments  
 —cont. relating to pensions gratuities and allowances in  
 11 & 12 respect of police service.  
 Geo. 5. c. 31.

Saving for  
trusts  
covenants  
&c. in  
conveyances  
and leases.

**82.** No power conferred upon the Council by this Part of this Act shall be exercised in such a manner as to be at variance with any trust subject to which any lands or buildings are held managed or controlled by the Council without an order of the High Court or of the Charity Commissioners or the Board of Education or (where the trust instrument reserves to the donor or any other person the power to vary the trust) without the consent of such donor or other person.

## PART VII.

### LANDS.

Further  
powers for  
acquisition  
of lands.

**83.**—(1) The Council notwithstanding that the same may not be immediately required may by agreement purchase or acquire or take on lease and hold any lands which in their opinion it is desirable that the Council should acquire for or in connection with the purposes of any of their undertakings powers or duties or for the benefit improvement or development of the district.

(2) When any lands purchased or acquired or taken on lease by the Council under this section shall be appropriated to any undertaking or to any of their powers or duties a transfer of the outstanding loan in respect thereof shall be effected to the proper account in the books of the Council and pending such appropriation all expenses incurred by the Council under this section shall be payable out of the general rate fund and general rate.

Power to  
develop  
lands &c.

**84.**—(1) The Council may (with the consent of the Minister) lay out and develop any lands at any time belonging to the Council and not required for the purposes for which they were acquired and may erect and maintain houses shops offices warehouses and any other buildings and construct sewer drain pave flag channel and kerb streets roads and ways on any such lands.



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

A.D. 1938.

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PART VII.  
—cont.

**85.**—(1) Notwithstanding anything in the Lands Clauses Acts to the contrary the Council may retain and hold and use for such time as they may think fit or may sell lease exchange or otherwise dispose of in such manner and for such consideration and on such terms and conditions as they may think fit and either in consideration of the execution of works or of the payment of a gross sum or of an annual rent or of any payment in any other form any lands or any interest therein acquired by them under this Act or any general or local Act for the time being in force in the district (other than the Housing Act 1936 or any Act repealed by that Act) and may sell exchange or dispose of any rents reserved on the sale lease exchange or disposition of such lands or interest therein and may make do and execute any deed act or thing proper for effectuating any such sale lease exchange or other disposition and on any exchange may give or take any money for equality of exchange :

Retention  
and disposal  
of lands.

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

Provided also that nothing in this section shall be taken to dispense with the consent of any Government department to any sale lease appropriation or other disposition of any lands of the Council other than lands acquired under any local Act applying to the Council in any case in which such consent would have been required if this Act had not been passed.

(2) Nothing in this section shall release the Council or any person purchasing or acquiring any lands from them under this section from any rents covenants restrictions reservations terms or conditions payable in respect of or affecting the lands other than

A.D. 1938.

PART VII.  
—cont.

the restrictions imposed by sections 127 to 131 of the Lands Clauses Consolidation Act 1845 but all such rents covenants restrictions reservations terms and conditions shall remain and be of as full force and effect and may be recovered exercised enjoyed and enforced in the like manner and to the same extent as if this Act had not been passed.

Reservation  
of easements  
&c.

**86.** The Council on selling any lands may reserve to themselves all or any part of the water rights or other rights or easements belonging thereto and may make the sale subject to such reservation accordingly and may also make any such sale subject to such other reservations special conditions restrictions and provisions with respect to the exercise of noxious trades or the discharge or deposit of manure sewage or other impure matter and otherwise as they may think fit.

Powers with  
reference  
to leases  
of surplus  
lands.

**87.**—(1) The Council may accept a surrender of any lease or letting granted by them of lands acquired under the powers of this Act or any local Act for the time being in force within the district and in their discretion grant either to the lessee or tenant under the surrendered lease or letting or to any other person a new lease or letting of all or any of the lands leased or let by the surrendered lease or letting and may grant reversionary leases of all or any of the lands as aforesaid.

(2) The Council may enter into and carry into effect any agreement for or with respect to the surrender or grant of any such lease or letting and may in any such lease letting or agreement give to the lessee or tenant or intended lessee or tenant an option or right to purchase the fee simple in reversion or other the reversionary interest of the Council of or in all or any of the lands leased or let or agreed to be leased or let at such time and on such terms and conditions as may be determined by the Council in their discretion.

Power to  
reinstate  
owners of  
property.

**88.** The Council may enter into and carry into effect agreements with the owners of or other persons interested in any lands or buildings which may be acquired by the Council under the provisions of any general or local enactment from time to time in force in the district with respect to the reinstatement of such

owners or other persons and with respect to the exchange of lands for that purpose and the Council may pay or receive money for equality of exchange.

A.D. 1938.

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PART VII.

—cont.

89.—(1) The Council may so far as they consider necessary apply subject to the approval of the Minister any capital moneys received by them on the re-sale or exchange of or by leasing any lands acquired under the powers of this Act in the purchase of other lands but as to capital moneys so received and not so applied the Council shall apply the same either—

Proceeds  
of sale of  
lands.

- (a) in or towards the extinguishment of any loan raised by them under the powers aforesaid such application being in addition to and not in substitution for any other mode of extinguishment of such loan except to such extent and upon such terms as may be approved by the Minister; or
- (b) in such other manner as may be approved by the Minister.

(2) Any capital moneys received by the Council on the re-sale or exchange of or by leasing any lands acquired under any public general Act from time to time in force in the district or under any local enactment (other than this Act) shall be applied in the same manner as capital moneys received under such public general Act or local enactment are applicable or in such other manner as may be approved by the Minister.

## PART VIII.

## FINANCIAL.

90.—(1) The Council shall have power in addition and without prejudice to their powers of borrowing under the Local Government Act 1933 from time to time to borrow without the consent of any sanctioning authority the sum or sums requisite for the payment of the costs charges and expenses of this Act and they shall pay off all moneys so borrowed within such period as the Council may determine not exceeding five years from the passing of this Act.

Power to  
borrow.

(2) The provisions of Part IX of the Local Government Act 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money

A.D. 1938.

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PART VIII.  
—cont.

borrowed under this section as if it were borrowed under Part IX of that Act and the period fixed for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purposes of the said Part IX.

Use of  
moneys  
forming  
part of  
sinking and  
other funds.

91. Notwithstanding anything contained in this or any previous enactment the Council may use for the purpose of any statutory borrowing power exercisable by them any moneys forming part of but not for the time being required for the purposes of any fund accumulated for the redemption of debt or as a reserve renewals repairs depreciation capital reserve contingency or other similar fund (in this section referred to as "the lending fund") subject to the following conditions:—

- (1) The moneys so used shall be repaid out of the general rate fund within the period and by the method within and by which a loan raised under the statutory borrowing power would be repayable:

Provided that the Council shall repay to the lending fund the moneys so used or the balance thereof for the time being outstanding as the case may be as and when the same shall be required for the purposes of the lending fund and may if they so resolve repay the same at any time within the period aforesaid and in either case the repayment shall be made out of the general rate fund or out of moneys which would have been applicable to the repayment of a loan if raised under the statutory borrowing power:

- (2) In the accounts of the general rate fund an amount equal to interest calculated at such rate per centum per annum as may be determined by the Council to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power on any moneys so used and for the time being not repaid shall be credited to the lending fund and debited to the undertaking or purpose with reference to which the moneys are so used:

- (3) The statutory borrowing power shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power and the provisions of any enactment as to re-borrowing of sums raised under the statutory borrowing power shall apply accordingly.

A.D. 1938.

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PART VIII.  
—cont.

**92.**—(1) Notwithstanding anything contained in any other Act or Order on and after the thirty-first day of March one thousand nine hundred and thirty-nine the Council may (if they think fit) establish a fund to be called “the consolidated loans fund” to which shall be paid—

Consoli-  
dated loans  
fund.

- (a) all moneys borrowed by the Council by the issue of authorised securities together with any moneys borrowed without security in connection with the exercise of any statutory borrowing power;
- (b) all moneys of a capital nature received by the Council whether from the sale of capital assets or otherwise except such as are applied by the Council with due authority to another capital purpose; and
- (c) the appropriate sums provided in each year out of other funds of the Council to comply with the terms and conditions as to repayment attaching to their several borrowing powers or otherwise provided for the repayment of debt:

And there shall also be carried to the credit of the consolidated loans fund the unapplied balances of all moneys so borrowed or received and of all sums provided by the Council as aforesaid before the date on which the consolidated loans fund is established.

(2) The moneys of the consolidated loans fund shall be used or applied by the Council—

- (a) in the redemption of authorised securities the purchase of bonds or stock for extinction or the repayment of any moneys borrowed by the Council; and
- (b) in the exercise of any statutory borrowing power by transfer of the required amount to the appropriate fund and account of the Council:

A.D. 1938.

PART VIII.  
—cont.

And the moneys of the consolidated loans fund not used or applied in these ways or about to be so used or applied within a reasonable period shall be invested in statutory securities and the sums realised by the sale of such securities shall be repaid on receipt to the consolidated loans fund and the moneys of the consolidated loans fund shall not except with the consent of the Minister be used or applied otherwise than as provided in this subsection.

(3) There shall also be transferred to the consolidated loans fund such sums as are necessary to meet interest charges and the financing and other revenue expenses connected with the management of that fund and separate account shall be kept of the said sums and their application.

(4) The Council may pay into the consolidated loans fund any moneys forming part of any reserve renewals and repairs depreciation capital reserve contingency or other similar fund (hereinafter referred to as "the lending fund") and not for the time being required and such moneys shall be deemed to be moneys borrowed by the Council within the meaning of subsection (1) of this section and shall be used accordingly subject to the following conditions:—

- (a) The moneys so used shall be repaid to the lending fund as and when required for meeting the obligations for which the said fund was established; and
- (b) There shall be paid out of the consolidated loans fund to the general rate fund an amount equal to the interest on any moneys so used and for the time being not repaid at such rate per centum per annum as may be determined by the Council to be equal as nearly as may be to the average rate of interest payable by the Council on their current borrowings and in the accounts of the general rate fund an amount equal to the interest as aforesaid (subject in the case of any of the said funds to any prescribed limit on the amount thereof) shall be credited to the lending fund.

(5) Save as in this section expressly provided all the obligations of the Council to the holders of authorised securities shall continue in force.

A.D. 1938.

—  
PART VIII.

—cont.

(6) Nothing in this section shall apply to moneys borrowed from the Public Works Loan Commissioners.

(7) The powers conferred by this section shall not be put into operation by the Council except in accordance with a scheme to be approved by the Minister and such scheme may make provision for any matters incidental to the establishment and administration of the consolidated loans fund.

(8) Any scheme approved under this section may be altered extended amended or annulled by any other scheme approved in like manner as the original scheme.

**93.**—(1) The Council may at any time hereafter and from time to time make a scheme for prescribing one or more uniform periods within which all or any loans contracted by them under statutory borrowing powers shall be discharged and such scheme may extend or vary the periods within which such loans shall be discharged and may apply to any such loans all or any of the provisions of this Act and the Local Government Act 1933 in regard to the borrowing and repayment of money with or without modification and may make provisions in regard to all matters incidental to the objects aforesaid.

Scheme for  
equated  
periods.

(2) No scheme made by the Council under this section shall have any force or effect until confirmed by the Minister who may by order confirm the same with or without modifications and when so confirmed the scheme shall notwithstanding any enactment order or sanction to the contrary have full force and effect and such scheme shall be deemed to be within the powers of this Act.

(3) Nothing in any scheme made under this section shall prejudice or affect the security rights and remedies of any mortgagee under any mortgage existing at the time of the confirmation of the scheme or of the holder of any stock existing at that time except with the consent of such mortgagee or holder.

(4) The loans referred to collectively in any scheme under general headings in accordance with a classification approved by the Minister may be consolidated

A.D. 1938.

PART VIII.  
—cont.

and dealt with in the accounts of the Council as if the aggregate amount of the several loans relative to each heading were one loan raised under one statutory borrowing power and if approved by the Minister separate consolidations may be made of all or any of the loans included under such general headings.

(5) Any scheme confirmed under this Act may be altered extended amended or annulled by any other scheme prepared and confirmed in like manner as the original scheme.

Renewal  
and repairs  
fund.

94.—(1) The Council may if they think fit in any year carry from the general rate fund or from the proceeds of the general rate to the credit of a fund to be called “the renewal and repairs fund” any sum not exceeding the amount (calculated in accordance with the rules made from time to time by the Minister under sections 9 and 58 of the Rating and Valuation Act 1925) which would be produced by a rate of one penny in the pound in that year and the maximum amount standing to the credit of such fund shall not at any time exceed three thousand pounds.

(2) The renewal and repairs fund shall be applicable only to meet expenses requisite for the maintenance and renewal of horses carts mechanically propelled vehicles stables garages depots boilers and equipment and apparatus in connection therewith and for the maintenance and repair of buildings (not being buildings in respect of which the Council are required to keep a housing repairs account under the provisions of any general enactment for the time being in force) and shall be so applied from time to time for the purpose of equalising so far as may be the annual charge to revenue in respect of such expenses.

(3) (a) Pending the application of moneys forming part of the renewal and repairs fund to the purposes authorised by subsection (2) of this section such moneys shall (unless applied in any other manner authorised by this Act) be invested in statutory securities.

(b) Any income arising from the investment or use of the moneys in the renewal and repairs fund in manner provided by this subsection together with any income arising from the application of the fund to the purposes authorised shall be carried to and form part of the general rate fund and (subject to the limitations



imposed by subsection (1) of this section) an amount equivalent to such income shall be credited to the renewal and repairs fund.

A.D. 1938.

—  
PART VIII.

—cont.

**95.**—(1) The Council may establish a fund to be called “the capital reserve fund” for the purpose of defraying any expenditure to which capital is properly applicable to an amount not exceeding two thousand pounds in any one transaction and such fund shall be formed by appropriating in the accounts of the Council such sums out of the general rate fund as the Council from time to time deem expedient:

Capital  
reserve  
fund.

Provided that—

(a) except as provided by subsection (2) (b) of this section any sum or sums so appropriated to the capital reserve fund from the general rate fund shall not exceed in any year the equivalent of a rate of twopence in the pound calculated according to the rules made pursuant to sections 9 and 58 of the Rating and Valuation Act 1925;

(b) appropriations to and payments into the capital reserve fund shall cease to be made whenever the said fund amounts to the sum of eight thousand pounds.

(2) (a) Pending the application of the capital reserve fund to the purposes authorised by the foregoing subsection the moneys in the fund shall (unless applied in any other manner authorised by this Act) be invested in statutory securities.

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

**96.** If any money is payable by the Council to any employee creditor or holder of any authorised security and the person entitled to such payment is a minor the receipt of the guardian shall be a sufficient discharge to the Council.

Receipt in  
case of  
minors.

A.D. 1938.

## PART VIII.

—cont.

Subscrip-  
tions to local  
government  
associations  
and other  
expenses.

**97.** The Council may pay out of the general rate fund and general rate—

- (a) reasonable subscriptions whether annually or otherwise to the funds of any association of local authorities or their officers formed for the purpose of consultation as to their common interests and the discussion of matters relating to local government and any reasonable expenses of the attendance of any members or officers of the Council at conferences or meetings of such associations or any of them and the cost of purchasing reports and contributing towards the expenses of the proceedings of any such conferences or meetings;
- (b) the reasonable expenses of the Council in providing public entertainments on the occasion of or otherwise in connection with public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in or visiting the district;
- (c) the reasonable expenses in connection with the attendance of the members of the fire brigade of the Council at meetings and competitions of fire brigades.

## PART IX.

## MISCELLANEOUS.

Extension of  
section 2 (3)  
of Public  
Health  
(Interments)  
Act 1879.  
42 & 43 Vict.  
c. 31.

**98.**—(1) Subsection (3) of section 2 of the Public Health (Interments) Act 1879 shall be extended to enable the Council to accept a capital sum for the purpose of maintaining a particular grave or grave space or monument either in a cemetery provided under the Public Health Acts or in a burial ground provided under the Burial Acts 1852 to 1906.

(2) Any such sum shall be invested in statutory securities and the interest thereon applied in maintaining the grave or grave space or monument in such manner as the Council think fit.

(3) Any such capital sum and the interest thereon shall be shown separately in the accounts of the Council relating to their cemetery but the said interest shall be paid into the fund to which receipts derived from the cemetery are paid.

**99.** If a justice is satisfied on complaint by any rate collector that any person is quitting or about to quit any premises in the district and has failed to pay on demand any general rate which may be due from him and intends to evade payment of the same by departing from the district the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the said rate collector to seize forthwith and detain the goods and chattels of such person until the complaint is determined upon the return of the summons.

A.D. 1938.

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PART IX.

—cont.

Recovery of  
rate from  
persons  
removing.

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

As to  
recovery of  
rates from  
tenants and  
lodgers.

**101.** It shall be lawful for the Council—

(a) to provide suitable lecture rooms and to cause lectures to be given on such subjects as the Council think fit and to let such rooms and to make reasonable charges for admission to such lectures; and

(b) to provide suitable rooms for art exhibitions and to permit art exhibitions in such rooms and to let such rooms and to make reasonable charges for admission to such exhibitions:

Provision  
of lectures.

Provided that the sum to be expended by the Council in any one year on the provision of lectures shall not exceed the sum of fifty pounds after deducting any moneys received by the Council under the provisions of this section.

**102.**—(1) The Council may serve a notice on the owner or occupier of any land in respect of any serious injury to the amenities of any public open space which may be caused by the display of advertisements on such land requiring him within a reasonable time not being less than twenty-eight days to be specified in the notice to take such action and to execute such works including works of removal as may be necessary to abate the injury.

Display of  
advertisements.

A.D. 1938.

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PART IX.  
—cont.

(2) If the person on whom the notice is served fails to comply therewith the Council may cause a complaint relating to the injury to be made to a court of summary jurisdiction and that court may issue a summons requiring the person to appear before them and if satisfied that the alleged injury exists may make an order requiring the person to comply with the requisition or otherwise to abate the injury and to do any works necessary for the purpose within a time specified in the order.

(3) If any person fails to comply with the requirements of an order made under subsection (2) of this section he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding ten shillings.

(4) Any order made under subsection (2) of this section may also empower the Council themselves to undertake the necessary works and to recover the cost from the person against whom the order is made if such person fails to comply with the order.

(5) In this section the expression "public open space" means any land for the time being laid out or used as a public pleasure ground or place of public resort or recreation including Pelsall Common Pelsall Wood Common Barr Beacon and any open space for rest or recreation to which the public have access.

(6) The provisions of this section in regard to advertisements shall be in addition to and not in derogation of the provisions of the Advertisements Regulation Acts 1907 and 1925.

7 Edw. 7.  
c. 27.

15 &amp; 16

Geo. 5. c. 52.

(7) Nothing in this section shall apply to—

(a) advertisements on houses relating to the letting or sale thereof or upon land relating solely to any trade or business carried on or to any entertainment or meeting auction or sale to be held upon or in relation to such land or any property thereon or to advertisements on the doors or in the windows of a building if the advertisements do not in either case contain letters figures or advertising emblems exceeding six inches in

height and do not (except where affixed to and not projecting above a vertical wall of a building) exceed a height of twelve feet from the ground;

- (b) (for a period of five years from the passing of this Act) hoardings or similar structures erected or in use for advertising purposes prior to that date advertising stations used by advertisement contractors at that date and any advertisement displayed thereon during that period or any other advertisement displayed at the passing of this Act;
- (c) advertisements on or upon any railway station yard platform or railway approach or any canal dock wharf lock or toll station belonging to a railway or canal company.

(8) In relation to the display of advertisements on the building known as Beacon Cinema the provisions of this section shall have effect as if in paragraph (a) of subsection (7) the word "twelve" was substituted for the word "six" and as if the following paragraph were inserted at the end of that subsection:—

"(d) advertisements on any building situate more than fifty yards from a public open space."

(9) The provisions of this section shall to the extent that the subject matters thereof are dealt with by provisions in a planning scheme coming into operation after the passing of this Act cease to have effect upon the coming into operation of such provisions.

**103.**—(1) The Council may erect and maintain on any open space or public place on or adjoining any highway in the district such weighbridges or weighing machines and offices in connection therewith as they may consider necessary or desirable for the use of the public.

Power to  
erect weigh-  
bridges.

(2) The Council may make such reasonable charges as they may determine for and in respect of the use of any such weighbridge or weighing machine.

(3) Any person shall on payment of the proper charges in respect thereof be entitled to use any of the weighbridges or weighing machines erected by the Council under the provisions of this section.

A.D. 1938.

PART IX.  
—cont.

(4) The Council shall not erect or allow the use of any such weighbridge weighing machine or offices so as to obstruct the access to or exit from any station or depot of a railway company.

(5) The provisions of this section shall not apply to a county road without the consent of the county council.

Compensa-  
tion for  
injuring  
lamps &c.

**104.** Every person who negligently breaks throws down or otherwise damages any public lamp or lamp-post or street orderly bin or other receptacle for the temporary deposit and collection of dust ashes and rubbish or street sand bin or any other property of the Council shall make full compensation to the Council for the damage done and such compensation to an amount not exceeding ten pounds may (without prejudice to any other right or remedy of the Council) be recovered summarily as a civil debt.

Fire-plugs.

**105.** Any person who shall cover over or wilfully or negligently obstruct or interfere with the convenient access to any fire alarm fire-plug or hydrant or who shall remove or efface any plate or mark indicating the position of such alarm plug or hydrant shall be liable to a penalty not exceeding five pounds and the Council may recover the expenses of replacement and making good from such person :

Provided that the county council shall not be liable to a penalty under this section if before commencing any works of repair or improvement of a county road in which is situate any fire alarm fire-plug or hydrant the county council shall (except in cases of emergency) give to the Council fourteen days' notice in writing of the nature and extent of such works of repair or improvement.

Noise  
nuisance.

**106.—(1)** A noise nuisance shall be liable to be dealt with as a statutory nuisance under the Public Health Act 1936 :

Provided that no complaint shall be made to a justice under section 99 of the said Act unless it is signed by not less than three householders or occupiers of premises within hearing of the noise nuisance complained of.

(2) For the purpose of this section a noise nuisance shall be deemed to exist where any person makes or continues or causes to be made or continued any excessive or unreasonable or unnecessary noise and where such noise (a) is injurious or dangerous to health and (b) is capable of being prevented or mitigated having due regard to all the circumstances of the case:

A.D. 1938.  
—  
PART IX.  
—cont.

Provided that if the noise is occasioned in the course of any trade business or occupation it shall be a good defence that the best practicable means within the meaning of the said Act of preventing or mitigating it have been adopted.

(3) Nothing contained in this section shall apply to a railway company or their servants exercising statutory powers.

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

**107.** Every person who shall on Sunday in any street or public place call or shout or ring any bell or use any noisy instrument for the purpose of selling or advertising any article or commodity shall for every such offence be liable to a penalty not exceeding forty shillings.

Penalty  
for street  
crying on  
Sunday.

**108.** As respects byelaws made under this Act the confirming authority for the purposes of section 250 of the Local Government Act 1933 shall be the Minister.

General  
provisions as  
to byelaws.

**109.**—(1) Any person aggrieved by any requirement refusal or other decision of the Council or of any officer thereof under Part II (Streets and buildings) Part IV (Infectious disease and sanitary provisions) or Part V (Human food) of this Act may except where otherwise expressly provided appeal to a court of summary jurisdiction.

As to  
appeals.

(2) The procedure upon any such appeal shall be by way of complaint for an order and the Summary Jurisdiction Acts shall apply to the proceedings.

(3) The time within which any such appeal may be brought shall except where otherwise expressly provided be twenty-one days from the date on which notice of the requirement refusal or decision was

A.D. 1938.

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PART IX.  
—cont.

published or served upon the person desiring to appeal and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.

(4) In any case in which such an appeal lies the document notifying the requirement refusal or decision in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought unless these have already been stated in a notice to the person concerned informing him of his right to a hearing before the Council with regard to the same matter.

(5) Where a person aggrieved by any order determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to a court of quarter sessions he may appeal to such a court.

(6) Where any requirement refusal order determination or other decision against which a right of appeal is conferred by this Act involves the execution of any work or the taking of any action or makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of such requirement refusal order determination or other decision or to use any premises for any purpose for which they were lawfully used up to such time—

(a) no proceedings in respect of any failure to execute the work or take the action shall be taken;

(b) the Council shall not execute such work or take such action; and

(c) any such person may carry on such business and use such premises for such purpose;

until the time for appealing has expired or when an appeal is lodged until the appeal has been disposed of or withdrawn or fails for non-prosecution thereof.

(7) Where upon an appeal under this Act a court varies or reverses any requirement refusal or other decision of the Council effect shall be given to the order of the court and in particular any necessary consent certificate or other document shall be granted or issued and any necessary entry in any register shall be made.



**110.** Whenever the Council the surveyor or the sanitary inspector under any enactment or byelaw for the time being in force within the district execute re-execute or alter any work or do any act or thing in default or at the request of the owner occupier or other person required to do such work act or thing the Council shall not as between themselves and such owner occupier or other person in the absence of any negligence on the part of the Council or the surveyor or the sanitary inspector or of any contractor or other person employed by them or him be liable to pay any damages penalties costs charges or expenses for or in respect of or consequent upon the executing re-executing or altering of such work or the doing of such act or thing and any such damages penalties costs charges or expenses payable by the Council in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such owner occupier or other person and shall be recoverable accordingly.

A.D. 1938.

—  
PART IX.

—cont.

In executing works for owner Council liable for negligence only.

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

Damages and charges to be settled by court.

**112.** Where under this Act any question or dispute is to be referred to an arbitrator or to arbitration other than questions or disputes to which the provisions of the Lands Clauses Acts apply then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties to the question or dispute or in default of such agreement appointed on the application of either party by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1889 and the Arbitration Act 1934 shall apply to any such arbitration.

Applica-  
tion of  
Arbitration  
Acts 1889  
and 1934.

52 & 53  
Vict. c. 49.  
24 & 25  
Geo. 5. c. 14.

**113.** Where under this Act or under any general or local Act for the time being in force in the district the Council give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose

As to breach of conditions of consent of Council.

A.D. 1938.

—  
PART IX.  
—cont.

any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the work or the doing of the act or thing without the required consent.

Apportionment of expenses in case of joint owners.

**114.** Where under the provisions of this Act or any local Act in force in the district the Council shall construct or do any works for the common benefit of two or more buildings belonging to different owners the expenses which under those Acts or any of them are recoverable by the Council from the owners shall be paid by the owners of such buildings in such proportions as shall be determined by the surveyor or in case of dispute by a court of summary jurisdiction.

Compensation how to be determined.

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

Application of section 265 of Public Health Act 1875.

**116.** Section 265 of the Public Health Act 1875 shall extend and apply to the purposes of any local enactment as if the same were re-enacted therein.

Application of certain provisions of Public Health Act 1936.

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

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

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

Section 284 (Authentication of documents);

Section 285 (Service of notices &c.);

Section 286 (Proof of resolutions &c.);

Section 293 (Recovery of expenses &c.);

Section 296 (Summary proceedings for offences);

Section 297 (Continuing offences and penalties);

[1 & 2 GEO. 6.] *Aldridge Urban* [Ch. xxv.]  
*District Council Act, 1938.*

- |             |   |            |
|-------------|---|------------|
| Section 299 | (Inclusion of several sums in one complaint &c.);                   | A.D. 1938. |
| Section 304 | (Judges and justices not to be disqualified by liability to rates); | PART IX.   |
| Section 328 | (Powers of Act to be cumulative).                                   | —cont.     |

(2) The sections of the Public Health Act 1936 hereinafter mentioned shall have effect as if they were re-enacted in this Act and in terms made applicable to Part II (Streets and buildings) Part III (Sewers drains &c.) Part IV (Infectious disease and sanitary provisions) and Part V (Human food) of this Act (that is to say):—

- Section 277 (Power to councils to require information as to ownership of premises);
- Section 287 (Power to enter premises);
- Section 288 (Penalty for obstructing execution of Act);
- Section 289 (Power to require occupier to permit works to be executed by owner);
- Section 291 (Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments);
- Section 292 (Power to make a charge in respect of establishment expenses);
- Section 294 (Limitation of liability of certain owners);
- Section 295 (Power of local authority to grant charging orders);
- Section 329 (Saving for certain provisions of the Land Charges Act 1925).

**118.** Section 298 of the Public Health Act 1936 shall apply to offences created by or under this Act as if they were offences created by or under that Act except that the said section shall not apply to offences created by or under the sections of this Act of which the marginal notes are “Fire-plugs” and “Penalty for street crying on Sunday.” Restriction on right to prosecute.

**119.** The Minister may hold such inquiries as he considers necessary in regard to the exercise of any Inquiries by Minister.

A.D. 1938. powers conferred upon him or the giving of consents  
— under this Act and section 290 of the Local  
PART IX. Government Act 1933 shall apply accordingly.  
—cont.

Inquiries  
by Minister  
of Trans-  
port.

**120.** The Minister of Transport may hold such inquiries as he may consider necessary in regard to the exercise of any powers conferred upon him by this Act and section 290 of the Local Government Act 1933 shall apply accordingly.

Saving for  
indictments  
&c.

**121.** Nothing in this Act shall protect any person from being proceeded against by way of indictment in respect of any matter by this Act made punishable on summary proceedings or shall relieve any person in respect of any such matter from any penal or other consequence to which he would have been liable if such matter had not been made punishable by this Act Provided that nothing in this Act shall make a person liable to be punished more than once for the same offence.

Crown  
rights.

**122.** Nothing in this Act affects prejudicially any estate right power privilege or exemption of the Crown.

Commence-  
ment of  
certain  
provisions  
of Parts IV  
and V of  
this Act.

**123.—(1)** The provisions of Part IV (Infectious disease and sanitary provisions) and of Part V (Human food) of this Act to which this section applies shall come into operation on but not until such date as may be fixed by a resolution of the Council of which date public notice shall be given by the Council by advertisement in one or more local newspapers circulating in the district Every such advertisement shall also state the effect of the provisions to which it relates and the date specified therein as the date on which such provisions shall come into operation shall not be less than one month after the date of publication of the advertisement Provided that if the provision is one which requires the registration of any person or premises the application for the registration may be made and determined before the provision comes into operation.

(2) A copy of a newspaper containing such advertisement shall be sufficient evidence of the publication of the advertisement.

(3) This section shall apply to the sections of this Act of which the marginal notes are:— A.D. 1938.

“Parents &c. to notify certain diseases”;

“Restrictions on attendance at schools and places of assembly”;

“Registration of premises used in connection with sale of ice-cream or preserved food”;

“As to sale of food from barrows &c.”

—  
PART IX.  
—cont.

(4) As respects any of the said provisions which requires the registration of persons carrying on any business or of premises used for any purpose it shall be lawful for any person who when such provision came into operation—

(a) was carrying on any such business or using any premises for any such purpose; and

(b) had made application in accordance with the provisions of this Act for such registration as is required by this Act;

to continue to carry on such business and to use such premises for such purpose until such time as he has been informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (6) of the section of this Act of which the marginal note is “As to appeals.”

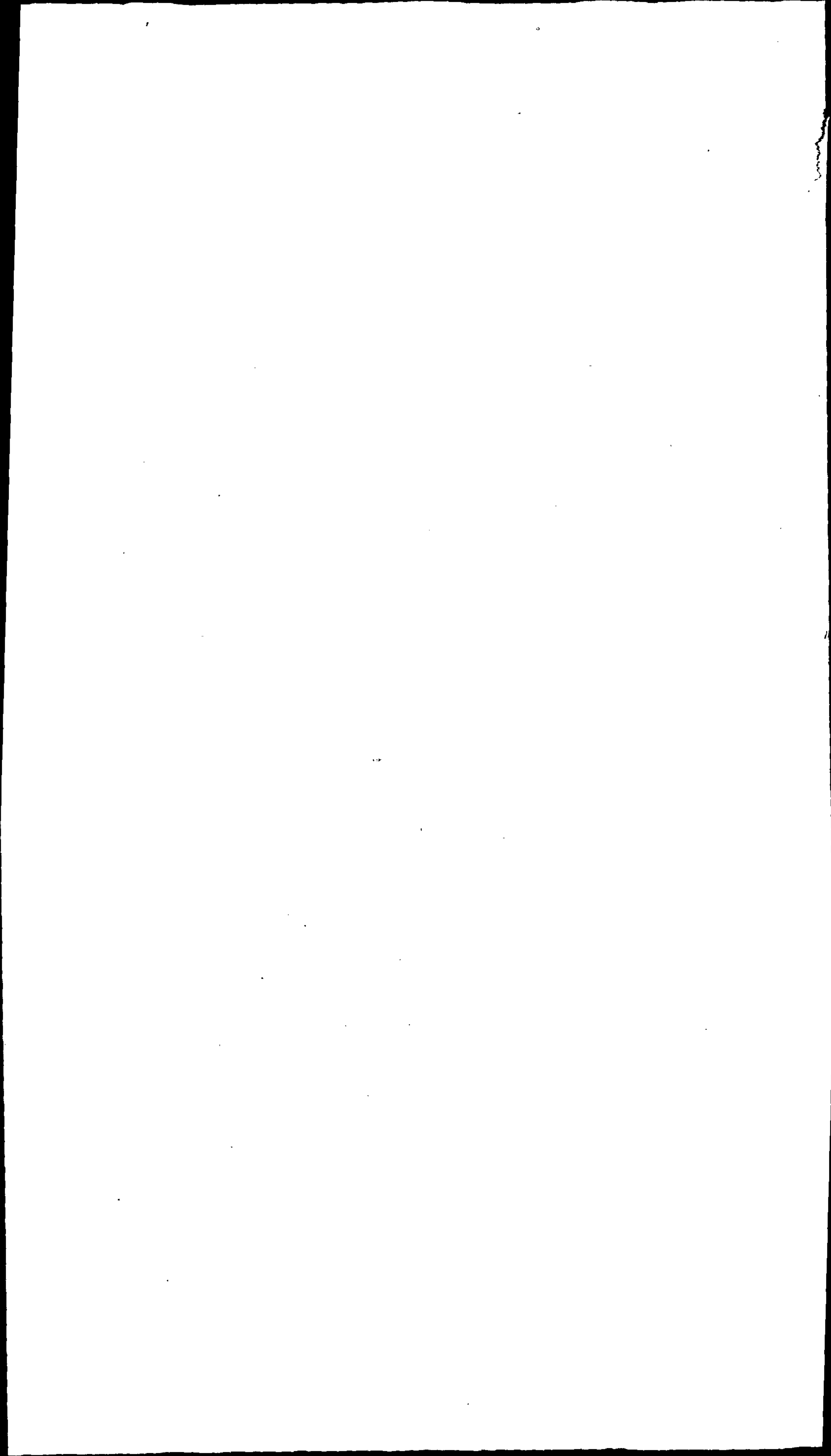
**124.** All the costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council in the first instance out of the general rate fund and general rate but ultimately out of moneys to be borrowed under the authority of this Act for that purpose. Costs of Act.

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[Ch. xxv.]

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District Council Act, 1938.*

[1 & 2 GEO. 6.]

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