Aldridge-Brownhills Urban District Council Act 1971

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ELIZABETH II



1971 CHAPTER lxix

An Act to re-enact with amendments and to extend certain local enactments in force in the urban district of Aldridge-Brownhills; to make further provision for the health, local government, improvement and finances of that district; to confer further powers upon the council of that district; and for other purposes.

[5th August 1971]

WHEREAS by virtue of the West Midlands Order, 1965 (hereinafter referred to as " the Order of 1965 "), on the 1st April, 1966, a new urban district was constituted and known as the urban district of Aldridge-Brownhills (hereinafter referred to as " the district ") so as to consist of an area shown by a continuous red line on the boundary maps referred to in article 4 of the Order of 1965 and being— S.I. 1965/2139.

(*a*) with alterations, the area of the urban district of Aldridge in the administrative county of Staffordshire;

(*b*) the greater part of the urban district of Brownhills in the said administrative county;

(*c*) parts of the county borough of Birmingham and Walsall;

(*d*) parts of the borough of Sutton Coldfield in the administrative county of Warwickshire; and

(*e*) parts of the parishes of Hammerwich and Shenstone in the rural district of Lichfield in the said administrative county of Staffordshire;

as they existed immediately before the 1st April, 1966; and it was provided that the district as so constituted should be wholly comprised in the said administrative county of Staffordshire:

And whereas numerous local enactments were in force in parts of the district and by article 51 of the Order of 1965 it was provided that the provisions of any such enactment should until 31st December, 1970, continue to apply, in certain cases, only to those parts of the district to which they had formerly applied and, in other specified cases, to the whole of the district and that on that date such enactments were to cease to have effect:

And whereas it is expedient that certain of the said enactments should be revived, re-enacted with amendments and applied to the whole of the district:

And whereas it is also expedient to extend and enlarge in various respects the powers of the urban district council of Aldridge-Brownhills and to make further provision in regard to the health, local government, improvement and finances of the district:

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

And whereas the purposes 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 Part XIII of the Local Government Act, 1933, have been observed:

1933 c. 51.

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

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Aldridge-Brownhills Urban District Council Act 1971.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Lands.

Part III.—Streets and buildings.

Part IV.—Public health and amenities.
Part V.—Finance.
Part VI.—Miscellaneous.
Part VII.—General.

PART I —*cont.*

Interpretation.

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

(2) In this Act unless otherwise expressly provided or the subject or context otherwise requires—

" the Act of 1933 " means the Local Government Act, 1933; 1933 c. 51.

" the Act of 1936 " means the Public Health Act, 1936; 1936 c. 49.

" the Act of 1959 " means the Highways Act, 1959; 1959 c. 25.

" the Act of 1967 " means the General Rate Act, 1967; 1967 c. 9.

" the clerk " means the clerk of the Council;

" the corporation " means the mayor, aldermen and burgesses of the borough of Walsall;

" the Council " means the council of the district;

" the county council " means the council of the administrative county of Staffordshire;

" daily fine " means a fine for each day on which an offence is continued after conviction thereof;

" the district " means the urban district of Aldridge-Brownhills;

" enactment " means any enactment, whether public, general or local and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

" land " includes land covered by water and any interest in land or any easement in, to or over land;

" operational land " in relation to statutory undertakers—

(*a*) means land which is used for the purpose of the carrying on of their undertaking and land in which an interest is held for that purpose; but

(*b*) does not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings;

" owner " in relation to any premises, means a person, other than a mortgagee not in possession, who, whether in his own right or as trustee or agent for any other

PART I —*cont.*

person, is entitled to receive the rack-rent of the premises or, where the premises are not let at a rack-rent, would be so entitled if the premises were so let;

" statutory undertakers " means any authority, company, body or person authorised by any enactment to supply electricity, gas or water;

" street " has the same meaning as in the Public Utilities Street Works Act, 1950.

1950 c. 39.

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

PART II

LANDS

Provision of substituted sites.

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

Power to reinstate owners or occupiers of property.

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

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

Agreements with adjoining owners.

6.—(1) The Council may enter into and carry into effect agreements with any person being the owner of, or interested in, any land abutting on any portion of land that may be acquired by the Council under any enactment, with respect to the sale by the Council to him of any land, including any part of a street, appropriated by the Council under that enactment and not required for the purposes thereof.

(2) The Council may accept as satisfaction of the whole or any part of the consideration for any such sale the grant by the purchaser of any land required by the Council for the purposes of the enactment under which it is acquired or any easement or right so required.

Reservation of easements, etc., by Council.

7. On selling any land the Council—

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

PART II —*cont.*

(*b*) may make the sale subject to such other reservations, conditions and restrictions as they think fit; and, without prejudice to the generality of the foregoing words of this paragraph, such conditions and restrictions may prohibit or restrict the exercise of noxious trades or the deposit or discharge of manure, sewage or other impure matter.

Undertakings and agreements binding successive owners.

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

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

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

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

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

Recovery of deposits under Lands Clauses Acts or the Compulsory Purchase Act, 1965.
1845 c. 18.
1965 c. 56.

9. Notwithstanding anything in the Lands Clauses Consolidation Act, 1845, or the Compulsory Purchase Act, 1965, it shall be lawful for the High Court at any time, not being less than twelve years after any sum has been paid by the Council into the Supreme Court in pursuance of section 76 of the said Act of 1845 or section 9 of the said Act of 1965 or paid by the Council into the Supreme Court by way of security in pursuance of section 85 of the said Act of 1845 or Schedule 3 to the said Act of 1965, to order upon application by the Council that the money so paid or the fund in which the sum shall have been invested together with the accumulations thereto shall be repaid or transferred to the Council:

Provided that upon the application of any person making claim to the money paid as aforesaid, or any part thereof, or to the lands in respect of which the same shall have been paid, or any part of such lands, or any interest in the same, the High Court may order such money as has been repaid or transferred to the Council under the provisions of this section or any part thereof to be paid to the person making such claim and may make such other order in the premises as the High Court shall think fit.

PART II —*cont.*

Closing of footpaths to Chasewater Park for special purposes.

10. For the purposes of pageants, regattas, sports festivals, shows or other special functions taking place at the Chasewater Park, the Council may on not more than fourteen days in any calendar year for such time or times as they think fit close the whole of the footpaths coloured green shown on the signed plan, or such part or parts thereof as they think fit, for the purpose of excluding from the Chasewater Park persons other than those whose admission is permitted by the Council; and the Council may demand and collect money from any person so permitted as a consideration for such admission.

In this section " the signed plan " means the plan, four copies of which have been signed by Miss Harvie Anderson, the chairman of the committee of the House of Commons, to whom the Bill for this Act was referred and deposited respectively at the office of the Clerk of the Parliaments, in the Private Bill Office of the House of Commons and at the offices respectively of the clerk of the Council and of the clerk of the county council.

PART III

STREETS AND BUILDINGS

Trees, grass verges and gardens.

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

(*a*) to plant trees or shrubs or place containers in which to grow trees or shrubs;

(*b*) to attach containers for plants to posts or standards provided by the Council or, with the consent of the owner thereof, to any other posts or standards;

(*c*) to lay out grass verges or gardens;

(*d*) to provide guards or fences, and otherwise do anything expedient, for the maintenance or protection of such trees, shrubs, containers, grass verges or gardens;

(*e*) to cut down any such tree or shrub, to remove any such container, guard or fence and to abolish any such grass verge or garden or enlarge or diminish the area thereof;

(*f*) by notice to prohibit persons from entering on foot or on a bicycle upon, or causing or permitting horses or cattle to enter upon, any grass verge laid out under this section and maintained in an ornamental condition or mown, or any garden so laid out;

PART III —*cont.*

(*g*) by notice to prohibit the playing of any game on any such grass verge as aforesaid which is likely to cause damage thereto:

Provided that any notice posted pursuant to paragraphs (*f*) or (*g*) of this subsection may exempt from the prohibition persons under such age as may be specified in the notice.

(2) Any such notice as is referred to in paragraph (*f*) or paragraph (*g*) of the foregoing subsection shall be conspicuously posted on, or in proximity to, the grass verge or garden to which it relates.

(3) If any person (except in a case of emergency) contravenes a notice so posted in pursuance of the said paragraph (*f*) or if any person contravenes a notice so posted in pursuance of the said paragraph (*g*) he shall be liable to a fine not exceeding twenty pounds.

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

(5) Section 82 of the Act of 1959 shall cease to apply to highways vested in the Council or to any such land as is referred to in subsection (1) of this section; and anything done by the Council under that section or under section 1 of the Roads Improvement Act, 1925, with respect to such highways or land before the passing of this Act shall be deemed to have been done under this section. 1925 c. 68.

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

(7) The Council may exercise the powers conferred by this section in a street being a trunk road with the consent of the Secretary of State notwithstanding that the street is not vested in the Council.

Any consent required by this subsection shall not be unreasonably withheld but may be given subject to a condition that the Council shall at their own expense remove anything placed in a street under the powers conferred by this section if reasonably required to do so by the Secretary of State.

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

PART III —*cont.*

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

Prohibition of vehicles on grass verges, gardens, etc.

12.—(1) The Council may by notice prohibit persons (except with the consent of the Council) from causing or permitting mechanically propelled vehicles to enter upon any land to which this section applies:

Provided that any such notice shall not apply to—

(*a*) the owner or occupier of or any person residing in any premises fronting or abutting on any such land causing or permitting any such vehicle to enter or leave those premises; or

(*b*) the temporary crossing of land to which this section applies during building operations if means satisfactory to the Council be taken to protect such land from injury and for the convenience of pedestrians; or

(*c*) the temporary use of any vehicle on land to which this section applies by statutory undertakers in the exercise of the rights of such undertakers with respect to any apparatus (including the placing of apparatus);

and any prohibition under this section in relation to land within the description of paragraph (*c*) of subsection (4) of this section shall cease to have effect after the expiration of six months from the posting of such notice and such prohibition may not as respects that land be renewed.

(2) Any such notice as is referred to in the preceding subsection shall be conspicuously posted on or in proximity to the land to which it relates and if any person contravenes a notice so posted (except in a case of emergency) he shall be liable for every such offence to a fine not exceeding twenty pounds.

(3) Any sign provided or erected under this section and related to any grass verge falling within sub-clause (4) (*a*) of this section shall comply with any order or regulation made by the Secretary of State in respect of traffic signs or any general or special directions given by him in pursuance of the Road Traffic Regulation Act, 1967.

1967 c. 76.

(4) This section applies to—

(*a*) any grass verge laid out in any street in the district and maintained by the Council in an ornamental condition or mown;

(*b*) any recreation ground, garden or open space provided by the Council and so maintained; and

PART III —*cont.*

(*c*) any land which appears to the Council to be intended for redevelopment and to be for the time being derelict and the subject or likely to be the subject of unauthorised use by the public for the parking of vehicles:

Provided that this section shall not apply to any land referred to in paragraph (*c*) of this subsection except if the Council have obtained the prior consent of the owner of such land.

(5) In this section " open space " has the same meaning as in the Open Spaces Act, 1906. 1906 c. 25.

Sale of food and articles on verges, etc.

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

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

(3) (*a*) This section applies to—

(i) such parts of the classified roads A.5, A.452, A.454, A.461, B.4151, B.4152, B.4154 and B.4155 and the roads known as Bosty Lane, Longwood Road and Beacon Road as are situate within the district; and

(ii) any other road or part of a road in the district to which the Council may by order apply this section.

(*b*) Before making an order under this subsection the Council shall publish once in each of two successive weeks in a local newspaper circulating in the district a notice stating the general effect of the intended order and stating that within a period specified in the notice (not being less than twenty-eight days from the first publication of the notice) any person may object to the application by sending notice of his objection and the grounds thereof to the clerk.

(*c*) If, before the expiration of the period specified in the notice, any objection to the application is received by the clerk, the Council shall consider any such objection before making the order.

(4) (*a*) Where an offence under this section committed by a body corporate is proved to have been committed with the

PART III —*cont.*

consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(*b*) In this subsection "director" in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership, any industry, or part of any industry, or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body.

(5) Nothing in this section shall apply to—

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

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

1925 c. 20.

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

(*d*) any road which is a trunk road, except with the consent of the Secretary of State.

(6) In this section—

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

(*b*) the expression "private property" does not include common land;

(*c*) the expression "vehicle" means a vehicle of any description, whether drawn or propelled by mechanical power or not;

(*d*) the expression "classified road" has the same meaning as in the Act of 1959.

Recovery of street works charges where owner unknown.

14.—(1) Where any street works have been completed by the Council but they are unable to recover the amount due from the owner of any premises or otherwise under the Act of 1959 by reason of the fact that such owner is unknown and cannot after

PART III —*cont.*

diligent inquiry, made when the said amount becomes due and at reasonable intervals thereafter, be found, the Council may, at any time after the expiration of twelve years from the date when the said amount becomes due, apply to the county court, and that court may, on the receipt of such application and on being satisfied that the provisions of this subsection have been complied with, make an order vesting the said premises in the Council absolutely, and thereupon the Council may appropriate the said premises subject to, and in accordance with, the provisions of section 163 of the Act of 1933, as if the said premises were land which was not required for the purpose for which it was acquired.

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

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

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

(5) In this section " street works " has the same meaning as in section 213 of the Act of 1959.

Temporary stoppage of streets.

15.—(1) For the purpose of—

(*a*) making any new street; or

(*b*) providing a parking place for vehicles under section 28 of the Road Traffic Regulation Act, 1967; 1967 c. 76.

PART III —*cont.*

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

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

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

(ii) as respects any county road, without the consent of the county council; or

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

(iv) so as to obstruct, or interfere with, the access to, or exit from, any station or depot of any railway or passenger road transport undertakers.

(2) (*a*) When considering the question of exercising their powers under this section the Council shall have regard to the existence of alternative routes suitable for the traffic which will be affected.

(*b*) When considering the question of exercising their powers under this section in any case where it appears to the Council that traffic using any street in the borough of Walsall may be affected, the Council shall consult the corporation and shall comply with such requirements as may be agreed between the Council and the corporation or in default of agreement be determined by the Secretary of State.

(3) The provisions of Schedule 3 to the said Act of 1967 (which require notification of temporary traffic restrictions), so far as applicable, shall apply in respect of the exercise by the Council of the powers of this section as they apply in respect of the making by a highway authority of an order under section 12 of that Act.

Adjustment of boundaries of estates in connection with streets.

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

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

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

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

(2) The notice shall be given to the owners of all the estates affected thereby.

PART III —*cont.*

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

(4) The provision so to be made and the terms and conditions upon which it is to be made shall, failing agreement between the Council and the persons interested (including mortgagees whether or not in possession) in the respective estates, be determined by arbitration.

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

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

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

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

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

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

(11) In this section "estate" includes any parcel of land, "mortgage" and "mortgagee" respectively include a legal charge and a legal chargee and "new street byelaws" has the same meaning as in the Act of 1959.

Numbers of houses.
1847 c. 34.

17. As from the appointed day section 65 of the Towns Improvement Clauses Act, 1847 (which requires the occupiers of houses and other buildings in the streets to mark their houses with numbers), shall have effect in its application to the district as if after the words "with such numbers as the commissioners approve of" there were inserted the words "and in such positions

PART III —*cont.*

as to be easily readable from the street " and as if after the words " a number approved of by the commissioners " there were inserted the words " and in such position as to be easily readable from the street ".

Numbering of buildings other than dwelling-houses.

18.—(1) The Council may from time to time require the buildings to which this section applies to be marked with such numbers or identifying marks as may be approved by the Council and in such positions as to be easily readable from the street.

(2) The occupier of a building to which this section applies shall mark the building with such number or identifying mark as aforesaid and shall renew such number or mark as often as it becomes obliterated or defaced.

(3) Every person who destroys, pulls down or defaces any such number or identifying mark or puts up on a building any number or identifying mark different from the number or identifying mark put up pursuant to this section shall be liable to a fine not exceeding twenty pounds for every such offence.

(4) Any occupier who fails, within two weeks after notice for that purpose from the Council to mark a building with a number or identifying mark approved by the Council, or to renew such number or mark when obliterated, shall be liable to a fine not exceeding twenty pounds.

(5) This section applies to every building in the district, not being a dwelling-house, which is entered as a separate hereditament in a valuation list made under the General Rate Act, 1967, and for the time being in force.

1967 c. 9.

Expenses of executing demolition orders, etc.

1957 c. 56.

1925 c. 20.

19.—(1) Any expenses adjudged to be payable to the Council consequent upon the exercise of their powers under subsection (1) of section 23 or subsection (3) of section 44 of the Housing Act, 1957, shall, until recovered, be a charge on the premises in respect of which the expenses were incurred and on all estates and interests therein.

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

Amendment of Private Street Works Act, 1892, in relation to parts of streets which are public footways or otherwise repairable by inhabitants at large.

1892 c. 57.

20.—(1) In this section—

" the code of 1892 " has the same meaning as in Part IX of the Act of 1959;

and

" street works " means works executed or authorised to be executed under the provisions of the code of 1892.

PART III —*cont.*

(2) Notwithstanding anything contained in the code of 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 maintainable at the public expense (not being or comprising a carriageway within the meaning of the Act of 1959) a new street has been formed, the Council may in respect of such street carry out street works under the provisions of the code of 1892 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 maintainable.

(3) Notwithstanding anything contained in the code of 1892, the Council may under the provisions of that code carry out street works throughout the width of a street notwithstanding that part of the width consists of a highway maintainable at the public expense 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 maintainable.

(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 maintainable at the public expense.

(5) The provisions of section 208 of the Act of 1959 shall apply in relation to any street as respects which works may be carried out under this section as those provisions apply in relation to a private street.

Interpretation of Part III.

21. In this Part of this Act the expressions " trunk road " and " county road " have the same meanings as in the Act of 1959.

PART IV

PUBLIC HEALTH AND AMENITIES

Tipping of spoil and refuse.

22.—(1) The Council may make byelaws for regulating the tipping of spoil and refuse and for prohibiting the use of any spoil or refuse tip so as to be a nuisance to the occupiers of premises in the neighbourhood thereof.

(2) Byelaws made by virtue of this section may—

(*a*) contain provisions for imposing on persons offending against the byelaws fines not exceeding one hundred pounds for each offence and in the case of a continuing offence a daily fine not exceeding ten pounds;

PART IV —*cont.*

(*b*) provide that any spoil or refuse tip placed, kept or used in breach of the byelaws shall be a statutory nuisance for the purpose of Part III of the Act of 1936.

(3) No byelaw under this section shall extend to regulating or controlling the tipping of spoil or refuse—

(*a*) by railway or canal undertakers for the purpose of constructing, altering or maintaining any railway or canal as the case may be;

(*b*) by a river authority in the exercise of any of their functions or by statutory undertakers on operational land;

nor shall any such byelaw prejudice the operation of Part I of the Mines and Quarries (Tips) Act, 1969, or any regulation made thereunder.

1969 c. 10.

Noxious discharges from vehicles.

23. Section 81 of the Act of 1936 shall extend to empower the Council to make byelaws for preventing poisonous, noxious or polluting matter from any vehicle from being wilfully discharged into a street gully in the district or wilfully discharged so that it passes into such a street gully:

Provided that nothing in any byelaws made under this section shall—

(*a*) prevent the discharge of water from any wash-hand basin, sink or other washing facility provided in any vehicle in compliance with the Food Hygiene (Markets, Stalls and Delivery Vehicles) Regulations 1966; or

(*b*) apply to any substance to which regulations under the Petroleum (Consolidation) Act 1928 for the time being apply.

1928 c. 32.

Prohibition of parking in front gardens.

24.—(1) (*a*) If representation is made in manner hereinafter mentioned to the Council that the amenities of the neighbourhood are prejudiced by the habitual use of the front garden of any private dwelling-house in a street in the district as a parking place for one or more heavy commercial vehicles, the Council on complying with the provisions of this section may make an order precluding the use of the front gardens of the private dwelling-houses in that street or any part thereof as a parking place for heavy commercial vehicles.

(*b*) A representation under the foregoing paragraph shall be made in writing and signed by not less than ten local government electors residing in private dwelling-houses in the street concerned or within 100 yards thereof.

PART IV —*cont.*

(2) (*a*) If the Council consider that such an order should be made they shall publish a notice thereof in a local newspaper circulating in the district and stating where the draft order can be inspected and copies purchased, and that objections to the said order may be made in writing within one month after the date of the first publication of the notice.

(*b*) The Council shall consider all such objections and shall afford to the owner or occupier of every dwelling-house abutting or fronting on such street or such part thereof who has made objection an opportunity of being heard by a committee of the Council before the order is made.

(3) Not later than the date on which the notice is published in pursuance of the last foregoing subsection the Council shall serve by post a copy of the notice on the owner or occupier of every private dwelling-house in the street concerned or within 100 yards thereof.

(4) (*a*) After considering any objections made under subsection (2) of this section the Council may make an order prohibiting the use of the front garden of any dwelling-house in the street or part of a street specified in the order as a parking place for one or more heavy commercial vehicles.

(*b*) Any such order shall come into operation at the expiration of the period of one month after the first publication in pursuance of subsection (5) of this section of the notice of the order or, if an appeal is lodged, when the appeal is disposed of or withdrawn or fails for want of prosecution and shall have effect for such period not exceeding five years as the Council may determine.

(5) When an order has been made by the Council under this section they shall give notice thereof and of the right of appeal by publication in a local newspaper circulating in the district and the owner or occupier of a dwelling-house in the district who is aggrieved by the order may appeal to a magistrates' court:

Provided that in its application to an appeal under this section section 300 of the Act of 1936 shall have effect as if the time within which such an appeal may be brought were one month after the first publication in pursuance of this subsection of the notice of the order to which the appeal relates.

(6) For the purposes of this section—

"dual-purpose vehicle" means a vehicle constructed or adapted for the carriage both of passengers and of goods

PART IV —*cont.*

or burden of any description being a vehicle of which the unladen weight does not exceed two tons and which either—

(*a*) satisfies the conditions as to construction specified in Schedule 1 to this Act; or

(*b*) is so constructed or adapted that the driving power of the engine is or by the appropriate use of the controls of the vehicle can be transmitted to all the wheels of the vehicle;

" heavy commercial vehicle " means any vehicle (not being a dual-purpose vehicle) whether mechanically propelled or not, constructed or adapted for the carriage of goods and having an unladen weight exceeding thirty hundredweight;

" front garden " means so much of a garden or land belonging to or used in connection with a private dwelling-house as lies in front of—

(*a*) any building line prescribed by the Council in respect of the land under the provisions of any enactment; or

(*b*) if there be no such line then any line beyond which a house or building may not be erected on the land without infringing a condition enforceable by the Council under section 169 of the Act of 1959; or

(*c*) if there be neither of such lines then the line beyond which a house or building may not (except with the consent of the Council) be erected or brought forward on the land without contravening the provisions of section 75 of the Act of 1959;

" private dwelling-house " means a dwelling-house of which no part is used for the purposes of any trade or business and includes a block of flats no part of which is used for the purposes of any trade or business.

(7) For the purposes of this section a vehicle having an unladen weight exceeding thirty hundredweight in which is installed freezing equipment designed or used for the manufacture of ice-cream or any similar commodity and which but for the installation of that equipment would have an unladen weight of thirty hundredweight or less shall be deemed not to be a heavy commercial vehicle but the exemption afforded to such a vehicle by this subsection shall only have effect—

(*a*) if and so long as the equipment is not in operation; or

PART IV —*cont.*

(*b*) if the equipment is in operation, if and so long as it is so operated as not to cause a nuisance by reason of the noise of the equipment in operation or the smell emanating from it.

(8) The occupier of any front garden or part thereof or the person having control of a front garden or part thereof who permits the same to be used in contravention of an order under this section and any person who parks a heavy commercial vehicle, in a front garden in contravention thereof shall be liable to a fine not exceeding twenty pounds and to a daily fine not exceeding five pounds.

(9) Nothing in any order made under this section shall apply so as to prevent a heavy commercial vehicle waiting in the front garden of any private house in a street to which the order relates for any period not exceeding one hour in any period of twenty-four hours calculated from midnight.

Golf courses.

25.—(1) The Council may within or outside the district provide a golf course, and for that purpose may provide such buildings, and execute such works, as may be necessary or expedient:

Provided that the powers of this subsection shall not be exercised with respect to any land within the borough of Walsall without the consent of the corporation but such consent shall not be unreasonably withheld and any dispute as to whether such consent has been unreasonably withheld shall be settled by arbitration.

(2) References in the following provisions of this section to a golf course provided under this section shall include references to any buildings provided or works executed under the foregoing subsection and to anything with which any such golf course or building is equipped by virtue of section 271 of the Act of 1936 as applied by this Act.

(3) The Council may either—

(*a*) themselves manage a golf course provided under this section, making such reasonable charges for the use thereof or admission thereto as they think fit; or

(*b*) let it, or any part thereof, for such consideration and on such terms and conditions as they think fit.

(4) The Council may—

(*a*) at a golf course provided under this section, provide and sell refreshments of all kinds, subject to the provisions of all enactments relating thereto;

(*b*) enter into any agreement or arrangement for the provision and sale of refreshments as aforesaid;

PART IV —*cont.*

(*c*) grant, upon such terms and conditions, and for such period, as they think fit, the right so to provide and sell refreshments;

(*d*) by themselves, or any person appointed by them in that behalf, apply for, and hold, licences for the sale of intoxicating liquor at any such golf course.

(5) The Council may make byelaws for regulating the use of golf courses provided under this section, whether within or outside the district, and the conduct of persons using them or resorting thereto.

(6) No power conferred upon the Council by this section shall be exercised in such a manner—

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

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

PART V

FINANCE

Power to borrow.

26.—(1) The Council may borrow—

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

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

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

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

PART V —*cont.*

(3) It shall not be lawful to exercise the powers of borrowing conferred by subsection (1) (*a*) of this section except in compliance with any order for the time being in force under section 1 of the Borrowing (Control and Guarantees) Act, 1946. 1946 c. 58.

Power to raise money abroad.

27.—(1) Any method by which the Council are empowered by any enactment to raise any money which they are authorised to borrow shall, notwithstanding anything in such enactment, be deemed to include the raising of money by that method outside the United Kingdom or in any foreign currency.

(2) The powers conferred by the foregoing subsection shall not be exercised except with the consent of the Treasury, and subject to such conditions as the Treasury may impose.

(3) The enactments empowering the Council to raise money shall have effect in relation to a transaction authorised by this section for the raising of money in a foreign currency as if for any reference in those enactments to sterling there were substituted a reference to the foreign currency and for any reference therein to a sum expressed in terms of sterling there were substituted a reference to the sum expressed in terms of the foreign currency (adjusted, where necessary, to produce an amount which the Council consider appropriate having regard to all the circumstances of the transaction).

(4) For the purposes of this section the Council may, with the consent of the Treasury and subject to such conditions as the Treasury may impose, raise money by means of the issue of bearer bonds or other securities to bearer.

(5) It shall not be lawful to exercise the powers conferred by this section except in accordance with the Exchange Control Act, 1947. 1947 c. 14.

Insurance fund.

28.—(1) The Council may (if they think fit) establish a fund to be called "the insurance fund" with a view to providing a sum of money which shall be available for making good such losses, damages, costs and expenses as may from time to time arise in respect of such risks as may from time to time be specified in a resolution of the Council (in this section referred to as "the specified risks").

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

(3) When the insurance fund shall amount to the prescribed amount the Council shall discontinue the appropriations to the fund under subsection (4) of this section but if the fund is at

PART V —*cont.*

any time reduced below the prescribed amount the Council shall recommence and continue such appropriations until the fund be restored to the prescribed amount and if at any time the Council reduce the prescribed amount so that there are more moneys in the insurance fund than the sum so prescribed such moneys as are in excess of the prescribed amount shall be transferred to the general rate fund and if any sums shall have been appropriated from the housing revenue account under the next succeeding subsection to the housing revenue account in such proportions as the Council consider equitable and any moneys so transferred to the general rate fund shall be apportioned between the several accounts of that fund in such proportions as the Council consider equitable.

(4) The Council may from time to time appropriate to the insurance fund such sums as they think fit from the appropriate account or accounts in the general rate fund and if they think fit from the housing revenue account and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking, department or service of the Council which if the specified risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance:

Provided that any appropriation from the housing revenue account shall not exceed the proportion of the total yearly payments which in the opinion of the Council properly relates to the specified risks arising from the purposes for which that account is kept.

(5) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses, damages, costs and expenses in respect of the specified risks, or any of them, all moneys for the time being standing to the credit of the insurance fund shall, unless applied in any other manner authorised by any enactment, be invested in any securities in which trustees are from time to time authorised to invest trust funds, and the interest and other annual proceeds received by the Council in respect of such investments shall be carried to and form part of the insurance fund.

(6) (*a*) The insurance fund shall be applied to meet any losses, damages, costs or expenses sustained by the Council in respect of the specified risks which are payable out of the insurance fund in the order of the dates on which such losses, damages, costs or expenses become ascertained and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses, damages, costs or expenses the Council may with the sanction of the Secretary of State borrow at interest under and subject to the provisions of Part IX of the Act of 1933 such sums of money as will be necessary to make up the deficiency.

PART V —*cont.*

(*b*) The amounts of the annual charges in respect of interest on and repayment of principal of any sums borrowed in pursuance of the preceding paragraph of this subsection and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the general rate fund and if any sums shall have been appropriated from the housing revenue account under subsection (4) of this section the housing revenue account in such proportion as the Council consider equitable and shall be charged in the accounts of the Council under the separate headings or divisions in respect of such undertakings, departments or services of the Council and in such proportions as the Council may determine having regard to the risks through which such deficiencies arise.

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

(8) In this section—

" insurance office " means—

(i) an insurance company; or

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

" the prescribed amount " means such sum as may from time to time be prescribed by the Council.

Reduction and closing of certain funds.

29.—(1) If at any time it appears to the Council that the moneys standing to the credit of any fund to which this section applies are more than sufficient for the purposes for which the fund was established, or that it is no longer necessary to maintain the fund, the Council may prescribe as the maximum amount of the fund an amount which is less than the amount of the moneys then standing to the credit of the fund or may close the fund, as the case may be:

Provided that nothing in this subsection shall prevent the Council from re-establishing a fund to which this section applies as occasion may require.

(2) Where the Council prescribe as the maximum amount of a fund to which this section applies an amount which is less than the amount of the moneys then standing to the credit of the fund, or close the fund, under the provisions of subsection (1) of this section, they may transfer surplus moneys to the credit of any other fund to which this section applies, subject to the

PART V —*cont.*

provisions of any enactment relating to that other fund, or to the credit of any capital fund established by them under section 1 of the Local Government (Miscellaneous Provisions) Act, 1953, and any surplus moneys not so transferred shall be paid into the loans pool or (if and when established) the consolidated loans fund of the Council.

1953 c. 26.

(3) Notwithstanding anything in subsection (2) of this section, any limit for the time being imposed on the maximum amount of any fund to which surplus moneys are transferred under the provisions of that subsection shall not be exceeded without the consent of the Secretary of State.

(4) This section applies to any capital reserve, repairs, renewals, insurance, contingencies or other similar fund established by the Council in pursuance of any enactment, other than any fund established by the Council for the repayment of moneys borrowed by them under any statutory borrowing powers.

Closing of registers.

30.—(1) The Council may close any transfer books or the registers of transfers of authorised securities (other than stock) during the whole of the period of thirty days, or any shorter consecutive period, next before the date on which interest on the authorised securities to which such transfer book or register relates is payable.

(2) The persons who, on the date on which the transfer book or register is closed, are entered therein as holders of any security of the class to which such transfer book or register relates, shall be entitled to the interest next payable thereon.

(3) In this section—

"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.

Interest and dividends by post.

31.—(1) The Council may give notice by post to the registered holder of an authorised security that they intend to send interest or dividends on the security to him by post if he does not object; and, unless the registered holder within twenty-one days after the date of service of the notice notifies the Council that he objects, the Council may from time to time send orders for the payment of interest and dividend warrants to him by post at the address in the register.

(2) If the registered holder of an authorised security notifies the Council that he wishes interest or dividends on the security

PART V —*cont.*

to be sent to another person at an address specified in the notice, the Council may from time to time send orders for the payment of interest, or dividend warrants, to that person by post at that address.

(3) For the purposes of this section the Council may treat as the registered holder of an authorised security that one of the joint holders of the security who is first named in the register, or such other of them as the joint holders may in writing direct.

(4) The posting by the Council of an order for the payment of interest, or a dividend warrant, in pursuance of this section shall discharge the Council from any obligation to deliver the order or warrant to the holder of the security.

(5) An order or warrant sent by post in pursuance of this section shall be deemed a cheque; and the Council shall in relation thereto be deemed a banker within the meaning of the Bills of Exchange Act, 1882. 1882 c. 61.

(6) In this section " authorised security " means any mortgage or other security that the Council are for the time being authorised to grant or issue, but does not include stock or bonds.

Modification of mortgages by memorandum under hand.

32. Notwithstanding anything contained in any enactment or in any rule of law or otherwise to the contrary, where it is agreed between the Council, as for the time being entitled to or liable under any mortgage (on the one hand) and the person for the time being having the converse entitlement or liability under that mortgage (on the other hand) to extend the time for the repayment of the principal moneys secured by such mortgage or to alter the rate of interest payable on the principal moneys so secured and for the time being not repaid, or both to extend such time and to alter such rate of interest, effect may be given thereto by a memorandum in writing under the hand of that person (or in the case of a corporate body by the duly authorised representative of that body) and of the clerk or his duly authorised representative endorsed on or annexed to the deed by which such mortgage was originally created and the provisions of any such memorandum shall be deemed to be incorporated in the said deed and shall as from the date specified in such memorandum operate and take effect accordingly.

PART VI

MISCELLANEOUS

Weighing equipment

33.—(1) The Council may, if they think fit, make available for the use of other persons any weighbridge or weighing machine which the Council provide on land held by them and which is used for or in connection with the exercise of any of their functions.

PART VI —*cont.*

(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) The Council shall not 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 the British Railways Board or of any passenger road transport undertaker.

Offences in respect of telephone boxes, fire hydrants, etc.

34.—(1) If any person wilfully, and without the consent of the appropriate authority—

(*a*) obstructs the access to a police telephone call box in the district or to a structure provided in the district for police purposes or to a fire alarm provided by the Council; or

(*b*) interferes with equipment in such a call box, structure or fire alarm; or

(*c*) removes, alters, defaces or obscures a mark provided by the appropriate authority for indicating the position of such a call box, structure or fire alarm, or of a fire hydrant in the district;

he shall be liable to a fine not exceeding twenty pounds and the court may by the conviction adjudge him to pay to the appropriate authority a sum specified in the conviction towards the expenses of removing the obstruction or of making good or replacing the equipment or mark.

(2) If any person telephones, or causes to be telephoned—

(*a*) from a police telephone call box in the district a statement which he knows to be false; or

(*b*) from a call box of the Post Office telephone service in the district, a statement which he knows to be false, made for the purpose of instigating police, fire brigade or ambulance action;

he shall be liable to a fine not exceeding fifty pounds:

Provided that, if the false statement is an alarm of fire, he shall be liable to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or both.

(3) In this section " structure " includes any installation and " appropriate authority " means, in relation to a fire alarm or fire hydrant, the Council and, in any other case, the police authority.

PART VI —*cont.*

Safety of stands.

35.—(1) As from the appointed day no person shall commence to erect in the district a stand capable of affording seating or standing accommodation for twenty or more persons at any one time unless he has given notice to the Council of his intention to do so, accompanied by a plan and section of the stand and such further particulars as the Council may reasonably require, and the Council have approved the erection of the stand under this section.

(2) Within five weeks from the receipt of such a notice from any person the Council may give him notice that they approve the erection of the stand, but only subject to—

(*a*) such modifications of the plan, section and particulars submitted to them; and

(*b*) compliance with such requirements as to maintenance and otherwise;

as may be specified in the notice, being modifications and requirements which appear to the Council to be necessary for securing the stability of the stand and protection against fire, and generally for securing the safety of persons to be accommodated thereon.

(3) If a notice given under subsection (1) of this section states the period for which it is proposed that the stand will remain erected, the Council shall have regard to that statement in considering what modifications and requirements are to be specified in a notice under subsection (2) of this section, but may by the last-mentioned notice require that the stand shall be pulled down and removed within such time from the expiration of that period as may be specified in the notice, or such further time as the Council may allow.

(4) The Council may at any time within the said five weeks give notice that they approve the erection of the stand in accordance with the plan, section and particulars submitted to them; and, if within the said five weeks the Council have not given notice under subsection (2) of this section, they shall be deemed for the purposes of this section to have so approved the erection of the stand.

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

(6) If any person—

(*a*) commences to erect in contravention of subsection (1) of this section a stand capable of affording seating or standing accommodation for twenty or more persons at any one time; or

PART VI —*cont.*

(*b*) erects such a stand otherwise than in accordance with a plan, section and particulars submitted to the Council under the said subsection (1), or, if notice has been given of any modifications under subsection (2) of this section, otherwise than in accordance with the said plan, section and particulars as modified by the notice; or

(*c*) being the owner or occupier of such a stand erected otherwise than as aforesaid, allows twenty or more persons to be on the stand at any one time; or

(*d*) being the owner or occupier of such a stand, fails to comply with any requirement imposed by a notice under subsection (2) or subsection (3) of this section;

he shall be liable to a fine not exceeding one hundred pounds and, in the case of any such failure, to a daily fine not exceeding two pounds:

Provided that nothing in this subsection shall apply to a stand the erection whereof was commenced before the appointed day.

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

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

(9) In this section "stand" includes a structure, but does not include a building, or extension of a building, to which building byelaws or building regulations are applicable.

Provisions as to motor vehicles let for hire.

36.—(1) The Council may make byelaws for applying, with such consequential modifications as may be provided for in the byelaws, any of the provisions of—

1847 c. 89.

(*a*) sections 37 to 67 of the Town Police Clauses Act, 1847, as subsequently amended, as they apply with respect to hackney carriages and their proprietors and drivers; and

(*b*) any byelaws made by the Council and in force with respect to such carriages, proprietors and drivers;

to private hire vehicles and their proprietors and drivers.

(2) In this section "private hire vehicle" means a motor vehicle (within the meaning of the Road Traffic Act, 1960), not being a vehicle licensed under the provisions of the Town Police Clauses Act, 1847, with respect to hackney carriages, which is kept for the purpose of being let out for hire with a driver for the carrying of passengers in such circumstances that it does not require to be licensed under the said provisions, but does not include— PART VI —*cont.* 1960 c. 16. 1847 c. 89.

(*a*) a vehicle which is kept and used ordinarily for the purpose of being let out for hire by the day or for longer periods of hire;

(*b*) a vehicle kept by any person in connection with any business carried on by him as a funeral director or undertaker and used wholly or mainly in connection with that business; or

(*c*) a public service vehicle as defined in section 117 of the said Act of 1960; or

(*d*) any vehicle belonging to or used by the British Railways Board for the purpose of carrying passengers and their luggage to or from any of their railway stations or railway premises.

Voting at meetings of Council and committees.

37. Notwithstanding anything contained in any other enactment at any meeting of the Council or of any committee thereof the mode of voting on any question shall if the chairman of the meeting so direct be by means of an electrical or mechanical device.

As to minutes of Council meetings, etc.

38. Notwithstanding anything contained in paragraph 3 of Part V of Schedule 3 to the Act of 1933, or in any other enactment or rule of law to the contrary, the minutes of the proceedings of meetings of the Council, or of any committee or sub-committee thereof, may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed, and each leaf comprising those minutes being initialled, at the same or next ensuing meeting of the Council, or, as the case may be, at the same or any subsequent meeting of the committee or sub-committee (as the case may be) by the person presiding thereat, and any minutes purporting to be so signed shall be received in evidence without further proof.

Delegation of powers to sub-committees.

39.—(1) A committee lawfully authorised by the Council to exercise any powers of the Council under any enactment may, subject to any direction of the Council, appoint such sub-committees consisting either wholly or partly of members of the

PART VI —*cont.*

committee as the committee think fit, and subject as aforesaid may delegate with or without restrictions or conditions any of their functions to a sub-committee so appointed.

(2) A majority of the members of any such sub-committee shall be members of the Council:

Provided that—

(*a*) all the members of a sub-committee appointed by a finance committee of the Council shall be members of the Council; and

(*b*) whenever at any meeting of any such sub-committee the members present thereat do not include a majority of members of the Council, any decision of the sub-committee shall have no effect unless it is confirmed by the committee.

(3) Nothing in this section shall authorise the appointment of a sub-committee for any purpose for which a committee are authorised or required to appoint a sub-committee by any other enactment for the time being in force.

Recovery of sums paid to officers, etc.

40.—(1) Where the Council have paid in advance to any employee the amount of his emoluments and such employee dies before the expiration of the period in respect of which such payment is made, the Council shall not be required to demand the return of such portion thereof, not exceeding twenty-five pounds, as the Council may determine.

(2) In any case where the Council exercise the powers of the foregoing subsection they shall transfer from the general rate fund to the superannuation fund maintained by them the amount which but for the exercise of those powers would have been returned to the fund.

(3) In this section—

"employee" means any officer or servant of the Council or any officer or servant whose salary or wages are payable by the Council and includes any former officer or servant who is in receipt of a superannuation allowance or benefit payable out of the superannuation fund maintained by the Council; and

"emoluments" means in relation to an officer or servant his salary or wages (as the case may be) and in relation to a former officer or servant in receipt of a superannuation allowance or benefit the amount of that allowance or benefit.

PART VI —*cont.*

Recovery of rates from certain owners.

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

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

(2) For the purposes of this section " owner " in relation to a hereditament means the person who is entitled to receive the rent payable in respect thereof.

(3) This section shall not apply to any hereditaments to which subsection (1) of section 55 of the Act of 1967 applies by virtue of a resolution of the Council.

Receipt in case of minors, etc.

42. If any money is payable by the Council to any employee (other than wages or salary) or creditor or the holder of any authorised security and the person entitled to such payment is a minor or is a patient as defined in section 147 of the Mental Health Act, 1959, the receipt of the guardian shall be a sufficient discharge to the Council.

1959 c. 72.

Partly occupied hereditaments.

43. Where under section 25 of the Act of 1967 the Council have requested the valuation officer to apportion the rateable value of a hereditament, they may if they become satisfied that the circumstances giving rise to that request no longer exist, by resolution determine a date from which the value apportioned to the occupied part by the said section 25 shall cease to be treated for rating purposes as if it were the value ascribed to the hereditament in the valuation list; and no value so apportioned shall be so treated after the expiration of a period of twelve months from the date on which pursuant to the said section 25 the apportionment takes effect unless, before the expiration of that period, the Council otherwise resolve.

Service of demand notes, etc.

44. The provisions of section 109 of the Act of 1967 relating to the sending or service of demand notes shall apply to demand

PART VI —*cont.*

notes relating to any charges made in connection with any undertaking, department or service of the Council and those provisions shall be in substitution for any other provisions relating to the sending or service of such demand notes.

Establishment expenses.

45. Without prejudice to section 292 of the Act of 1936, or that section as applied by any other enactment, where under that or any other enactment the Council are empowered to execute works at the request of, or in default of, the owner or occupier of any premises, and to recover from him the expenses incurred by them in so doing, they may include in, and recover as part of, the expenses such additional sum, not exceeding 5 per cent. of the cost of the works, as they think fit in respect of their establishment charges.

Subscriptions to associations, etc.

46. The Council may subscribe to any charity, philanthropic association or society or other associations, institutions or societies rendering national or public service, such sum or sums as they may from time to time think fit and may charge the amount of any such subscription to or apportion the same amongst all or any of their funds and revenues:

Provided that the total amount subscribed by the Council under the provisions of this section shall not in any year exceed the equivalent of one-fifth of the product of a rate of a new penny in the pound as estimated or determined for the purpose of section 12 (2) of the Act of 1967.

PART VII

GENERAL

Apportionment of expenses in case of joint owners.

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

Compensation how to be determined.

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

PART VII —*cont.*

As to breach of conditions of consent of Council.

49. 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, 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.

Local inquiries.

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

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

Appeals.

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

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

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

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

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

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

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

PART VII —*cont.*

The appointed day.

52.—(1) For the purposes of this Act the expression "the appointed day" means, except where otherwise expressly provided, such day as may be fixed by resolution of the Council, subject to and in accordance with the provisions of this section.

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

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

(*a*) of the passing of any such resolution and of the date fixed thereby; and

(*b*) of the general effect of the provisions of this Act coming into operation as from that date;

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

(4) Either—

(*a*) a copy of any such newspaper containing any such notice; or

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

shall, until the contrary be proved, be conclusive evidence of the publication of the notice and of the date of the publication.

Protection of members and officers of Council from personal liability.

1875 c. 55.

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

Application of general enactments.

54.—(1) The sections of the Act of 1936 mentioned in Part I of Schedule 2 to this Act shall have effect as if references therein to that Act included references to this Act except section 13 (Sale of food and articles on verges, etc.) of this Act.

(2) The sections of the Act of 1959 mentioned in Part II of Schedule 2 to this Act shall have effect as if references therein to that Act included references to section 13 (Sale of food and articles on verges, etc.) of this Act.

PART VII —*cont.*

(3) The sections of the Act of 1936 mentioned in Part III of Schedule 2 to this Act shall have effect as if references therein to that Act included references to the following provisions of this Act:—

Section 16 (Adjustment of boundaries of estates in connection with streets);

Section 17 (Numbers of houses);

Section 18 (Numbering of buildings other than dwelling-houses);

Section 19 (Expenses of executing demolition orders, etc.);

Section 22 (Tipping of spoil and refuse).

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

Section 12 (Prohibition of vehicles on grass verges, gardens, etc.);

Section 16 (Adjustment of boundaries of estates in connection with streets);

Section 17 (Numbers of houses);

Section 18 (Numbering of buildings other than dwelling-houses);

Section 20 (Amendment of Private Street Works Act, 1892, in relation to parts of streets which are public footways or otherwise repairable by inhabitants at large); 1892 c. 57

Section 22 (Tipping of spoil and refuse);

Section 23 (Noxious discharges from vehicles);

Section 24 (Prohibition of parking in front gardens);

Section 35 (Safety of stands);

Section 36 (Provisions as to motor vehicles let for hire).

Restriction on right to prosecute.

55. The written consent of the Attorney-General shall be requisite for the taking of proceedings in respect of an offence created by or under this Act by any person other than a party aggrieved or the Council.

Confirming authority for byelaws.

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

PART VII —*cont.*

Arbitration.

57. In arbitrations under this Act the reference shall be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of any party (after giving notice in writing to the other party or parties) in a case where the matter arises under section 25 (Golf courses) of this Act, by the President of the Law Society and, in any other case, by the President of the Institution of Civil Engineers.

For protection of Post Office.

58. For the protection of the Post Office the following provisions shall apply and have effect:—

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

"telegraphic line" has the same meaning as in the Telegraph Act, 1878;

1878 c. 76.

"apparatus" means any telegraphic line belonging to or used by the Post Office and includes any works constructed for the lodging therein of apparatus;

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

"operational land" has the same meaning as in paragraph 93 (4) of Schedule 4 to the Post Office Act, 1969:

1969 c. 48.

(2) Nothing in section 11 (Trees, grass verges and gardens) of this Act shall affect the rights of the Post Office with respect to apparatus (including the placing of apparatus) in any grass verges or garden:

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

(3) For the purposes of section 12 (Prohibition of vehicles on grass verges, gardens, etc.) of this Act the Post Office shall be included in the expression "statutory undertakers":

(4) The exercise of the powers conferred by section 15 (Temporary stoppage of streets) of this Act in relation to a street shall not affect the powers of the Post Office under the Telegraph Acts, 1863 to 1916, to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that street for any of those purposes:

(5) Notwithstanding anything in section 16 (Adjustment of boundaries of estates in connection with streets) of this Act, the Post Office shall not, under the provisions of

that section, be required to adjust or alter the boundaries of, or exchange, any operational land except with its consent, which shall not be unreasonably withheld:

(6) The provisions of section 35 (Safety of stands) of this Act shall not apply to any stand used by the Post Office.

For protection of certain statutory undertakers

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

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

" apparatus " means—

(*a*) mains, pipes or other apparatus belonging to or maintained by the lord mayor, aldermen and citizens of the city of Birmingham, the South Staffordshire Waterworks Company, the Gas Council or the West Midlands Gas Board;

(*b*) any electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the Central Electricity Generating Board or the Midlands Electricity Board; 1882 c. 56.

and includes any works constructed for the lodging therein of apparatus;

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

" the undertakers " means—

the lord mayor, aldermen and citizens of the city of Birmingham;

the South Staffordshire Waterworks Company;

the Gas Council;

the West Midlands Gas Board;

the Central Electricity Generating Board; and

the Midlands Electricity Board;

or any of them, and in relation to any apparatus means the undertakers by whom the apparatus is maintained:

(2) Nothing in section 11 (Trees, grass verges and gardens) or section 15 (Temporary stoppage of streets) of this Act shall relieve the Council or any person acting with the consent of the Council from liability for damage caused by them or made to any apparatus in the exercise of the powers of the said sections or either of them and

PART VII —*cont.*

the said powers shall be so exercised as not to render less convenient so far as is reasonably practicable the access to any apparatus or operational land:

(3) Nothing in section 10 (Closing of footpaths to Chasewater Park for special purposes) or section 11 (Trees, grass verges and gardens) of this Act shall affect the rights of the undertakers with respect to any apparatus (including the placing of apparatus) in the footpaths or the Chasewater Park referred to in the said section 10 or any grass verge or garden referred to in the said section 11:

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

(4) Notwithstanding the temporary stopping up or diversion of any street under the powers of section 15 (Temporary stoppage of streets) of this Act the undertakers shall be at liberty at all times to enter upon the street with any necessary vehicles and to execute and do all such works and things in any such street as may be necessary for placing, inspecting, repairing, maintaining, renewing or removing any apparatus:

(5) (*a*) Notwithstanding anything in section 16 (Adjustment of boundaries of estates in connection with streets) of this Act, the undertakers shall not, under the provisions of that section, be required to adjust or alter the boundaries of or exchange any operational land except with their consent which shall not be unreasonably withheld;

(*b*) Nothing in subsection (1) of the said section 16 shall apply to any covenant, restriction or condition for the benefit of or for preventing interference with the use of or for securing access to operational land or apparatus of the undertakers:

(6) Nothing in section 33 (Weighing equipment) of this Act shall relieve the Council from liability for damage caused by them to any apparatus in the exercise of the powers of the said section and the said powers shall be so exercised as not to render unreasonably inconvenient the access to any apparatus or operational land:

(7) The provisions of section 35 (Safety of stands) of this Act shall not apply to any stand used by the undertakers on operational land for the purposes of their undertaking:

PART VII —*cont.*

(8) (*a*) Any difference arising between the Council and the undertakers under this section shall be determined by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other party;

(*b*) In determining any difference under this section the arbitrator shall have regard to any duty or obligation which the undertakers may be under in respect of any apparatus and may, if he thinks fit, require the Council to execute any temporary or other works so as to avoid, so far as may be reasonably possible, interference with any purpose for which the apparatus is used.

Crown rights.

60. Nothing in this Act affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing in this Act authorises the Council or any local authority to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

(*a*) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those Commissioners on behalf of Her Majesty had and obtained for that purpose;

(*b*) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

Saving for town and country planning. 1962 c. 38.

61. Section 220 of the Town and Country Planning Act, 1962 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the Session of the 10 & 11 Geo. 6 for authorisation or regulation of development of the land), shall apply to this Act as if it had been passed during that Session; and accordingly the Town and Country Planning Acts, 1962 to 1968, and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

Costs of Act.

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

SCHEDULES

Section 24.

SCHEDULE 1

CONDITIONS AS TO CONSTRUCTION OF DUAL-PURPOSE VEHICLES

1. The vehicle must be permanently fitted with a rigid roof with or without a sliding panel.

2. The area of the vehicle to the rear of the driver's seat must—

(*a*) be permanently fitted with at least one row of transverse seats (fixed or folding) for two or more passengers and those seats must be properly sprung or cushioned and provided with upholstered backrests attached either to the seats or to a side or the floor of the vehicle; and

(*b*) be lit on each side and at the rear by a window or windows of glass or other transparent material having an area or aggregate area of not less than 2 square feet on each side and not less than 120 square inches at the rear.

3. The distance between the rearmost part of the steering wheel and the backrests of the row of transverse seats satisfying the requirements specified in paragraph 2 of this schedule (or if there is more than one such row of seats the distance between the rearmost part of the steering wheel and the backrests of the rearmost such row) must when the seats are ready for use be not less than one-third of the distance between the rearmost part of the steering wheel and the rearmost part of the floor of the vehicle.

Section 54.

SCHEDULE 2

GENERAL ENACTMENTS APPLIED

PART I

SECTIONS OF ACT OF 1936 APPLIED TO THIS ACT OTHER THAN SECTION 13

Section	Marginal note
271	Interpretation of " provide ".
277	Power of councils to require information as to ownership of premises.
283	Notices to be in writing; forms of notices, &c.
286	Proof of resolutions, &c.
288	Penalty for obstructing execution of Act.
293	Recovery of expenses, &c.
296	Summary proceedings for offences.
297	Continuing offences and penalties.
299	Inclusion of several sums in one complaint, &c.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.

PART II

SECTIONS OF ACT OF 1959 APPLIED TO SECTION 13 OF THIS ACT

Section	Marginal note
269	Summary proceedings for offences.
270	Continuing offences.
278	Judges and justices not to be disqualified by liability to rates.
280	Notices, etc., to be in writing; forms of certain documents.
283	Reckoning of periods.
299	Saving for rights and liabilities as to interference with highways.

PART III

SECTIONS OF ACT OF 1936 APPLIED TO SECTIONS 16 TO 19 AND 22 OF THIS ACT

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Power of local authority to sell certain materials.
289	Power to require occupier to permit works to be executed by owner.
290	Provisions as to appeals against, and the enforcement of, notices requiring execution of works.
291	Certain expenses recoverable from owners to be a charge on the premises: Power to order payment by instalments.
294	Limitation of liability of certain owners.
295	Power of local authority to grant charging orders.
329	Saving for certain provisions of the Lands Charges Act, 1925.

PART IV

SECTION OF ACT OF 1936 APPLIED TO SECTIONS 12, 16 TO 18, 20, 22 TO 24, 35 AND 36 OF THIS ACT

Section	Marginal note
287	Power to enter premises.

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FOR C. H. BAYLIS, C.B.
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament