

Cheshire County Council Act 1980

CHAPTER xiii

LONDON
HER MAJESTY'S STATIONERY OFFICE

Cheshire County Council Act 1980

CHAPTER xiii

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section
1. Citation and commencement.
2. Interpretation.
3. Appointed day.

PART II

EMPLOYMENT OPPORTUNITIES

4. Duration of Part II.
5. Advances for land acquisition or building work.
6. Grants for industrial purposes.
7. Further power to assist industry.
8. Guarantee of rents, etc., of industrial buildings.

PART III

HIGHWAYS

Section
9. Buildings under highways.
10. Highway amenities.
11. Street numbers.
12. Plans, etc., of new streets.

PART IV

OPEN SPACES AND MUNICIPAL PROPERTY

A. General

13. Closing of parks on Sundays, Victoria Park, Warrington, etc.

B. Open spaces at Chester

14. The Roodee.
15. The Little Roodee.
16. Grosvenor Park.

C. Chester city walls

17. Interpretation of Head C of Part IV.
18. City walls to continue vested in city council.
19. Maintenance of city walls.
20. Footpaths over city walls.
21. Restraints on buildings, etc., adjoining city walls.

PART V

PUBLIC HEALTH AND AMENITY

22. Registration of hawkers of food and premises.
23. Artificial lighting in habitable rooms, etc.
24. Paving of yards and passages.

PART VI

PUBLIC ORDER AND PUBLIC SAFETY

25. Byelaws as to leisure centres.
26. Control of demolitions.
27. Protection of damaged buildings.
28. Notice of street processions.
29. Safety of stands.
30. Touting, hawking, photographing, etc.
31. Enforcement of byelaws.

PART VII

LICENSING OF MUSIC AND DANCING

Section

32. Interpretation of Part VII and repeal.
33. Licensing of entertainments.
34. Nature and duration of entertainment licences and conditions.
35. Offences under Part VII.
36. Revocation of licences.
37. Part VII appeals.
38. Part VII powers of entry, inspection and examination.
39. Extension of general enactments.
40. Devolution of licence under this Part or Cinematograph Act 1909.

PART VIII

STORAGE OF FLAMMABLE MATERIAL

41. Interpretation of Part VIII.
42. Stacks to which this Part applies.
43. Unlawful stacks.
44. Part VIII appeals.
45. Powers of entry for Part VIII.
46. Offences under Part VIII.
47. Transitional provisions for Part VIII.

PART IX

FIRE PRECAUTIONS

48. Parking places: safety requirements.
49. Firemen's switches for luminous tube signs.
50. Access for fire brigade.
51. Oil-burning equipment.
52. Fire and safety precautions in public and other buildings.
53. Buildings used for storage of flammable substances.
54. Provision of means of escape from fire in certain buildings.
55. Further precautions against fire in high buildings.
56. Byelaws with regard to certain temporary structures.
57. Prescription of signs to be used on certain buildings.

PART X

RIVER DEE AT CHESTER

58. Interpretation of Part X.
59. General function as to river.
60. General rules for navigation.

Section

61. Vessels adrift.
62. Removal of vessels.
63. Removal of obstructions other than vessels.
64. Removal of projections.
65. Repair of landing places and embankments.
66. Default powers in respect of sections 64 and 65.
67. Power to license hire-pleasure-boats.
68. As to houseboats.
69. Licensing of works.
70. Restriction on construction of works.
71. Powers as to moorings, etc.
72. Byelaws.
73. Power to refuse or cancel registration.
74. Power to require information, entry, etc.
75. Temporary closure of river.
76. For protection of gas corporation.
77. For protection of British Railways Board.
78. For protection of Welsh Water Authority.
79. Regulation of relationships between city council and water authority.

PART XI

ROWS AND STALLS AT CHESTER

80. Application and interpretation of Part XI.
81. Rights in and over rows, steps and stalls.
82. Maintenance of rows, steps and stalls.
83. Particulars of persons interested in rows and stalls.
84. Support for rows, steps and stalls.
85. Obstructions in rows or stalls.
86. New steps.
87. Planning permission relating to rows and stalls.
88. Designation of rows, steps or stalls.
89. Compensation.
90. No mains or pipes to be laid in rows.
91. Registration of Part as local land charge.
92. Protection respecting Part XI for certain statutory undertakers.

PART XII

FINANCE AND MISCELLANEOUS

93. Recovery of rates from certain owners.
94. Extension of section 126 of Housing Act 1974.
95. Expenses of executing demolition orders, etc.
96. Temporary markets.

PART XIII

GENERAL

Section
97. For protection of electricity undertakers.
98. Disputes about compensation.
99. Arbitration.
100. Local inquiries.
101. Saving for conduct of business or use of premises.
102. Appeals to magistrates' court.
103. Appeals to Secretary of State.
104. Suspension of proceedings pending appeal.
105. Restriction on right to prosecute.
106. Liability of directors, etc.
107. Penalty for obstruction.
108. Defence of due diligence.
109. Application of general provisions of Act of 1936.
110. Saving for Health and Safety at Work etc. Act 1974.
111. Saving for Fire Precautions Act 1971.
112. Repeals and amendment.

SCHEDULES:
Schedule 1—
Part I—Section 153 of the Highways Act 1959 as having effect in accordance with section 9 (Buildings under highways) of this Act.
Part II—Section 29 of Public Health Act 1961 as having effect in accordance with section 26 (Control of demolitions) of this Act.
Schedule 2—Sections of Act of 1936 applied to this Act.
Schedule 3—Enactments referred to in section 112 (Repeals and amendment) of this Act—
Part I—Enactments repealed.
Part II—Enactments excluded from repeal.
Part III—Enactments for the benefit of the British Railways Board and the British Waterways Board excluded from repeal.
Part IV—Enactments excluded from repeal under this Act with unaltered application.
Schedule 4—Saving provisions.

ELIZABETH II



1980 CHAPTER xiii

An Act to re-enact with amendments and to extend certain local enactments in force within the county of Cheshire; to confer further powers on the Cheshire County Council and local authorities in the county; to make further provision in regard to the environment, local government, improvement, health and finances of the county and those local authorities; and for other purposes. [3rd April 1980]

WHEREAS by virtue of the Local Government Act 1972 (hereinafter referred to as " the Act of 1972 ") the county of Cheshire (hereinafter referred to as " the county ") was constituted on 1st April 1974 so as to consist of an area comprising the following areas described by reference to administrative areas existing immediately before the passing of the Act of 1972:— 1972 c. 70.

The county boroughs of Chester and Warrington;

The administrative county of Chester, except the areas in Derbyshire, Greater Manchester and Merseyside;

In the administrative county of Lancaster—

the borough of Widnes;

in the urban district of Golborne, the wards of Culcheth and Newchurch;

the rural district of Warrington;

in the rural district of Whiston, the parish of Hale and so much of the parish of Bold as lies within the designated area of Warrington New Town:

And whereas numerous local enactments are in force in parts of the said area and by section 262 of the Act of 1972 it is provided that subject to certain modifications certain local statutory provisions should continue to apply to the area, things or persons to which or to whom they applied before that date:

And whereas it is further provided by the said section 262 that certain local statutory provisions should cease to have effect at the end of 1984:

And whereas it is expedient that certain of the said enactments should be re-enacted with amendments and applied to the whole of the county or to parts of the county:

And whereas it is expedient at the same time to extend and enlarge in various respects the powers of the Cheshire County Council and local authorities in the county:

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 section 239 of the Act of 1972 have been observed:

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

PART I

PRELIMINARY

Citation and commencement.

1.—(1) This Act may be cited as the Cheshire County Council Act 1980.

(2) This Act shall come into operation on the 1st July 1980.

PART I
—*cont.*

Interpretation.

2.—(1) In this Act, unless the context otherwise requires—

" 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 1971 " means the Town and Country Planning Act 1971; 1971 c. 78.

" the Act of 1972 " means the Local Government Act 1972; 1972 c. 70.

" the Act of 1976 " means the Local Government (Miscellaneous Provisions) Act 1976; 1976 c. 57.

" the appointed day " has the meaning given by section 3 of this Act;

" the city " means the city of Chester;

" the city council " means the council of the city;

" contravention " includes a failure to comply, and " contravene " shall be construed accordingly;

" the county " means the county of Cheshire;

" the county council " means the Cheshire County Council;

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

" district " means a district in the county;

" district council " means the council of a district;

" electricity undertakers " means the Central Electricity Generating Board, the Merseyside and North Wales Electricity Board, the Midlands Electricity Board and the North Western Electricity Board or any of them, as the case may be;

" functions " includes powers and duties;

" gas apparatus " means mains, pipes and other apparatus belonging to or maintained by the gas corporation and includes any works constructed for the lodging therein or attachment thereto of apparatus;

" the gas corporation " means the British Gas Corporation;

" industrial building " has the same meaning as in section 66 of the Act of 1971;

" local authority " means the county council or a district council;

" owner " has the meaning given by section 343 of the Act of 1936;

" premises " includes messuages, buildings, land, easements and hereditaments of any tenure;

PART I —*cont.*

" statutory undertakers " means the electricity undertakers, the gas corporation, the water authority, the Chester Waterworks Company and the Post Office, or any of them as the case may be, and " statutory undertaker " shall be construed accordingly;

" street " has the meaning given by section 295 of the Act of 1959;

" water authority " means, except in Part X, the North West Water Authority and the Welsh Water Authority, or either of them.

(2) Any reference in this Act to a proper officer shall, in relation to any purpose and any local authority or area, be construed as a reference to an officer appointed for that purpose by that authority or for that area, as the case may be.

(3) Any reference in this Act to a Part not otherwise identified is a reference to that Part of this Act.

Appointed day.

3.—(1) In this Act " the appointed day ", in relation to any provision, means such day (not earlier than 1st July 1980) as may be fixed for the purposes of that provision in accordance with subsection (2) below by resolution of the county council or, as the case may be, the district council.

(2) The local authority shall publish in a newspaper circulating in their area notice—

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

(*b*) of the general effect of the provision for the purposes of which the day has been fixed;

and the day so fixed shall not be earlier than the expiration of 28 days from the date of the publication of the notice.

(3) A photostatic or other reproduction certified by the proper officer to be a true reproduction of a page, or part of a page, of any newspaper being a page or part of a page bearing the date of its publication and containing the notice mentioned in subsection (2) above shall be evidence of the publication of the notice and of the date of publication.

PART II

EMPLOYMENT OPPORTUNITIES

Duration of Part II.

4. This Part of this Act shall cease to have effect at the end of 1984.

PART II —*cont.*

Advances for land acquisition or building work. 1963 c. 29.

5. The Local Authorities (Land) Act 1963 shall have effect in the county as if in section 3 (power for local authority to make advances on mortgage for the erection of buildings on land sold or let by them not exceeding three-quarters of the estimated value of the mortgaged security)—

(1) for subsection (1) there were substituted the following:—

" (1) Subject to the provisions of this section a local authority may advance money to any person for the purpose of enabling him—

(*a*) to purchase or take on lease any land; or

(*b*) to erect a building or carry out any other work on any land;

being in either case land situated inside or outside their area ";

(2) for subsection (3) there were substituted the following:—

" (3) The amount of the principal of an advance made under this section shall not exceed nine-tenths of the value which it is estimated the mortgaged security will bear on completion of the building or other work, if any, for which the advance is made.".

Grants for industrial purposes.

6.—(1) A local authority may make grants to any person in respect of the cost of preparing the site of an industrial building (including any extension of such a building) on any land owned or leased by a small firm.

(2) In this section " small firm " means an industrial undertaking which has no more than 100 whole-time employees.

Further power to assist industry.

7.—(1) A local authority may carry out any work required—

(*a*) for the preparation or improvement of the site of an industrial building;

(*b*) for the provision or alteration of facilities or services required in connection with such a building.

(2) Nothing in this section shall be construed as authorising the carrying out of works by a local authority for the provision or alteration of services which it is the function of statutory undertakers or of the British Railways Board to provide or alter.

Guarantee of rents, etc., of industrial buildings.

8. A local authority may guarantee the payment of—

(*a*) any rent or other sum payable in respect of any industrial building; or

PART II —*cont.*

(*b*) any sum payable to any statutory undertakers in respect of the provision or maintenance of any works or services in connection with any industrial building.

PART III

HIGHWAYS

Buildings under highways.

9.—(1) Section 153 of the Act of 1959 (prohibition of construction of vaults, arches or cellars under the carriageway of a street without consent) shall have effect in the county as if—

(*a*) for the words " a vault, arch or cellar under the carriageway of a street " there were substituted the words "under a highway any part of a building on land adjoining the highway or a vault, arch or cellar ";

(*b*) before the words " a vault, arch or cellar " wherever subsequently occurring, there were inserted the words " any part of a building or ";

(*c*) for the words " appropriate authority " there were substituted the words " highway authority ";

(*d*) in subsection (5), for the word " street " there were substituted the word " highway ";

(*e*) after subsection (5) there were inserted the following subsection:—

" (5A) Subsection (1) of this section does not apply to the construction of code-regulated works as defined in section 1 (5) of the Public Utilities Street Works Act 1950. ";

1950 c. 39.

and subsection (6) were omitted.

(2) Section 153 of the Act of 1959, as that section has effect in accordance with subsection (1) above, is set out in Schedule 1 to this Act.

(3) Section 154 of the Act of 1959 (openings to cellars or vaults under footways) shall have effect in the county as if, in substitution for the definition of " appropriate authority " in that section provided by section 153 (6), there were inserted at the end of section 154—

" (6A) In this section ' appropriate authority ' means, in relation to any street which is a highway, the highway authority for the street, and, in relation to any other street, the local authority in whose area the street is situated.".

Highway amenities.

10.—(1) Subject to the modifications specified in subsection (2) below, section 213 of the Act of 1971 (power for local authorities to provide facilities for recreation or refreshment in certain highways) shall in the county apply to roads the use of which by

vehicular traffic is prohibited by a traffic regulation order made under section 1 (3) of the Road Traffic Regulation Act 1967 as it applies to a highway in relation to which an order has been made under section 212 (2) of the Act of 1971.

1967 c. 76.

(2) The modifications referred to in subsection (1) above are—

(*a*) the omission from section 213 (1) of the words " giving effect to the order or of ";

(*b*) the substitution in section 213 (3) (*a*), for the words " the order under section 212 of this Act as made ", of the words " the powers were exercised ";

(*c*) the substitution in section 213 (3) (*d*), for the words from " permitted " to the end, of the words " lawful; or ";

(*d*) the substitution in section 213 (5), for the words " consulted the highway authority (if different) and " of the words "obtained the consent of the highway authority (if different) and consulted ".

(3) For the purpose of subsection (1) above, use by vehicular traffic is prohibited where the prohibition applies to the whole width of the road and is so prohibited notwithstanding that the traffic regulation order permits certain vehicles or classes of vehicle to use the road or permits vehicles or classes of vehicle to use the road at certain times or on certain days or during certain periods.

(4) In section 213 (2) of the Act of 1971 as it has effect in the county the power to provide facilities for recreation or refreshment includes power, subject to subsections (5) and (6) below, to permit their provision by any person on such conditions as the competent authority think fit:

Provided that except where such facilities are provided on land belonging to the competent authority, the authority shall only make such charge for permission to provide such facilities as will reimburse the authority for their reasonable expenses in connection with granting their permission; but this provision shall not prejudice the right of the authority to require payment in respect of, or indemnities against, claims, liabilities and obligations arising by reason of—

(*a*) the provision of such facilities and costs incurred by the authority in connection therewith; and

(*b*) the removal or alteration of such facilities when required by the authority.

(5) Nothing in this section shall be taken to relieve any person from liability for damage caused by him to any apparatus belonging to or maintained or used by statutory undertakers.

PART III —*cont.*

(6) Where a competent authority propose—

(*a*) to exercise the powers of section 213 of the Act of 1971 to provide facilities in any such footpath or road as is mentioned in subsection (1) above; or

(*b*) to consider an application for permission to provide facilities for recreation or refreshment pursuant to subsection (4) above for more than 28 days in a calendar year;

they shall give notice of their proposal or, as the case may be, the application specifying the nature of the facilities and the place where it is proposed that they be provided and the period, not less than six weeks after giving the notice, during which representations regarding their proposal or, as the case may be, the application may be made to them:

Provided that notice shall not be required where the application is for renewal of permission previously given.

(7) Notice for the purpose of subsection (6) above shall be given—

(*a*) by fixing the notice in a conspicuous position at or near the place where it is proposed to provide the facilities; and

(*b*) by serving the notice on the occupier of any premises appearing to the competent authority to be likely to be affected by the facilities, addressed to him by name or, if his name is not known, by delivering the notice at the premises addressed to him as " The Occupier ".

(8) The competent authority shall not proceed with any proposal to exercise any such powers, or to grant any such permission, as are mentioned in subsection (6) above until they have taken into consideration all representations made in accordance with that subsection.

(9) The competent authority shall take such steps as they think necessary for affording to any organisation appearing to them to represent the interests of persons trading in shop premises which may be affected by the provision of facilities under this section an opportunity to make representations to the authority about any such proposal as is mentioned in subsection (6) above.

(10) A competent authority shall not exercise the powers of section 213 of the Act of 1971, so far as extended by this section, in relation to any highway belonging to or repairable by, or any operational land or disused railway belonging to, the British Railways Board except with the consent of that Board, which consent shall not be unreasonably withheld and any question whether consent is unreasonably withheld shall be determined by arbitration.

PART III —*cont.*

Street numbers.

11.—(1) A district council may allocate to the buildings in a street in their district such numbers as they think fit.

(2) Where a number has, or numbers have, been allocated to a building under this section or under section 64 of the Towns Improvement Clauses Act 1847, the district council may serve on the owner or occupier of the building a notice requiring him within such period, not less than three weeks, as may be specified in the notice, to mark the building with that number, or those numbers, in such a way as to make the mark legible from the street. 1847 c. 34.

(3) The owner or occupier of a building shall—

(*a*) maintain the mark in such a way that it remains legible from the street; and

(*b*) keep the view of the mark from the street unobstructed to such extent as is practicable.

(4) A district council may alter the number or numbers allocated to a building, and where they do so subsections (2) and (3) above shall apply to the altered number or numbers.

(5) A district council may, instead of requiring a building to be marked with a number or numbers under this section, require it to be marked with such other means of identification as they may, at the request of the owner or occupier, allow; and subsections (2) and (3) above shall have effect accordingly.

(6) An owner or occupier of a building who without reasonable excuse—

(*a*) fails to comply with a notice served on him under subsection (2) above; or

(*b*) contravenes subsection (3) above;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(7) The following provisions of the Towns Improvement Clauses Act 1847 shall cease to have effect in the county—

(*a*) in the words introducing sections 64 and 65, the words " and numbering the houses ";

(*b*) in section 64 the words from " shall from time to time " to " think fit, and " and the words " number or " wherever occurring;

(*c*) section 65.

PART III —*cont.*

Plans, etc., of new streets.

12.—(1) No work shall be done in or for the purpose of the construction of any new street in the county—

(*a*) unless the owner of the land on which the street is to be constructed or, if he is a different person, the person to whom or on whose behalf planning permission has been granted for the carrying out of development including the construction of the street, has submitted to the street works authority plans, sections and all reasonable particulars with respect to the level and width of, and specifications for, the proposed street, including the sewers and drains therein, and that authority have approved those plans, sections and particulars under this section in respect of the works of constructing the street therein described;

(*b*) otherwise than in accordance with those plans, sections and particulars as so approved and subject to such reasonable conditions as, in giving their approval, the street works authority may impose as to—

(i) the giving of notices and the deposit of plans;

(ii) the inspection of work, the testing of sewers and the taking by the authority of samples of the materials used in the execution of the work of constructing the street, including the sewers and drains therein.

(2) (*a*) Before the expiration of one month from the receipt of plans, sections and particulars under subsection (1) above the street works authority may give to the person by or on whose behalf they were submitted notice that they require as a prerequisite to their approval—

(i) such modifications of any plan, section and particulars; and

(ii) compliance with such conditions mentioned in subsection (1) (*b*) (i) and (ii) above;

as may be specified in the notice.

(*b*) In default of giving any notice under paragraph (*a*) above, the street works authority shall be deemed to have approved the plans, sections and particulars as submitted free of conditions other than such rights of inspection, of carrying out tests and taking samples by the street works authority as are described in subsection (1) (*b*) (ii) above and as may be reasonable.

(3) (*a*) If work is done in contravention of subsection (1) above the owner of the land on which the street is to be constructed and, if he is a different person, the person undertaking the construction of the street shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £500 and to a daily fine not exceeding £50.

PART III —*cont.*

(*b*) Where the person undertaking the construction of the street, not being the owner of the land on which it is to be constructed, is charged with an offence under this subsection in respect of the contravention of subsection (1) (*a*) above, it shall be a defence for him to prove that he had reasonable grounds for believing that the plans, sections and particulars had been submitted by the owner of the land and approved in accordance with the said subsection (1) (*a*).

(*c*) Proceedings under this subsection shall not be taken by any person other than the street works authority.

(4) Nothing in this section shall apply with respect to—

(*a*) any new street the subject of an agreement made under section 40 of the Act of 1959 (agreements by highway authorities to adopt) or a new street as respects which a sum has been paid to the street works authority or secured in compliance with section 192 of that Act (payments to be made in respect of street works);

(*b*) any new street constructed by the British Railways Board and authorised by any enactment.

PART IV

OPEN SPACES AND MUNICIPAL PROPERTY

A. General

Closing of parks on Sundays, Victoria Park, Warrington, etc. 1890 c. 59.

13.—(1) In its application to any park or pleasure ground provided by a district council, subsection (1) of section 44 of the Public Health Acts Amendment Act 1890 (which authorises the closing of parks and pleasure grounds) shall have effect as if—

(*a*) for so much of the said subsection as restricts the power of closing a park or pleasure ground on any one occasion to six consecutive days (excluding Sundays), and provides for the computation of any such period of six consecutive days, there were substituted a provision restricting the closing on any one occasion to six consecutive days, including Sundays; and

(*b*) for so much of the proviso to the said subsection as prohibits the closing of a park or pleasure ground on a Sunday there were substituted a provision restricting the closing of such park or pleasure ground to no more than three Sundays in any one calendar year;

and in its application to Victoria Park at Warrington the said subsection shall have effect as if for the maximum number of twelve days for such closure in any one year there were substituted a maximum of sixteen days.

(2) On each occasion of the exercise of the powers of the said subsection (1) the district council shall give reasonable prior notice thereof by advertisement in one or more local newspapers

PART IV —*cont.*

circulating in the district, and shall affix a copy or copies of the notice to some conspicuous object or objects in the park or pleasure ground.

(3) Nothing in this section shall apply to the Roodee, the Little Roodee and the Grosvenor Park referred to respectively in sections 14 (The Roodee), 15 (The Little Roodee) and 16 (Grosvenor Park) of this Act.

B. Open spaces at Chester

The Roodee.

14.—(1) The city council may from time to time let or lease on such terms and conditions as they think fit for any term not exceeding 35 years the whole or part of the Roodee to any person for the purpose of its use for racing or other events, sports, shows, exhibitions, entertainments or similar purposes.

(2) The terms and conditions of any letting or lease under this section—

(*a*) shall not authorise the use for any such events or purposes of any part of the Roodee so let or leased on more than 12 days in any year or such longer period as the Secretary of State may from time to time in writing allow;

(*b*) may in connection with any such event permit the exclusion of the public from the whole or part of the Roodee (including parts not so leased) for periods not exceeding 14 days before the commencement of the event and 7 days after its conclusion;

(*c*) may afford such rights as the city council think fit of charging for admission to the Roodee in connection with the event, and of excluding in that connection persons other than those whose admission is permitted by the tenant or lessee; and

(*d*) may afford such further rights for the erection of barriers, screens, hoardings or other erections on any part of the Roodee both for excluding such other persons and of preventing persons other than those whose admission is so permitted from viewing the event from outside the Roodee or the part thereof on which any event takes place.

(3) The following provisions shall apply with respect to the Roodee as they apply to any park or pleasure ground, namely:—

(*a*) section 76 of the Public Health Acts Amendment Act 1907 (powers as to parks and pleasure grounds); and

1907 c. 53.

(*b*) section 145 of the Act of 1972 (as to provision of entertainments).

(4) (*a*) In addition to their powers above under this section, the city council may on such days as they think fit (not exceeding 40 days in any one year nor 8 consecutive days on any one occasion) close to the public so much of the Roodee (hereinafter

PART IV —*cont.*

called " the unlet part ") as is not comprised in any letting or lease for the time being subsisting and made under subsection (1) above, and grant the use of the unlet part either gratuitously or for payment and whether or not so as to render admission subject to payment, to any public charity or institution or for any agricultural, horticultural or other show, or for any entertainment of any nature.

(*b*) Admission to the unlet part when closed pursuant to paragraph (*a*) above (or to so much thereof as is so closed) may be either with or without payment, as directed by the city council or (with the consent of the city council) by the body or person to whom the use of the unlet part (or so much thereof as is closed) may be granted; but this subsection shall not authorise closure of the unlet part on any Sunday nor on a day appointed for public thanksgiving or mourning if the area of the unlet part which is closed, together with any other area so closed, exceeds one-quarter of the total area of all the parks or pleasure grounds provided by the city council.

(*c*) In computing any period of 8 consecutive days for the purposes of paragraph (*a*) above, a Saturday and the following Monday shall be regarded as consecutive days in any case where closure does not take place on the intervening Sunday.

(5) In this section " the Roodee " means the lands in the city of that name, including those bounded by the city walls (within the meaning of section 17 (Interpretation of Head C of Part IV) of this Act), the fence at the top of the western embankment of Grosvenor Road, the river Dee, the viaduct of the railway between Chester and Holyhead, the former Paradise Row and Watergate Square.

The Little Roodee.

15.—(1) (*a*) The city council may continue to provide on the whole or part of the Little Roodee a parking place for vehicles and, for that purpose, shall have all the powers of section 28 of the Road Traffic Regulation Act 1967.

1967 c. 76.

(*b*) So long as substantially the whole of the Little Roodee continues to be used in the normal course as a parking place for vehicles, the city council may on such days as they think fit use or grant the use of the Little Roodee either gratuitously or for payment and whether or not so as to render admission subject to payment, to any public charity or institution, or for any agricultural, horticultural or other show or for any entertainment of any nature.

(2) In the event of cesser of use of the Little Roodee in the normal course as such a parking place, the powers in relation to the Roodee of subsection (3) and, in relation to the unlet part

PART IV —*cont.*

of the Roodee, of subsection (4) of section 14 (The Roodee) of this Act shall with necessary modifications apply with respect to the Little Roodee as those powers apply respectively with respect to the Roodee and the unlet part thereof.

(3) In this section " the Little Roodee " means the lands of that name in the city comprising 2·036 hectares or thereabouts and bounded on the north-west by Grosvenor Street, on the north-east by Castle Drive, on the east by lands of the council and on the south by the river Dee.

Grosvenor Park.

1907 c. 53.

16.—(1) Neither subsection (4) of section 76 of the Public Health Acts Amendment Act 1907 nor subsection (3) of section 145 of the Act of 1972 (both of which prohibit the exercise of powers conferred by those sections where the exercise would contravene a covenant or condition subject to which a gift of a public park or pleasure ground has been accepted) shall apply to the Grosvenor Park except to the extent that they relate to any covenant or condition in the indenture of 1867 prohibiting or restricting in the Park—

(*a*) the erection of buildings or structures; or

(*b*) the holding of fairs; or

(*c*) the sale of intoxicating liquor; or

(*d*) the carrying on of dancing, other than country dancing.

(2) In this section—

" the Grosvenor Park " means the lands in the city of that name the subject of an indenture of conveyance made 4th November 1867, between the Most Honourable Richard Marquess of Westminster of the one part and the mayor, aldermen and burgesses of the city and borough of Chester of the other part, containing 5·789 hectares or thereabouts and bounded on the north by Union Street, on the east by Dee Lane, on the south partly by the Grosvenor Park Terrace and partly by the Groves and on the west by the footpath leading from Vicars Lane to the Groves; and

" the indenture of 1867 " means the said indenture of conveyance.

C. Chester city walls

Interpretation of Head C of Part IV.

17. In this Head of this Part " the city walls " means the ancient walls of the city (with the steps, bridges, gates and towers incident thereto) the situations whereof are shown on a plan and thereon coloured pink, being the plan of which five copies have been signed by the Right Hon. the Lord Aberdare, the chairman of the

committee of the House of Lords to whom the Bill for this Act was referred and deposited respectively at— PART IV —*cont.*

(*a*) the office of the Clerk of the Parliaments, House of Lords;

(*b*) the Private Bill Office of the House of Commons;

(*c*) the Department of the Environment;

(*d*) the office of the proper officer of the county council; and

(*e*) the office of the proper officer of the city council.

City walls to continue vested in city council.

18. The city walls shall continue vested in the city council.

Maintenance of city walls.

19.—(1) A person authorised in writing in that behalf by the city council may at any reasonable time enter upon any land and take with him such vehicles, apparatus and equipment as is necessary for the purpose of—

(*a*) surveying the city walls or determining whether, and if so in what manner, any works in relation to the city walls ought to be carried out;

(*b*) carrying out works in relation to the city walls.

(2) Subsections (2) to (8) of section 15 of the Act of 1976 (relating to powers of local authorities to survey land) shall apply with necessary modifications with respect to the exercise of the powers of subsection (1) above as they apply to the powers of subsection (1) of that section and as if in the said section 15—

(*a*) subsection (2) applied to surveying carried out under subsection (1) (*a*) of this section;

(*b*) in subsection (4) the reference to a proposal to search and bore included reference to such a proposal in doing anything authorised by subsection (1) of this section; and

(*c*) in subsection (5) the reference to such a proposal of a local authority as is mentioned in subsection (1) (*a*) of that section included reference to the proposed doing of anything authorised by subsection (1) of this section.

(3) In exercising the powers of subsection (1) above or subsections (2) to (8) of section 15 of the Act of 1976 as those subsections have effect in accordance with subsection (2) above in relation to any land used by the British Railways Board for the purposes of their undertaking, the city council and all persons authorised by them to exercise the said powers shall comply with all reasonable conditions imposed by that Board.

Footpaths over city walls.

20. The ways over and along the city walls shall be highways over which the public have a right of way on foot only and maintainable at the public expense.

PART IV —*cont.*

Restraints on buildings, etc., adjoining city walls.

21.—(1) No person shall—

(*a*) unless with the consent of the city council and in accordance with any terms and conditions they may impose, place or erect any structure within 2 metres of the city walls;

(*b*) cause or permit to be placed any materials or refuse within 2 metres of the city walls so as to cause or be likely to cause damage thereto, or so as to prevent or interfere with the inspection of the city walls or any part thereof;

but nothing in paragraph (*a*) of this subsection shall apply to any structure being development which, by virtue of the Act of 1971 and any development order for the time being in force thereunder, may be undertaken only with permission granted on an application under Part III of that Act.

(2) If without reasonable excuse any person contravenes this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(3) In the application of the foregoing provisions of this section to any works carried out by the British Railways Board in the exercise of their statutory functions nothing in those provisions shall apply to works with respect to railway bridges or with respect to the maintenance or renewal of the railway and the facilities and equipment used for or in connection with its operation.

(4) In exercise of the foregoing powers of this section the city council shall not unreasonably withhold consent to, or impose unreasonable terms and conditions on the placing or erection of any pipe, sewer, apparatus or structure by the water authority or the Chester Waterworks Company for or in connection with any of their functions; and any question whether consent is unreasonably withheld shall be determined by arbitration.

PART V

PUBLIC HEALTH AND AMENITY

Registration of hawkers of food and premises.

22.—(1) As from the appointed day in any district—

(*a*) no person shall for private gain sell, offer or expose for sale in a district any food from a stall or container unless he is registered by the district council;

(*b*) no premises in a district shall be used as storage accommodation for any food intended for sale for private gain from a stall or container unless the premises are registered by the district council.

PART V —*cont.*

(2) Any person who contravenes subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(3) (*a*) An application for a person to be registered under this section shall be made by himself and an application for premises to be so registered shall be made by the owner or occupier or intending owner or occupier thereof.

(*b*) Any such application shall be accompanied by such particulars as to the applicant or the premises, as the case may be, and otherwise, as the district council may reasonably require, including particulars as to any vehicle, receptacle or stand to be used by the applicant.

(*c*) On application for registration under this section the district council shall register the applicant and, if the application specifies premises, those premises, and shall issue to the applicant a certificate of registration.

(4) The district council shall keep a register of the persons and premises registered under this section.

(5) This section shall not apply to—

(*a*) the sale or offer or exposure for sale of food by a person in an open shop for the sale of food or by a person employed and in the course of his employment by such a person, or to the use by a person of either of the foregoing descriptions, and in connection with such a shop, of any premises as storage accommodation for food intended for sale;

(*b*) the sale or offer or exposure for sale of food by a dairyman registered under regulations in force under Part II of the Food and Drugs Act 1955, or having effect by virtue of section 136 (2) of and Schedule 12 to that Act as if they had been made under the said Part II, or by a person employed and in the course of his employment by such a dairyman, or to any dairy so registered; 1955 c. 16 (4 & 5 Eliz. 2).

(*c*) the sale or offer or exposure for sale of food by any person at any market owned by a district council or at any charter, prescriptive or statutory market not so owned for which such person or his employer has paid a toll, stallage or rent, or to the use of any premises in any such market as storage accommodation for food intended for sale by any such person at such market;

(*d*) any premises registered under section 16 of the Food and Drugs Act 1955 or used as a theatre, cinematograph theatre, music hall or concert hall or used as a canteen or refreshment room in or in connection with and for persons employed at, a place of work, or to any person

PART V —*cont.*

in respect of the sale or offer or exposure for sale of any food in any such premises.

(6) In this section—

" container " includes any basket, pail, tray, box or other receptacle of any kind, whether open or closed;

" food " does not include any substance contained in containers of such materials and so closed as to exclude all risk of contamination;

" premises " means a building or part of a building and any forecourt, yard or place of storage used in connection with the building;

" stall " includes any stand, mobile canteen, vehicle (whether movable or not) or barrow from which food is sold.

Artificial lighting in habitable rooms, etc.

23.—(1) In every dwelling in a district, which is let for human habitation and to which a supply of electricity has been made available, adequate means of lighting shall be provided and maintained in every habitable room, stairway or passage in that dwelling.

(2) If adequate means of lighting are not so provided and maintained the district council may serve on the owner a notice requiring him within such time, not being less than 21 days, as may be specified in the notice to execute such works as may be necessary to comply with subsection (1) above.

(3) The provisions of section 290 of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of work shall apply in relation to a notice given under subsection (2) above as they apply in relation to the notices mentioned in subsection (1) of that section and as if—

(*a*) the following paragraph were inserted at the end of subsection (3):—

" (*g*) that, having regard to the period during which the dwelling is likely to continue to be used for human habitation, it is unreasonable to require the execution of the works "; and

(*b*) in subsection (6) the words from " and " where it secondly occurs to the end of the subsection were omitted.

(4) In this section—

" adequate means of lighting " in relation to a room, stairway or passage means adequate means of lighting the same by electricity and includes the provision in the room, stairway or passage of adequate electric lines connected with an electricity main but does not include—

(*a*) the supply of electricity; or

(*b*) the provision of lamps;

PART V —*cont.*

" dwelling " means a building or part of a building occupied or intended to be occupied as a separate dwelling;

" habitable room " means a room used or intended to be used as a living room, sleeping room, bathroom or for a sanitary convenience, and includes any cellar or room comprised in a dwelling and used as a fuel store.

(5) This section shall not apply to a dwelling—

(*a*) in an area declared by the district council to be a clearance area; or

(*b*) as respects which the proper officer has made an official representation under section 157 of the Housing Act 1957 either that it is unfit for human habitation or that it is in an area which should be dealt with as a clearance area, and the representation is under consideration; or 1957 c. 56.

(*c*) as respects which notice has been served under subsections (1) or (1A) of section 9 of the Housing Act 1957 on the person having control of the dwelling and the works required pursuant to the notice have not been executed; or

(*d*) as respects which notice has been served under section 16 of the said Act of 1957 and works required to render the dwelling fit for human habitation have not been carried out to the satisfaction of the district council.

Paving of yards and passages.

24. Where any court or yard is appurtenant to, or any passage gives access to, industrial premises in any district as well as to a house or houses, the district council may exercise the powers of section 56 of the Act of 1936 (paving and draining of courts, yards and passages) in respect of any such industrial premises as if they were a house.

PART VI

PUBLIC ORDER AND PUBLIC SAFETY

Byelaws as to leisure centres.

25.—(1) A local authority may make byelaws for all or any of the following purposes:—

(*a*) the good and orderly conduct of persons resorting to any leisure centre;

(*b*) regulating the movement and parking of vehicles at any leisure centre;

(*c*) prohibiting or regulating the use of vehicles by the public at any leisure centre otherwise than on a road as defined in section 257 of the Road Traffic Act 1960. 1960 c. 16.

(2) Byelaws made under paragraph (*a*) of subsection (1) above may provide for the removal from the leisure centre of any person infringing any such byelaw by any proper officer.

PART VI —*cont.*

(3) In this section " leisure centre " means any place owned or managed by a local authority (whether alone or in conjunction with any other local authority or body) at which recreational facilities of two or more kinds and of any of the descriptions mentioned in subsection (1) of section 19 (recreational facilities) of the Act of 1976 are provided.

Control of demolitions.

26.—(1) As from the appointed day in any district, section 29 of the Act of 1961 (requirements on demolition of buildings) shall have effect as if—

(*a*) for the words in subsection (3) preceding the proviso there were substituted the following:—

" No person shall, without the consent of the local authority, undertake a demolition to which subsection (1) of this section applies unless—

(*a*) a notice specifying the building and the works of demolition intended to be carried out has been served on the local authority, and

(*b*) the local authority have served on the person undertaking the demolition a notice under subsection (1) of this section or twenty-eight days have elapsed since the service of notice under paragraph (*a*) of this subsection,

and a person contravening this subsection shall be liable to a fine not exceeding £500: ";

(*b*) in the proviso to subsection (3) for the words " given under this subsection " there were substituted the words " served under paragraph (*a*) of this subsection ";

(*c*) after subsection (3) there were inserted the following subsection:—

" (3A) More than one notice may be served under subsection (1) of this section in respect of any demolition but a second or subsequent notice shall not expressly or by implication contain a requirement incompatible with one contained in a previous notice.";

(*d*) in subsection (4) (*a*) for the words " was given " there were substituted the words " has been served on the local authority ";

(*e*) at the end of subsection (5) (*b*) there were inserted the words " and to make good any damage to adjacent premises ";

(*f*) for subsection (5) (*d*) and (*e*) there were substituted—

" (*d*) to disconnect and seal at such points as the local authority may reasonably require any

sewer, drain or water or gas pipe in or under the building to be demolished and to render any electric line or apparatus in or under the building electrically dead,

(*e*) to remove any such sewer, drain or water or gas pipe and seal any sewer, drain or water or gas pipe with which the sewer, drain or pipe to be removed is connected,";

(*g*) at the end of subsection (5) there were added—

" (*g*) to take such precautions as the local authority may after consultation with the fire authority reasonably require with regard to the burning on the site of materials or rubbish or of any structure,

and with a view to preserving the safety and amenities of the public in the vicinity of the demolition may prescribe the manner in which, and the conditions subject to which, the demolition is to be undertaken and the condition in which the site is to be left on completion.

(5A) A notice served under subsection (1) of this section within twenty-eight days after the service of notice under subsection (3) (*a*) of this section may also require part of the demolition to be deferred, but not beyond the expiry of the period for serving notice specified in subsection (4) of this section.

(5B) A person contravening such a notice requiring the deferment of part of the demolition shall be liable to a fine not exceeding £500, but in any proceedings for an offence under this subsection it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.";

(*h*) in subsection (6) after the word " under " there were inserted " paragraph (*b*) except so far as it relates to the weatherproofing of surfaces or ";

(*i*) in subsection (7) after the word " from " there were inserted the letter " (*a*) " and at the end of the subsection there were added—

" or

(*b*) any obligations with respect to the disconnection, removal or other alteration of a gas pipe under any regulations having effect under section 31 of the Gas Act 1972, 1972 c. 60.

PART VI —*cont.*

and nothing in this section shall be construed as authorising any person to cut, alter or otherwise interfere with any electric line or apparatus of any statutory undertakers authorised to carry on an electricity undertaking.";

(*j*) after subsection (7) there were inserted the following subsection:—

"(7A) Where the local authority serve notice of a requirement for the disconnection or removal of any sewer or water or gas pipe belonging to, or maintained or used by statutory undertakers, or for the rendering of any electric line or apparatus electrically dead, they shall send a copy of the notice, so far as it relates to that requirement, to the statutory undertakers.";

(*k*) in subsection (10) (*b*) after the word "weatherproofed" there were inserted "or any damage to any adjacent premises to be made good" and at the end there were added "or of making good that damage".

(2) Section 29 of the Act of 1961 as that section has effect in accordance with subsection (1) above is set out in Part II of Schedule 1 to this Act.

(3) In this section "the Act of 1961" means the Public Health Act 1961.

1961 c. 64.

Protection of damaged buildings.

27.—(1) Where it appears to a district council that a building in their district is, by reason of damage to the building, not secured against entry by trespassers and that the occupier of the building is absent from the building, the district council may do such things as are reasonably required to render the building secure and recover from the owner or occupier the expenses reasonably incurred by them in so doing.

(2) The district council shall not exercise their powers under subsection (1) above without the consent of the owner or occupier of the building unless, having regard to all the circumstances, it is not reasonably practicable to obtain such consent within a reasonable time.

(3) Nothing in this section shall apply to premises to which section 8 of the Act of 1976 applies (unoccupied houses subject to closing orders or undertakings against use for human habitation).

Notice of street processions.

28.—(1) (*a*) No person shall organise or conduct a procession through any street in a district unless there has been served on the chief officer of police at any police station in the district through

PART VI —*cont.*

which the procession is intended to pass, a notice stating the route by which and the date and time on and at which it is intended that it should pass.

(*b*) Notice under paragraph (*a*) above shall be served at a time not less than 72 hours before the procession starts to pass through any street or as soon as reasonably practicable after that time.

(2) If any procession passes through any street in a district by a route or at a time which has not been stated in a notice relating to that procession delivered in accordance with subsection (1) above, except in accordance with directions given by the chief officer of police under section 3 of the Public Order Act 1936 or other directions given by the senior police officer, if any, attending the procession, any person organising or conducting the procession shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

1936 c. 6 (1 Edw. 8 & 1 Geo. 6).

(3) Nothing in this section shall apply to a procession—

(*a*) commonly or customarily held; or

(*b*) organised or conducted for the purpose of a funeral by a person acting in the normal course of his business where his business is that of a funeral director.

(4) For the furtherance of co-operation between the organisers of processions and the police, the chief constable shall issue a code of practice giving guidance to the organisers of processions on any matters which he deems to be relevant, and in particular drawing attention to—

(*a*) the desirability of notifying the police as early as possible when a procession is planned and publicised; and

(*b*) the need to make arrangements for stewarding and to agree the route with the police.

(5) Proceedings shall not be instituted for any offence under this section unless the proceedings are instituted by or with the consent of the Director of Public Prosecutions.

Safety of stands.

29.—(1) This section applies to a stand for the accommodation of spectators of, or participants in, any sport or other competitive activity or any entertainment, exhibition or public gathering, not being a stand—

(*a*) comprising a work of which plans, sections, specifications or written particulars must be deposited in accordance with building regulations; or

(*b*) erected for the purposes of his business by the proprietor of a pleasure fair as defined in section 75 of the Public Health Act 1961.

1961 c. 64.

(2) As from the appointed day in any district no person shall in the district make available or permit the use of, a stand to which this section applies for the accommodation of 20 or more

PART VI —*cont.*

persons unless it has been erected in accordance with particulars approved by the district council under the following provisions of this section.

(3) Any person who intends to erect in the district a stand to which this section applies for the accommodation of 20 or more persons shall—

(*a*) give to the district council notice of his intention, stating the period for which the stand is intended to remain erected; and

(*b*) submit for approval by the district council such particulars of the intended stand as the council may require.

(4) On receipt of a notice under subsection (3) (*a*) above the district council shall consult the fire authority.

(5) The particulars required under subsection (3) (*b*) above shall not include a plan and section of the intended stand but not more than 7 days after the submission of such particulars the district council may give to the person who gave the notice counter-notice requiring him to submit such a plan and section.

(6) Before the expiration of five weeks after the submission of particulars under subsection (3) (*b*) above, or four weeks after the submission of a plan and section required under subsection (5) above (whichever is the later), the district council may give to the person by whom the particulars, plan or section were submitted notice specifying—

(*a*) such modifications of any plan, section and particulars submitted to them as they may require; and

(*b*) such conditions as to maintenance and removal of the stand as they may require;

being modifications and conditions which appear to the district council to be necessary for securing the stability of the stand, the safety of persons to be accommodated on the stand, protection against fire (including access for fire brigade appliances and personnel) and the removal of the stand after the purposes of its erection have been fulfilled.

(7) Unless before the expiration of the said period of five weeks or as the case may be, the said period of four weeks, the district council have given notice under subsection (6) above, they shall be deemed for the purposes of this section to have approved the erection of the stand in accordance with the particulars submitted.

(8) Any person aggrieved by the withholding of approval of the erection of a stand or a requirement of the district council under this section may appeal to a magistrates' court which may

dismiss or allow the appeal, or may vary any requirement of the district council and may make directions for giving effect to its decisions.

(9) If any person—

(*a*) contravenes subsection (2) above; or

(*b*) contravenes such requirements as are mentioned in subsection (6) above;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

(10) Where it appears to a district council that any stand to which this section applies has been erected or is in use in the district in contravention of this section or of any requirement made under this section, they may, after giving to the owner or occupier of the stand such notice as may be practicable in the circumstances that they propose to do so, do such works—

(*a*) to remedy the condition of the stand; or

(*b*) to prevent the continued use of the stand until its condition has been remedied; or

(*c*) to dismantle the stand;

as may reasonably be required to prevent danger arising from the use of the stand, and may recover the expenses reasonably incurred in so doing from the person on whom the notice was served.

Touting, hawking, photographing, etc.

30.—(1) A district council may designate, in accordance with subsection (5) below, any of the following places, or any part of such places, in the district as places to which this section applies for any of the purposes of subsection (2) below:—

(*a*) a public off-street car park, recreation ground, garden or other park, pleasure ground or open space under the management and control of a local authority;

(*b*) a street or esplanade, parade, promenade, marine drive or way to which the public commonly have access, whether or not as of right;

(*c*) the seashore:

Provided that the district council shall not designate—

(i) for the purpose of subsection (2) (*b*) below, any highway specified in a control order under section 7 of the Act of 1976; or

(ii) for the purpose of subsection (2) (*c*) (ii) below, any street.

(2) Any person who, in a place designated under this section—

(*a*) importunes any person by touting for a hotel, lodging house, restaurant or other place of refreshment, for a

PART VI —*cont.*

shop, for a theatre, or a place of amusement or recreation, for a hackney carriage, public service vehicle or other conveyance or for a ship or boat; or

(*b*) without the consent of the district council or in breach of any condition subject to which the council's consent is given, hawks, sells or offers or exposes for sale any thing; or

(*c*) without the consent of the district council or in breach of any condition subject to which the council's consent is given—

(i) photographs any person by way of trade or business; or

(ii) offers or exposes for hire any vehicle, chair or seat or any animal to ride;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(3) The conditions of consent referred to in subsection (2) (*b*) and (*c*) above include conditions as to the times or period for which the consent is valid and the payment for the consent of such reasonable fee to cover the expense of the district council in dealing with applications for such consents as the council may by resolution prescribe; and, subject to any condition as to the period for which the consent is valid, any such consent may be revoked by notice to the person to whom the consent was given under this subsection.

(4) A person aggrieved by—

(*a*) the withholding by the district council of consent referred to in subsection (2) (*b*) or (*c*) above;

(*b*) the conditions subject to which the council give such consent; or

(*c*) the revocation of such consent under subsection (3) above;

may appeal to a magistrates' court which may dismiss or allow the appeal or may vary any conditions imposed by the council.

(5) (*a*) Before designating any place for any of the purposes of subsection (2) above the district council shall give notice of their proposal by advertisement in a newspaper circulating in the district, and by posting it in the places to which it relates, stating that objections to the proposal may be made to the proper officer of the council within a time, not less than 28 days after the giving of the notice, specified in the notice.

PART VI —*cont.*

(*b*) After taking into consideration any objections made in accordance with paragraph (*a*) above, the district council may by resolution designate as places to which this section applies for any of the purposes of subsection (2) above all or any, or any part, of the places specified in the notice given under that paragraph.

(6) A resolution under subsection (5) (*b*) above shall come into force on such day as shall be specified by a notice given in the same manner as a notice given under subsection (5) (*a*) above, being a day not less than 28 days after the day on which the notice is given under this subsection.

(7) This section shall not prohibit—

(*a*) the doing of anything on land by the owner or occupier of the land, or by any person with the consent of the owner or occupier, or the doing of anything on land forming part of a highway by the owner or occupier of land fronting that part;

(*b*) the selling or offering or exposing for sale of any thing to persons on premises fronting on, or adjacent to, a place designated under this section, whether on those premises or in that part of any highway on which the premises front or to which they are adjacent;

(*c*) the owner or operator of a public service vehicle from touting for passengers for that vehicle at any bus station;

(*d*) the taking of a photograph for the purpose of making it available for publication in a newspaper or periodical if the photographer is employed as such by or on behalf of the owner or publisher of a newspaper or periodical, or carries on a business which consists in, or includes, selling or supplying photographs for such publication;

and the district council shall not withhold their consent under subsection (2) (*b*) above to the selling or offering or exposing for sale by any person of newspapers and periodicals except on the ground that their consent has already been given to a sufficient number of other persons.

(8) Before giving consent under this section to the hawking, selling or offering or exposing for sale of any thing in a highway, the district council shall consult the highway authority.

Enforcement of byelaws.

31. Nothing in section 298 of the Act of 1936 or any other enactment prohibits a police officer from taking proceedings in respect of an offence consisting of a breach of byelaws made by a local authority.

PART VII

LICENSING OF MUSIC AND DANCING

Interpretation of Part VII and repeal.

32.—(1) In this Part—

" entertainment licence " means a licence under this Part to keep or use premises for a music or dancing entertainment; and includes such a licence for occasions specified in the licence (in this Part referred to as an " occasional entertainment licence ");

" music or dancing entertainment " means public dancing, singing, music or other public entertainment of the like kind.

1890 c. 59.

(2) Section 51 of the Public Health Acts Amendment Act 1890 shall not be adopted by a district council and if the said section 51 is in operation in any part of a district immediately before the appointed day fixed for the purposes of this Part in that district, it shall on that day cease to have effect therein.

Licensing of entertainments.

33.—(1) Subject to the provisions of this Part, as from the appointed day in a district premises within the district shall not be kept or used for a music or dancing entertainment except as authorised by an entertainment licence.

(2) The district council may, on the application of any person, grant or renew to him an entertainment licence for premises specified in the licence on such terms and conditions as may be so specified.

(3) An application for an entertainment licence shall be accompanied by such plans and particulars as the district council may by resolution prescribe.

(4) An applicant for an entertainment licence shall give notice of the application to the fire authority and to the chief officer of police, and shall give public notice of the application (identifying the premises) in such form as the district council may by resolution prescribe—

(*a*) by displaying the notice in a conspicuous position on or near the premises for 14 days beginning with the date of the application; and

(*b*) except in the case of application for renewal of a licence, by advertisement in a newspaper circulating in the district published not later than 7 days after the date of the application.

(5) An application for the grant or renewal of an entertainment licence shall not be entertained by the district council unless they are satisfied that the applicant has complied with subsection (4) above in respect of the application.

PART VII —*cont.*

(6) On considering an application for the grant or renewal of an entertainment licence the district council shall take into consideration any objection made against the application of which notice has, not later than 21 days after the date of the application, been sent to the district council and to the applicant, stating in general terms the grounds of the objection.

(7) Before refusing to grant or renew an entertainment licence the district council shall give to the applicant an opportunity of appearing before and of being heard by a committee or sub-committee of the council and, if so required by him, the council shall within 7 days after their decision give him notice thereof containing a statement of the grounds upon which it is based.

(8) Applications for entertainment licences shall be determined without undue delay.

(9) An entertainment licence is not required—

(*a*) in respect of a music or dancing entertainment carried on at a pleasure fair within the meaning of section 75 of the Public Health Act 1961; 1961 c. 64.

(*b*) by reason only of the use for the playing of music or singing of any place of public religious worship (as defined in section 213 (2) of the Act of 1959) or, if so used as an incident to any religious meeting or service, any other premises.

Nature and duration of entertainment licences and conditions.

34.—(1) An entertainment licence shall be for such period, not exceeding 12 months, specified in the licence as the district council may determine or for occasions so specified.

(2) (*a*) With his application for an entertainment licence the applicant shall pay such reasonable fee to cover the expense of the district council in dealing with such applications as the council may by resolution prescribe; and different fees may be prescribed for applications of different kinds.

(*b*) No fee shall be payable under this subsection where the application relates to an entertainment which, in the opinion of the district council, is of an educational character or is given for a charitable purpose; and in any other case the district council may dispense with, or reduce, the fee.

(3) The district council may on the application of the holder of an entertainment licence, other than an occasional entertainment licence, or of any person to whom he wishes to assign the licence transfer the licence to that person; and subsections (4) to (8) of section 33 (Licensing of entertainments) of this Act and subsection (2) above shall apply to a transfer as they apply to the grant of an entertainment licence.

(4) Where, before the date of expiry of an entertainment licence, an application has been made for the renewal of that

PART VII —*cont.*

licence, the licence shall be deemed to remain in force, notwithstanding that the date of expiry of the licence has passed, until the determination of the application by the district council or until the withdrawal of the application.

(5) Where, before the date of expiry of an entertainment licence, an application has been made for the transfer of that licence, the licence shall be deemed to remain in force (with any necessary modifications) notwithstanding that the date of expiry of the licence has passed or that the applicant for such transfer is carrying on at the premises in respect of which the licence was granted the functions to which the licence relates, until the determination of the application by the district council or until the withdrawal of the application.

Offences under Part VII.

35. A person who—

(*a*) keeps or uses, or permits the use of, premises contrary to subsection (1) of section 33 (Licensing of entertainments) of this Act; or

(*b*) contravenes, or permits the contravention of, a term or condition specified in an entertainment licence;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

Revocation of licences.

36. If the holder of an entertainment licence is convicted of contravention of any terms or conditions on which the licence has been granted, the licence may be revoked by the district council.

Part VII appeals.

37. A person aggrieved by a refusal to grant, renew or transfer an entertainment licence, or by any terms or conditions specified in such a licence, or by the revocation of such a licence, may appeal to a magistrates' court; and on any such appeal the court may order the grant, renewal or transfer of the licence, or the grant, renewal or transfer of it on such terms or conditions not more onerous than those imposed by the district council, as the court thinks fit and make directions for giving effect to its decision.

Part VII powers of entry, inspection and examination.

38.—(1) An authorised officer of the district council or any officer of the fire authority in either case on producing if so required a duly authenticated document showing his authority, or any police officer may at all reasonable times enter upon, inspect and examine any premises which he has reasonable cause to believe are used or intended to be used for a music or dancing entertainment, for the purpose of ascertaining—

(*a*) whether there is, or has been, in or in connection with the premises, a contravention of the provisions of this Part or of any term or condition on which an entertainment licence for those premises has been granted; or

(*b*) whether or not circumstances exist which would authorise the district council to take action under this Part.

PART VII —*cont.*

(2) Subsections (2), (3) and (4) of section 287 of the Act of 1936 shall apply in respect of entry to premises for the purposes of this section as they apply to entry to premises for the purposes of subsection (1) of that section.

Extension of general enactments. 1952 c. 68. 1955 c. 20. 1964 c. 26. 1968 c. 54. 1971 c. 40.

39.—(1) Section 7 of the Cinematograph Act 1952, section 4 of, and paragraph 1 of Schedule 3 to, the Revision of the Army and Air Force Acts (Transitional Provisions) Act 1955, section 182 (1) of the Licensing Act 1964, section 12 (2) of the Theatres Act 1968 and section 31 of the Fire Precautions Act 1971 (all of which exclude the operation of enactments regulating the use of premises for the provision of entertainments) shall have effect as if the enactments respectively referred to in those provisions included this Part.

1967 c. 19.

(2) For the purposes of section 1 of the Private Places of Entertainment (Licensing) Act 1967 (power to adopt that Act) this Act shall be deemed to be such an enactment as is referred to in subsection (1) (*d*) of that section.

Devolution of licence under this Part or Cinematograph Act 1909. 1909 c. 30.

40.—(1) In the event of the death of the holder of an entertainment licence or of a licence under the Cinematograph Act 1909 in respect of premises in a district, then, until a legal personal representative of the deceased holder has been duly constituted, the person carrying on at those premises the functions in respect of which the licence was granted, shall be deemed to be the holder of the licence.

(2) Upon the due constitution of a legal personal representative of the deceased holder of any such licence as is mentioned in subsection (1) above the licence shall be deemed to be granted to that personal representative.

PART VIII

STORAGE OF FLAMMABLE MATERIAL

Interpretation of Part VIII.

41.—(1) For the purposes of this Part—

(*a*) the height of a stack is the distance from its highest part to the mean level of the ground on which it stands;

(*b*) two or more stacks shall be treated as one stack if—

(i) the space between them does not allow free passage between them or is at any point less than one metre wide; or

(ii) they are both within an area not exceeding 235 square metres whose longest dimension does not exceed 20 metres.

(2) For the purposes of this Part access for the fire brigade is inadequate unless—

(*a*) it is unobstructed; and

(*b*) it is 4 metres wide and 4 metres high except at any gateway where the width may be reduced to 3 metres.

PART VIII —*cont.*

Stacks to which this Part applies.

42.—(1) This Part applies to a stack which is not enclosed by any building which has been constructed in accordance with building regulations if—

(*a*) it consists of, or contains mainly, any one or more of the materials specified in subsection (2) below; and

(*b*) it exceeds any of the measurements for stacks of those materials specified in subsection (3) below.

(2) The materials referred to in subsection (1) (*a*) above are—

(*a*) paper or cardboard;

(*b*) plastics;

(*c*) rags;

(*d*) rubber, whether natural or synthetic, including rubber tyres; and

(*e*) wood, whether or not cut into planks, boards, billets, logs or firewood or joined so as to form boards, crates, pallets, casks or barrels.

(3) The measurements referred to in subsection (1) (*b*) above are—

(*a*) for stacks of any materials, if any of the conditions specified in subsection (4) below are not fulfilled—

(i) 3 metres in height;

(ii) 50 cubic metres in capacity;

(*b*) for stacks of any materials not being a stack specified in paragraph (*c*) or (*d*) below if the conditions specified in subsection (4) below are fulfilled—

(i) 5 metres in height;

(ii) 450 cubic metres in capacity;

(iii) 20 metres in any horizontal dimension;

(iv) 235 square metres in any horizontal section;

(*c*) for stacks consisting wholly of paper, cardboard or rags, if the conditions specified in subsection (4) below are fulfilled—

(i) 5 metres in height;

(ii) 750 cubic metres in capacity;

(iii) 20 metres in any horizontal dimension;

(iv) 235 square metres in any horizontal section;

(*d*) for stacks consisting wholly of wood if the conditions specified in subsection (4) below are fulfilled—

(i) 10 metres in height;

(ii) 1,370 cubic metres in capacity;

(iii) 20 metres in any horizontal dimension;

(iv) 235 square metres in any horizontal section.

PART VIII —*cont.*

(4) The conditions referred to in subsection (3) (*b*) to (*d*) above are—

(*a*) there is no other stack to which this Part applies within 4 metres;

(*b*) there is an unobstructed access at least 4 metres wide round three of the sides of the stack or, if it is not rectangular, round three-quarters, measured continuously, of its perimeter;

(*c*) no street is within 5 metres;

(*d*) none of the following is on the same premises and within 6 metres, namely:—

(i) a furnace or incinerator;

(ii) a building;

(iii) any compressed flammable gas including liquid gas and gas dissolved in liquid under pressure;

(iv) a substance having a flash-point lower than 66 degrees Celsius when tested by any standard method.

(5) A stack is not one to which this Part applies if—

(*a*) being a stack of a temporary nature in connection with works of construction, alteration, maintenance, repair or renewal of a railway line of the British Railways Board, it is alongside a railway line on premises occupied by that board for the purposes of their undertaking and it is not on a site habitually used for the stacking or storage of any of the materials specified in subsection (2) above; or

(*b*) it forms the cargo or part of the cargo of a vessel or, being in any area of a port, dock or quay which is for the time being held or used for the transit of cargoes, has been unloaded from, or is intended to be loaded on, a vessel at that port, dock or quay or, where an intention to load it has been abandoned, is of a temporary nature pending its removal from that area of the port, dock, or quay; or

(*c*) it is enclosed by any building owned, occupied or administered by statutory dock undertakers for purposes of or in connection with their undertaking; or

(*d*) it forms the load or part of the load of a railway waggon or of a mechanically propelled vehicle or of a trailer drawn or to be drawn by such a vehicle or is in a container to be carried on such a waggon, vehicle or trailer.

Unlawful stacks.

43.—(1) Subject to subsection (2) of section 47 (Transitional provisions for Part VIII) of this Act, as from the appointed day in the county it is unlawful for a stack to which this Part applies to be on any premises in the county without the consent of the county

PART VIII —*cont.*

council or in breach of any condition subject to which such consent is given.

(2) A person making application to the county council for a consent under this section shall provide such information for that purpose (including information about the materials to be stacked, the premises and the undertaking, trade or business conducted on the premises) as the county council may, within 28 days from the date on which the application is made, reasonably require.

(3) Where an application has been made to the county council for their consent under this section and the council have failed, within 8 weeks, or such longer period as the applicant may allow, after the application was made to give notice to the applicant that they give or refuse their consent, or give it subject to conditions, the county council shall be deemed to have given their consent without conditions except any that have been accepted in the application.

(4) Where the county council have given a consent under this section to the stacking of materials on any premises—

(*a*) they may—

(i) at the request of the owner of the materials or of the occupier of the premises; or

(ii) on a change of the occupier of the premises; or

(iii) on a change of circumstances which in their opinion creates or, as the case may be, increases the fire risks;

give notice to the owner of the materials or the occupier of the premises imposing conditions under this section, or adding to or varying any condition already imposed under this section; and

(*b*) they may at any time by notice to the owner of the materials or the occupier of the premises relax any conditions imposed under this section.

(5) The conditions which may be imposed under this section on a consent to the stacking of materials on any premises shall be such as, having regard to the reasonable requirements of the undertaking, trade or business conducted on the premises, appear to the county council to be reasonably necessary to prevent the outbreak of fire, to reduce the damage that fire will cause if it breaks out and to facilitate fire fighting including the provision of water for fire-fighting purposes:

Provided that where, on an application for consent under this section to the stacking of materials the county council are satisfied that, by reason of those materials the stack does not create fire risks, the county council shall give their consent unconditionally.

PART VIII —*cont.*

Part VIII appeals.

44. A person aggrieved by the county council's refusal of consent, or by any condition imposed on such a consent under section 43 (Unlawful stacks) of this Act may, within 28 days after the refusal, or the imposition of conditions, has been notified as required by that section, appeal to the Secretary of State stating in writing the grounds of his appeal and giving information on any other matters that the Secretary of State may require; and the appellant shall at the same time serve on the county council a copy of that statement.

Powers of entry for Part VIII.

45. The power to enter premises conferred upon duly authorised officers of the county council for the purposes of this Part by section 287 (1) (*a*) of the Act of 1936 as applied by this Act shall include power to take samples for analysis from any stack on the premises.

Offences under Part VIII.

46. Where a stack is on any premises in contravention of subsection (1) of section 43 (Unlawful stacks) of this Act the owner of the stack and the occupier of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

Transitional provisions for Part VIII.

47.—(1) Where under subsection (4) of section 43 (Unlawful stacks) of this Act the county council impose or vary conditions the new conditions, or the conditions as varied, shall not have effect until the expiration of 42 days after the imposition or variation has been notified to the person concerned by the county council or, if there is an appeal to the Secretary of State, until the expiration of 42 days after the Secretary of State has notified the appellant of his decision.

(2) Where the owner of a stack or the occupier of premises has represented to the county council that the appointed day fixed for the purposes of section 43 (Unlawful stacks) of this Act does not give him reasonable time to adjust his undertaking, trade or business to the requirements of this Part, the county council may postpone the appointed day in respect of those premises to such other day as they may think fit, and, on that other day being notified to the appellant, the appointed day in respect of those premises shall be that day.

(3) A person aggrieved by a decision under subsection (2) above may appeal to the Secretary of State.

PART IX

FIRE PRECAUTIONS

Parking places: safety requirements.

48.—(1) This section applies to a parking place comprising or within a building which provides—

(*a*) parking space for more than three motor vehicles, being a space of which any part of the floor is situated more

PART IX —*cont.*

than 1·2 metres below the surface of the ground adjoining any wall of the building; or

(*b*) parking space for more than 20 motor vehicles;

not being in either case a parking place for motor vehicles for the use only of the occupants of a single private dwelling-house.

(2) Where—

(*a*) plans of any proposed work are deposited with a district council in accordance with building regulations; and

(*b*) the plans show that the proposed work will include or consist of the construction, extension or alteration of a building for the purpose of using all or part of it as a parking place to which this section applies;

the district council shall reject the plans unless they are satisfied after consultation with the fire authority and, in a case where a licence under the Petroleum (Consolidation) Act 1928 will be required in respect of the building, after consultation with the licensing authority under that Act (if not the fire authority) that they may properly consent to the construction, extension or alteration of the building, either unconditionally, or subject to compliance with any conditions, specified in their consent, with respect to the matters mentioned in subsection (3) below for preventing or reducing danger from fire or other danger to life.

1928 c. 32.

(3) The conditions subject to compliance with which plans may be passed under subsection (2) above are conditions with respect to the following matters relating to the parking place:—

(*a*) construction of the vehicular approaches;

(*b*) means of access for fire brigade appliances and personnel;

(*c*) means of ingress and egress, including the provision of appropriate signs;

(*d*) means of ventilation;

(*e*) safety of electrical, mechanical and heating equipment;

(*f*) provision of an emergency lighting system;

(*g*) fire protection, fire alarms and fire-fighting equipment and appliances; and

(*h*) prevention of the admission to drains of flammable substances.

(4) If the district council consent to the construction, extension or alteration of a building subject to compliance with conditions with respect to any of the matters specified in subsection (3) above, they may impose a requirement that the building shall not be used for the parking of vehicles until the conditions have been complied with.

(5) Section 64 (2) and section 65 (2) to (5) of the Act of 1936 (notice of rejection or passing of plans and enforcement of

requirements) shall apply as if this section were a section of the Act of 1936.

(6) Any person aggrieved by the action of the district council under subsection (2) or (4) above in rejecting plans, or in imposing any conditions, may appeal to the Secretary of State.

(7) If any conditions, subject to compliance with which plans have been passed under subsection (2) above are not being complied with, the district council may by notice to the owner or occupier of the parking place prohibit its use for the parking of vehicles until those conditions have been complied with.

(8) If it appears to the district council, after consultation with the fire authority, that any building or part of a building in the district—

(*a*) has been first brought into use after the commencement of this Act as a parking place to which this section applies;

(*b*) has been so brought into use in circumstances in which no notice had to be given, or plans, sections, specifications or written particulars deposited, in accordance with building regulations; and

(*c*) is not so constructed or equipped that, if plans of the work consisting of, or including, the parking place had been deposited under subsection (2) above, the district council would have given their consent under that subsection without specifying conditions with respect to any of the matters specified in paragraphs (*b*) to (*h*) of subsection (3) above;

they may, for the purpose of preventing or reducing danger from fire or other danger to life, by notice to the owner or occupier of the parking place require compliance with—

(i) such conditions with respect to any of those matters as may be specified in the notice; and

(ii) for the purpose of restricting the use of the parking place until those conditions have been complied with, such other conditions as may be so specified.

(9) The provisions of Part XII of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under subsection (8) above as if—

(*a*) references in those provisions to that Act included reference to this subsection;

(*b*) for the reference in section 290 of the Act of 1936 to the court there were substituted reference to the Secretary of State; and

PART IX —*cont.*

(*c*) in section 290 (6) the words from " and without prejudice " to the end were omitted.

(10) Any person on whom notice is served under subsection (7) above in respect of any parking place owned or occupied by him who uses the parking place or permits it to be used for the parking of vehicles in contravention of the notice, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(11) Any person on whom notice is served under subsection (8) above in respect of any parking place owned or occupied by him, who contravenes any requirement specified in the notice, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(12) 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 fire authority as well as a district council to enforce.

1928 c. 32.

(13) (*a*) In the case of a building in respect of which a licence, under section 2 or 3 of the Petroleum (Consolidation) Act 1928, is in force or in respect of which application for such a licence has been made before deposit of such plans as are referred to in subsection (2) above, no conditions shall be specified under this section in respect of any matter which may be regulated by such a licence.

(*b*) Subject to paragraph (*a*) above, where plans in respect of any building have been passed subject to compliance with conditions specified under this section, no conditions shall be attached to any licence in respect of that building under section 2 or 3 of the said Act of 1928 which conflict with the conditions so specified.

Firemen's switches for luminous tube signs.

49.—(1) This section applies to apparatus consisting of luminous tube signs designed to work at a voltage normally exceeding 650 volts, or other equipment so designed and references in this section to a cut-off switch are, in a case where a transformer is provided to raise the voltage to operate the apparatus, references to a cut-off switch on the low-voltage side of the transformer.

(2) As from the appointed day in the county—

(*a*) no apparatus to which this section applies shall be installed on or in any premises in the county unless it is provided with a cut-off switch; and

(*b*) the switch shall be so placed, and coloured or marked, as to satisfy such reasonable requirements as the fire authority may impose to secure that it shall be readily recognisable by and accessible to firemen.

PART IX —*cont.*

(3) Not less than six weeks before work is begun to install apparatus to which this section applies, the owner or the occupier of the premises where the apparatus is to be installed shall give notice to the fire authority showing where the cut-off switch is to be placed and how it is to be coloured or marked.

(4) Where notice has been given to the fire authority as required by subsection (3) above, the proposed position, colouring or marking of the switch shall be deemed to satisfy the requirements of the fire authority unless, within 21 days from the date of the service of the notice, the fire authority have served on the owner or occupier a counter-notice stating that their requirements are not satisfied.

(5) Where apparatus to which this section applies has been installed before the appointed day, the owner or the occupier of the premises where it is installed shall, not more than 21 days after the appointed day, give notice to the fire authority stating whether the apparatus is already provided with a cut-off switch and, if so, where the switch is placed and how it is coloured or marked.

(6) Where apparatus to which this section applies has been installed before the appointed day, the fire authority may serve on the owner or occupier of the premises a notice—

(*a*) in the case of apparatus already provided with a cut-off switch, stating that they are not satisfied with the position, colouring or marking of the switch and requiring him, within such period as may be specified in the notice, to take such steps as will secure that the switch will be so placed and coloured or marked as to be readily recognisable by, and accessible to, firemen in accordance with the reasonable requirements of the fire authority; or

(*b*) in the case of apparatus not already provided with a cut-off switch, requiring him, within such period as may be specified in the notice, to provide such a cut-off switch in such a position and so coloured or marked as to be readily recognisable by, and accessible to, firemen in accordance with the reasonable requirements of the fire authority.

(7) A cut-off switch which complies with the regulations of the Institution of Electrical Engineers for a fireman's emergency switch as to position, colour and marking shall for the purposes of this section be deemed to satisfy the requirements of the fire authority.

(8) The provisions of section 290 of the Act of 1936 shall apply to notices given by the fire authority under this section as they apply to the notices mentioned in subsection (1) of that

PART IX —*cont.*

section as if reference therein to a local authority included reference to the fire authority.

(9) The foregoing provisions of this section shall not apply to apparatus installed or proposed to be installed on or in premises in respect of which a licence under the Cinematograph Acts 1909 and 1952 is for the time being in force but, where any apparatus to which this section applies is proposed to be installed on or in any such premises, the owner or occupier of the premises shall, before the apparatus is installed, give notice to the fire authority informing them of the position in which it is proposed to place the cut-off switch and how it is to be coloured or marked.

(10) The owner or occupier of premises where apparatus to which this section applies is installed which does not comply with subsection (2) above and the owner or the occupier of the premises who does not comply with the requirements of the fire authority stated in a notice under subsection (6) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

(11) Any person who fails to give notice as required by subsection (3) or (5) or (9) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Access for fire brigade.

50.—(1) Except as provided in subsection (2) below, where plans for the erection or extension of a building are deposited with a district council in accordance with building regulations, the district council shall reject the plans unless, after consultation with the fire authority, they are satisfied that the plans show—

(*a*) there will be adequate means of access for the fire brigade to the building or, as the case may be, to the building as extended; and

(*b*) that the building or, as the case may be, the extension of the building will not render inadequate any existing means of access for the fire brigade to a neighbouring building.

(2) No requirement concerning means of access to a building or to a neighbouring building shall be made under this section in the case of a building to be erected or extended in pursuance of a planning permission granted upon an application made under the Act of 1971 unless notice of the provisions of this section is endorsed on or accompanies the planning permission.

(3) Section 64 (2) and section 65 (2) to (5) of the Act of 1936 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of the Act of 1936.

PART IX —*cont.*

(4) Any person aggrieved by the action of the district council in rejecting plans under this section may appeal to a magistrates' court.

(5) In this section references to the adequacy or inadequacy of means of access for the fire brigade shall be construed as references to a means of access adequate or, as the case may be, inadequate for use for fire-fighting purposes by members of one or more fire brigades and their appliances.

Oil-burning equipment.

51.—(1) In this section—

" oil-burning equipment " means a boiler designed or adapted for the combustion of oil and includes the burners, the storage tanks and the apparatus, fittings, devices and catch-pits and any other equipment used for, or in connection with, the heating of the boiler, but does not include—

(*a*) any such equipment if the tank storage to supply oil to the boiler has a total capacity not exceeding 3,500 litres; or

(*b*) any such equipment for generating electricity forming part of a generating station of the Central Electricity Generating Board or equipment provided in accordance with proposals approved under section 6 of the Electricity Act 1957; 1957 c. 48.

" boiler " means a boiler, furnace, heater, oven or similar plant;

" storage tank " means a tank, container or device designed or adapted for the purpose of supplying oil to a boiler;

" apparatus " and " fittings " include pipes and pipe fittings, taps, valves, pumps, gauges, vessels, fans and filters;

and references to the installation or placing of oil-burning equipment in any building or on any land shall be construed as including the installation or placing of oil-burning equipment which is partly in a building and partly on land outside the building.

(2) (*a*) The county council may make byelaws for securing that arrangements are made for preventing or reducing danger from fire arising in connection with oil-burning equipment installed or placed in any building, or on any land, in the county after the coming into operation of the byelaws.

(*b*) Without prejudice to the generality of paragraph (*a*) above, byelaws made under this subsection may include provisions prescribing the works, apparatus and fittings and fire-fighting appliances to be provided and maintained in connection with the installation or placing of oil-burning equipment, and the mode of arrangement of any such works, apparatus, fittings and appliances.

PART IX —*cont.*

(*c*) In relation to byelaws made under this subsection, section 236 of the Act of 1972 (procedure for making and confirming byelaws) shall have effect as if in subsection (7), after " confirm " where it secondly occurs, there were inserted " or confirm with modifications ".

(*d*) If the Secretary of State, on considering byelaws submitted under section 236 of the Act of 1972 as having effect in accordance with paragraph (*c*) above proposes to make a modification which appears to him to be substantial he shall inform the county council and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification and shall not confirm the byelaws until there has elapsed such period as he thinks reasonable for consideration of, and comment upon, the proposed modification by the county council and by other persons who have been informed of it.

(3) As from the appointed day in any district, being a day not earlier than the day on which byelaws made under subsection (2) above come into operation in the district, any person intending to install or place oil-burning equipment in any building or on any land in the district shall give to the district council not less than 14 days' notice of his intention to do so.

(4) (*a*) Any oil-burning equipment installed or placed in accordance with plans and specifications submitted to, and approved by, the district council shall, for the purposes only of this section, be deemed to comply with the appropriate specification for such equipment prescribed in the byelaws in respect of all matters shown in the plans and specifications so passed.

(*b*) If the district council do not, within 8 weeks after the submission of plans and specifications of any oil-burning equipment under this subsection, notify the person who submitted the plans and specifications of their disapproval of the said plans and specifications stating the reasons for their disapproval, they shall be deemed to have approved them.

(5) (*a*) If, on an application made by a person proposing to install or place oil-burning equipment in any building, or on any land, in their district for waiver of the specification for such equipment prescribed in the byelaws, the district council, after consultation with the fire authority, are satisfied that proper arrangements will be made for preventing or reducing danger from fire arising in connection with the equipment, they may dispense with, or relax, the requirements of the byelaws and approve the installation or the placing of the equipment notwithstanding that it does not comply with the specification for such equipment prescribed in the byelaws.

(*b*) If the district council do not, within 8 weeks after the making of an application under this subsection, or such longer

PART IX —*cont.*

period as the applicant may in writing allow, notify him of their approval of the application, they shall be deemed to have disapproved of it.

(6) (*a*) Any person aggrieved by—

(i) the withholding by the district council of their approval to the installation or placing of oil-burning equipment under subsection (4) above; or

(ii) by the disapproval by the district council of a submission made under subsection (5) above;

may, within 21 days after the receipt of notification of the disapproval or, as the case may be, after the expiration of the period of 8 weeks specified in subsection (5) (*b*) above, appeal to the Secretary of State stating the grounds of his appeal; and the appellant shall at the same time serve on the district council and the county council a copy of that statement.

(*b*) Where an appeal is brought under this subsection the Secretary of State shall take into account any representations made by the appellant, the district council and the county council within 21 days after the date of the notice of appeal, and may dismiss or allow the appeal or may vary the decision of the district council against which the appeal is made.

(*c*) The decision of the Secretary of State on any such appeal shall have effect as if it were a decision of the district council given under subsection (4) (*a*) or, as the case may be, subsection (5) (*a*) above.

(7) Any person who installs oil-burning equipment in any building or on any land in a district without giving such notice as may be required under subsection (3) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(8) (*a*) Any person who contravenes any byelaw made under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

(*b*) In any proceedings for an offence under this subsection it shall be a defence to show that the contravention occurred by reason of the installation or placing of equipment in accordance with any approval given by the district council under subsection (4) or subsection (5) (*a*) above.

(9) Nothing in this section shall apply to the installation of oil-burning equipment in any building in respect of which a licence under the Cinematograph Acts 1909 and 1952 or the Theatres Act 1968 is for the time being in force. 1968 c. 54.

PART IX —*cont.*

Fire and safety precautions in public and other buildings.

52.—(1) If it appears to a district council that for the purpose of preventing fire in any public or other building in the district to which section 59 of the Act of 1936 (safeguards for passages) applies or for the purpose of preventing injury or danger to persons resorting to any such building—

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

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

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

(*d*) any fireplaces, flues, chimney vents or other similar parts of the building require repair or renewal;

then the district council may, after consultation with the fire authority, by notice require the owner or occupier of the building to make such provision in regard to the matters aforesaid as may be necessary.

(2) The provisions of section 290 of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to a notice given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

(3) A notice under subsection (1) above shall not require any measures to be taken which are more onerous than those necessary to secure conformity, as to matters to which building regulations relate, with the requirement of any of those regulations applicable to the building if newly erected for the relevant purpose.

(4) This section shall not apply to any building, or part of a building, in respect of which a licence, under Part IV of the Public Health Acts Amendment Act 1890, Part VII (Licensing of music and dancing) of this Act, the Cinematograph Acts 1909 and 1952 or the Theatres Act 1968, is for the time being in force.

1890 c. 59.

1968 c. 54.

Buildings used for storage of flammable substances.

53.—(1) In this section the expression " a highly flammable substance " means a substance which, when tested by a method approved by the Secretary of State gives off at a temperature less than 80 degrees Fahrenheit (27 degrees Celsius) a flammable vapour:

Provided that the expression does not include—

(*a*) petroleum spirit as defined in the Petroleum (Consolidation) Act 1928;

1928 c. 32.

(*b*) any substance to which section 1 or 2 of that Act for the time being applies;

PART IX —*cont.*

(*c*) celluloid or cinematograph film as defined in the Celluloid and Cinematograph Film Act 1922; 1922 c. 35.

(*d*) anything contained in a pressure governor, meter, booster or other apparatus for or in connection with the supply of gas by the gas corporation.

(2) This section applies to a fire hazard occasioned by the storage of highly flammable substances in a building for the purposes of trade except—

(*a*) in securely closed metal containers in good condition, none of which contains more than five gallons of the substance; or

(*b*) in a quantity not exceeding twenty-five gallons in a glass or glazed earthenware vessel or vessels securely stoppered.

(3) If the county council are of opinion that a fire hazard to which this section applies is present in a building in the county and that the storage is of such a quantity and of such a kind as to constitute a fire hazard to persons residing or working in, or resorting to, the building, they may by notice to the occupier of the building, or of any part of it in which the hazard is present, require him to discontinue after such date as shall be specified in the notice the whole or part, as shall be so specified, of the storage constituting the hazard; and, if the storage is not to be wholly discontinued, the notice may require the occupier within such reasonable time as may be specified in the notice to do one or more of the following things:—

(*a*) to install such fire alarms and fire-fighting appliances as may be so specified;

(*b*) to provide such means of escape in case of fire as may be so specified;

(*c*) to put up such notices indicating the danger from fire as may be so specified:

Provided that an occupier shall not be required under paragraph (*b*) above to make any structural alteration of the building for the purpose of providing a means of escape in case of fire—

(i) beyond what might have been required under building regulations in force at the time of the notice were the building being newly constructed;

(ii) subject to subsection (4) below, in breach of any covenant or obligation relating to the building unless the person entitled to enforce the covenant or obligation lawfully consents thereto.

(4) If it appears to the Secretary of State on a representation made by any person that compliance with a notice served under subsection (3) above would involve a breach of a covenant or

PART IX —*cont.*

obligation relating to the building, he shall direct that the occupier be not required to comply with the notice to the extent that it would involve such a breach until the Secretary of State has given the person entitled to enforce the covenant or obligation, and the occupier, an opportunity of being heard by a person appointed by the Secretary of State for the purpose, and the Secretary of State, after considering the report of that person, has directed the occupier to comply with the notice as served or as modified by order of the Secretary of State.

(5) A person served with a notice under subsection (3) above may appeal to the Secretary of State on any of the following grounds:—

(*a*) that the requirement is not justified by the terms of this section;

(*b*) that there has been some informality, defect or error in or in connection with the notice;

(*c*) that the county council have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are unreasonable in character or extent;

(*d*) that the time within which the works are to be executed is not reasonably sufficient for the purpose;

(*e*) that the owner of the building, or any other person having an interest therein should contribute towards the cost of the execution of the works;

and on an appeal under this section the Secretary of State may dismiss or allow the appeal or may vary the decision of the county council against which the appeal is made.

(6) The county council shall, as soon as a person has complied with a notice served under subsection (3) above, issue to him a certificate of compliance.

(7) The certificate issued under subsection (6) above shall, except where the storage constituting the fire hazard is wholly discontinued, be a licence to constitute a fire hazard to which this section applies by the storage, in the building or part of the building to which the certificate relates, of substances of such a kind and in such quantity and stored in such a manner as shall be stated in the certificate.

(8) (*a*) An authorised officer of the county council may, in respect of any premises which he has entered in pursuance of the powers conferred by section 287 of the Act of 1936, purchase and test samples of any substance stored on such premises for the purposes of trade in order to ascertain whether or not such substance is a substance to which this section applies.

PART IX —*cont.*

(*b*) The result of any test of a sample taken by an authorised officer of the county council by virtue of this section shall not be admissible as evidence in any proceedings under this section unless the following requirements have been complied with, that is to say, the said officer has forthwith after taking the sample notified the occupier of the building of his intention to have it tested and has there and then divided the sample into three parts, has caused each part to be placed in a suitable container, which has been sealed up and marked, and has—

(i) delivered one part to the occupier of the building;

(ii) retained one part for future comparison; and

(iii) if he thinks fit to have a test made, submitted one part to be tested.

(9) If, while a certificate is in force in respect of a building or part of a building, the occupier applies to the county council for an extension of what is permitted by the certificate, the council may amend the certificate, and, if they refuse the application in whole or in part, the applicant may appeal to the Secretary of State, and the Secretary of State may allow the appeal in whole or in part or reject it. If he allows the appeal he shall make such amendments of the certificate and give such directions as may be necessary.

(10) A person who contravenes a notice under subsection (3) above, in its original form or, as the case may be, as modified by the Secretary of State under this section, or stores anything in a building or part of a building in contravention of the terms of a certificate then in force in respect of the building, or refuses to permit a person to comply with a notice served under subsection (3) above, in its original form or, as the case may be, as modified by order of the Secretary of State under subsection (4) above, or contravenes directions given by the Secretary of State under subsection (9) above, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(11) In this section references to a building are references to the building and its curtilage.

(12) The county council shall not serve a notice under subsection (3) above in respect of a building or part of a building—

(*a*) used for a purpose designated under section 1 of the Fire Precautions Act 1971; or 1971 c. 40.

(*b*) for which a fire certificate is for the time being required under that Act.

PART IX —*cont.*

Provision of means of escape from fire in certain buildings.

54.—(1) In its application to a district section 60 of the Act of 1936 (means of escape from fire in certain buildings) shall have effect as if—

(*a*) in subsection (1) for the words " twenty feet " there were substituted " 4·5 metres ";

(*b*) in subsection (4) for the words " exceeds two storeys in height and in which the floor of any storey is more than twenty feet" there were substituted the words " exceeds one storey in height and in which the floor of any upper storey is more than 4·5 metres ".

(2) (*a*) A district council may by notice require the person having control of a building to which the said section 60, as amended by subsection (1) above, applies (other than a house used, in whole or in part, as a flat or flats) to keep unobstructed such passages and gangways as are specified in the notice and if he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(*b*) A person served with a notice under this subsection may appeal to a magistrates' court on any of the following grounds:—

(i) that the requirement is not justified by the terms of this subsection;

(ii) that there has been some material informality, defect or error in, or in connection with, the notice;

(iii) that the requirement of the notice is unreasonable in character or extent or is unnecessary;

and the court may dismiss or allow the appeal or may vary the requirement of the notice against which the appeal is made.

(3) Before exercising the powers of section 60 of the Act of 1936 as having effect in accordance with this section, or giving any notice under subsection (2) above, a district council shall consult the fire authority.

(4) The said section 60 of the Act of 1936, as having effect in accordance with this section and subsection (2) above shall not apply to—

(*a*) any building in respect of which a licence under the Cinematograph Acts 1909 and 1952 is for the time being in force; or

(*b*) any premises to which section 9A of the Fire Precautions Act 1971 applies.

PART IX —*cont.* 1971 c. 40.

Further precautions against fire in high buildings.

55.—(1) Within a district, unless the district council consent, no building shall be erected with a storey or part of a storey at a greater height than 18·3 metres; but the district council shall not withhold consent under this subsection if they are satisfied that, having regard to the proposed use to which the building is to be put, proper arrangements will be made and maintained for preventing or reducing danger from fire in the building.

(2) Before giving their consent under this section the district council shall consult the fire authority.

(3) In giving their consent under this section the district council may attach thereto conditions relating to the provision and maintenance of proper arrangements for preventing or reducing danger from fire in the building or part of the building including, without prejudice to the generality of the foregoing, conditions relating to—

(*a*) the provision of automatic fire alarms;

(*b*) the provision of a fire-extinguishing system;

(*c*) effective means of removal of smoke in the event of fire; and

(*d*) the provision of such means as the district council may consider necessary for fighting fire.

(4) Any person who is aggrieved by a decision of the district council under this section to withhold consent, or to attach conditions to a consent, may appeal to the Secretary of State.

(5) Any person who contravenes the provisions of subsection (1) above or any condition attached to a consent given under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(6) The measurement of the height of any such building or part of a building as is mentioned in this section shall be calculated in accordance with the provisions of the building regulations for the time being in force.

(7) In this section, "automatic fire alarm" means a device which, without manual intervention, originates an alarm of fire.

(8) In the case of a building or part of a building used or to be used only by the Post Office for purposes which include use as a postal sorting office or for the accommodation or support (other

PART IX —*cont.*

than by way of storage only) of apparatus used for the operation of post office telecommunication services, a condition imposed under this section with respect to automatic fire alarms or fire extinguishing systems shall be of no effect if it conflicts with the precautions described in a Code of Practice (including appendices) issued by the Property Services Agency of the Department of the Environment which is then applicable to any such use of the building or part of the building.

(9) This section shall not apply to any building of a description specified in regulations made under the Health and Safety at Work etc. Act 1974 and providing for the issue of fire certificates by the Health and Safety Executive.

1974 c. 37.

(10) Nothing in this section shall apply to—

(*a*) any building exempted from the provisions of building regulations; or

(*b*) any building, being a shop or departmental store to which the British Standard Code of Practice known as CP3: Chapter IV: Part 2 (1968) or the code for the time being in force applies, if and for so long as, when erected, it complies with the recommendations of that part of that code of practice relating to the planning, construction and equipment of such a building.

Byelaws with regard to certain temporary structures.

56.—(1) A district council may after consultation with the fire authority, make byelaws with regard to temporary structures to which this section applies for the purpose of securing protection against fire and the safety of persons resorting thereto, including byelaws for securing—

(*a*) the provision of safe and adequate means of ingress to and egress from the structure;

(*b*) the provision of first-aid fire-fighting equipment;

(*c*) the provision of proper and sufficient passages or gangways in the structure and between the structure and another building or structure;

(*d*) the stability of the structure;

(*e*) the proper arrangement of any seating accommodation to be provided in the structure;

but no byelaws made under this section shall apply to any tent, marquee or structure erected for the purposes of or in connection with a pleasure fair as defined by section 75 of the Public Health Act 1961.

1961 c. 64.

(2) This section applies to any tent, marquee or other similar structure which is erected in a district and to which the public are admitted, whether with or without any charge for admission,

for the purposes of or in connection with any fair, show, exhibition, game, sport or athletic or other contest or public entertainment or any political, religious or other public meeting.

PART IX —*cont.*

Prescription of signs to be used on certain buildings.

57.—(1) The fire authority may prescribe standard uniform signs or symbols or warning notices in a form approved by the Secretary of State clearly indicating the nature of any substance to which this section applies and the danger from fire arising therefrom.

(2) The fire authority may, by notice, require the occupier of any part of a building used for the manufacture or storage of any such substance to affix, within such reasonable time as is specified in the notice, and thereafter to keep fixed in a conspicuous position or positions in or on the part of the building used for such manufacture or storage, the appropriate sign, symbol or notice prescribed under subsection (1) above.

(3) This section applies to any substance likely to involve special hazard to persons engaged in operations for the purposes of the extinction of fire and the protection of life and property in case of fire.

(4) Any person who fails to comply with the requirements of the fire authority under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

(5) (*a*) Nothing in this section shall authorise the fire authority to require the electricity undertakers to affix on any building or part of a building on operational land (as defined in section 222 of the Act of 1971) any sign, symbol or notice without the consent of those undertakers which consent shall not be unreasonably withheld.

(*b*) Any question whether a consent required by this section has been unreasonably withheld shall be determined by the Secretary of State.

PART X

RIVER DEE AT CHESTER

Interpretation of Part X.

58. In this Part—

"houseboat" means any vessel or structure not used bona fide for navigation and lying in the water (not being a structure placed or erected below the level of mean high-water springs between the banks of the river and the channel for the purposes of any function of the water authority) and which is used or intended for use as a place of habitation (whether temporarily, intermittently or

PART X —*cont.*

permanently) or as a place for accommodating or receiving persons for the purposes of shelter, recreation, entertainment or refreshment, or of viewing regattas or other events, as club premises, as a store or as offices;

" launch " means any vessel propelled by mechanical power not being used solely for the carriage of goods;

" master " means, in relation to any vessel, the person (whether or not the owner) for the time being having command or charge of the vessel;

" mooring " includes any buoy, pile, post, chain, pillar or like apparatus or convenience used for the mooring of vessels;

" pleasure-boat " means any vessel used wholly or mainly for recreation, not being either a vessel used solely for the carriage of goods for hire or reward, or a vessel used solely as a houseboat, mooring stage or pontoon;

" railway property " means any railway of the British Railways Board and any works connected therewith for the mainentance or operation of which the said board are responsible and includes any lands held or used by the said board for the purposes of such railway or works;

" the river " means so much of the river Dee as extends from National Grid reference point SJ 39696590 (Wilcox Point) to National Grid reference point SJ 42324938 (Shocklach Green);

" vessel " includes every description of water craft used or capable of being used as a means of transportation on water, including a seaplane and a hovercraft as defined in the Hovercraft Act 1968;

1968 c. 59.

" water authority " means the Welsh Water Authority;

" works licence " has the meaning given in section 69 (Licensing of works) of this Act.

General function as to river.

59.—(1) The powers conferred by section 19 (1) (*c*) of the Act of 1976 on the city council to provide facilities for boating—

(*a*) include power to provide pleasure-boats to be let for hire or to convey passengers for hire; and

(*b*) may be exercised in the river notwithstanding interference with public rights of navigation.

(2) The city council shall not exercise the powers of this section so as unreasonably to interfere with the use, maintenance, repair or renewal of railway property.

PART X —*cont.*

General rules for navigation.

60.—(1) A master who navigates his vessel on the river—

(*a*) without due care and attention; or

(*b*) in a manner liable to injure or endanger persons, other vessels, the banks of the river (whether above or below the level of mean high-water springs) or any structure or installation in or beside the river;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) In any proceedings under subsection (1) (*b*) above, it shall be a defence for the person charged to prove that the action complained of was done in emergency and that it was in all the circumstances a reasonable course of action.

Vessels adrift.

61. If, due to neglect on the part of the owner or master in securing a vessel at moorings, any vessel is adrift in the river, the owner or master shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Removal of vessels.

62.—(1) Whenever any vessel is sunk, stranded or abandoned in the river, or without lawful authority left or moored therein, the city council may after giving (except in an emergency) not less than three months' notice to the owner of the vessel, unless it is not practicable after reasonable inquiry to ascertain the name and address of the owner, raise and remove the vessel.

(2) The city council may recover from the owner of any such vessel all expenses reasonably incurred by the city council in respect of the raising, removal and storage thereof or in raising, removing or storing any furniture, tackle and apparel thereof or any goods, chattels and effects raised or removed therefrom.

(3) Subject to subsection (4) below, if any vessel to which subsection (1) above applies be not within six weeks of its removal by the city council proved to the satisfaction of the city council to belong to any claimant it shall together with any such furniture, tackle and apparel vest in the city council.

(4) If within six months of its removal a claim is made to the vessel by a person who subsequently proves to the satisfaction of the city council that he is the owner thereof, then the city council shall—

(*a*) if the vessel is unsold, permit the owner to retake it with any furniture, tackle, apparel, goods, chattels and effects thereon upon payment of the expenses referred to in subsection (2) above; or

(*b*) if the vessel and the furniture, tackle and apparel thereon have been sold, pay to such owner the amount of the

PART X —*cont.*

proceeds of such sale after deducting the said expenses, and in case such proceeds shall be insufficient to reimburse the city council such expenses the deficiency may be recovered by the city council as a debt in any court of competent jurisdiction.

(5) In this section—

" owner " in relation to any vessel sunk, stranded, abandoned, left or moored as aforesaid means the owner of the vessel at the time of the sinking, stranding, abandonment, leaving or mooring thereof; and

" vessel " includes any part of a vessel.

Removal of obstructions other than vessels.

63.—(1) The city council may remove—

(*a*) anything, other than a vessel, causing or likely to become an obstruction or impediment to navigation in any part of the river; and

(*b*) anything causing or likely to become an obstruction or impediment to the proper use of a footpath on the river.

(2) (*a*) If anything removed by the city council under subsection (1) above is so marked as to be readily identifiable as the property of any person, the city council shall within one month of its coming into their custody give notice, as required by subsection (5) below, to that person and if possession of the thing is not retaken within the period specified in, and in accordance with the terms of, the notice, it shall at the end of that period vest in the city council.

(*b*) If anything removed by the city council under subsection (1) above which is not so marked is not within three months of its coming into the custody of the city council proved to their reasonable satisfaction to belong to any person, it shall thereupon vest in the city council.

(3) The city council may at such time and in such manner as they think fit dispose of anything referred to in subsection (2) (*b*) above which is of a perishable nature or the custody of which involves unreasonable expense or inconvenience notwithstanding that it has not vested in the city council under this section, and if it is sold the proceeds of sale shall be applied by the city council in payment of the expenses incurred by them under this section in relation to the thing, and any balance—

(*a*) shall be paid to any person who, within three months from the time when the thing came into the custody of the city council, proves to the reasonable satisfaction of the city council that he was the owner thereof at that time; or

(*b*) if within the said period no person proves his ownership at the said time, shall vest in the city council.

PART X —*cont.*

(4) If anything removed under this section—

(*a*) is sold by the city council and the proceeds of sale are insufficient to reimburse them for the amount of the expenses incurred by them in the exercise of their powers of removal; or

(*b*) is unsaleable;

the city council may recover the deficiency or the whole of the expenses, as the case may be, from the person who was the owner at the time when the thing removed came into the custody of the city council or who was the owner at the time of its abandonment or loss.

(5) A notice given under subsection (2) (*a*) above shall specify the thing removed and state that, upon proof of ownership to the reasonable satisfaction of the city council, possession may be retaken at a place named in the notice within the time specified in the notice, being not less than 14 days after the date when the notice is served.

(6) The city council shall not under the powers of this section remove anything placed or constructed—

(*a*) by a local authority, the British Railways Board or statutory undertakers under or in pursuance of any enactment; or

(*b*) by the British Railways Board for the protection of railway property; or

(*c*) by the water authority in the exercise of any of their functions.

Removal of projections.

64.—(1) In this section " projection " means anything which projects over the river or any footpath adjoining the river and includes stairs and any tree, bush or other plant but does not include any such thing authorised by or under statute or by a works licence to be placed or constructed.

(2) (*a*) If any projection is a danger to the navigation of the river or to persons using any footpath adjoining the river, the city council may remove it and recover the expenses of removal from the owner or occupier of the land on which the projection was situated as a debt in any court of competent jurisdiction.

(*b*) Before exercising their powers under this subsection the city council shall, if it is reasonably practicable to do so, give notice of their intention to the owner and occupier of the land on which the projection is situated.

(*c*) In proceedings to recover expenses under paragraph (*a*) above the court may inquire whether the city council might reasonably have proceeded instead under subsection (3) below,

PART X —*cont.*

and, if the court determines that the city council might reasonably have proceeded instead under that subsection, the city council shall not recover the expenses.

(3) If any projection is an obstruction or inconvenience to the navigation of the river, but not a danger thereto, the city council may by notice require the owner or occupier of the land on which the projection is situated to remove the projection within such time, not being less than 7 days, as may be specified in the notice.

(4) Nothing in this section shall enable the city council, without the consent of the water authority, to remove or require the removal of any projection provided or maintained by the water authority in the exercise of any of their functions.

Repair of landing places and embankments.

65. Without prejudice to section 64 (Removal of projections) of this Act, the city council may by notice require the owner or occupier of a landing place or embankment which in the opinion of the city council is, or is likely to become, by reason of its insecure condition or want of repair—

(*a*) dangerous to persons or vessels using the river;

(*b*) injurious to the condition of the river as a navigable waterway; or

(*c*) a hindrance to the navigation of the river;

to remedy its condition to the satisfaction of the proper officer of the city council within a reasonable time specified in the notice.

Default powers in respect of sections 64 and 65.

66.—(1) The provisions of section 290 of the Act of 1936 shall apply to notices given by the city council under subsection (3) of section 64 (Removal of projections) and section 65 (Repair of landing places and embankments) of this Act as they apply to the notices mentioned in subsection (1) of that section.

(2) A notice under subsection (3) of the said section 64 or under the said section 65 shall have annexed to it a copy of the said section 64 or 65, as the case may be.

Power to license hire-pleasure-boats.
1907 c. 53.

67.—(1) The city council shall exercise in respect of the river the functions conferred on a local authority by section 94 of the Public Health Acts Amendment Act 1907 to the exclusion of any other local authority; and accordingly that section shall have effect as if the river were entirely within the city.

(2) The conditions upon which the city council may grant licences for pleasure-boats and pleasure-vessels under the said section 94 include conditions requiring the licensee to insure to the satisfaction of the council against claims arising from the death or bodily injury of any person resulting from an accident in which the boat or vessel is involved.

PART X —*cont.*

(3) Nothing in subsection (3) of the said section 94 (which, as amended by section 18 (2) of the Act of 1976, requires the person in charge of a boat or vessel or a person navigating it to be licensed) shall apply to such a person if he is in charge of or navigating the boat or vessel in the river for purposes other than profit.

(4) A licence under the said section 94 shall not be required—

(*a*) for a boat or vessel in the river which has a passenger steamer's certificate issued under section 274 of the Merchant Shipping Act 1894 which is valid for the voyage intended, nor for a hovercraft in the river registered in the United Kingdom; or 1894 c. 60.

(*b*) for the person in charge of such a vessel or hovercraft or other person navigating it.

As to houseboats.

68.—(1) It shall not be lawful without the written consent of the city council (which may be given on such terms or conditions or subject to compliance with such requirements as the city council think fit) to moor on the river any houseboat whether or not the same shall have been so moored before the passing of this Act.

(2) The city council shall not refuse consent under subsection (1) above unless they are satisfied that the mooring of the houseboat would constitute a danger to navigation or interfere with the navigation of vessels, and the city council shall on the refusal of any such consent specify in writing the ground or grounds for such refusal.

(3) Where application is made to the city council for consent under this section then, unless within two months from the making of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the city council, the city council give written notice to the applicant of their decision on the application, consent shall be deemed to have been refused.

(4) (*a*) If any houseboat shall be moored contrary to subsection (1) above, the city council may by notice require the person having the control of the houseboat to remove it out of the river within such period as they may specify, but not being less than twenty-one days.

(*b*) Any such notice may, if it is not practicable after reasonable inquiry to ascertain the name and address of the person having the control of the houseboat, be served by posting the same in a conspicuous position on such houseboat or on the land or foreshore near to such houseboat and shall specify the period within which removal shall be completed.

(5) (*a*) If any person fails without reasonable excuse to comply with a notice given by the city council under subsection (4) above, he shall be guilty of an offence and liable on summary conviction

PART X —*cont.*

to a fine not exceeding £200 and the city council may at any time after the expiration of the period specified in the notice remove the houseboat or demolish it.

(*b*) Subject to subsection (6) below, the costs and expenses reasonably incurred by the city council in or in connection with any such removal or demolition may be recovered by the city council from the person having the control of such houseboat.

(6) (*a*) Where any houseboat is removed by the city council as aforesaid, the city council may retain the same or the materials thereof and may, and shall if so required by the owner, sell or dispose of the same or of such materials and (subject to paragraph (*b*) below) retain the proceeds of sale.

(*b*) For the purpose of ascertaining the amount recoverable by the city council under subsection (5) (*b*) above in respect of the removal of any houseboat, credit shall be given for the net amount received by the city council from any sale (after deduction of any costs and expenses incurred by them in effecting the same) of the houseboat or the materials thereof; and if that net amount exceeds the amount of the costs and expenses incurred by the city council in respect of the removal, they shall pay the excess to the owner of the houseboat.

(7) Nothing in this section shall prejudice or affect any obligation under any enactment to obtain consent to the mooring of a houseboat from any port health authority or local authority.

(8) In this section—

(*a*) " moor " includes place, keep and maintain, and " mooring " and " moored " shall be construed accordingly;

(*b*) " the river " includes land below the level of mean high-water springs between the banks of the river and the channel;

(*c*) the owner of any houseboat shall until the contrary be proved be deemed to be the person having the control thereof.

Licensing of works.

69.—(1) The city council may, upon such terms and conditions as they think fit and upon payment of such reasonable fee as may from time to time be prescribed by the city council, grant to any person a licence (in this Part of this Act referred to as a " works licence ") to construct, alter, renew, extend or maintain any works in or on the river or involving the cutting of any of the banks of the river notwithstanding interference with public rights of navigation and other public rights by such works as constructed, altered, renewed, extended or maintained.

(2) Application for a works licence shall be made in writing to the city council and shall be accompanied by plans, sections and

PART X —*cont.*

particulars of the works to which the application relates, and in granting any such licence the city council may require modifications in the plans, sections and particulars so submitted.

(3) If within three months from the date of the making of an application under subsection (2) above, the city council do not grant a works licence in accordance with the application, they shall be deemed to have refused the application.

(4) If required by notice in writing by an applicant for a works licence within 7 days after the city council notify the applicant of their decision, or the date on which the city council are under subsection (3) above deemed to have refused the application (hereinafter in this section called " the date of the decision "), the city council shall within 14 days from the receipt of such notice give to the applicant a statement of their reasons for the decision.

(5) Any applicant for a works licence who is aggrieved by—

(*a*) the refusal of the city council to grant the licence;

(*b*) any terms or conditions upon which the licence is granted;

(*c*) any modifications required by the city council in the plans, sections and particulars submitted by the applicant;

may, within 28 days after the date of the decision appeal to the Secretary of State, whose decision shall be binding upon the parties.

(6) A person who appeals to the Secretary of State under this section shall give to the city council notice of his appeal accompanied by a copy of his statement of appeal and the city council shall within 28 days from the giving of such notice be entitled to give in writing to the Secretary of State their observations on the appeal.

(7) On an appeal under this section the Secretary of State may—

(i) dismiss the appeal; or

(ii) require the city council to grant the licence upon such terms and conditions as the Secretary of State may determine; or

(iii) require the city council to approve the plans, sections and particulars without modifications or subject to such modifications as the Secretary of State may determine;

but not being more onerous than the terms, conditions or modifications imposed by the city council; and the city council shall give effect to any requirement made by the Secretary of State under this subsection.

PART X —*cont.*

1878 c. 76.

(8) For the purposes of section 7 of the Telegraph Act 1878 any work proposed to be carried out under a works licence granted in accordance with subsection (1) above shall be deemed to be a work proposed to be done in the execution of an undertaking authorised by an Act of Parliament.

(9) In the exercise of the powers conferred by a works licence, the holder of the licence shall not damage or injuriously affect any gas apparatus or, without the consent of the gas corporation interfere with or adversely affect the operation of any such apparatus but nothing in this subsection shall apply with respect to apparatus, particulars of the position and character of which have not been supplied to the city council by the gas corporation.

Restriction on construction of works.

70.—(1) No person shall construct, alter, renew or extend any works in or on the river or involving the cutting of any of the banks of the river (other than moorings laid down for pleasure-boats) unless he is licensed so to do by a works licence and except upon the terms and conditions (if any) upon which the licence is granted and in accordance with the plans, sections and particulars prescribed by the licence; but this subsection shall not apply to—

(*a*) the construction, alteration, renewal or extension of any works specifically authorised by any enactment or of any works executed by a highway authority under any enactment;

(*b*) the renewal of any work in existence on 1st December 1977.

(2) Any person who knowingly contravenes this section or who knowingly contravenes or fails to comply with any term or condition upon which a works licence is granted by the city council shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(3) The city council may by notice require a person who contravenes this section to remove or abate within a reasonable time specified in the notice any works to which the contravention relates and to restore the site thereof to its former condition and, if the person to whom the notice is given fails to comply with the notice, the city council may carry out the work required by the notice and recover the cost of so doing from that person.

(4) Nothing in this section shall affect the powers of the Post Office under the Telegraph Acts 1863 to 1916.

PART X —*cont.*

(5) A works licence shall not be required under this section for the construction, alteration, renewal or extension of any work by the water authority in the exercise of any of their functions.

Powers as to moorings, etc.

71.—(1) The city council may provide, place, lay down, maintain, use and have moorings in the river or on the banks adjoining the river, on land owned or leased by the city council, or in which they hold an appropriate interest, or on any other land with the consent in writing of the owner and lessee thereof.

(2) The city council may recover in respect of any vessel or houseboat using any of the moorings provided by the city council under this section or moored to land owned or leased by the city council in or adjoining the river such reasonable charges as they may from time to time prescribe.

(3) The city council may compound with any person with respect to the payment of the charges prescribed under this section.

(4) The city council may, having regard to the requirements of safe and unobstructed navigation, grant licences (which may be given on such terms or conditions or subject to compliance with such requirements as the city council think fit) to any person to place, lay down, maintain, use and have existing and future moorings in the river or on the banks thereof; but—

(*a*) nothing in any such licence shall entitle a person to place, lay down, maintain, use and have any mooring on land not owned or leased by him or by the city council or in which he has no appropriate interest;

(*b*) the city council shall not unreasonably refuse to grant a licence—

(i) to an owner or lessee of any land not leased by the city council with respect to a mooring on that land; or

(ii) with respect to a mooring on the banks of the river which is positioned above the level of mean high-water springs and existing on 4th December 1977;

and any question whether the grant of a licence has been unreasonably refused or whether the conditions of the licence are unreasonable shall be referred to and determined by the Secretary of State.

PART X —*cont.*

(5) In any case to which both sub-paragraphs (i) and (ii) of subsection (4) (*b*) above apply, the city council shall not refuse to grant a licence and any question whether the grant of a licence has been made subject to unreasonable conditions shall be referred to and determined by the Secretary of State.

(6) Any licence granted under subsection (4) above shall be valid only for such period not exceeding three years commencing with its date as may be specified in the licence.

(7) The city council may charge a reasonable fee for granting a licence under the said subsection (4).

(8) Any person who—

(*a*) without reasonable excuse causes a vessel other than a houseboat to be moored except at a mooring provided or licensed by the city council under this section or as respects which written consent has been given under section 68 (As to houseboats) of this Act; or

(*b*) places, lays down, maintains or uses any mooring not so provided or licensed or the subject of such consent;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(9) If any person contravenes subsection (8) (*b*) above the city council may remove the mooring in question and recover from that person the expenses incurred in doing so.

1878 c. 76.

(10) For the purposes of section 7 of the Telegraph Act 1878 any work proposed to be carried out under a licence granted in accordance with subsection (4) above shall be deemed to be a work proposed to be done in the execution of an undertaking authorised by an Act of Parliament.

Byelaws.

72.—(1) The city council may make byelaws in connection with this Part of this Act for all or any of the following purposes:—

(*a*) for securing the conservation and improvement of the river and its amenities for the purposes of recreation and for promoting the ease, convenience and safety of navigation;

(*b*) for the regulation and management of the navigation of the river and for the prevention of obstructions to such navigation;

(*c*) for the regulation and control of the navigation and speed of vessels on the river and of traffic on the towing paths;

(*d*) for requiring the registration of, or of any class of, pleasure-boats, for the renewal of registration, for

PART X —*cont.*

revocation of registration in specified circumstances and for prohibiting the use or navigation of the river by pleasure-boats which are not registered with the city council;

(*e*) for classifying pleasure-boats whether for the purposes of registration or for the purposes of the application of any byelaws of the city council;

(*f*) for prescribing the maximum size or sizes of launches of any class which may be registered by the city council, and for prescribing the maximum number of launches of any such class that may be registered under the byelaws;

(*g*) for the government, good order and regulation of persons navigating the river or using the towpaths or landing places, stages or pontoons, whether for business, recreation, training or any other purpose;

(*h*) for prescribing precautions for the prevention of fire and precautions to be taken in cases of fire or accident occurring in or to any vessel;

(*i*) for prescribing the conditions on which vessels in which sleeping accommodation is provided (whether or not being houseboats) shall be allowed on the river and prohibiting the mooring of such vessels and houseboats for overnight use on the river except at places approved by the city council or unless suitable and sufficient sanitary conveniences exist or are provided upon the land adjacent to the point of mooring for the use of the occupants of such vessels and houseboats;

(*j*) for the preservation of flora and fauna in, or on the banks of, the river.

(2) Byelaws made under subsection (1) (*d*) above may authorise the city council—

(*a*) to make charges in respect of the registration of pleasure-boats including different charges for the use of the river by boats of different descriptions;

(*b*) to attach conditions to the registration of such boats, including a condition requiring insurance of any persons using a boat against claims in respect of the death of, or bodily injury to, any other person caused by or arising out of the use of the boat and to make such registration revocable in circumstances specified in the byelaws;

(*c*) to grant exemptions from the requirements of such registration;

PART X —*cont.*

(*d*) to inspect pleasure-boats by or on behalf of the city council in connection with their registration; and

(*e*) to require notice of the transfer or sale of any pleasure-boat so registered to be given to the city council.

(3) Nothing in any byelaws made under the said subsection (1) (*d*) shall require the registration of—

(*a*) any newly constructed or newly restored launch in respect of any bona fide trial trip of such launch on the river; or

(*b*) any pleasure-boat in respect of its being moved from any boat builder's yard on the river to any other place thereof with a view to its immediate removal from the river; or

(*c*) any pleasure-boat for the purpose of its participation in any regatta or boat race:

Provided that not less than 48 hours' notice in writing is given to the city council of the intention to make such trip, move such boat or use it in such regatta or boat race, and any conditions specified by the city council in that behalf are complied with.

(4) Any charge payable in respect of a certificate of registration issued under byelaws made under this section shall be recoverable by the city council from the owner or master of the pleasure-boat so registered.

(5) Byelaws made under this section may relate to the whole of the river and the banks thereof, or to any part thereof, and may make different provisions for different parts.

(6) Byelaws made by the city council under this section may provide for the imposition of a fine on summary conviction not exceeding £200 and, in the case of a continuing offence, a daily fine not exceeding £20.

(7) Where so provided by the byelaws, any police officer or any person called to the assistance of such officer may, without other warrant than this Act, arrest any person committing or having committed any offence against any such byelaw whose name or residence is unknown to and cannot be ascertained by such officer.

(8) Any person offending against or committing any breach or contravention of any byelaw made under this section may be required by the court in addition to any fine thereby incurred, to pay to the city council a sum in satisfaction of the cost of repairing or making good any damage occasioned thereby to the property of the city council; and the provisions of section 41 of

PART X —*cont.*

the Administration of Justice Act 1970 shall apply to any sum required to be paid pursuant to this section as they apply in the cases specified in Part I of Schedule 9 to that Act. 1970 c. 31.

(9) Notwithstanding the repeal by this Act of section 150 (Power to Council to license boats etc. on River Dee) of the Chester Improvement Act 1884, the Chester Order 1922 (which extended the said section 150) and sections 106 to 109 of the Chester Corporation Act 1929 (containing further powers to make byelaws and powers incident thereto), all byelaws of the city council and the powers of those sections incident thereto in force immediately before the coming into operation of this section shall continue and may be enforced in like manner as if made under this Act until those byelaws are repealed or revoked by the city council or until 31st December 1983, whichever is the earlier. 1884 c. ccxxxix. 1922 c. xcviii. 1929 c. xcvi.

(10) Nothing in any byelaws made under this section shall restrict, prevent, interfere with or prejudice the construction, maintenance, repair, renewal or use of railway property.

Power to refuse or cancel registration.

73.—(1) If after receiving and considering any complaint made to the city council respecting the navigation or use on the river of any pleasure-boat registered under byelaws made under section 72 (Byelaws) of this Act or if, after receiving and considering a report from any of their officers authorised to examine and who shall have examined such pleasure-boat, the city council are of opinion that in the interest of the safety of navigation or of the amenity of the river such pleasure-boat should not be registered or continue to be registered, the city council may, notwithstanding anything contained in this Act or in any byelaws made thereunder, refuse to register such pleasure-boat or may cancel the certificate of registration thereof and thereupon such certificate shall cease to be of any force.

(2) Before so refusing to register a pleasure-boat or cancelling the certificate of registration thereof, the city council shall give to the person applying for registration or, in the case of a cancellation, the person in whose name a pleasure-boat is registered, an opportunity of appearing before and of being heard by a committee of the city council and, if so required by him, the city council shall within seven days of their decision give to him a statement of the grounds upon which it is based.

(3) Any such owner aggrieved as to the reasonableness of any such refusal or cancellation may appeal to a magistrates' court.

Power to require information, entry, etc.

74.—(1) On demand by a police officer or any proper officer of the city council producing his authority, the master of any pleasure-boat on the river shall produce to such officer any

PART X —*cont.*

certificate of registration, or licence for the boat to be let or used for hire, issued in respect of the boat; and on the like demand by such an officer—

(*a*) the master of any pleasure-boat on the river shall give to the officer particulars of the names and addresses known to him of any person on board the boat;

(*b*) the owner of any pleasure-boat on the river shall give to the officer particulars of the name and address of any person at any time specified by the officer as acting as master of the boat;

being particulars or information needed for the purposes of any function conferred on the city council under any enactment and concerning the river.

(2) A person who fails without reasonable excuse to give information demanded under subsection (1) above or, in giving it, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(3) Any proper officer of the city council authorised in writing in that behalf may at any reasonable time—

(*a*) enter upon any land or vessel for the purpose of—

(i) performing any function conferred on the authority or that officer by virtue of this Part; or

(ii) determining whether, and if so in what manner, such a function should be performed; or

(iii) determining whether any provision of this Part or of an instrument made by virtue of this Part is being complied with;

(*b*) carry out such inspections, measurements and tests of any vessel or of any articles on it and take away such samples of the articles as he considers appropriate for such a purpose.

(4) The provisions of subsections (2), (3) and (4) of section 91 and section 92 of the Control of Pollution Act 1974 (as to rights of entry and inspection and provisions supplemental thereto) shall with necessary modifications apply and have effect for the purposes of subsection (3) above as those provisions apply and have effect for the purposes of section 91 (1) and other provisions of that Act.

1974 c. 40.

(5) Nothing in subsection (3) above shall authorise entry upon any operational land of the water authority without their consent in writing.

(6) In this section " operational land " has the same meaning as in section 5 of the Community Land Act 1975.

1975 c. 77.

PART X —*cont.*

Temporary closure of river.

75.—(1) The city council may temporarily prohibit, restrict or regulate the use or navigation of the river or any part thereof to facilitate the holding of any boat race or regatta or of any other function in connection with the use of the river as a place of recreation:

Provided that the city council shall not so prohibit the use or navigation of any part of the river for more than one half-hour in any period of one hour or for more than eight periods each of one half-hour in any period of twenty-four hours.

(2) (*a*) Before exercising their powers under subsection (1) above the city council shall give notice thereof by advertisement in one or more local newspapers circulating in the city.

(*b*) The notice shall be published not less than one month before the powers are to be exercised and shall state the extent to which, the period during and the purpose for which the use or navigation of the river is to be prohibited, restricted or regulated.

(3) A copy of the notice published under subsection (2) above shall be conspicuously displayed in such one or more places on or adjacent to the river or the part thereof to which it relates as the city council consider appropriate for bringing its contents to the notice of persons using or navigating the waterway.

(4) In the exercise of the powers of this section the city council shall—

(*a*) before in any case publishing a notice in accordance with subsection (2) above, give notice to the principal office of the British Railways Board;

(*b*) in cases of emergency and notwithstanding the temporary closure of the river or any part thereof afford all reasonable facilities to the said board for gaining access by means of the river to their railways, bridges and works;

(*c*) not prohibit or restrict the use on the river by the said board of any vessels or floating pontoons which are being used in connection with the construction, maintenance, repair or renewal of any railway bridge over the river or the abutments thereof.

For protection of gas corporation.

76.—(1) Nothing in section 70 (Restriction on construction of works) of this Act shall apply to the construction, alteration, renewal, extension or maintenance by the gas corporation of any gas apparatus from time to time authorised under or by virtue of any enactment or any consent, wayleave or other instrument given or made under any enactment.

(2) (*a*) Before granting a licence to any person for the construction, alteration, extension, renewal or maintenance of any works under section 69 (Licensing of works) of this Act, the city council

PART X —*cont.*

shall, in any case where the proposed works would be at, over, under or near to any gas apparatus or in such a position as to be likely to affect or endanger any such apparatus, or in any case where reasonably so requested by the gas corporation, submit to the gas corporation detailed particulars of the proposed works and furnish them with such further particulars with respect thereto as the gas corporation may reasonably require, and such licence shall only be granted subject to such conditions as may be reasonably necessary to safeguard the gas apparatus including, without prejudice to the generality of the foregoing, conditions empowering the gas corporation from time to time to inspect the works to which the licence relates and to take any steps necessary to prevent damage to the gas apparatus or to ensure that the gas apparatus can operate efficiently and to recover from the holder of the licence the reasonable cost of any works carried out by the gas corporation for those purposes.

(*b*) If in any case any difference arises between the city council and the gas corporation with respect to the particulars required to be furnished to the gas corporation by the city council or with respect to the conditions which the gas corporation require to be attached to any licence granted under the said section 69, such difference shall be settled by arbitration.

(*c*) If within three weeks of the receipt by the gas corporation from the city council of the particulars of any proposed works the gas corporation do not require any further particulars to be furnished or in any case where further particulars are required, within two weeks of the receipt thereof by the gas corporation, the gas corporation do not intimate that they require conditions to be attached to the licence for such works, the gas corporation shall be deemed to have acquiesced in the granting thereof.

(*d*) Upon the grant of any licence to which this subsection applies the city council shall supply to the gas corporation a copy of the licence and any conditions subject to which it is granted.

(3) Except in a case which is, in the opinion of the city council, a case of emergency, the city council shall before raising or removing any vessel sunk, stranded or abandoned in the river and within a distance of 150 metres of any gas apparatus give the gas corporation as long notice as is practicable of their intention to do so.

For protection of British Railways Board.

77. For the protection of the British Railways Board the following provisions shall, unless otherwise agreed in writing between the city council and the board, apply and have effect—

(1) In this section—

" the board " means the British Railways Board; and

" the bridge " means the railway bridge carrying the Chester–Holyhead line of the board over the river

and includes the abutments and adjoining embankments of the railway incident to that bridge:

(2) On receipt of any application for a works licence under section 69 (Licensing of works) of this Act involving the execution of works which are in the vicinity of or which may in any way affect the bridge or the operation of the railway carried by the bridge, the city council shall serve on the board a copy of the application and all plans, sections and particulars incident thereto:

(3) The city council shall consider such observations as the board may submit to the city council within 6 weeks after service on the board of the application and particulars as aforesaid, and shall not grant a works licence before the expiry of that period:

(4) In granting any works licence in response to such an application the city council shall impose on the applicant therefor such reasonable terms and conditions as the board may within the said period request in any observations by the board made to the city council:

(5) Any difference which may arise between the city council and the board under this section shall be settled by arbitration.

For protection of Welsh Water Authority.

78. For the protection of the water authority the following provisions shall, unless otherwise agreed in writing between the city council and the water authority, apply and have effect:—

(1) Nothing in section 62 (Removal of vessels) of this Act shall apply to any vessel owned by the water authority and used by them for the purpose of any of their functions:

(2) Except in case of emergency the city council shall give notice in writing to the water authority of any proposal to raise and remove a vessel under the said section 62 and shall not raise and remove the vessel except in accordance with such reasonable requirements (including a requirement as to supervision of the removal) as may be specified by the water authority within 14 days after the date of the notice:

Provided that in case of emergency the city council shall give the water authority such notice of the intention to exercise, or, as the case may be, the exercise of, the powers of the said section as is reasonably practicable and the provisions of this paragraph shall apply so far as reasonably practicable in the circumstances:

(3) Except in case of emergency, before exercising the powers of section 63 (Removal of obstructions other than

PART X —*cont.*

vessels), section 64 (Removal of projections) or section 66 (Default powers in respect of sections 64 and 65) of this Act the city council shall consult the water authority and shall comply with any reasonable requirements which may be made by the water authority for preventing pollution of any watercourse or detriment to land drainage or to safeguard a watercourse against damage:

Provided that in case of emergency the city council shall give to the water authority such notice of the intention to exercise, or, as the case may be, the exercise of, any of the said powers as is reasonably practicable and the provisions of this paragraph shall apply so far as reasonably practicable in the circumstances:

(4) (*a*) Nothing in section 65 (Repair of landing places and embankments) of this Act shall apply to any flood embankments or other works of the water authority;

(*b*) Except in case of emergency, not less than 28 days before requiring action under the said section 65 the city council shall give notice to the water authority of the action intended together with reasonable particulars thereof and shall, in requiring such action, comply with such requirements of the water authority as are notified by that authority to the city council within the said 28 days, being requirements reasonably necessary to prevent pollution of any watercourse, to safeguard it against damage or to secure that its efficiency for land drainage purposes is not impaired, or requirements reasonably necessary to safeguard other works of the Authority;

(*c*) In case of emergency the city council shall give to the water authority such notice and particulars under paragraph (*b*) above as are reasonably practicable and the provisions of that paragraph shall apply so far as reasonably practicable:

(5) Nothing in the said section 65 or in sections 68 (As to houseboats), 69 (Licensing of works) or 71 (Powers as to moorings, etc.) of this Act shall relieve any person of the obligation to obtain consent under section 29 of the Land Drainage Act 1976 (which requires the consent of the water authority to the erection of any structure in, over or under a watercourse which is designated as main river), and nothing in the said sections 68 and 71 shall relieve any person of the obligation to moor vessels in accordance with byelaws having effect under the said Act or byelaws made under section 79 (1) of the Water Resources Act 1963:

1976 c. 70.

1963 c. 38.

PART X —*cont.*

(6) The city council and the water authority shall each give the other notice in writing of any application for consent under the said section 68 or under byelaws having effect under the Land Drainage Act 1976 relating to the mooring of houseboats: 1976 c. 70.

(7) (*a*) On receipt of application for a works licence under the said section 69 the city council shall serve on the water authority a copy of the application and all plans, sections and particulars incident thereto;

(*b*) The city council shall consider such observations as the water authority may submit to the city council within six weeks after service on the water authority of the application and particulars as aforesaid, and shall not grant a works licence before the expiry of that period;

(*c*) In granting any works licence in response to such an application the city council shall impose on the applicant such terms and conditions as give effect to such reasonable requirements as the water authority may, within the said period, make in any observations by the water authority to the city council:

(8) If by reason of the carrying out by the city council of works or operations in exercise of any of the powers of the said sections 62, 63, 64, 66, 68 (5) and 71 (1) a watercourse or any of the banks of a watercourse is damaged or the efficiency of a watercourse for land drainage purposes is impaired, and the water authority—

(*a*) make good the watercourse to restore it to its former standard of efficiency; or

(*b*) where necessary, construct some other work in substitution therefor;

they may recover from the city council the reasonable cost of so doing (including a proper proportion of the overhead charges of the water authority) and any such cost of executing works needed for remedying any subsidence of the substituted work during such reasonable period as may be agreed between the city council and the water authority, or failing agreement, settled by arbitration:

Provided that nothing in this paragraph shall apply to the erection of any structure or the carrying out of any work of alteration or repair of a structure in accordance with a consent of the water authority given under section 29 of the Land Drainage Act 1976:

(9) If the water authority have reasonable ground for believing that a watercourse or any of the banks of a watercourse is likely to be damaged or the efficiency of a watercourse

PART X —*cont.*

for land drainage purposes is likely to be impaired in any of the circumstances mentioned in the last foregoing paragraph, they may carry out such protective works as may be agreed between them and the city council or as, failing agreement, may be settled by arbitration, and recover the reasonable cost thereof (including a proper proportion of the overhead charges of the water authority) from the city council:

(10) A copy of every notice required to be published by subsection (2) of section 75 (Temporary closure of river) of this Act shall be given to the water authority not later than the date of first publication of the notice:

(11) Any difference arising between the water authority and the city council under this section shall be determined by arbitration.

Regulation of relationships between city council and water authority.

79. Unless otherwise agreed in writing between the city council and the water authority, the following provisions shall apply and have effect for the regulation of relationships in the exercise of functions by the city council under this Part and the exercise of functions by the water authority with respect to the river:—

(1) Except as provided in paragraphs (2) and (4) below and without prejudice to the operation of the particular savings for the water authority in the foregoing provisions of this Part, nothing in this Part shall constitute the city council—

(*a*) a navigation authority for the purposes of the Land Drainage Act 1976, the Water Resources Act 1963, other than section 79 (4) (*b*) of that Act in its application to byelaws relating to boating made under subsection (3) but not subsection (6) of that section, or the Water Act 1945;

1976 c. 70.
1963 c. 38.
1945 c. 42.

(*b*) dock undertakers for the purposes of the Act of 1936: or

(*c*) a body enjoying the rights referred to in section 42 (8) of the Salmon and Freshwater Fisheries Act 1975:

1975 c. 51.

(2) (*a*) Not less than two months before—

(i) the city council make, amend or revoke any byelaws under section 72 (Byelaws) of this Act; or

(ii) the water authority make, amend or revoke any byelaws applying to any part of the river under any enactment;

the city council or, as the case may be, the water authority shall give notice of their intention to the other of them and shall consider any written representations made by that other within the said period of two months;

PART X —*cont.*

(*b*) Not later than the date on which notice of intention to apply for confirmation of any byelaws referred to in sub-paragraph (*a*) above is first published, the city council or, as the case may be, the water authority shall send a copy of the byelaws to the other of them:

(3) On the coming into operation of byelaws applicable to the river made by the water authority under section 79 (1) of the Water Resources Act 1963 or section 33 of the Control of Pollution Act 1974 for any of the purposes specified in section 72 (1) (*i*) of this Act, any provisions of byelaws made under the said section 72 (1) (*i*) relating to the same subject-matter as the byelaws made by the water authority shall be revoked: 1963 c. 38. 1974 c. 40.

(4) In the exercise by the city council of functions under this Part and the exercise by the water authority of functions under section 20 of the Water Act 1973 with respect to the recreational use of the river, the city council and the water authority shall consult each other with a view to co-ordinating action and any plans or programmes made by them. 1973 c. 37.

PART XI

ROWS AND STALLS AT CHESTER

Application and interpretation of Part XI.

80. This Part applies to premises in the city fronting Bridge Street, Lower Bridge Street, Eastgate Street, Northgate Street and Watergate Street; and in this Part, unless the context otherwise requires—

" the plan " means the plan showing coloured pink existing rows, steps and stalls of which five copies have been signed by the Right Hon. the Lord Aberdare, the chairman of the committee of the House of Lords to whom the Bill for this Act was referred and deposited respectively at—

(*a*) the office of the Clerk of the Parliaments, House of Lords;

(*b*) the Private Bill Office of the House of Commons;

(*c*) the Department of the Environment;

(*d*) the office of the proper officer of the county council; and

(*e*) the office of the proper officer of the city council;

" row " means the whole or part of a footway above ground level (with the walls, pillars and ceilings incident thereto) and which, with any stall adjacent to it, is (apart from

PART XI —*cont.*

any projection, obstruction or enclosure to which section 85 (Obstructions in rows or stalls) of this Act is applicable) substantially open to a street and—

(*a*) has been commonly used as a footway by the public at large and lies within the areas shown coloured pink on the plan; or

(*b*) is designated as a row by virtue of a resolution under subsection (1) of section 88 (Designation of rows, steps or stalls) of this Act; and

" the rows " means all those footways;

" the rows and stalls " means all the rows and the stalls;

" stall " means the whole or part of a place (with the walls, pillars and ceilings incident thereto and the railings or fences bounding it) adjacent to and more or less on a level with a row, situate on the street side thereof and substantially open to such street; and includes such stalls lying within the areas shown coloured pink on the plan and any further stall which the city council designate by resolution under subsection (1) of the said section 88, and " the stalls " means all those places;

" steps " means—

(*a*) steps, ramps or stairs (with the walls, pillars, ceilings, handrails and banisters incident thereto) at one end open to a street and leading therefrom and at the other end open to any row or stall; and

(*b*) bridges (with the railings, fences, handrails and banisters incident thereto) leading from one row or stall to another;

lying within the areas shown coloured pink on the plan, and includes any such steps, ramps, stairs or bridges which the city council designate by resolution under subsection (3) (*a*) of section 86 (New steps) or subsection (1) of section 88 (Designation of rows, steps or stalls) of this Act; and

" the steps " means all those steps, ramps, stairs and bridges.

Rights in and over rows, steps and stalls.

81.—(1) It is hereby declared, subject to this Part, that the rows, steps and stalls shall continue to be subject to a right of access on foot by the public, but that right shall be subject to the reasonable needs of the owner or occupier of any premises in, on or under which any row, steps or stall is or are situate to obstruct the same temporarily for the purpose of carrying out works of maintenance thereto or to use the space occupied thereby for the purpose of reconstructing, altering or maintaining those premises.

PART XI —*cont.*

(2) The city council may assert and protect the rights of the public in and over the rows and stalls and may take such steps, whether by civil or criminal process, against unlawful interference with those rights as could be taken by an owner in possession of the land in, on or over which the rows and stalls are situate.

Maintenance of rows, steps and stalls.

82.—(1) (*a*) The owners of premises comprising any row and any stall incident to it shall be under a duty to maintain the row and stall.

(*b*) The owners of premises fronting any row and any stall incident to it shall, subject to paragraph (*a*) above, be under a duty to maintain the row and stall to the extent of their respective frontages to the row and stall.

But this subsection shall have effect subject to the following provisions of this section whereby persons other than those referred to in paragraphs (*a*) and (*b*) above may be liable to maintain a row or stall.

(2) If it appears to the city council that any row or stall is out of repair, the council may by notice to the owners of premises referred to in subsection (1) (*a*) or (*b*) above require them to carry out, within such reasonable time as may be specified in the notice, such works as may be so specified, being works required to put the row or stall in proper repair.

(3) (*a*) If it appears to the city council that by virtue of an instrument entered into before or after the passing of this Act any person having an interest in land on, over or adjoining which a row or stall is situated, other than the persons referred to in subsection (1) (*a*) or (*b*) above, is liable in whole or in part to maintain a row or stall, the council shall, upon serving notice under subsection (2) above, serve a copy of the notice on the person so liable accompanied by a statement referring to the instrument appearing to the council to render him so liable; and a copy of that statement shall accompany the notice served on the owners.

(*b*) Subject to subsection (4) below, where a person is served with a copy of a notice and a statement in accordance with paragraph (*a*) above, then, to the extent that fulfilment of the obligations of that person under the instrument referred to in that statement would constitute a discharge of the duty of the owners under subsection (1) (*a*) or (*b*) above, that person shall be under a duty to discharge those obligations and those owners shall to the same extent be discharged of the duty imposed upon them by subsection (1) above.

(4) A person served with a notice or, as the case may be, a copy notice (hereafter in this section referred to without distinction as " the notice ") under subsection (2) or (3) above may,

PART XI —*cont.*

within 28 days from the date of service, appeal against the notice to the county court having jurisdiction in the place where the row or stall is situated on any of the following grounds:—

(*a*) that the notice is not justified by the terms of this section or that the works required by the notice are unnecessary or are unreasonable in character or extent having regard to the nature of the building in which the row or stall concerned is situated and to all other relevant circumstances; or

(*b*) that the time specified in the notice for carrying out the works falls short of the time which should reasonably be allowed for the purpose; or

(*c*) that the notice ought to have been served on some other person described in subsection (3) above, who is responsible for discharging in whole or in part the duty under subsection (1) above, in addition to or rather than upon the person or persons on whom it was served; or

(*d*) that the works required affect other premises and that some other person ought to carry out all or part of the works.

(5) (*a*) Where the grounds upon which an appeal is made under subsection (4) above include a ground specified in paragraph (*c*) or (*d*) thereof, the appellant shall serve a copy of his notice on each other person referred to and shall make that person a party to the appeal.

(*b*) On the hearing of the appeal the court may make such order as it thinks fit with respect to the person by whom, and the time within which, any work is to be carried out, and the contribution to be made by any other person towards the cost of any work, or as to the proportion in which any expenses which may become recoverable by the city council are to be borne by the appellant and such other person.

(*c*) In exercising its powers under this subsection, the court shall have regard, as between an owner and an occupier, to the terms and conditions of the tenancy and to the nature of the works required.

(6) (*a*) If there is a failure to carry out the works required by the notice, or, as the case may be, by order of the court, then, whether or not any person was willing to carry out his share of the works but was unable to do so because of the failure of other persons to carry out their share, the city council may themselves carry out the works and recover the expenses reasonably incurred by them in so doing from the persons liable under this section to carry out the works in the proportions in which the expense of carrying out the works would have fallen on each of those persons had the works been carried out by him; and any expense due

PART XI —*cont.*

from a person under this subsection shall, until recovered, be a charge on the estate or interest of that person and his successors in the premises.

(*b*) In proceedings by the city council against any person under this section it shall not be open to him to raise any question which he could have raised on appeal under subsection (4) above.

(*c*) Any sum recoverable by the council under this section shall, from the date of service of a demand from them carry interest at a rate not exceeding that fixed from time to time by the Secretary of State for the purposes of section 291 (3) of the Act of 1936.

(*d*) The city council shall, for the purposes of enforcing a charge under this section, have the same powers and remedies under the Law of Property Act 1925 and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver. 1925 c. 20.

(7) The city council shall be under a duty to maintain the steps.

(8) The city council may contribute to or incur expenditure in or towards the maintenance or improvement of the rows and stalls and may enter into agreements with any person with respect to the discharge by the city council of the duty of that person under subsection (1) or (3) above to maintain any row or stall.

(9) Nothing in subsections (1) to (6) above shall apply to any row or stall for the maintenance of which the city council have assumed responsibility under any instrument entered into before or after the passing of this Act.

Particulars of persons interested in rows and stalls.

83. In its application to this Part of this Act, section 16 of the Act of 1976 (which enables local authorities to obtain particulars of persons interested in land) shall have effect as if after the words " nature of his interest in the land " there were inserted the words " and of any obligation upon him in virtue of that interest as to the maintenance of any row or stall within the meaning of Part XI of the Cheshire County Council Act 1980.".

Support for rows, steps and stalls.

84.—(1) A person who is for the time being the owner of any land on, under or adjoining which a row, steps or stall is or are situated shall, except as may be otherwise agreed in writing between that person or his predecessor as owner of the row, steps or stall and the city council, be under a duty to maintain such vertical, lateral or other support for the row, steps or stall as is necessary for the continuance and stability of the row, steps or stall and as is consistent with the situation of that land and of any buildings thereon.

(2) Without prejudice to any remedy available by virtue of any other enactment, or of any agreement, in respect of any act or default which may be or become a breach of the duty imposed

PART XI —*cont.*

on the owner by subsection (1) above, no action for damages shall lie in respect of any breach of that duty; but civil proceedings shall lie at the instance of the city council for an injunction to prevent any such breach or to secure compliance with the duty in like manner as if the said duty were a contractual obligation.

(3) (*a*) Following an order of the court made pursuant to subsection (2) above and subject to the terms of the order the city council may, after giving not less than 28 days' notice to the owner and the occupier of the premises to which the order relates, themselves enter the premises with such equipment as is requisite and carry out such works as appear to them reasonably necessary to prevent any breach of the duty imposed by subsection (1) above or to secure compliance with that duty and may recover from the owner the expenses reasonably incurred by them in so doing.

(*b*) As from the date of any demand by the city council for the recovery of such expenses, those expenses shall, until recovered, be a charge on the premises and on all estates and interests therein; and the expenses shall be payable with interest thereon.

Obstructions in rows or stalls.

85.—(1) Any person may, with the consent of the city council, erect or maintain projections or obstructions in or over any row or stall or enclosures in or over any stall, subject to such terms and conditions as the city council may impose, but such consent shall not be given to the provision of any projection or obstruction in such a situation as to obstruct an existing access to any premises abutting on a row.

(2) Any person making application for consent under subsection (1) above shall pay to the city council such reasonable fee relative to their administrative costs in considering the application as the city council may fix.

(3) The city council shall not refuse their consent to an application under this section, nor impose other terms and conditions than are contained in the application, unless they shall have given to the applicant not less than 7 days' previous notice that, for the reasons specified in the notice, they propose either so to refuse or to impose such other terms and conditions and (if so required by him in writing within three days after the receipt of such notice) they shall have afforded him an opportunity of being heard by a committee of the city council against such refusal, terms or conditions.

(4) (*a*) The city council shall have the like powers as a highway authority under section 124 of the Act of 1959 in relation to the removal of any projection, obstruction or enclosure erected or maintained in a row or stall otherwise than under and in accordance with a consent given under this section; and the said section 124 shall apply accordingly as if such projection, obstruction or enclosure were on a highway and were an

PART XI —*cont.*

obstruction within the meaning of that section, and subject to all other necessary modifications.

(*b*) If any person places goods or any unfixed stand, basket, box, tray, table or other temporary obstruction in or upon any row or stall, not being a projection, obstruction or enclosure erected or maintained under and in accordance with a consent given under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200, but it shall be a defence in proceedings under this paragraph for the person charged to prove that the act complained of was done in emergency or was reasonably necessary in the course of the delivery or collection of anything to or from the premises adjoining any row or stall.

(5) Nothing in this Act shall prejudice or affect the maintenance of any projection, obstruction or enclosure in existence on 5th December 1977 in accordance with any consent, licence or permission granted by the city council and then lawfully subsisting.

(6) The foregoing provisions of this section shall not apply to any advertisement the display of which is restricted or regulated by regulations made under section 63 of the Act of 1971.

New steps.

86.—(1) If any person constructs any steps otherwise than—

(*a*) with the consent of the city council; or

(*b*) in accordance with such terms and conditions as in granting any consent the city council may impose;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(2) The court by which a person is convicted of an offence under this section may order him to remove the steps in respect of which the offence has been committed and to carry out such other works to any building or otherwise as appear to the court requisite for the mitigation of the offence; and, in default of compliance with the order of the court, the city council may take such action as is required in that behalf and may recover the expense of so doing from the person convicted.

(3) (*a*) Upon completion of any steps constructed in accordance with the terms and conditions of any consent by the city council, that council may by resolution designate the steps for the purposes of this Part of this Act.

(*b*) The city council shall give public notice of any resolution passed pursuant to paragraph (*a*) above by advertisement in a newspaper circulating in the city and by posting a notice in the street and on or near the premises on which the steps have been constructed.

Planning permission relating to rows and stalls.

87. Where an application is made to the city council for planning permission for the carrying out of development in or

PART XI —*cont.*

upon premises to which this Part of this Act applies, the conditions which may be imposed on the grant of planning permission under section 29 (1) of the Act of 1971 may include conditions—

(*a*) requiring, in connection with the development authorised by the permission, the provision of accommodation and facilities for a row, steps or stall;

(*b*) requiring, in connection with the development authorised by the permission, the provision of facilities for the drainage, lighting, heating or cleansing of a row, steps or stall;

(*c*) specifying particulars of the row, steps or stall for which such accommodation or facilities are to be provided;

(*d*) in a case where the development authorised by the permission involves interruption of a row, steps or stall, requiring the provision of accommodation and facilities for the construction and maintenance of a temporary row, steps or stall or deviation of the row, steps or stall;

(*e*) requiring the provision of support for a row, steps or stall.

Designation of rows, steps or stalls.

88.—(1) Upon completion of development carried out pursuant to any planning permission granted subject to any such condition as is described in paragraph (*a*) of section 87 (Planning permission relating to rows and stalls) of this Act, the city council may by resolution designate the row, steps or stall comprised in the development as a row, steps or stall for the purposes of this Part of this Act to which the public have a right of access.

(2) The city council shall give public notice of any resolution passed pursuant to subsection (1) above by advertisement in a newspaper circulating in the city and by posting a notice in the street and on or near the premises on which the development has taken place.

Compensation.

89.—(1) (*a*) Where in accordance with the provisions of section 88 (Designation of rows, steps or stalls) of this Act, the city council by resolution designate any row, steps or stall comprised in a development as subject to a right of access for the public, then, if, on a claim made in accordance with the provisions of subsection (4) of this section, it is shown that a person interested in the land has incurred, or will incur, additional expenditure in constructing any building so as to provide support or other facilities required only for the row, steps or stall, the city council shall pay to that person compensation in respect of that expenditure.

(*b*) Nothing in paragraph (*a*) above shall apply with respect to any redevelopment of premises on which any row or stall for the time being exists.

PART XI —*cont.*

(*c*) Where a person claims compensation under this subsection, the city council may set off against the amount of such compensation the amount, if any, by which the value of any land belonging to that person has been enhanced by the provision of accommodation and facilities for a row, steps or stall.

(2) (*a*) Subject to the provisions of paragraph (*b*) of this subsection, compensation payable under subsection (1) of this section shall be assessed on the basis that the building in respect of which it is so payable will provide support and other facilities for the row, steps or stall for the term of sixty years, or for such other term as may be agreed between the city council and the person to whom the compensation is payable.

(*b*) In any case where—

(i) compensation has been paid under subsection (1) of this section to a person interested in any land; and

(ii) before the expiration of the term of sixty years, or such other term as may have been agreed between the city council and the person to whom that compensation was paid, there is other development of the land necessitating the removal of the building in respect of which that compensation was paid (hereafter in this subsection referred to as " the first building ") and the provision of new accommodation and facilities for the row, steps or stall in accordance with conditions attached to the planning permission for that other development;

any compensation payable under subsection (1) of this section in respect of the construction of any building for the erection of which such last-mentioned planning permission is granted (" the second building ") as assessed in accordance with the provisions of paragraph (*a*) of this subsection shall be subject to reduction by a sum which bears to the amount of any compensation paid under subsection (1) of this section in respect of the first building the same proportion as the period which represents the difference between the term of sixty years (or, where some other term was agreed as being the term for which support and facilities were to be provided by the first building, such other term) and the period during which such support and facilities have been provided by the first building bears to the term of sixty years (or, as the case may be, such other term as was so agreed).

(3) Any compensation payable under subsection (1) of this section shall be taken into account in the assessment of any compensation payable under the Act of 1971, in respect of conditions attached to a planning permission relating to a row, steps or stall.

(4) A claim for compensation under subsection (1) of this section shall be made to the city council within six months of

PART XI —*cont.*

the completion, as certified by the proper officer, of the building, or part thereof, to which the claim relates:

Provided that the Secretary of State may in any particular case, either before or after the date on which the time for claiming would otherwise have expired, allow an extended, or further extended, period for making such a claim.

(5) Any dispute arising on a claim for compensation under this section shall be referred to and determined by a single arbitrator to be agreed between the parties or failing agreement to be appointed on the application of either party (after notice in writing to the other) by the President of the Royal Institution of Chartered Surveyors.

No mains or pipes to be laid in rows. 1950 c. 39.

90. Notwithstanding anything contained in the Public Utilities Street Works Act 1950, or in any other enactment, no person shall be entitled to enter upon, break up or interfere with any row for the purpose of laying down any main, pipe or wire, or executing any work therein, thereon or thereunder except with the consent of the city council and in accordance with such terms and conditions as the city council may determine.

Registration of Part as local land charge.

91. Not less than one month after the passing of this Act it shall be the duty of the city council as the registering authority to register this Part as a local land charge in the appropriate local land charges register.

Protection respecting Part XI for certain statutory undertakers.

92.—(1) In this section—

" the undertakers " means the gas corporation, the Welsh Water Authority and the Chester Waterworks Company, or any of them;

" apparatus " means gas apparatus or, in the case of the Welsh Water Authority or the Chester Waterworks Company, mains, pipes or other apparatus belonging to or maintained by either of them.

(2) Notwithstanding anything in section 90 (No mains or pipes to be laid in rows) of this Act, the undertakers shall be entitled for the purposes of—

(*a*) maintaining, inspecting, repairing, renewing or removing any apparatus for the time being existing;

(*b*) laying down, maintaining, inspecting, repairing, renewing or disconnecting any service pipes between any such apparatus and any premises to be supplied therefrom; and

(*c*) laying down any other apparatus necessary to the supply of premises in, over or adjoining a row in which the apparatus is laid, being apparatus which is reasonably

suitable having regard to the load-bearing capacity of the row and its structural stability;

to exercise from time to time the like rights of breaking up any rows as they would be entitled to exercise if that section had not been enacted.

(3) Before in any case laying down such apparatus as is described in subsection (2) (*c*) above the undertakers shall give to the city council not less than 28 days' notice of their proposals in that behalf and if, before the expiration of the notice, the city council give counter-notice objecting to the proposals, they shall not be proceeded with unless otherwise agreed or determined by arbitration.

PART XII

FINANCE AND MISCELLANEOUS

Recovery of rates from certain owners. 1967 c. 9.

93.—(1) This section applies in the case of any hereditament in a district where—

(*a*) section 55 of the General Rate Act 1967 (rating of owners instead of occupiers) does not apply by virtue of a resolution of the district council, and there is no agreement in force between the owner of the hereditament and the district council pursuant to section 56 of that Act (agreement for payment or collection of rates by owner); and

(*b*) the owner of the hereditament has agreed with the occupier of the hereditament that the owner shall pay the general rate charged on the hereditament; and

(*c*) in pursuance of such an agreement a payment equal to all or any part of that general rate, whether expressed as a payment of rent or rates, has been made by the occupier to the owner (in this section referred to as " the specified payment ").

(2) Without prejudice to any other remedy available to them for the recovery of the general rate, the district council may recover a sum not exceeding the specified payment from the owner of the hereditament in the like manner and subject to the like conditions as rates payable by the occupier of a hereditament (not being an occupier by whom a notice under section 50 (1) of the General Rate Act 1967 has been given and is for the time being in force) are recoverable from the occupier.

(3) Any sum recovered under subsection (2) above shall be set off against any general rate outstanding in respect of the hereditament at the date when the specified payment was made by the occupier to the owner.

(4) In this section " owner " has the same meaning as in section 55 of the General Rate Act 1967.

PART XII —*cont.*

Extension of section 126 of Housing Act 1974.
1974 c. 44.

94. In their application to the county, the provisions of section 126 of the Housing Act 1974 (enabling local authorities to enforce covenants, entered into with them by persons having an interest in land, as to works or development on that land) shall apply if a principal council, in the exercise of section 111 of the Act of 1972 or otherwise, and a person having an interest in land in their area become parties to an instrument under seal executed in connection with that land or other land in that area over which any right is granted to that person by the instrument, whether or not the instrument is executed (as described in subsection (1) of that section) for the purpose of securing the carrying out of works or of facilitating development; and accordingly—

(1) subsection (2) of that section shall extend to any covenant contained in such an instrument in relation to that land or such other land as aforesaid, whether or not it is a covenant to carry out any works or do any other thing on or in relation to the land in question; and

(2) subsections (3) and (4) of that section shall extend to the enforcement of such a covenant so as to empower the principal council to enter and do anything on the land, whether or not of the nature of carrying out works, which the covenant required to be carried out or done, and to recover any expenses incurred by the council in exercise of their powers under the said subsection (3).

Expenses of executing demolition orders, etc.
1957 c. 56.

95.—(1) Any expenses of demolition adjudged to be payable to a district council consequent upon the exercise of their powers under section 23 (1) of the Housing Act 1957, shall until recovered be a charge on all estates and interests in the land whereon the premises the subject of demolition were erected, being the premises in respect of which the expenses were incurred.

(2) A district 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.

1925 c. 20.

Temporary markets.

96.—(1) As from the appointed day in any district any person intending to hold a temporary market and the occupier of any land intending to permit that land to be used as the site of a temporary market or, if it is land adjacent to the proposed site of a temporary market, for purposes of that market, shall each respectively give to the district council not less than three months before the holding of the market notice of his intention to hold it or to permit the land to be so used, as the case may be.

(2) Any notice given under subsection (1) above shall state the purpose and proposed date and times of commencement and

PART XII —*cont.*

termination of the temporary market, whether the market is to be held on other and if so what days, the limits of the site to be occupied and the maximum number of persons which the person giving the notice expects to attend the temporary market.

(3) If a district council have reason to believe that any temporary market is to be held in their district but no notice has been given to them thereof under subsection (1) above, by the person intending to hold the same or by the occupier, as the case may be, they may as soon as reasonably practicable after the intention to hold the same has come to their knowledge serve on the person intending to hold the temporary market and on the occupier of any land on which it appears the market is to be held a notice requiring that person to give to the district council the information required by subsection (2) above, which information shall be supplied by the person on whom the notice is served within 7 days after the service of such notice.

(4) (*a*) A person who holds a temporary market or who permits land occupied by him to be used as the site of a temporary market, in either case without giving notice under subsection (1) above, or the information prescribed by subsection (2) above, shall be guilty of an offence.

(*b*) The occupier of land who permits that land to be used as mentioned in subsection (1) above without giving such notice or information shall be guilty of an offence.

(*c*) A person who commits an offence under this section shall be liable on summary conviction to a fine not exceeding £500.

(5) (*a*) In this section " temporary market " means a concourse of buyers and sellers of articles held substantially in the open air and otherwise than in a street, and comprising not less than 15 stalls, stands, marquees, tents, vehicles (whether movable or not), sites or pitches from which commodities are sold during any period exceeding three hours consecutively; but shall not include—

(i) a market held by virtue of a grant from the Crown or of prescription or under statutory authority; or

(ii) a market wholly or mainly for the sale by auction of farm livestock or deadstock or the contents of a building; or

(iii) any use of land for which planning permission has on application been granted; or

(iv) any use of land promoted otherwise than for private gain.

PART XII —*cont.*

(*b*) For the purposes of this section a person who holds a temporary market includes any person who—

(i) charges admission to the site of the temporary market; or

(ii) is entitled, as a person promoting the temporary market, or as the agent, licensee or assignee of a person promoting the market, to payment for goods sold or services rendered to persons attending the market or for the granting of rights to other persons to sell goods or services to persons attending the market.

PART XIII

GENERAL

For protection of electricity undertakers. 1882 c. 56.

97. For the protection of the electricity undertakers the provisions of this section shall, unless otherwise agreed in writing between the city council and the electricity undertakers, apply and have effect.

(1) In this section " apparatus " means any electric lines or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the electricity undertakers and includes any structure for the lodging therein of apparatus:

1882 c. 56.

(2) In exercising the powers of section 59 (General function as to river), section 62 (Removal of vessels), section 65 (Repair of landing places and embankments), section 66 (Default powers in respect of sections 64 and 65), section 69 (Licensing of works) and section 71 (Powers as to moorings, etc.) of this Act, the city council, or any person acting on their requirement or under licence granted by the city council, shall not damage or injuriously affect any apparatus nor, without the consent of the electricity undertakers, interfere with any apparatus or the access thereto or adversely affect the operation of any apparatus; but this paragraph shall apply only with respect to apparatus, particulars of the position and character of which have been supplied to the city council by the electricity undertakers:

(3) Nothing in section 70 (Restriction on construction of works) of this Act shall apply to the construction, alteration, renewal or extension by the electricity undertakers of any apparatus from time to time authorised under or by virtue of any enactment or any consent, wayleave or other instrument given or made under any enactment or make it unlawful for the electricity

undertakers to carry out any work not so authorised necessary in case of emergency for the protection of or to ensure the efficient operation of any electricity works:

(4) Notwithstanding anything in section 90 (No mains or pipes to be laid in rows) of this Act, the electricity undertakers shall be entitled for the purpose of—

(*a*) maintaining, inspecting, repairing, renewing, removing or disconnecting any apparatus for the time being existing;

(*b*) laying down any other apparatus necessary to the supply of premises in, over or adjoining a row in which apparatus is laid, being apparatus which is reasonably suitable having regard to the load-bearing capacity of the row and its structural stability;

to exercise from time to time the like rights of breaking up any row as they would be entitled to exercise if that section had not been enacted:

(5) Before in any case laying down such apparatus as is described in paragraph (4) (*b*) above the electricity undertakers shall give to the city council not less than 28 days' notice of their proposals in that behalf and if, before the expiration of the notice, the city council give counter-notice, objecting to the proposals, they shall not be proceeded with unless otherwise agreed or determined by arbitration.

Disputes about compensation.

98.—(1) Any dispute arising on a claim for compensation under this Act, being a dispute for the determination of which no other provision is made by or under this or any other Act, shall be determined, if the parties so agree, by arbitration or, in default of agreement, by a county court.

(2) A county court shall have jurisdiction to deal with any dispute which by virtue of subsection (1) above is to be determined by such a court notwithstanding that, by reason of the amount of the claim or otherwise, the case would not, but for this provision, be within the jurisdiction of a county court.

(3) Nothing in this section shall prejudice the operation of section 115 of the County Courts Act 1959 (removal into the High Court of proceedings commenced in a county court). 1959 c. 22.

Arbitration.

99. Where under this Act any difference is to be referred to or settled by arbitration, then, unless otherwise provided, such difference shall be referred to and settled by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed by the President of the Institution

PART XIII —*cont.*

of Civil Engineers on the application of either party after notice in writing to the other.

Local inquiries. 1975 c. 26.

100. A Minister of the Crown (as defined in the Ministers of the Crown Act 1975) may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act, and section 250 (2) to (5) of the Act of 1972 shall apply to any such inquiry.

Saving for conduct of business or use of premises.

101. Where under any provision of this Act the licence or consent of a local authority for the carrying on of any business or for the use of premises for any purpose is required as from an appointed day, it shall be lawful for any person who—

(*a*) immediately before that day was carrying on the business, or using any premises for the purpose; and

(*b*) had before that day duly applied for the licence or consent required by that provision;

to continue to carry on that business or, as the case may be, to use those premises for that purpose, until he is notified of the decision with regard to his application, and if the decision is adverse, during such further time as is provided under section104 (Suspension of proceedings pending appeal) of this Act.

Appeals to magistrates' court.

102. Sections 300 to 302 of the Act of 1936 shall apply in respect of appeals to a magistrates' court under this Act.

Appeals to Secretary of State.

103.—(1) On an appeal to the Secretary of State under any provision of this Act mentioned in subsection (2) below, the Secretary of State may at his discretion afford to the appellant and the local authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(2) The provisions referred to in subsection (1) above are the following:—

section 44 (Part VIII appeals);

in section 47 (Transitional provisions for Part VIII), subsection (3);

in section 48 (Parking places: safety requirements), subsection (6);

in section 55 (Further precautions against fire in high buildings), subsection (4);

in section 53 (Buildings used for storage of flammable substances), subsection (5).

(3) On determining any such appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving

PART XIII —*cont.*

effect to his determination and, in the case of an appeal under the said section 44, may give directions for the granting of a consent subject to such conditions as the county council may impose under section 43 (Unlawful stacks) of this Act.

(4) Where the Secretary of State gives a decision in proceedings on any such appeal, the appellant or the local authority may appeal to the High Court against the decision on a point of law.

(5) At any stage of the proceedings on any such appeal the Secretary of State may state any question of law arising in the course of proceedings in the form of a special case for the decision of the High Court; and a decision of the High Court on a case stated by virtue of this subsection shall be deemed to be a judgment of the court within the meaning of section 27 of the Supreme Court of Judicature (Consolidation) Act 1925 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court). 1925 c. 49.

(6) In this section "decision" includes a direction, and references to the giving of a decision shall be construed accordingly.

Suspension of proceedings pending appeal.

104. Where a requirement, refusal or other decision of a local authority 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 a person to carry on any undertaking, trade or business which he was lawfully carrying on immediately before the requirement, refusal or decision was made or, but for this section, came into effect, or to use premises for any purpose for which they were lawfully then used;

then until the time for appealing has expired or, if an appeal is lodged, until it 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 to take the action, nor shall the local authority themselves execute the work or take the action; and

(ii) the person may continue to carry on the undertaking, trade or business, or to use the premises for that purpose.

Restriction on right to prosecute.

105. The written consent of the Attorney-General is needed for the laying of an information of an offence created by or under this Act by any person other than a party aggrieved, a local authority or a police officer.

PART XIII —*cont.*

Liability of directors, etc.

106.—(1) Where an offence under this Act, or against any byelaw made under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a 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 the offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Penalty for obstruction.

107. Any person who intentionally obstructs any officer of a local authority acting in execution of this Act, or of any byelaws made thereunder, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Defence of due diligence.

108.—(1) In proceedings for an offence under any provision of this Act mentioned in subsection (2) below it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) The provisions referred to in subsection (1) above are the following:—

Section 12 (Plans, etc., of new streets);
Section 22 (Registration of hawkers of food and premises);
Section 28 (Notice of street processions);
Section 29 (Safety of stands);
Section 30 (Touting, hawking, photographing, etc.);
Section 35 (Offences under Part VII);
Section 46 (Offences under Part VIII);
Part IX (Fire precautions);
Subsection (1) (*b*) of section 86 (New steps).

(3) If in any case the defence provided under subsection (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying, or assisting in the identification of, that other person.

PART XIII —*cont.*

Application of general provisions of Act of 1936.

109.—(1) The sections of the Act of 1936 mentioned in Schedule 2 to this Act shall have effect as if references therein to that Act included references to this Act.

(2) Section 287 of the Act of 1936 shall have effect as if references therein to that Act included a reference to the following provisions of this Act:—

Section 11 (Street numbers);

Section 12 (Plans, etc., of new streets);

Section 21 (Restraints on buildings, etc., adjoining city walls);

Section 22 (Registration of hawkers of food and premises);

Section 23 (Artificial lighting in habitable rooms, etc.);

Section 27 (Protection of damaged buildings);

Section 29 (Safety of stands);

Part VIII (Storage of flammable material);

Part IX (Fire precautions) other than sections 50 and 54;

Part XI (Rows and stalls at Chester) other than sections 83, 84 and 87 to 91;

Section 96 (Temporary markets):

Provided that, before entry on any operational railway line of the British Railways Board in pursuance of any of those provisions of this Act and of the said section 287 as it has effect by virtue of this section, not less than 24 hours' notice of intended entry shall, except in case of emergency, be given to that board and any person entering on any such railway line in pursuance of that notice or in any such emergency shall comply with the reasonable requirements of the British Railways Board for the protection of their undertaking.

Saving for Health and Safety at Work etc. Act 1974. 1974 c. 37.

110.—(1) In the Health and Safety at Work etc. Act 1974—

(*a*) subsection (5) of section 62 (repeal or modification of certain enactments by building regulations) shall apply to any enactment in this Act and to any provision of a byelaw (or other instrument of a legislative character) made under it as that subsection applies to any enactment mentioned therein;

(*b*) subsection (1) of section 80 (repeal or modification of certain provisions by regulations) shall apply to any provision of this Act and to any regulation and byelaw made under it as that subsection applies to any provision mentioned in subsection (2) of the said section 80.

PART XIII —*cont.*

(2) Nothing in the following sections of this Act shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the said Act of 1974:—

Section 26 (Control of demolitions);

Section 48 (Parking places: safety requirements);

Section 51 (Oil-burning equipment);

Section 52 (Fire and safety precautions in public and other buildings).

Saving for Fire Precautions Act 1971. 1971 c. 40.

111. Subsection (2) of section 30 of the Fire Precautions Act 1971 (avoidance of duplication by local Act provisions) shall apply to this Act as if passed before the coming into operation of that subsection.

Repeals and amendment.

112.—(1) Subject to subsection (2) below, the enactments mentioned in column (1) of Part I of Schedule 3 to this Act in so far as they apply within the county, are hereby repealed to the extent mentioned in column (2) thereof.

1884 c. ccxxxix.

(2) Section 149 of the Chester Improvement Act 1884 shall continue to have effect within the county and, subject to the provisions of section 262 of the Act of 1972, the enactments mentioned in column (1) of Part IV of Schedule 3 to this Act shall continue to have effect to the extent mentioned in column (2) of that Part.

1889 c. clvi.

(3) Section 3 (Limits of Act) of the Dee Conservancy Act 1889 is hereby amended by the substitution for the words " the old Dee Bridge in the city and county of the city of Chester " of the words " Wilcox Point in the city of Chester (National Grid reference point SJ 39696590)".

(4) The saving provisions contained in Schedule 4 to this Act shall have effect in relation to repeals effected by this Act.

SCHEDULES

SCHEDULE 1

Section 9.

PART I

SECTION 153 OF THE HIGHWAYS ACT 1959 AS HAVING EFFECT IN ACCORDANCE WITH SECTION 9 (BUILDINGS UNDER HIGHWAYS) OF THIS ACT

1959 c. 25.

(1) No person shall construct under a highway any part of a building on land adjoining the highway or a vault, arch or cellar without the consent of the highway authority and the authority may by notice served on a person who has constructed any part of a building or a vault, arch or cellar in contravention of this section require him to remove it, or to alter or deal with it in such manner as may be specified in the notice.

(2) A person aggrieved by the refusal of a consent required by the foregoing subsection, or by a requirement of a highway authority thereunder, may appeal to a magistrates' court.

(3) A person who constructs any part of a building or a vault, arch or cellar in contravention of this section shall be guilty of an offence and shall be liable in respect thereof to a fine not exceeding five pounds and, subject to any order made on appeal, if he fails to comply with a requirement of a notice served on him under subsection (1) thereof, he shall be guilty of a further offence and shall be liable in respect thereof to a fine not exceeding forty shillings for each day during which the failure continues.

(4) The authority may also cause any part of a building or a vault, arch or cellar constructed in contravention of this section to be removed, altered or otherwise dealt with as they think fit and may recover the expenses reasonably incurred by them in so doing from the offender.

(5) As soon as may be after an authority consent to the construction of any part of a building or a vault, arch or cellar under a highway they shall give notice thereof to any public utility undertakers having any apparatus under the highway.

(6) Subsection (1) of this section does not apply to the construction of code-regulated works as defined in section 1 (5) of the Public Utilities Street Works Act 1950.

1950 c. 39.

PART II

SECTION 29 OF PUBLIC HEALTH ACT 1961 AS HAVING EFFECT IN ACCORDANCE WITH SECTION 26 (CONTROL OF DEMOLITIONS) OF THIS ACT

Section 26.
1961 c. 64.

29.—(1) Subject to the provisions of this section, a local authority may serve a notice under this section on any person who undertakes the demolition of the whole or of part of a building.

(2) Subsection (1) of this section shall not apply to the demolition—

(*a*) of an internal part of a building where the building is occupied, and it is intended that it should continue to be occupied, or

SCH. 1 —*cont.*

(*b*) of a building which has a cubic content (as ascertained by external measurement) of not more than 1,750 cubic feet, or, where a greenhouse, conservatory, shed or prefabricated garage forms part of a larger building, of that greenhouse, conservatory, shed or prefabricated garage, or

(*c*) without prejudice to the last foregoing paragraph, of an agricultural building (as defined in section 2 of the Rating and Valuation (Apportionment) Act, 1928), unless it is contiguous to another building which is not itself of a kind mentioned in this or the last foregoing paragraph.

1928 c. 44.

(3) No person shall, without the consent of the local authority, undertake a demolition to which subsection (1) of this section applies, unless—

(*a*) a notice specifying the building and the works of demolition intended to be carried out has been served on the local authority, and

(*b*) the local authority have served on the person undertaking the demolition a notice under subsection (1) of this section or twenty-eight days have elapsed since the service of notice under paragraph (*a*) of this subsection,

and a person contravening this subsection shall be liable to a fine not exceeding £500:

Provided that notice need not be served under paragraph (*a*) of this subsection of a demolition undertaken to comply with any requirement contained in—

(*a*) a notice, order or other instrument issued by, or on the application of, the local authority in pursuance of any power conferred by or under an Act of Parliament, or

(*b*) an injunction or other direction given in legal proceedings brought by the local authority,

except where compliance with the requirement is effected, at the election of the person complying with it, either by undertaking the demolition or by taking some other steps.

(3A) More than one notice may be served under subsection (1) of this section in respect of any demolition but a second or subsequent notice shall not expressly or by implication contain a requirement incompatible with one contained in a previous notice.

(4) The time within which a notice may be served under subsection (1) of this section shall be—

(*a*) where a notice has been served on the local authority under subsection (3) of this section, within six weeks from the giving of that notice, or such longer period as the person undertaking the demolition may in writing allow, and

(*b*) in the case of a demolition undertaken to comply with a requirement contained in a demolition order under the Housing Act, 1957, at any time not more than 7 days after serving on the person undertaking the demolition a copy of

1957 c. 56.

the demolition order in accordance with that Act, or within such longer period as the person undertaking the demolition may in writing allow, and

(*c*) in any other case, within six weeks from the beginning of the demolition.

(5) A notice under subsection (1) of this section may require the person undertaking the demolition to take action under all or any of the following paragraphs, that is to say—

(*a*) to shore up adjacent buildings,

(*b*) to weatherproof any surfaces of an adjacent building which are exposed by the demolition and to make good any damage to adjacent premises,

(*c*) to remove material or rubbish resulting from the demolition and clearance of the site,

(*d*) to disconnect and seal at such points as the local authority may reasonably require any sewer, drain or water or gas pipe in or under the building to be demolished, and to render any electric line or apparatus in or under the building electrically dead,

(*e*) to remove any such sewer, drain or water or gas pipe and seal any sewer, drain or water or gas pipe with which the sewer, drain or pipe to be removed is connected,

(*f*) to make good to the satisfaction of the local authority the surface of the ground disturbed by anything done under paragraph (*d*) or paragraph (*e*) of this subsection,

(*g*) to take such precautions as the local authority may after consultation with the fire authority reasonably require with regard to the burning on the site of materials or rubbish or of any structure,

and with a view to preserving the safety and amenities of the public in the vicinity of the demolition may prescribe the manner in which, and the conditions subject to which, the demolition is to be undertaken and the condition in which the site is to be left on completion.

(5A) A notice served under subsection (1) of this section within twenty-eight days after the service of notice under subsection (3) (*a*) of this section may also require part of the demolition to be deferred, but not beyond the expiry of the period for serving notice specified in subsection (4) of this section.

(5B) A person contravening such a notice requiring the deferment of part of the demolition shall be liable to a fine not exceeding £500, but in any proceedings for an offence under this subsection it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(6) No one shall be required under paragraph (*b*), except so far as it relates to the weatherproofing of surfaces, or paragraph (*d*) or

SCH. 1 —*cont.*

paragraph (*e*) of subsection (5) of this section to carry out any work in land outside the premises on which the works of demolition are being carried out if he has no right to carry out that work, but, subject to the provisions of Part XII of the Public Health Act, 1936, with respect to the breaking open of streets, the person undertaking the demolition, or the local authority acting in his default, may break open any street for the purpose of complying with any such requirement.

1936 c. 49.

(7) Nothing in subsection (5) of this section shall be construed as exempting any person from—

(*a*) the obligation to obtain any consent required under section sixty-eight of the Third Schedule to the Water Act, 1945 (which relates to alterations in supply pipes and other apparatus), or under any similar enactment, or

1945 c. 42.

(*b*) any obligations with respect to the disconnection, removal or other alteration of a gas pipe under any regulations having effect under section 31 of the Gas Act 1972,

1972 c. 60.

and nothing in this section shall be construed as authorising any person to cut, alter or otherwise interfere with any electric line or apparatus of any statutory undertakers authorised to carry on an electricity undertaking.

(7A) Where the local authority serve notice of a requirement for the disconnection or removal of any sewer or water or gas pipe belonging to, or maintained or used by statutory undertakers, or for the rendering of any electric line or apparatus electrically dead, they shall send a copy of the notice, so far as it relates to that requirement, to the statutory undertakers.

(8) Before a person complies with any requirement under paragraph (*d*) or paragraph (*e*) of subsection (5) of this section he shall give at least 48 hours' notice to the local authority, and before he complies with paragraph (*f*) of that subsection, he shall give at least 24 hours' notice to the local authority; and a person who fails to comply with this subsection shall be liable to a fine not exceeding five pounds.

1936 c. 49.

(9) The provisions of Part XII of the Public Health Act, 1936, with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under subsection (1) of this section.

(10) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the Public Health Act, 1936, against a notice under subsection (1) of this section shall be—

(*a*) in the case of a notice requiring an adjacent building to be shored up, that the owner of the building is not entitled to the support of that building by the building which is being demolished, and ought to pay, or contribute towards, the expenses of shoring it up, and

SCH. 1 —*cont.*

(*b*) in the case of a notice requiring any surfaces of an adjacent building to be weatherproofed, or any damage to any adjacent premises to be made good, that the owner of the adjacent building ought to pay, or contribute towards, the expenses of weatherproofing those surfaces or of making good that damage.

(11) Where the grounds on which an appeal under the said section two hundred and ninety is brought include any ground specified in the last foregoing subsection, the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and on the hearing of the appeal the court may make such order as it thinks fit in respect of the payment of, or contribution towards, the cost of the works by any such person, or as to how any expenses which may be recoverable by the local authority are to be borne as between the appellant and any such other person.

(12) This section shall not apply to a demolition begun before the commencement of this Act.

SCHEDULE 2

Section 109.

SECTIONS OF ACT OF 1936 APPLIED TO THIS ACT

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Powers of local authority to sell certain materials.
283 (1)	Notices to be in writing; forms of notices, etc.
285	Service of notices, etc.
291	Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.
341	Power to apply provisions of Act to Crown property.

Section 112.

SCHEDULE 3

ENACTMENTS REFERRED TO IN SECTION 112 (REPEALS AND AMENDMENT) OF THIS ACT

PART I

ENACTMENTS REPEALED

	(1) Enactment	(2) Extent of repeal
1803 c. xlvii.	An Act to amend, alter, and enlarge the Powers of an Act, passed in the Second Year of the Reign of his present Majesty; so far as the same relates to maintaining a Nightly Watch and lighting and cleansing the Streets, Rows, and Passages within the City of Chester; and for preventing Nuisances and Annoyances in the Streets, Rows, and Passages, within the said City, and for regulating and improving the Police thereof	The whole Act.
1812 c. cxxxvi.	An Act for inclosing the Forest of Delamere, in the County of Chester	The whole Act.
1826 c. viii.	An Act for lighting with Gas the several Townships of Macclesfield, Sutton, and Hurdsfield, all in the Parish of Prestbury, in the County Palatine of Chester	The whole Act.
1840 c. lxxxvii.	An Act to authorize the Appointment of additional Coroners for the County Palatine of Chester	The whole Act.
1845 c. xv.	Chester Improvement Act 1845	The whole Act, except the provisions referred to in Parts II and IV of this Schedule.
1847 c. xl.	Runcorn Gas Act 1847	The whole Act.
1847 c. xliv.	Warrington Gas Act 1847	The whole Act.
1849 c. xxvi.	Macclesfield Borough Waterworks Act 1849 ..	The whole Act, except the provisions referred to in Part II of this Schedule.
1852 c. x.	Macclesfield Improvement Act 1852	The whole Act, except the provisions referred to in Part III of this Schedule.
1852 c. xxxi.	Cheshire Constabulary Act 1852	The whole Act.
1852 c. lxviii.	Runcorn Improvement Act 1852	The whole Act.
1854 c. viii.	Warrington Improvement and Market Act 1854	The whole Act, except the provisions referred to in Part II of this Schedule.
1855 c. xciii.	Warrington Waterworks Act 1855	The whole Act, except the provisions referred to in Part II of this Schedule.
1858 c. vi.	Chester Gas Act 1858	The whole Act.
1860 c. lxviii.	Widnes Gas and Water Act 1860	The whole Act, except the provisions referred to in Part II of this Schedule.
1860 c. clxxxi.	Macclesfield District Gas Act 1860	The whole Act.
1862 c. xxxvii.	Bollington Improvement and Lighting Act 1862	The whole Act, except the provisions referred to in Part II of this Schedule.

SCH. 3 —*cont.*

(1) Enactment	(2) Extent of repeal	
Widnes Improvement Act 1867	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1867 c. cxxvi.
Warrington Waterworks Act 1868	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1868 c. lxxix.
Poor Law Board's Provisional Orders Confirmation Act 1869	In the Schedule, the Order relating to the city and county of the city of Chester.	1869 c. cxxiii.
Chester Gas Act 1870	The whole Act, except the provisions referred to in Part III of this Schedule.	1870 c. i.
Local Government Supplemental Act 1870 ..	The whole Act.	1870 c. cxiv.
Warrington Gas Act 1871	The whole Act, except the provisions referred to in Part III of this Schedule.	1871 c. liii.
Gas and Water Orders Confirmation Act 1871	The Knutsford Gas and Water Order 1871.	1871 c. cxliv.
Lymm Local Board (Gas) Act 1872	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1872 c. lxxv.
Local Government Board's Provisional Orders Confirmation Act 1873	In the Schedule, the Order relating to the borough of Warrington.	1873 c. i.
Local Government Board's Provisional Orders Confirmation Act 1873 (No. 2)	In the Schedule, the Order relating to the district of Crewe.	1873 c. lxxxii.
Local Government Board's Provisional Orders Confirmation Act 1875 (No. 3)	In the Schedule, the Order relating to the district of Northwich.	1875 c. lxxvi.
Widnes Local Board Act 1875	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1875 c. lxxxviii.
Warrington Corporation Gas Act 1877 ..	The whole Act, except the provisions referred to in Part III of this Schedule.	1877 c. xxxiii.
Chester Tramways Act 1878	The whole Act.	1878 c. clxxiv.
Warrington Waterworks Act 1878	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1878 c. ccix.
Warrington Corporation Lighting and Improvement Act 1879	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1879 c. xcii.
Local Government Board's Provisional Orders Confirmation (Abergavenny Union, &c.) Act 1879	In the Schedule, the Order relating to the local government district of Widnes.	1879 c. ciii.

SCH. 3 —*cont.*

(1) Enactment		(2) Extent of repeal
1879 c. cv.	Local Government Board's Provisional Orders Confirmation (Aspull, &c.) Act 1879	In the Schedule, the Order relating to the local government district of Widnes.
1879 c. cxciii.	Tramways Orders Confirmation Act 1879 ..	The Crewe and District Tramways Order 1879, except the provisions referred to in Part III of this Schedule.
1879 c. ccxvii.	Knutsford Light and Water Act 1879	The whole Act, except the provisions referred to in Part III of this Schedule.
1880 c. ix.	Chester Gas Act 1880	The whole Act.
1880 c. cxxxii.	Local Government Board's Provisional Orders Confirmation (Eastbourne, &c.) Act 1880	In the Schedule, the Order relating to the local government district of Northwich.
1882 c. lxxxiii.	Northwich Gas Act 1882	The whole Act, except the provisions referred to in Parts II and III of this Schedule.
1882 c. clxx.	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1882	In the Schedule, the Order relating to the local government district of Northwich.
1882 c. ccxlix.	Macclesfield Corporation Act 1882	The whole Act, except the provisions referred to in Part II of this Schedule.
1883 c. cxxxi.	Tramways Order Confirmation (No. 1) Act 1883	The Macclesfield Tramways Order 1883.
1884 c. lii.	West Cheshire Water Act 1884	The whole Act.
1884 c. lxxxvi.	Sandbach Gas Act 1884	The whole Act, except the provisions referred to in Part III of this Schedule.
1884 c. ccxi.	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1884	In the Schedule, the Orders relating to the local government districts of Northwich and Warrington.
1884 c. ccxxxix.	Chester Improvement Act 1884	The whole Act, except the provisions referred to in Parts II and IV of this Schedule.
1885 c. xiii.	Runcorn Gas Act 1885	The whole Act, except the provisions referred to in Parts II and III of this Schedule.
1885 c. lv.	Gas Orders Confirmation (No. 1) Act 1885 ..	The Middlewich Gas Order 1885, except the provisions referred to in Part III of this Schedule.

SCH. 3 —*cont.*

(1) Enactment	(2) Extent of repeal	
Local Government Board's Provisional Orders Confirmation (No. 3) Act 1885	In the Schedule, the Order relating to the local government district of Widnes.	1885 c. cvi.
Northwich Local Board Act 1885	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1885 c. cxx.
Local Government Board's Provisional Orders Confirmation (No. 6) Act 1886	In the Schedule, the Order relating to the local government district of Widnes.	1886 c. viii (50 Vict.).
Tramways Orders Confirmation (No. 1) Act 1887	The Macclesfield Tramways (Abandonment of Tramways and Release of Deposit) Order 1887.	1887 c. cxcvi.
Electric Lighting Orders Confirmation (No. 2) Act 1890	Chester Electric Lighting Order 1890.	1890 c. clxxxvii.
Warrington Extension and Water Act 1890 ..	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1890 c. ccxxxvi.
Electric Lighting Orders Confirmation (No. 8) Act 1891	The Whitby Electric Lighting Order 1891.	1891 c. civ.
Local Government Board's Provisional Orders Confirmation (No. 11) Act 1892	The Borough of Crewe Order 1892.	1892 c. cci.
Local Government Board's Provisional Orders Confirmation (No. 2) Act 1894	In the Schedule, the Order relating to the borough of Widnes.	1894 c. xx.
Local Government Board's Provisional Orders Confirmation (No. 2) Act 1895	The Warrington Order 1895.	1895 c. xli.
Local Government Board's Provisional Orders Confirmation (No. 5) Act 1895	The County of Salop (Tittenley) Order 1895.	1895 c. lxxxvi.
Local Government Board's Provisional Order Confirmation (Warrington) Act 1896	The whole Act.	1896 c. cxiii.
Local Government Board's Provisional Orders Confirmation (No. 20) Act 1896	The Warrington Order 1896.	1896 c. clxix.
Local Government Board's Provisional Orders Confirmation (No. 13) Act 1896	The County of Chester (Threapwood) Order 1896.	1896 c. ccxxxvi.
Electric Lighting Orders Confirmation (No. 1) Act 1897	The Wilmslow Electric Lighting Order 1897.	1897 c. lxi.
Electric Lighting Orders Confirmation (No. 8) Act 1897	The Northwich and District Electric Lighting Order 1897.	1897 c. clxi.
Local Government Board's Provisional Orders Confirmation (No. 11) Act 1898	The Chester Order 1898.	1898 c. lxxxiii.
Electric Lighting Orders Confirmation (No. 11) Act 1898	The Warrington Electric Lighting Order 1898.	1898 c. xciv.
Electric Lighting Orders Confirmation (No. 7) Act 1899	The Knutsford Electric Supply Order 1899.	1899 c. cxxi.
Warrington Corporation Act 1899	The whole Act.	1899 c. ccxxv.
Electric Lighting Orders Confirmation (No. 1) Act 1900	The Nantwich Electric Lighting Order 1900.	1900 c. xlvi.
Local Government Board's Provisional Orders Confirmation (No. 9) Act 1900	The Borough of Warrington Order 1900.	1900 c. clxxviii.

SCH. 3 —*cont.*

	(1) Enactment	(2) Extent of repeal
1900 c. cxcv.	Local Government Board's Provisional Orders Confirmation (No. 7) Act 1900	The Chester Rural Order 1900.
1901 c. lxxiv.	Chester Gas Act 1901	The whole Act, except the provisions referred to in Part II of this Schedule.
1901 c. lxxxvi.	Winsford Urban District (Gas Transfer &c.) Act 1901	The whole Act, except the provisions referred to in Part II of this Schedule.
1901 c. cxxxviii.	Electric Lighting Orders Confirmation (No. 5) Act 1901	The Widnes Electric Lighting Order 1901.
1901 c. cxlix.	Local Government Board's Provisional Orders Confirmation (No. 8) Act 1901	The Nantwich Joint Hospital Order 1901.
1901 c. cxcii.	Chester Corporation Act 1901	The whole Act.
1902 c. ccviii.	Gas and Water Orders Confirmation (No. 2) Act 1902	The Knutsford Gas and Water Order 1902.
1903 c. civ.	Nantwich Urban District Council Act 1903 ..	The whole Act, except the provisions referred to in Parts II and III of this Schedule.
1904 c. clxxv.	Electric Lighting Orders Confirmation (No. 2) Act 1904	The Widnes Electric Lighting Order 1901 Amendment Order 1904.
1905 c. lxxi.	Local Government Board's Provisional Orders Confirmation (No. 4) Act 1905	The Chester Order 1905 except the provisions referred to in Part II of this Schedule.
1906 c. c.	Local Government Board's Provisional Orders Confirmation (No. 1) Act 1906	The Nantwich Order 1906.
1906 c. civ.	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1906	The Warrington Order 1906.
1906 c. clxxviii.	Macclesfield and District Tramways Act 1906	The whole Act, except the provisions referred to in Part III of this Schedule.
1907 c. clii.	Local Government Board's Provisional Orders Confirmation (No. 2) Act 1907	The Warrington Order 1907.
1908 c. lxxx.	Macclesfield and District Tramways (Abandonment) Act 1908	The whole Act.
1908 c. lxxxvi.	Widnes Corporation Act 1908	The whole Act, except the provisions referred to in Parts II and III of this Schedule.
1908 c. cxliv.	Local Government Board's Provisional Orders Confirmation (No. 4) Act 1908	The Crewe Order 1908.
1908 c. cxlviii.	Local Government Board's Provisional Order Confirmation (No. 8) Act 1908	The whole Act.
1909 c. cxx.	Local Government Board's Provisional Orders Confirmation (No. 4) Act 1909	The Warrington Order 1909 and the Widnes Order 1909.
1910 c. lxxv.	Electric Lighting Orders Confirmation (No. 1) Act 1910	The Widnes Electric Lighting Order 1901 Amendment Order 1910.
1911 c. x.	Warrington Corporation Act 1911	The whole Act, except the provisions referred to in Part II of this Schedule.

SCH. 3
—cont.

(1) Enactment	(2) Extent of repeal	
Electric Lighting Orders Confirmation (No. 2) Act 1911	The Macclesfield Electric Lighting Order 1911, except the provisions referred to in Part II of this Schedule.	1911 c. clxi.
Lymm Urban District Council Act 1913 ..	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1913 c. xxxi.
Electric Lighting Orders Confirmation (No. 1) Act 1913	The Weaverham District Electric Lighting Order 1913.	1913 c. cxlix.
Ellesmere Port and Whitby Urban District Council Act 1914	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1914 c. xciii.
Northwich Urban District Council Act 1914 ..	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1914 c. cl.
Northwich Gas Act 1915	The whole Act, except the provisions referred to in Part III of this Schedule.	1915 c. lviii.
Electric Lighting Orders Confirmation (No. 4) Act 1915	The Warrington Corporation Electric Lighting (Extension) Order 1915.	1915 c. lxxxiv.
Local Government Board's Provisional Order Confirmation (No. 4) Act 1919	The whole Act.	1919 c. lxxviii.
Ministry of Health Provisional Orders Confirmation (No. 7) Act 1920	The Widnes Order 1920.	1920 c. cxiv.
Ministry of Health Provisional Order Confirmation (Widnes Extension) Act 1920	The whole Act.	1920 c. cxxxvi.
Ministry of Health Provisional Orders Confirmation (No. 5) Act 1922	The Warrington Order 1922.	1922 c. xli.
Ministry of Health Provisional Orders Confirmation (No. 10) Act 1922	The Chester Order 1922.	1922 c. xcviii.
Ellesmere Port and Whitby and District Electricity Special Order 1922	The whole Order.	—
Runcorn District Water Board Act 1923 ..	The whole Act.	1923 c. x.
Ministry of Health Provisional Orders Confirmation (No. 8) Act 1923	The Northwich Order 1923.	1923 c. xli.
Macclesfield Corporation Act 1923	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1923 c. cvi.
Widnes Water (Modification of Charges) Order 1923	The whole Order.	S.R. & O. 1923/1150.
Chester Electricity (Extension) Special Order 1923	The whole Order.	—
Ministry of Health Provisional Orders Confirmation (No. 4) Act 1924	The Widnes Order 1924.	1924 c. xvi
West Cheshire Water Act 1924	The whole Act.	1924 c. xcvi.
Ellesmere Port and Whitby Gas Order 1924 ..	The whole Order, except the provisions referred to in Part III of this Schedule.	S.R. & O. 1924/1454.

SCH. 3 —*cont.*

(1) Enactment	(2) Extent of repeal
— Warrington Electricity (Extension) Special Order 1924	The whole Order.
1925 c. cxiii. West Cheshire Water Board Act 1925 ..	The whole Act, except the provisions referred to in Parts II and III of this Schedule.
S.R. & O. 1925/1317. Bollington Gas Order 1925	The whole Order, except the provisions referred to in Part III of this Schedule.
— City of Chester (Handbridge Improvement Scheme) Order 1925	The whole Order.
1926 c. lx. Ministry of Health Provisional Orders Confirmation (No. 11) Act 1926	The Chester Order 1926 and the Nantwich Order 1926.
— The Nantwich Electricity Special Order 1926 ..	The whole Order.
S.R. & O 1926/1487. Widnes Gas Order 1926	The whole Order, except the provisions referred to in Part III of this Schedule.
S.R. & O. 1926/1584. Warrington Gas Order 1926	The whole Order.
— Sandbach Alsager and District Electricity Special Order 1926	The whole Order.
1927 c. xxxiv. Ministry of Health Provisional Orders Confirmation (No. 5) Act 1927	The Macclesfield Order 1927.
1927 c. cxxiii. West Cheshire Water Board Act 1927 ..	The whole Act, except the provisions referred to in Parts II and III of this Schedule.
— Chester Electricity (Extension, &c.) Special Order 1927	The whole Order.
S.R. & O. 1927/1117. Ascertainment of Rateable Values (No. 20) Order 1927	So much of Part II of the Schedule as relates to the borough of Chester.
— Alderley Edge and Wilmslow Electricity Special Order 1928	The whole Order except the provisions referred to in Part II of this Schedule.
S.R. & O. 1928/257. Lymm Water (Modification of Charges) Order 1928	The whole Order.
1929 c. xxii. Ministry of Health Provisional Orders Confirmation (No. 6) Act 1929	The Warrington Order 1929.
1929 c. lxxix. Warrington Corporation Water Act 1929 ..	The whole Act, except the provisions referred to in Parts II and III of this Schedule.
1929 c. xcvi. Chester Corporation Act 1929	The whole Act, except the provisions referred to in Part II of this Schedule.
— Bollington Gas Order 1928	The whole Order.
S.R. & O. 1929/216. Congleton Electricity Special Order 1929 ..	The whole Order.
— Warrington Electricity (Extension &c.) Special Order 1929	The whole Order.
— Macclesfield Electricity (Extension) Special Order 1929	The whole Order, except the provisions referred to in Part II of this Schedule.

SCH. 3 —*cont.*

(1) Enactment	(2) Extent of repeal	
Ministry of Health Provisional Orders Confirmation (Macclesfield and Willesden) Act 1930	The Macclesfield Order 1930.	1930 c. clv.
Warrington Electricity (Extension) Special Order 1931	The whole Order.	—
Ministry of Health Provisional Order Confirmation (River Dee) Act 1932	The whole Act.	1932 c. lvii.
Chester Corporation Act 1932	The whole Act, except the provisions referred to in Part IV of this Schedule.	1932 c. lxxxiv.
Warrington Extension Act 1932	The whole Act.	1932 c. lxxxviii.
Ministry of Health Provisional Order Confirmation (Chester and Lancaster) Act 1933	The whole Act.	1933 c. vii.
Knutsford Light and Water Act 1933 ..	The whole Act, except the provisions referred to in Part II of this Schedule.	1933 c. lxxxiv.
Chester Gas Order 1933	The whole Order, except the provisions referred to in Part III of this Schedule.	S.R. & O. 1933/778.
Ministry of Health Provisional Order Confirmation (Chester and Derby) Act 1936	The whole Act.	1936 c. x.
Winsford Gas Order 1936	The whole Order, except the provisions referred to in Parts II and III of this Schedule.	S.R. & O. 1936/684.
Warrington Corporation Act 1937	The whole Act, except the provisions referred to in Part II of this Schedule.	1937 c. lix.
Winsford Gas Order 1937	The whole Order, except the provisions referred to in Part III of this Schedule.	S.R. & O. 1937/612.
Crewe Corporation Act 1938	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1938 c. xxx.
Warrington Corporation Water Act 1938 ..	The whole Act, except the provisions referred to in Parts II and III of this Schedule.	1938 c. xcviii.
Runcorn and District Gas Order 1938 ..	The whole Order, except the provisions referred to in Part III of this Schedule.	S.R. & O. 1938/650.
Lymm Gas Order 1938	The whole Order, except the provisions referred to in Part II of this Schedule.	S.R. & O. 1938/703.
Nantwich Gas Order 1938	The whole Order, except the provisions referred to in Part III of this Schedule.	S.R. & O. 1938/1160.
Macclesfield Corporation Act 1939	The whole Act, except the provisions referred to in Part II of this Schedule.	1939 c. lxxxvii.

SCH. 3 —*cont.*

(1) Enactment		(2) Extent of repeal
—	Chester (Food) Order 1939	The whole Order.
S. R. & O. 1942/1685.	Kidsgrove Gas Order 1942	The whole Order.
1945 c. xii.	Warrington Corporation Act 1945	The whole Act, except the provisions referred to in Parts II and III of this Schedule.
1946 c. xxviii.	Mid and South East Cheshire Water Board Act 1946	The whole Act, except the provisions referred to in Part II of this Schedule.
1948 c. xxix.	Ministry of Health Provisional Order Confirmation (Macclesfield) Act 1948	The whole Act.
S.I. 1950/114.	Mid and South East Cheshire Water Board Order 1950	The whole Order.
1953 c. xl.	Cheshire County Council Act 1953	The whole Act, except the provisions referred to in Part IV of this Schedule.
S.I. 1953/55.	Mid and South East Cheshire Water Board Order 1952	The whole Order, except the provisions referred to in Part II of this Schedule.
S.I. 1954/317.	Chester (Extension) Order 1954	The whole Order.
S.I. 1954/1672.	Chester (Repeal of Local Enactments) Order 1954	The whole Order.
S.I. 1955/377.	Macclesfield (Extension) Order 1955	The whole Order.
S.I. 1955/436.	Mid and South East Cheshire Water Board (Water Charges) Order 1955	The whole Order.
S.I. 1956/472.	Mid and South East Cheshire Water Board Order 1956	The whole Order, except the provisions referred to in Parts II and III of this Schedule.
S.I. 1958/1616.	Mid and South East Cheshire Water Board Order 1958	The whole Order.
S.I. 1961/232.	Mid and South East Cheshire Water Board Order 1961	The whole Order.
S.I. 1964/1258.	Mid and South East Cheshire Water Board Order 1964	The whole Order, except the provisions referred to in Part II of this Schedule.
S.I. 1965/247.	Mid and South East Cheshire Water Board (Water Charges) Order 1965	The whole Order.
S.I. 1965/248.	Mid and South East Cheshire Water Board Order 1965	The whole Order.
1968 c. xxxvi.	Cheshire County Council Act 1968	The whole Act, except the provisions referred to in Part IV of this Schedule.
S.I. 1971/1302.	Mid Cheshire Water Board Order 1971 ..	The whole Order, except the provisions referred to in Part II of this Schedule.
S.I. 1972/346.	Mid Cheshire Water Board (Charges) Order 1972	The whole Order.

PART II

ENACTMENTS EXCLUDED FROM REPEAL

SCH. 3 —*cont.*

(1) Enactment	(2) Extent of application	
Chester Improvement Act 1845	Sections 185 to 189, 193 to 195, 197 to 213, 215 to 219, 221 and 223.	1845 c. xv.
Macclesfield Borough Waterworks Act 1849 ..	Sections 37 and 42.	1849 c. xxvi.
Warrington Improvement and Market Act 1854	Sections 24 to 27, 30 and 32 to 37.	1854 c. viii.
Warrington Waterworks Act 1855	Sections 47 to 49, 53 to 60, 75 and the Schedule.	1855 c. xciii.
Widnes Gas and Water Act 1860	Section 32.	1860 c. lxviii.
Bollington Improvement and Lighting Act 1862	Section 13 and Schedule 1.	1862 c. xxxvii.
Widnes Improvement Act 1867	Sections 25, 32, 58, 126 and 128.	1867 c. cxxvi.
Warrington Waterworks Act 1868	Section 21.	1868 c. lxxix.
Lymm Local Board (Gas) Act 1872	Section 17 and Schedule (A).	1872 c. lxxv.
Widnes Local Board Act 1875	Sections 13 and 14 and the Schedule.	1875 c. lxxxviii.
Warrington Waterworks Act 1878	Sections 15 to 18 and 21 to 24.	1878 c. ccix.
Warrington Corporation Lighting and Improvement Act 1879	Section 5 and Schedule 1.	1879 c. xcii.
Northwich Gas Act 1882	Sections 47 and 48 and Schedules 1 and 2.	1882 c. lxxxiii.
Macclesfield Corporation Act 1882	Sections 21 and 42.	1882 c. ccxlix.
Sandbach Gas Act 1884	Sections 51 and 52 and Schedules 1 and 2.	1884 c. lxxxvi.
Chester Improvement Act 1884	Sections 78, 79, 81 and 82.	1884 c. ccxxxix.
Runcorn Gas Act 1885	Section 24 and the Schedule.	1885 c. xiii.
Northwich Local Board Act 1885	Sections 7, 8 and 21.	1885 c. cxx.
Warrington Extension and Water Act 1890 ..	Section 83.	1890 c. ccxxxvi.
Warrington Corporation Act 1899	Sections 18, 19 and 21 to 26.	1899 c. ccxxv.
Chester Gas Act 1901	Section 8 and the Schedule.	1901 c. lxxiv.
Winsford Urban District (Gas Transfer &c.) Act 1901	Section 14 and Schedule 1.	1901 c. lxxxvi.
Nantwich Urban District Council Act 1903 ..	Section 17 and the Schedule.	1903 c. civ.
Local Government Board's Provisional Orders Confirmation (No. 4) Act 1905	Article II of and Schedule B to the Chester Order.	1905 c. lxxi.
Widnes Corporation Act 1908	Section 18, Part III, section 25 (1) except the words from "within" to "Warrington", sections 25 (4) and (6), 26, 39, 44 and 45 and Part XI.	1908 c. lxxxvi.
Warrington Corporation Act 1911	Section 44 (1) except the words from "within" to "any of such tramways", sections 44 (4) and (6) and 45.	1911 c. x.

SCH. 3 —*cont.*

	(1) Enactment	(2) Extent of application
1911 c. clxi.	Electric Lighting Orders Confirmation (No. 2) Act 1911	Section 5 and paragraph (*a*) of Schedule 2 to the Macclesfield Electric Lighting Order 1911.
1913 c. xxxi.	Lymm Urban District Council Act 1913 ..	Section 91.
1914 c. xciii.	Ellesmere Port and Whitby Urban District Council Act 1914	Section 10 and Schedule 2.
1914 c. cl.	Northwich Urban District Council Act 1914	Sections 14, 48 and 49.
1923 c. cvi.	Macclesfield Corporation Act 1923	Sections 22, 24 and 77.
1925 c. cxiii.	West Cheshire Water Board Act 1925.. ..	Sections 103 and 105.
1927 c. cxxiii.	West Cheshire Water Board Act 1927.. ..	Sections 16, 19 (2), 22, 23 to 25, 28 and 29.
—	Alderley Edge and Wilmslow Electricity Special Order 1928	Section 30 and paragraph (*b*) of Schedule 2.
1929 c. lxxix.	Warrington Corporation Water Act 1929 ..	Proviso (*b*) to section 19 (2) and sections 23, 24, 28, 29 and 30.
1929 c. xcvi.	Chester Corporation Act 1929	Section 30 other than in subsection (1) the words following "and may run omnibuses", sections 30 (2), (3), (5) and (7), 31, 32, 46, 48, 49 and 75 to 82.
	Macclesfield Electricity (Extension) Special Order 1929	Sections 5 and 11 and paragraph (*a*) of Schedule 2.
1933 c. lxxxiv.	Knutsford Light and Water Act 1933 ..	Section 36.
S.R. & O. 1936/684.	Winsford Gas Order 1936	Section 7 and Schedule 2.
1937 c. lix.	Warrington Corporation Act 1937	Sections 6, 27 and 29 to 35.
1938 c. xxx.	Crewe Corporation Act 1938	Sections 46, 47, 49, 97 (4) and (5) and 165.
1938 c. xcviii.	Warrington Corporation Water Act 1938 ..	Sections 13, 15 to 17, 19 to 23, 25 to 27 and 33.
S.R. & O. 1938/703.	Lymm Gas Order 1938	Section 4 and the Schedule.
1939 c. lxxxvii.	Macclesfield Corporation Act 1939	Sections 19, 23, 25 to 27 and 58 (4) and (5).
1945 c. xii.	Warrington Corporation Act 1945	Sections 28, 37 and 84.
1946 c. xxviii.	Mid and South East Cheshire Water Board Act 1946	Sections 3, 51 and 56 and Schedule 1.
S.I. 1953/55.	Mid and South East Cheshire Water Board Order 1952	Sections 3, 9, 15, 16, 18 and 19.
S.I. 1956/472.	Mid and South East Cheshire Water Board Order 1956	Sections 3, 10 and 11 and Schedule 1.
S.I. 1964/1258.	Mid and South East Cheshire Water Board Order 1964	Section 3 and the Schedule.
S.I. 1971/1302.	Mid Cheshire Water Board Order 1971 ..	Section 3 and Schedule 1.

PART III

ENACTMENTS FOR THE BENEFIT OF THE BRITISH RAILWAYS BOARD AND THE BRITISH WATERWAYS BOARD EXCLUDED FROM REPEAL

SCH. 3 —*cont.*

(1) Enactment	(2) Extent of application	
Macclesfield Improvement Act 1852	Section 56.	1852 c. x.
Widnes Improvement Act 1867	Sections 29 and 30.	1867 c. cxxvi.
Warrington Waterworks Act 1868	Section 9.	1868 c. lxxix.
Chester Gas Act 1870	Section 17.	1870 c. i.
Warrington Gas Act 1871	Section 38.	1871 c. liii.
Lymm Local Board (Gas) Act 1872	Section 20.	1872 c. lxxv.
Widnes Local Board Act 1875	Section 17.	1875 c. lxxxviii.
Warrington Corporation Gas Act 1877	Section 14.	1877 c. xxxiii.
Warrington Waterworks Act 1878	Sections 11 and 26.	1878 c. ccix.
Warrington Corporation Lighting and Improvement Act 1879	Sections 44 and 45.	1879 c. xcii.
Tramways Orders Confirmation Act 1879	Section 8 of the Crewe and District Tramways Order 1879.	1879 c. cxciii.
Knutsford Light and Water Act 1879	Section 62.	1879 c. ccxvii.
Northwich Gas Act 1882	Section 58.	1882 c. lxxxiii.
Sandbach Gas Act 1884	Section 55.	1884 c. lxxxvi.
Runcorn Gas Act 1885	Section 27.	1885 c. xiii.
Gas Orders Confirmation (No. 1) Act 1885	Sections 22 to 24 of the Middlewich Gas Order 1885.	1885 c. lv.
Northwich Local Board Act 1885	Sections 20 and 22.	1885 c. cxx.
Warrington Extension and Water Act 1890	Section 82.	1890 c. ccxxxvi.
Warrington Corporation Act 1899	Sections 20 and 44 and Schedule 2.	1899 c. ccxxv.
Nantwich Urban District Council Act 1903	Section 40.	1903 c. civ.
Macclesfield and District Tramways Act 1906	Sections 77 to 79, 82 and 83.	1906 c. clxxviii.
Widnes Corporation Act 1908	Sections 18 and 78.	1908 c. lxxxvi.
Lymm Urban District Council Act 1913	Section 65.	1913 c. xxxi.
Ellesmere Port and Whitby Urban District Council Act 1914	Sections 44 and 45.	1914 c. xciii.
Northwich Urban District Council Act 1914	Sections 51 and 52.	1914 c. cl.
Northwich Gas Act 1915	Section 10.	1915 c. lviii.
Macclesfield Corporation Act 1923	Sections 57 and 137.	1923 c. cvi.
Ellesmere Port and Whitby Gas Order 1924	Section 33.	S.R.&O. 1924/1454.
West Cheshire Water Board Act 1925	Section 106.	1925 c. cxiii.
Bollington Gas Order 1925	Section 10.	S.R.&O. 1925/1317.
Widnes Gas Order 1926	Section 7.	S.R.&O. 1926/1487.
West Cheshire Water Board Act 1927	Sections 26 and 27.	1927 c. cxxiii.
Warrington Corporation Water Act 1929	Section 25.	1929 c. lxxix.
Knutsford Light and Water Act 1933	Section 37.	1933 c. lxxxiv.
Chester Gas Order 1933	Section 53.	S.R.&O. 1933/778.
Winsford Gas Order 1936	Section 22.	S.R.&O. 1936/684.
Winsford Gas Order 1937	Section 54.	S.R.&O. 1937/612.
Crewe Corporation Act 1938	Subsections (7), (8), (11) and (12) of section 36 and section 167.	1938 c. xxx.
Warrington Corporation Water Act 1938	Section 18.	1938 c. xcviii.
Runcorn and District Gas Order 1938	Sections 21 and 22 and Schedule 3.	S.R.&O. 1938/650.
Nantwich Gas Order 1938	Sections 59 and 60.	S.R.&O. 1938/1601.
Warrington Corporation Act 1945	Section 24.	1945 c. xii.
Mid and South East Cheshire Water Board Order 1956	Sections 8 and 9 and Schedule 4.	S.I. 1956/472.

SCH. 3 —*cont.*

PART IV

ENACTMENTS EXCLUDED FROM REPEAL UNDER THIS ACT WITH UNALTERED APPLICATION

	(1) Enactment	(2) Extent of application
1845 c. xv.	Chester Improvement Act 1845..	Sections 274 and 275.
1884 c. ccxxxix.	Chester Improvement Act 1884..	Sections 11 (*o*) and 149.
1932 c. lxxxiv.	Chester Corporation Act 1932	Section 16.
1953 c. xl.	Cheshire County Council Act 1953	Section 204.
1968 c. xxxvi.	Cheshire County Council Act 1968	Section 12.

Section 112.

SCHEDULE 4

SAVING PROVISIONS

1.—(1) Notwithstanding the repeal by this Act of enactments continued in force by the Water Act 1973 relating to functions exercisable by the water authority for the supply of water within their area— 1973 c. 37.

(*a*) the water authority may continue and maintain all waterworks authorised by those enactments as if this Act had not been passed; and

(i) for the purposes of section 3 of Schedule 3 to the Water Act 1945, the said waterworks shall be deemed to be authorised, and the lands on which those works are constructed shall be deemed to be specified, in an enactment which is for the time being in force; and 1945 c. 42.

(ii) for the purposes of section 36 of the Water Resources Act 1963, the said waterworks shall be deemed to be authorised by virtue of such an alternative statutory provision as is therein referred to; 1963 c. 38.

(*b*) the water authority may take any water which may be taken or intercepted by any of the said waterworks under and in accordance with any licences granted under Part IV of the Water Resources Act 1963 and expressed by reference to any of the said enactments repealed by this Act.

(2) Notwithstanding the repeal by this Act of enactments continued in force by the Water Act 1973 relating to any other functions exercisable by the water authority, the water authority may continue and maintain all works authorised by those enactments as if this Act had not been passed.

2. Nothing in the foregoing provisions of this Schedule shall prejudice or affect any provision made, or which may be made, in any order under section 254 of the Act of 1972 as extended by section 34 of the Water Act 1973.

HER MAJESTY'S STATIONERY OFFICE

Government Bookshops

49 High Holborn, London WC1V 6HB
13a Castle Street, Edinburgh EH2 3AR
41 The Hayes, Cardiff CF1 1JW
Brazennose Street, Manchester M60 8AS
Southey House, Wine Street, Bristol BS1 2BQ
258 Broad Street, Birmingham B1 2HE
80 Chichester Street, Belfast BT1 4JY

Government Publications are also available through booksellers

ISBN 0 10 511380 8