Cornwall County Council Act 1984

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ELIZABETH II



1984 CHAPTER xix

An Act to re-enact with amendments and to extend certain local enactments in force within the county of Cornwall; to make further provision in regard to the improvement, health and local government of that county; to confer further powers upon the local authorities of that county; and for other purposes. [26th July 1984]

WHEREAS—

(1) By virtue of the Local Government Act 1972 (hereinafter referred to as "the Act of 1972") the county of Cornwall (hereinafter referred to as "the county") was constituted on 1st April 1974, so as to consist of an area comprising the administrative county of Cornwall as existing immediately before the passing of the Act of 1972: 1972 c. 70.

(2) Numerous local enactments are in force in the county or parts of the county and by section 262 of the Act of 1972 it is provided that, subject to certain modifications, certain of these shall continue to apply to, but only to, the area, things or persons to which or to whom they applied before 1st April 1974:

(3) It is further provided by the said section 262 that certain local statutory provisions shall cease to have effect at the end of 1984 which date has been postponed to 31st December 1986 by order made by the Secretary of State for the Environment:

(4) It is expedient that certain of these should be re-enacted with amendments and applied to the whole of the county or to parts of the county; that certain other local statutory provisions should continue to have effect and that other local statutory provisions in force in or relating to the county should be repealed:

(5) It is expedient to make further provision for the improvement, health and local government of the county and to extend and enlarge in various respects the powers of the local authorities of the county:

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

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

(8) 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 Cornwall County Council Act 1984.

(2) Subject to subsection (3) below, this Act shall come into operation on the expiration of three months after the passing of this Act.

(3) (*a*) Section 22 (1) (Touting, etc.) of this Act shall come into force on the passing of this Act.

(*b*) In so far as section 54 (Transitional provisions, savings and repeals) of this Act relates to the Sea Fisheries (Truro) Order Confirmation Act 1936, the Truro Port Fishery Order 1936 and the Truro Port Fishery (Variation) Order 1975 it shall come into force on the passing of this Act.

1936 c. lxxxv.
S.I. 1975/710.

(*c*) Section 19 (Dogs on beaches) of this Act shall come into force on Easter Day 1985.

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 1961" means the Public Health Act 1961; 1961 c. 64.

"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 Act of 1980" means the Highways Act 1980; 1980 c. 66.

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

"the county" means the county of Cornwall;

"the county council" means the Cornwall 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;

"functions" includes powers and duties;

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

"officer" includes servant;

"open space" means any park, pleasure ground or open space within the meaning given by section 290 of the Act of 1971 under the management or control of a local authority;

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

"parish council" means the parish council of a parish in the county or, where there is no parish council, the parish meeting of such parish;

"public service vehicle" has the meaning given by section 1 of the Public Passenger Vehicles Act 1981; 1981 c. 14.

"statutory undertakers" has the meaning given by the Act of 1980 but includes British Telecommunications;

"street" has the meaning given by section 329 of the Act of 1980.

(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, as the case may be, for that area.

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

PART II

LANDS

Provision of substituted sites.

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

PART III

EMPLOYMENT OPPORTUNITIES

Power to assist industry.

4. A local authority may, if requested to do so by any person who is the owner or intended owner, or lessee or intended lessee, of any industrial building, or any part of an industrial building, or of land on which it is proposed that any industrial building should be erected, carry out any work required in relation to the preparation or improvement of the building, or part thereof, or of the land forming the site of the proposed building (as the case may be), or for the provision or improvement of any services or facilities required for the purposes of any trade or business which is carried on, or intended to be carried on, in such industrial building, and may make grants or loans towards the cost of such works or the provision or improvement of such services or facilities:

Provided that—

(*a*) nothing in this section shall authorise a local authority to carry out, except with the consent or approval in writing of British Telecommunications, works for the provision or improvement of services which it is the function of British Telecommunications to provide or improve;

(*b*) nothing in this section shall authorise a local authority to carry out works outside the curtilage of the building or proposed building for the provision or improvement of services which it is the function of statutory undertakers other than British Telecommunications to provide or improve.

Agreement with statutory undertakers for provision of works.

5. A local authority may enter into and carry into effect agreements or arrangements with any statutory undertakers for the provision and maintenance by such undertakers of any works, facilities, supplies or services which may be necessary for the purpose of—

(*a*) development by the erection of any building or the construction or carrying out of works on land for the benefit or improvement of their area; or

(*b*) facilitating the provision of premises for occupation by any undertaking carried on or to be carried on there or for otherwise meeting the requirements of such undertaking (including the requirements arising from the needs of persons employed or to be employed therein);

PART III —*cont.*

or for the purpose of the use of any land after it has been developed for any of those purposes.

Guarantee of rents, etc., of industrial buildings.

6. A local authority may guarantee the payment of—

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

(*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.

Duration and interpretation of Part III.

7.—(1) This Part of this Act shall cease to have effect at the end of 1986.

(2) In this Part of this Act "industrial building" has the meaning given by section 66 of the Act of 1971 and "industrial undertaking" has a corresponding meaning.

PART IV
HIGHWAYS

Interpretation of Part IV.

8. In this Part of this Act—

"bridleway", "carriageway", and "footpath" have the same respective meanings as in section 329 of the Act of 1980;

"the private street works code", "street works" and "street works authority" have the same respective meanings as in section 203 of the Act of 1980;

"verge" includes any lands situated between two carriageways and any part of a street as defined in section 329 (1) of the Act of 1980 which is not a carriageway, footway or cycle track.

Application of private street works code to parts of public street.

9.—(1) Notwithstanding anything in the private street works code where it appears to the county council that a new street has been formed in the county by reason of additions made to an existing footpath, bridleway or other highway maintainable at the public expense (not being or comprising a carriageway) otherwise than by the giving up for the purpose by the county council of lands owned by them, the county council may carry out street works under, and apportion the expenses thereof in accordance with, the private street works code in respect of any such street or any part of such street as if no part of the said street was so maintainable.

PART IV —*cont.*

(2) Notwithstanding anything in the private street works code the county council may carry out street works under, and apportion the expenses thereof in accordance with, the provisions of the private street works code throughout the width of a street notwithstanding that part of the width consists of a highway maintainable at the public expense but save in a case falling within the provisions of subsection (1) above the county council shall be entitled to apportion against the premises liable to be charged therewith only such part of the expenses as relates to the portion of the street which is not so maintainable.

(3) For the purposes of any apportionment under subsection (2) above premises fronting a street shall be deemed to front the portion of the street which is not maintainable at the public expense.

Recovery of street works charges where owner unknown.

10.—(1) Where any street works in the county have been completed but the street works authority are unable to recover the amount due in respect of the expenses of such works from the owner of any premises or otherwise under Part XI of the Act of 1980 (making up of private streets) or any local enactment by reason of the fact that such owner is unknown and cannot, after diligent inquiry made when the said amount becomes due and at reasonable intervals thereafter, be found, the street works authority may, at any time after the expiration of 12 years after the date when the said amount becomes due, apply to the county court, and—

(*a*) the county court may, on being satisfied that the provisions of this subsection have been complied with, make an order vesting the said premises in the street works authority absolutely; and

(*b*) upon the making of the order the street works authority may appropriate the said premises subject to, and in accordance with, the provisions of section 122 of the Act of 1972 as if the said premises were land which was not required for the purposes for which it was held immediately before the appropriation.

(2) Where the county court makes an order under subsection (1) above, the Lands Tribunal shall, for the purpose of determining the value of the said premises, nominate one of their members selected in accordance with section 1 (6) of the Lands Tribunal Act 1949, and the member nominated shall determine the same accordingly and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof.

1949 c. 42.

PART IV —*cont.*

(3) Upon the determination of the value of any premises under subsection (2) above, the street works authority shall pay into court a sum equal to the amount of that value, after deduction of the aggregate of—

(*a*) the amount due as aforesaid;

(*b*) interest on that amount for a period of six years at such reasonable rate as the street works authority may determine; and

(*c*) all costs and expenses reasonably incurred by the street works authority.

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

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

Temporary prohibition of traffic during execution of works.

11.—(1) Where the highway authority are satisfied—

(*a*) that traffic on any street for the maintenance of which they are responsible should, by reason of any works being executed or proposed to be executed on or near the street, be prohibited or restricted; and

(*b*) that it is desirable that such prohibition or restriction should come into force without delay and that for this reason it is not expedient to effect the same by means of an order made under section 14 (1) of the Road Traffic Regulation Act 1984; 1984 c. 27.

they may by notice prohibit or restrict for any period not exceeding 24 hours the use of that street, or any part thereof, by vehicles, or by vehicles of any particular class or pedestrians, to such extent and subject to such conditions and exceptions as they may consider necessary:

Provided that the powers conferred on the highway authority by this section shall not be exercised—

(i) in relation to any street or any part thereof on more than one occasion in any period of 14 consecutive days; or

(ii) in relation to any street upon which public service vehicles are authorised by a road service licence to operate unless the highway authority give not less than

PART IV —*cont.*

48 hours' previous notice to the traffic commissioners and to the operators of the public service vehicles so licensed; or

(iii) so as to obstruct or interfere with the access to or exit from any station or depot of the British Railways Board unless the highway authority give not less than 48 hours' previous notice to the British Railways Board.

(2) The provisions of section 14 (4) to (7) and (9) and section 16 of the Road Traffic Regulation Act 1984 shall extend and apply for the purposes of this section as if any notice issued by the highway authority under subsection (1) above had been issued under subsection (3) of the said section 14.

1984 c. 27.

(3) (*a*) No prohibition or restriction on the use of any street under the powers of this section shall make it unlawful for statutory undertakers to enter upon such street in a case of emergency, with any necessary vehicles, for the purpose of inspecting, repairing, maintaining, renewing or removing (as the case may be) any apparatus of the undertakers concerned or in a case where at the time of the prohibition or restriction they are already carrying out works in that street.

(*b*) Nothing in this section shall be taken to relieve the highway authority from liability for damage caused by them to any apparatus belonging to, or maintained by, statutory undertakers.

Control of depositing mortar, etc., on streets.

12.—(1) Where mortar or cement or any other substance solidifies in a drain or sewer vested in a local authority after having been deposited on any street in the county, other than a highway, the person who so deposited it shall be guilty of an offence.

(2) Nothing in the preceding subsection applies to any deposit—

(*a*) by the highway authority or a local authority in connection with the maintenance or alteration of the street or a bridge over which or a tunnel through which the street passes;

(*b*) by a body having a duty under an enactment to maintain—

(i) a bridge over which or a tunnel through which the street passes; or

(ii) works or materials supporting or protecting the street where it forms part of the approaches to such a bridge or tunnel;

if the deposit is in connection with the maintenance or alteration of the bridge, tunnel, works or materials;

(*c*) by statutory undertakers in connection with apparatus in or the placing of apparatus in the street. PART IV —*cont.*

(3) In paragraphs (*a*) and (*b*) of the preceding subsection "maintain" and "maintenance" have the same meanings as in the Act of 1980.

Street numbers.

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

1847 c. 34.

(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 being 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; and for that purpose the district council may require the mark to be in such a position on the building, or on the premises of which the building forms part, as they may specify.

(3) The person on whom notice has been served under subsection (2) above shall—

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

(*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) A person 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.

(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";

PART IV —*cont.*

(*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.

(8) The provisions of section 290 of the Act of 1936, other than subsections (6) and (7) thereof, shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

PART V

PUBLIC HEALTH

Power to order alteration of chimneys.

14.—(1) If, upon a complaint by a district council or any person aggrieved under this section, a magistrates' court is satisfied that any smoke, gas, vapour or fumes from a chimney of a building in the district is injurious, or is likely to be injurious, to health or a nuisance, the court may make an order requiring the owner of the chimney within such time as may be specified in the order to cause such means for remedying the cause of complaint to be adopted as the court thinks fit.

(2) The court shall not make an order under this section unless it is satisfied that the work to be done in pursuance of the order need not involve an expenditure exceeding—

(*a*) in the case of a single private dwelling-house, £500; and

(*b*) in any other case, £1,500;

or, in any case, such greater sum as may be specified in an order made by the Secretary of State by statutory instrument under this section.

(3) Any person who, without reasonable excuse, fails to comply with an order made under this section shall be guilty of an offence.

(4) Unless the Secretary of State has granted scheduled monument consent under section 3 or 4 of the Ancient
1979 c. 46. Monuments and Archaeological Areas Act 1979 or listed building consent under section 55 of the Act of 1971 for the alteration of any chimney in a scheduled monument or listed building no complaint shall be made to a magistrates' court under this section in respect of any chimney in such monument or building.

(5) This section does not apply to premises which are subject
1961 c. 34. to the Factories Act 1961 or the Alkali, &c. Works Regulation
1906 c. 14. Act 1906 or to such class of premises as may be prescribed for the purposes of section 1 (1) (*d*) of the Health and Safety at
1974 c. 37. Work etc. Act 1974.

(6) In this section "chimney of a building" has the meaning given by section 34 of the Clean Air Act 1956. PART V —*cont.* 1956 c. 52.

Power to provide dustbins for trade refuse.

15.—(1) A district council may, as respects any premises in their district, provide and maintain such number of dustbins or other receptacles for the reception of trade refuse as they may consider necessary.

(2) A district council may make a reasonable charge for any dustbin or other receptacle provided in pursuance of this section.

Restriction on use of dustbins.

16.—(1) No person shall deposit in a dustbin or other receptacle for removal by or on behalf of a district council (whether as house refuse or trade refuse) any corrosive substance or flammable liquid (whether in a container or not) whereby injury to the health of a person employed to remove the substance or liquid, or damage to vehicles or other equipment used to remove the substance or liquid, may be caused unless he takes such steps as may reasonably be necessary to prevent that injury or damage.

(2) It shall be a defence for a person charged with an offence under this section to prove that he did not know and had no reasonable means of knowing that the substance was corrosive or, as the case may be, that the liquid was flammable.

(3) A person who contravenes the provisions of this section shall be guilty of an offence.

Interference with refuse tips. 1974 c. 40. 1978 c. 3.

17.—(1) Section 27 (1) (*a*) of the Control of Pollution Act 1974 (which prohibits among other things the sorting over or disturbance of things deposited at a place provided by the council of a county for the deposit of waste) shall extend in the county to things deposited at a place provided under section 1 (4) of the Refuse Disposal (Amenity) Act 1978 by a person other than a county council by agreement with that council for the deposit of refuse.

(2) This section shall not prevent the sorting over of material deposited in any place provided for the deposit of refuse by any person employed at that place or any person having control over that place or any person who has received the specific authority of any person having control over that place.

Control of stray dogs. 1906 c. 32.

18.—(1) A duly authorised officer of a district council may exercise the powers in section 3 of the Dogs Act 1906 with respect to the seizure, detention and disposal of stray dogs in

PART V —*cont.*

their district and for the purposes of that section, as it applies to a district, a dog shall be treated as a stray if it appears not to be in the charge of any person.

1906 c. 32.

(2) In consequence of subsection (1) above, section 3 of the Dogs Act 1906 shall have effect in a district subject to the following modifications:—

(*a*) the substitution for subsection (1) of the following:—

"(1) Where it appears to a police officer or a duly authorised officer of the district council that any dog found in a highway or place of public resort is not in the charge of any person he may seize the dog and may detain it until the owner has claimed it and paid all expenses incurred by reason of its detention;";

(*b*) in both subsections (2) and (4), the substitution for "the chief officer of police, or any person authorised by him in that behalf," of the words "the chief officer of police or, as the case may be, the district council, or any person authorised by him or them in that behalf";

(*c*) in subsection (6), the substitution for "of a police area" of the words "and the district council" and for "in that area" of the words "by him or them respectively"; and

(*d*) in subsection (7), the substitution for "The police shall not dispose of any dog seized under this section" of the words "A dog seized under this section shall not be disposed of", and the insertion after "inspection" of the words "at all reasonable times".

(3) Section 3 of the Dogs Act 1906, as that section has effect in accordance with this section, is set out in Schedule 1 to this Act.

Dogs on beaches.

19.—(1) Between Easter Day and 1st October in any year no person being in charge of a dog shall permit such dog to go or remain on any beach in a district, being a beach designated as a beach to which this section applies by a resolution of the district council.

(2) Schedule 2 to this Act shall have effect in relation to resolutions under this section.

(3) If any person contravenes subsection (1) above he shall be guilty of an offence.

(4) This section shall not apply to a dog kept and used solely by a blind person for his guidance.

(5) Notice of the effect of this section shall be given by signs displayed in conspicuous positions on the approaches to any beach designated under subsection (1) above and Schedule 2 to this Act.

PART VI

PUBLIC ORDER AND PUBLIC SAFETY

Safety of stands.

20.—(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 Act of 1961.

(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 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 seven 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;

PART VI —*cont.*

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.

(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.

(11) Nothing in this section affects any requirement to obtain approval or any other obligation imposed by, or by virtue of, any other enactment.

(12) (*a*) In this section "the appointed day" means such day (not earlier than three months after the passing of this Act) as may be fixed for the purposes of this section by resolution of a district council in accordance with paragraph (*b*) below.

PART VI —*cont.*

(*b*) The district council shall publish in a newspaper circulating in their area notice—

(i) of the passing of the resolution and of the day fixed thereby; and

(ii) of the general effect of this section;

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

(*c*) 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 paragraph (*b*) above shall be evidence of the publication of the notice and of the date of publication.

Byelaws with respect to swimming baths and bathing pools.

21. Section 233 of the Act of 1936 shall have effect in its application to a district council as if for the proviso to subsection (1) there were substituted the following proviso:—

"Provided that this section shall not empower the district council to make byelaws—

(*a*) for regulating the conduct of persons resorting to or for the prevention of accidents in any swimming bath or bathing pool which is not open to the public and for, or in connection with, the use of which no charge is made; or

(*b*) for securing the purity of the water in or for ensuring the adequacy and cleanliness of the accommodation at any swimming bath or bathing pool within the curtilage of a school or of a private dwelling-house.".

Touting, etc.

22.—(1) A district council may designate, in accordance with subsection (7) 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) or subsection (6) below:—

(*a*) (i) a public off-street car park;

(ii) a recreation ground or garden;

(iii) a park, pleasure ground or open space;

under the management or 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.

PART VI —*cont.*

(2) Any person who, in a place designated under subsection (1) above for the purposes of this subsection—

(*a*) importunes any person by touting for an hotel, lodging house, restaurant or other place of refreshment, for a shop, for a theatre or other place of amusement or recreation, for a hackney carriage or other conveyance (other than a public service vehicle) 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 anything; 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;

or causes or permits any person so to do shall be guilty of an offence.

(3) The conditions of consent referred to in subsection (2) (*b*) and (*c*) above include, without prejudice to the generality of the power to impose conditions, conditions as to the times or period for which the consent is valid, conditions for the prevention of detriment to the amenities, conditions as to the part of the district where the consent is to apply and conditions as to 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 district council may by resolution prescribe; and any such consent may be revoked by notice to the person to whom the consent was given.

(4) The grounds upon which a district council may withhold consent under subsection (2) (*b*) or (*c*) above, and may revoke a consent under subsection (3) above are that—

(*a*) the applicant is unsuitable by reason of misconduct or incapacity;

(*b*) the applicant has within the previous five years been convicted of an offence under this section;

(*c*) there is already a sufficiency of persons to whom consent has been given under this section, carrying out in the district or any part thereof the activity in respect of which the consent is requested;

(*d*) there would be a risk of danger or unreasonable inconvenience to users of any highway if the consent is given, or, as the case may be, not revoked;

PART VI —*cont.*

(*e*) (in the case of a revocation) the applicant has failed to avail himself, or to avail himself to a reasonable extent, of his consent.

(5) 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 district 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 district council.

(6) Any person who, in a place designated under subsection (1) above for the purposes of this subsection—

(*a*) hawks, sells or offers or exposes for sale anything; or

(*b*) photographs any person by way of trade or business or offers or exposes for hire any vehicle, chair or seat or any animal to ride;

or causes or permits any person so to do shall be guilty of an offence.

(7) (*a*) Before designating any place under subsection (1) above the district council shall give notice of their proposal by advertisement in a newspaper circulating in the district, and by posting a copy of the notice in the places to which it relates, stating that objections to the proposal may be made to the proper officer of the district council within a time, not less than 28 days after the giving of the notice, specified in the notice.

(*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 the purposes of subsection (2) or subsection (6) above, all or any, or any part, of the places specified in the notice given under that paragraph.

(8) A resolution under subsection (7) (*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 (7) (*a*) above, being a day not less than 28 days after the day on which notice is given under this subsection.

(9) Any resolution under subsection (7) (*b*) above may be rescinded, or varied by the deletion of any place or part of a place, by a subsequent resolution of the district council.

PART VI —*cont.*

(10) This section shall not prohibit—

(*a*) the use of the forecourt of premises for any of the purposes mentioned in subsection (2) above by the owner or occupier of the premises or by a person being a relative or bona fide employee of the said owner or occupier;

(*b*) the selling or offering or exposing for sale of anything to persons residing in or employed at premises fronting on, or adjacent to, a place designated under this section;

(*c*) 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.

(11) Before giving any consent under this section in relation to a highway, the district council shall consult the highway authority.

(12) (*a*) The following provisions of this section shall not have effect in any district in which Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 is in force at the commencement of this Act and, if the said Schedule comes into force in any district on any day after the commencement of this Act, shall cease to have effect in that district on that day:—

1982 c. 30.

Subsection (2) (*b*);

In subsection (3), the words "(*b*) and";

In subsection (4), the words "(*b*) or";

In subsection (5) (*a*), the words "(*b*) or";

Subsection (6) (*a*);

In subsection (10), paragraph (*b*) and the words from "and the district council" to the end of the subsection; and

Subsection (11).

(*b*) Where the said Schedule 4 comes into force in any district after the commencement of this Act and a street trading consent is thereafter required for trading in any street under that Schedule, any consent then in force under this section for hawking, selling or offering or exposing for sale anything in that

PART VI —*cont.*

street (within the meaning of that Schedule) shall have effect as such a street trading consent for a period of 12 months or until the previous expiry of the consent or its revocation under that Schedule.

(13) In this section, and in Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 in its application within the county, "street" includes the forecourt of any premises fronting the street. 1982 c. 30.

Extension of power with respect to dangerous excavations.

23. Section 25 of the Act of 1976 shall, in a district, have effect as if references to an excavation were references to an excavation or subsidence associated with an excavation.

Regulation of surfing.

24.—(1) Section 231 of the Act of 1936 shall have effect in its application to a district as if in subsection (1) after paragraph (*f*) there were added the following paragraph:—

"(*g*) regulate for preventing danger to bathers the areas in which and the hours during which surfing by means of surf boards measuring more than 1·5 metres in length and any other object measuring more than 1·5 metres in length and used or adapted for use or intended to be used for riding the surf shall be permitted.".

(2) Any byelaws made by a district council under the powers of section 231 (1) (*h*) of the Act of 1936 as amended by section 50 (Regulation of bathing and surfing) of the Newquay Urban District Council Act 1967 or by section 55 (Regulation of bathing and surfing) of the Cornwall County Council Act 1971 shall be deemed to have been made under the powers of section 231 (1) (*aa*) of the Act of 1936. 1967 c. xxvii. 1971 c. liv.

Control of surf riding.

25.—(1) Subject to the following provisions of this section, a district council may resolve to operate the scheme for the control of surf riding set out in Schedule 3 to this Act.

(2) Any resolution under subsection (1) above may be rescinded by a subsequent resolution of the district council.

(3) The district council shall publish in a newspaper circulating in their area notice—

(*a*) of the passing of any resolution under subsection (1) or subsection (2) above and of the date prescribed in the resolution, on which the resolution is to be effective; and

(*b*) of the effect of the resolution;

and the date prescribed in the resolution shall not be earlier than the expiration of 28 days after the date of the publication of the notice.

PART VI —*cont.*

(4) 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 (3) above shall be evidence of the publication of the notice and of the date of publication.

(5) The Secretary of State may, on the application of a district council or of any person appearing to the Secretary of State to have an interest in the said scheme, by order make such amendments to the scheme as he thinks fit so far as it relates to that district.

Rescue apparatus and officers.

26.—(1) Section 234 of the Act of 1936 shall have effect within the county as if, in addition to the provision of life-saving appliances, it authorised the provision by a local authority of apparatus for the rescue of persons who have been injured or otherwise incapacitated while engaged in any activity involving danger to life or limb.

(2) A local authority may appoint officers to act as lifeguards.

(3) A local authority may contribute to the expenses incurred by any other body or person in providing in their area any apparatus as aforesaid.

(4) A local authority may combine with, or contribute to the expenses of, any other authority in exercising their powers under this section.

Unauthorised structures on seashore.

27.—(1) No person shall without the consent of a district council erect, provide, place or use any structure, or place any chair, on any part of the seashore belonging or let to the district council unless he is authorised to do so by or under an enactment:

Provided that nothing in this section shall prevent a person placing or using a chair or chairs on the seashore for his own personal use or that of his family.

(2) If any person erects, provides, places or uses a structure or places a chair in contravention of subsection (1) above, he shall be guilty of an offence.

(3) In this section "structure" means any shed, hut, shelter, tent, booth, stall, stand, shop or other erection or obstruction, whether on wheels or not.

PART VII
FIRE PRECAUTIONS

Fire precautions in registered clubs. 1964 c. 26.

28.—(1) A fire officer authorised in writing by the chief fire officer of the fire authority may on giving (except in a case of emergency) not less than 48 hours' notice to the secretary of a club in the county registered under the Licensing Act 1964, on production of his authority, enter and inspect as regards any matter affecting fire risks the premises occupied by the club at any reasonable time on such day as may be specified in the notice.

(2) Nothing in this section shall apply to any premises occupied by a club licensed under the Gaming Act 1968. 1968 c. 65.

(3) This section shall cease to have effect upon the designation by order under section 1 or regulations made under section 12 of the Fire Precautions Act 1971 of the use of premises for purposes of a registered club as a use for which a fire certificate is required. 1971 c. 40.

PART VIII
FINANCE

Compensation for injury to or death of employees. 1947 c. 41. 1951 c. 27.

29.—(1) Subject to any provisions included in a firemen's pension scheme in force under section 26 of the Fire Services Act 1947 by virtue of section 2 (1) of the Fire Services Act 1951 (exclusive application of the Firemen's Pension Scheme), a local authority may pay compensation—

(*a*) to any of their employees who sustains an injury arising out of and in the course of his employment; or

(*b*) to a dependant of any of their employees who dies or sustains an injury resulting in death arising out of and in the course of his employment.

(2) Any compensation payable under this section may be paid either—

(*a*) by way of a lump sum; or

(*b*) by way of periodical payments of such amounts and payable at such times and for such periods as the local authority may from time to time determine having regard to all the circumstances of the case.

(3) The payment of compensation under this section shall not affect any right of claim to damages or compensation which an employee of the local authority or his dependant may have against any person other than the local authority or, except so far as may be agreed when the compensation is granted, against the local authority.

PART VIII —*cont.*

(4) No payment may be made under subsection (1) above to or in respect of any employee following the bringing into operation of any regulations under section 7 of the Superannuation Act 1972 which would authorise a similar payment to or in respect of that employee but nothing in this subsection shall preclude a payment to an employee whose employment by a local authority commenced before the commencement of this Act.

1972 c. 11.

Insurance of voluntary assistants.

30.—(1) In its application within the county, section 140A of the Act of 1972 shall have effect as if the reference to a local authority were a reference to a local authority or a body specified in subsection (2) of this section.

(2) The bodies specified in this subsection are—

(*a*) the Cornwall Sea Fisheries Committee;

(*b*) any organisation, undertaking or body in respect of which there is for the time being in force an admission agreement with the county council pursuant to Part B of the Local Government Superannuation Regulations 1974;

S.I. 1974/520.

(*c*) any other employing authority in relation to which the fund is the appropriate superannuation fund within the meaning of Part B of the Local Government Superannuation Regulations 1974;

(*d*) the governors of any voluntary school in the county.

Extension of powers to grant gratuities.

31.—(1) A local authority may grant to any employee on his ceasing to be employed by them, or to a dependant of an employee who dies while in their employment, a gratuity either—

(*a*) by way of a lump sum not exceeding an amount equal to twice that of the annual emoluments of the employment; or

(*b*) by way of periodical payments not exceeding in the aggregate the amount aforesaid; or

(*c*) by way of an annuity the capital value of which does not exceed the amount aforesaid; or

(*d*) partly by way of an annuity for the benefit of the widow and partly by way of periodical payments for the benefit of such of the children of the deceased employee who shall for the time being be under the age of 18 years:

Provided that the aggregate of the capital value of such annuity and of such periodical payments shall not exceed the amount aforesaid:

PART VIII —*cont.*

Provided that—

(i) a gratuity granted under this subsection shall not be paid out of the superannuation fund maintained by the county council;

(ii) this subsection shall not apply in the case of an employee who is entitled to any payment out of the superannuation fund maintained by the county council other than a return of contributions.

(2) Subsection (1) above shall apply to a dependant of a former employee of a local authority who dies within one year after ceasing to be in their employment as it applies to a dependant of an employee who dies whilst in their employment:

Provided that no gratuity shall be granted under this subsection to a dependant of a former employee to whom a gratuity has been granted under section 18 (1) of the Local Government Superannuation Act 1953. 1953 c. 25.

(3) Where a local authority have granted a gratuity under section 18 (1) of the Local Government Superannuation Act 1953 or this section and either—

(*a*) the gratuity was by way of periodical payments and the employee dies before all the payments are completed; or

(*b*) the gratuity was by way of an annuity and the employee dies before receiving an aggregate amount equal to the capital value of the annuity;

the authority may grant a gratuity to a dependant of the employee, and for that purpose this section shall have effect as if the employee had died while in the employment of the authority but as if for the amount specified in subsection (1) above there were substituted the aggregate amount of the periodical payments outstanding at the employee's death or, as the case may be, the difference between the capital value of the annuity and the aggregate amount of the payments made to the employee before his death.

(4) For the purposes of this section, a person employed in a voluntary school in the county, otherwise than as a teacher, shall be deemed to be employed by the county council and the county council may grant to or in respect of any such person a gratuity in accordance with the provisions of this section.

(5) Section 18 of the Local Government Superannuation Act 1953 shall cease to apply to local authorities in the county.

Recovery of rates from tenants and lodgers. 1967 c. 9.

32. For the purposes of section 61 of the General Rate Act 1967 (recovery of rates from tenants and lodgers) the rates due from the person rated for any hereditament within a district

PART VIII —*cont.*

shall be deemed to be in arrear if such rates are not paid within one month after lawful demand in writing has been made for the same.

PART IX
MISCELLANEOUS

Micrófilming of documents.

33.—(1) Notwithstanding anything contained in any enactment a local authority may destroy any documents of the local authority other than minute books, of which they have made and retained microfilm recordings:

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

1958 c. 51.
1962 c. 56.

(2) An enlargement of a microfilm recording of a document made by a local authority shall be deemed for all purposes to be a copy of that document.

(3) In this section unless the context otherwise requires "microfilm recording" means a reproduction of a document by any process, which reproduction is in general beyond legibility with the naked eye.

Destruction of documents connected with applications for permission for development.
S.I. 1977/289.

34. At any time after a period of six years from the date of the receipt by a local authority of an application for permission for development the local authority may, after making the necessary entries in the register in accordance with the provisions of article 21 of the Town and Country Planning General Development Order 1977, and making provision for the retention of a copy of any grant of planning permission made in pursuance of the application, destroy any of the other documents received by them in connection with the application:

Provided that nothing in this section shall authorise a local authority to destroy the application and a copy of any plan or plans approved by them in connection therewith, together with any related certificate, consent, permit or other document issued pursuant to any enactment.

Publication of bulletins, etc.

35. Section 142 (2) of the Act of 1972 has effect in its application to a local authority as if the words "within their area" were omitted and as if at the end were added—

"(*e*) publish works of historical or literary interest related to Cornwall.".

PART IX —*cont.*

Power to provide information.

36.—(1) A local authority may supply information in any way they think fit with regard to their area and neighbourhood, including the provision of information bureaux, and may, if they think fit, make reasonable charges therefor.

(2) A local authority may incur expenditure in advertising and making known the advantages, facilities and amenities afforded or to be afforded in their area for commerce or industry or as a tourist centre, place of historical or cultural interest or holiday resort in any manner which the local authority may think fit, and without prejudice to the generality of the foregoing provisions of this subsection they may for that purpose—

(*a*) combine with any other organisation, company or person; and

(*b*) employ such persons, firms or companies as they think fit.

Provision of zoological and botanical gardens.

37.—(1) A district council may provide zoological gardens and botanical gardens, and may provide such buildings and execute such works as may be necessary or expedient in connection therewith.

(2) A district council may purchase or acquire or sell or exchange zoological and botanical specimens and exhibits.

(3) A district council may—

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

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

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

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

(4) A district council may either—

(*a*) themselves manage gardens provided under this section making such reasonable charges for admission thereto as they think fit; or

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

PART IX —*cont.*

Savings for trusts, etc.

38. No power conferred upon a district council by section 37 (Provision of zoological and botanical gardens) of this Act shall be exercised in such a manner—

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

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

Hackney carriages and private hire vehicles.

39.—(1) Section 45 of the Act of 1976 (which relates to the application of the provisions of Part II of that Act by resolution of a district council) shall have effect in the county subject to the following modifications.

(2) A resolution under that section may—

(*a*) apply to the whole of the area of the district council or to such part of it as may be specified in the resolution;

(*b*) be limited to such of those provisions as relate to hackney carriages or to such of those provisions as relate to private hire vehicles;

(*c*) if limited to such of those provisions as relate to private hire vehicles be passed whether or not the provisions of the Town Police Clauses Act 1847 are in force in the area to which the provisions of the said Part II are to apply;

1847 c. 89.

(*d*) be at any time by resolution either rescinded or varied as to the area to which it is to apply or the limitations to which it is subject; and

(*e*) be passed whether or not a previous resolution under that section has been passed, varied or rescinded by the district council.

(3) Where the provisions of the Town Police Clauses Act 1847 with respect to hackney carriages are in force in a district, or any part thereof, the district council may at any time in respect of any part of the district resolve that—

(*a*) the provisions shall cease to be in force; or

(*b*) notwithstanding any such resolution as is mentioned in paragraph (*a*) of this subsection, the provisions shall be in force.

PART IX —*cont.*

40.—(1) Where a district council provide a golf course, they may let it, or any part thereof, for such consideration, and on such terms and conditions, as they think fit. Golf courses.

(2) A district council may make byelaws for regulating the use of golf courses provided by them, whether within or outside the district, and the conduct of persons using them or resorting thereto.

PART X

GENERAL

41. A Minister of the Crown may cause such local inquiries to be held as he may consider necessary for the purpose of any of his functions under this Act, and section 250 (2) to (5) of the Act of 1972 shall apply to any such inquiry. Local inquiries.

42. Sections 300 to 302 of the Act of 1936 shall apply in respect of appeals to a magistrates' court under this Act. Appeals to magistrates' court.

43. Where a requirement, refusal or other decision of a local authority against which a right of appeal is conferred by this Act— Suspension of proceedings pending appeal.

(*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.

PART X —*cont.*

Restriction on right to prosecute.

44. The written consent of the Director of Public Prosecutions 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, a parish council or a constable.

Liability of directors, etc.

45.—(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.

46. 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.

Defence of due diligence.

47.—(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 16 (Restriction on use of dustbins);
Section 19 (Dogs on beaches);
Section 22 (Touting, etc).

(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 seven 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.

Penalties.

48. Where a person is guilty of an offence under a provision of this Act mentioned in the first column of the following table, he shall be liable on summary conviction to a fine not exceeding

PART X —*cont.*

that shown in respect of that provision in the second column of that table:—

Section 12 (Control of depositing mortar, etc., on streets)	Level 3 on the standard scale.
Section 13 (Street numbers)	Level 2 on the standard scale.
Section 14 (Power to order alteration of chimneys)	Level 2 on the standard scale and a daily fine not exceeding one-tenth of the amount which is equivalent to level 2 on the standard scale.
Section 16 (Restriction on use of dustbins)	Level 3 on the standard scale.
Section 19 (Dogs on beaches) . .	Level 3 on the standard scale.
Section 20 (Safety of stands) . .	Level 4 on the standard scale.
Section 22 (Touting, etc.)	Level 3 on the standard scale.
Section 27 (Unauthorised structures on seashore)	Level 2 on the standard scale.
Section 46 (Penalty for obstruction)	Level 3 on the standard scale.
Schedule 3 (Scheme for control of surf riding)	Level 4 on the standard scale.

Application of general provisions of Act of 1936.

49.—(1) The sections of the Act of 1936 mentioned in Schedule 4 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 (powers of entry) shall have effect as if references therein to that Act included a reference to section 22 (Touting, etc.) of this Act.

Saving for Duchy of Cornwall.

50.—(1) Subject to the provisions of this section (and without prejudice to the general law concerning the applicability of statutes to the Duchy of Cornwall), nothing in this Act shall prejudice, diminish, alter, detract from or take away any of the rights, powers, privileges or authority attaching to the possessions of, or exercisable by the possessor for the time being of the Duchy of Cornwall in relation to land belonging to the said Duchy and nothing in this Act shall apply to the said possessions or possessor by virtue of an interest in land belonging to the said Duchy without the consent specified in subsection (3) below.

(2) Where this Act confers on a local authority power to make orders in relation to land, to designate land or to enter on land then in any such case before making such an order or designation affecting or before entering on (as the case may be) land belonging to the said Duchy the local authority shall obtain the consent specified in subsection (3) below.

(3) A consent given under subsection (1) or subsection (2) above shall be in writing of two or more of such of the regular officers of the Duchy of Cornwall or of such other persons as may be authorised under section 39 of the Duchy of Cornwall

PART X —*cont.*

1863 c. 49.

Management Act 1863 or, as the case may be, the consent of the Duke of Cornwall testified in writing under the seal of the said Duchy.

(4) A consent given under subsection (1) or subsection (2) above may be given unconditionally or subject to such conditions and upon such terms as shall be considered appropriate.

(5) Subsection (1) above shall not apply to anything done or permitted or omitted to be done on land belonging to the said Duchy otherwise than by or under the authority of the said possessor.

Crown rights.

51.—(1) Nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing in this Act authorises a local authority to enter upon, or in any manner interfere with any land or hereditaments (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary) or to designate, or to make orders in relation to any such land—

(*a*) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners; or

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

(2) A consent under subsection (1) above may be given unconditionally or subject to such conditions and upon such terms as may be specified in the consent.

(3) Subsection (1) above shall not apply to anything done or permitted or omitted to be done on any such land as is described in subsection (1) (*a*) and (*b*) above otherwise than by or under the authority of the Crown Estate Commissioners or as the case may be the relevant government department.

Saving for Health and Safety at Work etc. Act 1974.

1974 c. 37.

52.—(1) In the Health and Safety at Work etc. Act 1974—

(*a*) section 62 (5) (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*) section 80 (1) (repeal or modification of certain provisions by regulations) shall apply to any provision

PART X —*cont.*

of this Act and to any regulation and byelaw made under it as that subsection applies to any provision mentioned in section 80 (2).

(2) Nothing in the following provisions of this Act, that is to say:—

Section 14 (Power to order alteration of chimneys);

Section 16 (Restriction on use of dustbins);

Section 23 (Extension of power with respect to dangerous excavations);

shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the said Act of 1974.

Saving for Fire Precautions Act 1971. 1971 c. 40.

53. Section 30 (2) 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.

Transitional provisions, savings and repeals.

54.—(1) The transitional provisions and savings in Schedule 5 to this Act shall have effect.

(2) Subject to the provisions of the said Schedule 5 the Acts specified in columns (1) and (2) of Part I of Schedule 6 to this Act are hereby repealed to the extent mentioned in column (3) of that Schedule.

(3) (*a*) The Truro Port Fishery Order 1936 (which was confirmed by the Sea Fisheries (Truro) Order Confirmation Act 1936 and varied by the Truro ~~Port~~ Fishery (Variation) Order 1975) shall continue to have effect and section 262 (9) of the Act of 1972 shall not apply to the former Order. 1936 c. lxxxv. S.I. 1975/710.

(*b*) For article 11 of the Truro Port Fishery Order 1936 as varied by the said Order of 1975 there shall be substituted:—

"11. Subject to the provisions of section 5 of the Sea Fisheries (Shellfish) Act 1967 this Order shall continue in operation for 78 years from 31st July 1936 and no longer.". 1967 c. 83.

(4) The enactments specified in Part II of Schedule 6 to this Act shall continue to have effect to the extent specified in that Part of that Schedule and to that extent section 262 (9) of the Act of 1972 shall not apply to those enactments.

(5) Nothing in this section shall prejudice the operation of section 254 of the Act of 1972.

(6) The inclusion in this Act of any express transitional provision, saving or amendment shall not be taken as prejudicing the operation of sections 15 to 17 of the Interpretation Act 1978 (effect of repeals). 1978 c. 30.

SCHEDULES

Section 18.

SCHEDULE 1

1906 c. 32.

SECTION 3 OF THE DOGS ACT 1906 AS HAVING EFFECT IN ACCORDANCE WITH SECTION 18 (CONTROL OF STRAY DOGS) OF THIS ACT

3.—(1) Where it appears to a police officer or a duly authorised officer of the district council that any dog found in a highway or place of public resort is not in the charge of any person, he may seize the dog and may detain it until the owner has claimed it and paid all expenses incurred by reason of its detention.

(2) Where any dog so seized wears a collar having inscribed thereon or attached thereto the address of any person, or the owner of the dog is known, the chief officer of police or, as the case may be, the district council, or any person authorised by him or them in that behalf, shall serve on the person whose address is given on the collar, or on the owner, a notice in writing stating that the dog has been so seized, and will be liable to be sold or destroyed if not claimed within 7 clear days after the service of the notice.

(3) A notice under this section may be served either—

(*a*) by delivering it to the person on whom it is to be served; or

(*b*) by leaving it at that person's usual or last known place of abode, or at the address given on the collar; or

(*c*) by forwarding it by post in a prepaid letter addressed to that person at his usual or last known place of abode, or at the address given on the collar.

(4) Where any dog so seized has been detained for 7 clear days after the seizure, or, in the case of such a notice as aforesaid having been served with respect to the dog, then for 7 clear days after the service of notice, and the owner has not claimed the dog and paid all expenses incurred by reason of its detention, the chief officer of police or, as the case may be, the district council or any person authorised by him or them in that behalf, may cause the dog to be sold or destroyed in a manner to cause as little pain as possible.

(5) No dog so seized shall be given or sold for the purposes of vivisection.

(6) The chief officer of police and the district council shall keep, or cause to be kept, one or more registers of all dogs seized under this section by him or them respectively which are not transferred to an establishment for the reception of stray dogs. The register shall contain a brief description of the dog, the date of seizure and particulars as to the manner in which the dog is disposed of, and every such register shall be open to inspection at all reasonable times by any member of the public on payment of a fee of one shilling.

(7) A dog seized under this section shall not be disposed of by transferring it to an establishment for the reception of stray dogs unless a register is kept for that establishment containing such particulars as to dogs received in the establishment as are above mentioned,

and such register is open to inspection at all reasonable times by the public on payment of a fee not exceeding one shilling. SCH. 1 —*cont.*

(8) The police officer or other person having charge of any dog detained under this section shall cause the dog to be properly fed and maintained.

(9) All expenses incurred by the police under this section shall be defrayed out of the police fund, and any money received by the police under this section shall be paid to the account of the police fund.

SCHEDULE 2

Section 19.

RESOLUTIONS TO EXCLUDE DOGS ON BEACHES

1. A district council shall not pass a resolution under section 19 (Dogs on beaches) of this Act until—

(*a*) they have published notice of their intention to do so in a local newspaper circulating in the area where the beach to be designated as one to which that section applies is situated; and

(*b*) they have served a copy of the notice on the chief constable.

2. The notice shall—

(*a*) contain a draft of the resolution;

(*b*) name a place in the district where a map showing the designated beach may be inspected by any person free of charge at all reasonable hours during the period mentioned in sub-paragraph (*c*) below; and

(*c*) state that representations relating to it may be made in writing to the district council within such period, not less than 28 days after publication of the notice, as may be specified in the notice.

3. As soon as practicable after the end of the period specified in paragraph 2 (*c*) above, the district council shall consider any representations relating to the proposed resolution which they have received before the end of that period.

4. After the district council have considered those representations, they may, if they think fit, pass a resolution designating the beach as one to which section 19 (Dogs on beaches) of this Act applies.

5. The resolution shall take effect on and after a day specified in the resolution being not less than one month after the day on which the resolution was passed.

6. The district council shall publish notice that they have passed such a resolution in two consecutive weeks in a local newspaper circulating in the area.

SCH. 2 —*cont.*

7. The first publication shall not be later than 28 days before the day specified in the resolution for the coming into force of the designation.

8. Any resolution passed under this Schedule may be varied or rescinded by a subsequent resolution so passed.

Section 25.

SCHEDULE 3

SCHEME FOR CONTROL OF SURF RIDING

1. In this scheme—

"duly authorised person" means a district council or any person appointed by a district council for the purposes of this scheme, or, on a beach not owned by a district council, a lifeguard or other person on that beach appointed by the district council for the purposes of this scheme;

"the prescribed fee" means a fee prescribed by the district council for the purpose of this scheme and such fee shall consist of two elements, one element being the cost of insuring the user of the surf board 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 surf board for riding the surf, the amount of such insurance being such reasonable amount as the district council decide and the other element being for the purpose of defraying administrative costs:

Provided that a district council shall refrain from charging in respect of the insurance element in any case where there is already in force in relation to that surf board a policy of insurance affording cover at least as adequate as that afforded under the policy effected by that participating authority;

"registered" means registered under this scheme and "registration" shall be construed accordingly;

"surf board" means any surf board measuring more than 1·5 metres in length and any other object measuring more than 1·5 metres in length and used or adapted for use or intended to be used for riding the surf.

2. No person shall use, or cause or permit any other person to use, a surf board within the district unless that surf board is registered with the district council, or is registered with another district council within the county, or with any other council outside the county which operates a scheme accepted by the district council as substantially similar to this scheme.

3. An application for registration may be made to a duly authorised person and shall be in such form as the district council may require and shall be accompanied by the prescribed fee:

SCH. 3 —*cont.*

Provided that the district council shall not be entitled to require any information about the applicant other than—

(1) in case of an individual—

(*a*) his full name and permanent address; and

(*b*) any information reasonably required by the insurer with whom insurance of the surf board is effected by the district council;

(2) where the applicant is not an individual—

(*a*) the name and address of the applicant; and

(*b*) any information required by the insurer with whom insurance of the surf board is effected by the district council.

4. Upon receipt of an application in the required form and accompanied by the prescribed fee, a duly authorised person shall forthwith grant registration of the surf board in respect of which the application is made and shall issue an adhesive registration disc.

5. The owner of a registered surf board shall be responsible for ensuring that the registration disc of the surf board is affixed to the board and is displayed.

6. Registration under this scheme shall last until 31st March next after the grant of registration.

7. If a person fails to comply with the requirements of paragraph 2 of this scheme or fails to display the registration disc of the surf board he shall be guilty of an offence under this scheme.

8. The provisions of this scheme shall not apply to restrict the use of a surf board in any life-saving operation.

9. If and whenever the district council are unable to effect a policy of insurance for the purposes of this scheme, the requirements of the scheme shall be unenforceable in the district until such a policy is effected.

SCHEDULE 4

Section 49.

SECTIONS OF ACT OF 1936 APPLIED

Section	Marginal note
283(1)	Notices to be in writing; forms of notices, &c.
285	Service of notices, &c.
289	Power to require occupier to permit works to be done.
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 54.

SCHEDULE 5

TRANSITIONAL PROVISIONS AND SAVINGS

1. In so far as anything done under a statutory provision, in force in any area, which is repealed by this Act could have been done under any provision of this Act, relating to the same matter in the same area, it shall not be invalidated by the repeal but shall have effect as if done under that last-mentioned provision.

2. Where an instrument or document, not being an enactment, refers, either expressly or by implication, to a statutory provision, in force in any area, which is repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to any provision of this Act or any public general Act relating to the same matter in the same area.

3.—(1) Anything begun under a statutory provision repealed by this Act may be continued under any provision of this Act or any public general Act relating to the same matter as if begun under that last-mentioned provision.

(2) Where any period of time specified in, or having effect in relation to, a statutory provision repealed by this Act is current at the date of the coming into operation under this Act of any provision thereof relating to the same matter, that provision of this Act shall have effect as if it were in force when that period began to run.

(3) References in this Act to things done, left undone, suffered or occurring in the past shall, so far as the context requires for the continuity of operation between a statutory provision in force, in any area, which is repealed by this Act and any provision of this Act relating to the same matter in the same area, be construed as including reference to things done, left undone, suffered or occurring before the coming into operation of that provision of this Act.

4. Where land of a local authority is held for any of the purposes specified in an enactment repealed by this Act or where any such land is stated to be capable of being appropriated or disposed of under any such enactment such land shall be deemed to be held for purposes specified in section 120 (1) (*b*) of the Act of 1972 (land held for the benefit, improvement or development of the area of a local authority).

5. Where an Act or Order is repealed by this Act subject to exceptions and a provision included in the repeal is material for the interpretation of a provision excepted from the repeal, the repeal shall not affect the interpretation of the excepted provision.

1978 c. 30.
1971 c. liv.

6. Without prejudice to section 16 of the Interpretation Act 1978 (general savings from effect of repeals) the repeal by section 262 (9) of the Act of 1972 of section 9 of the Cornwall County Council Act 1971 shall not affect the application of that section to any undertaking or agreement to which it applied immediately before the repeal.

SCHEDULE 6

Section 54.

REPEALS

PART I

ENACTMENTS REPEALED

Chapter	Short title	Extent of repeal
16 & 17 Vict. c. vi.	Redruth Railway Act 1853.	The whole Act.
19 & 20 Geo. 5. c. lxxxii.	County of Cornwall Act 1929.	The whole Act except sections 8, 22 (1) and (2), 28, 90, 96 and the provision referred to in Part II of this Schedule.
8 & 9 Eliz. 2. c. xii.	Cornwall County Council Act 1960.	The whole Act.
1967 c. xxvii.	Newquay Urban District Council Act 1967.	The whole Act, except the provisions referred to in Part II of this Schedule.
1971 c. liv.	Cornwall County Council Act 1971.	The whole Act except sections 5, 8 to 11, 25, 26, 53, 91, 94, 98 (4), 101 and 109.

PART II

ENACTMENTS CONTINUED

Chapter	Short title	Extent continued
19 & 20 Geo. 5. c. lxxxii.	County of Cornwall Act 1929.	Section 56.
1967 c. xxvii.	Newquay Urban District Council Act 1967.	In section 3 the definitions of "the Council" and "the harbour". Section 52.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR W. J. SHARP
Controller and Chief Executive of Her Majesty's Stationery Office and
Queen's Printer of Acts of Parliament