

Cumberland County Council Act 1964

CHAPTER xxxiv

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short and collective titles.
2. Division of Act into Parts.
3. Interpretation.
4. Incorporation of Lands Clauses Acts.
5. The appointed day.

PART II

PRESERVATION AND IMPROVEMENT OF AMENITIES

6. Reclamation and improvement of land.
7. Control of access to lands on seashore.
8. General powers in relation to areas of outstanding natural beauty.
9. Provision of camping sites, parking places, accommodation, etc., for areas of outstanding natural beauty.
10. Enforcement of restrictive covenants relating to land acquired for open spaces.

Section
11. Amendment of section 88 of Cumberland County Council Act, 1948.
12. Protection of foreshore and adjoining land from pollution.
13. Provision of boating facilities by certain local authorities.
14. Application of provisions in Part II to local authorities.

PART III

GENERAL PROVISIONS RELATING TO LAND AND INDUSTRIAL DEVELOPMENT

Industrial development

15. Acquisition of land for development.
16. Power to Council to assist industry.
17. Agreement with statutory undertakers for provision of works.
18. Power to Council to guarantee rents, etc., of industrial buildings.
19. Duration of foregoing provisions.
20. Power to survey harbours.
21. Power to make grants to harbour authorities.
22. Power to acquire Whitehaven Harbour securities.
23. Exercise of powers of foregoing provisions in Part III by local authorities.

General provisions relating to land

24. Loans for erection, etc., of buildings.
25. Disposal of land.
26. Power to reinstate owners or occupiers of property.
27. Power as to re-housing.
28. Compensation may be in land.
29. Suspension of restrictive covenants.
30. Application of certain provisions of Housing Act, 1957.
31. Application of provisions in Part III to local authorities.

PART IV

HIGHWAYS

Interpretation

32. Interpretation for Part IV.

New streets

33. Prohibition of building until street defined.
34. Prohibition of building until street formed and sewered.
35. Access to new streets.
36. Rounding or splaying off corners at street junctions.
37. Adjustment of boundaries of estates in connection with streets.

Private streets

Section
38. Application of code of 1875 and code of 1892 to parts of public streets.
39. Recovery of street works charges where owner unknown.

Protection of highways, etc.

40. Restriction on buildings under footways.
41. Mixing of mortar in streets.
42. Removal of furniture, etc., from streets, etc.
43. Damage to trees, etc., on streets and in open spaces.
44. Verges, etc., of housing estates.

Erections, etc., in highways

45. Trees, grass verges and gardens.
46. Signs indicating stopping places for public service vehicles.
47. Erection of village place names.
48. Extension of section 126 of Highways Act, 1959.
49. Oil pipes and manholes in streets.
50. Licence to erect scaffolding.
51. Conditional consent under section 146 of Highways Act, 1959.

Miscellaneous

52. Exercise by Council of powers with respect to county roads.
53. Enforcement of improvement line.
54. Application of section 144 of Highways Act, 1959, to Council.
55. Prevention or restriction of vehicular access to and from county roads.
56. Temporary stoppage of footpaths and bridleways.
57. Street lighting.
58. Sale of food and articles on verges, etc.
59. Provision of parking places on trunk roads and county roads.

PART V

FIRE PROTECTION

60. Parts of buildings used for storage of inflammable substances.
61. Oil-fired boilers.
62. As to consultation by local authorities with fire authority.
63. Notification to fire authority of application for licence for public dancing, etc.
64. Prescription of signs to be used on certain buildings.
65. Firemen's switches for luminous tube signs.
66. Instructions, lectures, etc., on questions relating to fire services, etc.

PART VI

HEALTH, WELFARE AND EDUCATION, ETC.

Section
67. Insurance of certain voluntary workers.
68. Boarding out of aged and handicapped persons.
69. Prohibition on solicitation of children to sell or exchange articles at schools.
70. Power to lend museum objects for educational purposes.
71. Disposal of museum objects, etc.
72. Contributions to cultural bodies.
73. Return of library books, etc.
74. Provision of lectures, etc., by Council.
75. Power to publish bulletins, etc.

PART VII

FINANCE

76. Power to borrow.
77. Power to Council to lend money to certain authorities.
78. Closing of registers.
79. Receipt in case of minors.
81. Recovery of sums paid to officers.
80. Officers acting as receivers, etc.
82. Expenses of investment of superannuation fund.
83. Exclusion of certain remuneration and service for superannuation purposes.
84. Transfer of certain sums from superannuation fund.
85. As to proof of continued existence of pensioners.
86. Gratuities to non-teaching staff in voluntary schools.
87. Determination of sums for maintenance.
88. Power to charge in respect of establishment expenses.
89. Modification of mortgages by endorsement under hand.
90. As to repayment of loans under Small Dwellings Acquisition Acts, 1899 to 1923.
91. Notice of variation of rent, etc.
92. False statements to obtain rent rebates, etc.
93. Recovery of rates from certain owners.
94. Recovery of water rates and charges by local authorities.
95. Application of general rate fund for certain purposes.
96. Application of provisions in Part VII to local authorities.

PART VIII

MISCELLANEOUS

97. Supply of goods by Council to other authorities.
98. Provision of reciprocal services, etc., by Council and other bodies.
99. Electronic or mechanical accounting equipment.
100. As to minutes of council meetings, etc.
101. Securing of unoccupied houses under Housing Act, 1957.

Section
102. Protection of dangerous excavations.
103. Aerodrome undertaking.
104. Removal of vehicles.
105. Extension of power to maintain burial grounds.
106. For protection of Commonwealth War Graves Commission.
107. Power to provide car parks for certain purposes.
108. Entry on land for certain purposes.

PART IX

GENERAL

109. Protection of members and officers from personal liability.
110. For protection of statutory undertakers.
111. Apportionment of expenses in case of joint owners.
112. Local inquiries.
113. Liability of directors, etc.
114. Restriction on right to prosecute.
115. Appeals.
116. Arbitration.
117. Application of general enactments.
118. Repeal.
119. Crown rights.
120. Costs of Act.

SCHEDULES:

Schedule 1—General enactments applied—

Part I—Sections of Public Health Act, 1936, applied to this Act, other than sections 40, 49, 50 and 58.

Part II—Sections of Act of 1959 applied to sections 40, 49, 50 and 58 of this Act.

Part III—Sections of Public Health Act, 1936, applied to section 12, Parts IV and V and section 102 of this Act.

Schedule 2—Provisions of the Cumberland County Council Act, 1948, repealed.

ELIZABETH II



1964 CHAPTER xxxiv

An Act to confer further powers on the Cumberland County Council and on local authorities in the administrative county of Cumberland in relation to lands, amenities, industrial development and highways and the local government, improvement, health and educational services and finances of the county and of the boroughs and districts therein; and for other purposes.

[31st July 1964]

WHEREAS—

(1) It is expedient that further and better provision should be made with reference to lands, preservation and improvement of amenities, industrial development and highways and for the local government, improvement, health and educational services and finances of the administrative county of Cumberland and that the powers of the county council and of local and other authorities therein should be enlarged and extended as provided in this Act:

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

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

(4) In relation to the promotion of the Bill for this Act the requirements of Part XIII of the Local Government Act, 1933, have been observed.

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

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Act may be cited as the Cumberland County Council Act, 1964.

(2) The Cumberland County Council Act, 1948, and this Act may be cited together as the Cumberland County Council Acts, 1948 and 1964.

Division of Act into Parts.

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

Part I.—Preliminary.

Part II.—Preservation and improvement of amenities.

Part III.—General provisions relating to land and industrial development.

Part IV.—Highways.

Part V.—Fire protection.

Part VI.—Health, welfare and education, etc.

Part VII.—Finance.

Part VIII.—Miscellaneous.

Part IX.—General.

Interpretation.

3.—(1) In this Act, unless otherwise expressly enacted or the subject or context otherwise requires, the several words and expressions to which meanings are assigned by sections 294 and 295 of the Act of 1959 have the same respective meanings.

(2) In this Act, unless otherwise expressly enacted or the subject or context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

" Act of 1933 " means the Local Government Act, 1933;

" Act of 1946 " means the Acquisition of Land (Authorisation Procedure) Act, 1946;

" Act of 1948 " means the Cumberland County Council Act, 1948;

" Act of 1949 " means the National Parks and Access to the Countryside Act, 1949;

" Act of 1950 " means the Public Utilities Street Works Act, 1950;

PART I —*cont.*

" Act of 1959 " means the Highways Act, 1959;

" Act of 1962 " means the Town and Country Planning Act, 1962;

" appointed day " has the meaning assigned to that expression by section 5 (The appointed day) of this Act;

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

" claimed county road " has the same meaning as in the Act of 1959;

" Council " means the county council of the county;

" county " means the administrative county of Cumberland;

" county fund " means the county fund of the Council;

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

" district " means a borough or an urban or rural district in the county;

" fire authority " has the same meaning as in the Fire Services Act, 1947;

" general rate fund " and " general rate " mean respectively the general rate fund and the general rate of a district;

" highway authority " means—

(*a*) in the case of a trunk road, the Minister of Transport or, with his consent, the authority who are for the time being acting as his agent under the Act of 1959 with respect to that trunk road;

(*b*) in the case of a county road in the county, except a claimed county road, and in the case of any other highway for the time being maintained by the Council, the Council; and

(*c*) in the case of any other highway, the local authority for the district in which the highway is situate;

" industrial building " has the same meaning as in the Local Employment Act, 1960;

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

" Lands Clauses Acts " means the Lands Clauses Acts as modified by the Lands Tribunal Act, 1949, and by the Land Compensation Act, 1961;

" local authority " means the council of a district;

PART I —*cont.*

" magistrates' court " has the same meaning as in the Magistrates' Courts Act, 1952;

" Minister " means the Minister of Housing and Local Government;

" Minister of the Crown " has the same meaning as in the Ministers of the Crown (Transfer of Functions) Act, 1946;

" officer " includes servant;

" open space " has the same meaning as in the Open Spaces Act, 1906;

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

" road " has the same meaning as in section 257 of the Road Traffic Act, 1960;

" rural district " means a rural district in the county;

" rural district council " means the council of a rural district;

" standing joint committee " means the Standing Joint Committee of the Cumberland Quarter Sessions and the Council appointed under section 30 of the Local Government Act, 1888;

" statutory undertakers " means any company, body or person authorised by an Act of Parliament or order having the force of an Act to supply electricity, gas or water;

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

" urban district " means a borough or an urban district in the county;

" voluntary organisation " means any organisation not carried on for profit, not being an organisation carried on by a public authority, and " voluntary " shall be construed accordingly;

" Whitehaven Corporation " means the mayor, aldermen and burgesses of the borough of Whitehaven;

" Workington Corporation " means the mayor, aldermen and burgesses of the borough of Workington.

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

PART I —*cont.*

Incorporation of Lands Clauses Acts.

4. The Lands Clauses Acts, except sections 127 to 132 and 150 and 151 of the Lands Clauses Consolidation Act, 1845 (so far as such Acts are applicable for the purposes of, and are not inconsistent with, the provisions of this Act), are hereby incorporated with, and form part of, this Act:

Provided that the bond required by section 85 of the Lands Clauses Consolidation Act, 1845, shall be sufficient without the addition of the sureties mentioned in that section.

The appointed day.

5.—(1) In this Act " the appointed day " means such day as may be fixed by resolution of a local authority subject to, and in accordance with, the provisions of this section.

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

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

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

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

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

(4) Either—

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

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

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

PART II

PRESERVATION AND IMPROVEMENT OF AMENITIES

Reclamation and improvement of land.

6. Notwithstanding the provisions of subsection (3) of section 6 of the Local Authorities (Land) Act, 1963 (which amends provisions relating to the treatment of derelict land) the Council may be authorised, under section 103 of the Act of 1949 (which contains general provisions as to the acquisition of land), to acquire land in the county, under the power conferred by subsection (5) of section 89 of that Act (which relates to the treatment of derelict land), for the purpose of their functions under subsection (2) of the said section 89, as set out in the said section 6, which is not itself derelict, neglected or unsightly but which is required for the purpose of bringing into use or improving the appearance of

PART II —*cont.*

land in the county which is derelict or which, by reason of neglect following the abandonment of the previous use of the land, is unsightly and which, unless such functions are exercised, is likely to continue in that condition.

Control of access to lands on seashore.

7.—(1) The Council may carry out works on any land in the county in which they have sufficient rights or interest for the purpose of controlling access to that or other land in the county with a view to preventing erosion of the seashore.

(2) The Council may enter into and carry into effect agreements with any person for the carrying out of works or the doing of other things for any purpose for which they may themselves carry out works under subsection (1) of this section.

(3) The Council may be authorised, by means of an order made by the Council and submitted to the Minister and confirmed by him, to purchase compulsorily land in the county which is required for the purpose of carrying out works under subsection (1) of this section.

(4) The Act of 1946 shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of that Act.

(5) Before exercising powers under this section for the purpose of preventing erosion of any seashore the Council shall consult with the coast protection authority under the Coast Protection Act, 1949, for the area in which the seashore is situated.

(6) In this section " seashore " has the same meaning as in the Coast Protection Act, 1949.

General powers in relation to areas of outstanding natural beauty.

8.—(1) The Council shall have power, subject to the provisions of this section, to take all such action as appears to them expedient for promoting the enjoyment by the public of any area within the county designated under the Act of 1949 as an area of outstanding natural beauty, as well as of preserving and enhancing the natural beauty of any such area.

(2) In so far as the provisions of any other enactment confer specific powers falling within subsection (1) of this section, those powers shall be exercised in accordance with the said provisions and subject to any limitations expressed or implied therein, and the powers conferred on the Council by subsection (1) of this section shall not include any power conferred on the Council or any other authority by or under any other enactment.

(3) Subsection (1) of this section shall have effect only for the purpose of removing any limitation imposed by law on the capacity of the Council by virtue of its constitution, and shall not authorise any act or omission on the part of the Council which apart from that subsection would be actionable at the suit of any person on any ground other than such a limitation.

PART II —*cont.*

Provision of camping sites, parking places, accommodation, etc., for areas of outstanding natural beauty.

9.—(1) The Council may make arrangements for securing the provision (whether by the Council or by other persons), in, or in the neighbourhood of, any area within the county designated under the Act of 1949 as an area of outstanding natural beauty of—

(*a*) camping sites;

(*b*) parking places and means of access thereto and egress therefrom; and

(*c*) accommodation, meals and refreshments;

and may, for the purposes of such arrangements, erect such buildings and carry out such work as may appear to them to be necessary or expedient:

Provided that the Council shall not under this section—

(i) provide accommodation, meals or refreshments except in so far as it appears to them that the facilities therefor are inadequate or unsatisfactory, either generally or as respects any description of accommodation, meals or refreshments, as the case may be; or

(ii) themselves sell intoxicating liquor.

(2) (*a*) The foregoing provisions of this section shall not authorise the Council to do anything on land in which any other person has an interest if apart from this section the doing of that thing would be actionable at his suit by virtue of that interest and he does not consent thereto.

(*b*) In this subsection " interest " has the same meaning as in section 114 of the Act of 1949.

(3) (*a*) The Council may be authorised, by means of an order made by the Council and submitted to the Minister and confirmed by him, to purchase compulsorily land in any area within the county so designated which is required for the purpose of any of their functions under this section.

(*b*) The Act of 1946 shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of that Act.

(4) Where the Council propose to acquire any land for the purposes of this section or to utilise any land appropriated by them for those purposes, they shall, before carrying the proposal into effect—

(*a*) cause notice of the proposal (specifying the land to which it relates and notifying the period, which shall not be less than twenty-eight days, within which any representations relating to the proposal shall be sent

PART II —*cont.*

in writing to the Council) to be published in at least one newspaper circulating in the district in which the land is situate and, subject to the provisions of subsection (2) of this section, cause a copy of the notice to be posted for not less than fourteen days on, or adjacent to, the land; and

(*b*) consider any representations which are sent to them in writing within the time fixed in that behalf, and give notice of their decision on the representations to the person by whom they are made.

Enforcement of restrictive covenants relating to land acquired for open spaces.

10.—(1) Where the Council have, either before or after the passing of this Act, contributed or agreed to contribute towards, or in connection with, the acquisition or use by the council of any other administrative county or of any county borough, district or parish (whether or not in the county), or by any other public body (in this section referred to as an " authority "), or by any person or any trustees, of land for the purpose of a public or private open space, recreation or pleasure ground, sports ground or playing fields or public walk, or towards, or in connection with, the laying out or maintenance of such land and such authority, person or trustees have or has, either before or after the passing of this Act, in consideration of such contribution, or of an agreement to make such contribution, entered into a covenant with the Council restrictive of the user of such land, the Council shall have power (in addition to any other rights or remedies under the instrument containing such covenant) to enforce such covenant against such authority, person or trustees and against the persons deriving title under them or him in the like manner and to the like extent as if the Council were possessed of adjacent land capable of being benefited by such covenant and as if such covenant had been expressed to be entered into for the benefit of such adjacent land.

(2) Where an authority have, either before or after the passing of this Act, contributed towards, or in connection with, the acquisition or use by the Council of land for the purpose of a public or private open space, recreation or pleasure ground, sports ground or playing fields or public walk, or towards, or in connection with, the laying out or maintenance of such land and the Council have, either before or after the passing of this Act, in consideration of such contribution, or of an agreement to make such contribution, entered into a covenant with the authority restrictive of the user of such land, the authority shall have power (in addition to any other rights or remedies under the instrument containing such covenant) to enforce such covenant against the Council and the persons deriving title under them in the like manner and to the like extent as if the authority were possessed

PART II —*cont.*

of adjacent land capable of being benefited by such covenant and as if such covenant had been expressed to be entered into for the benefit of such adjacent land.

(3) (*a*) For the purposes of section 15 of the Land Charges Act, 1925, any covenant referred to in this section shall be deemed to be a restriction on the user or mode of user of land or buildings enforceable by a local authority under a covenant or agreement made with them.

(*b*) This section shall not apply to a covenant contained in any instrument made before the 27th day of November, 1963, unless the restrictions enforceable under such covenant were registered as local land charges within twelve months after that date.

(4) Any covenant to which this section applies shall continue to be enforceable notwithstanding that the land intended to be affected thereby may have passed to an authority acquiring the same by agreement under the Lands Clauses Acts or any Act incorporating those Acts.

(5) Nothing in this section shall deprive the Council or any authority, person or trustees of any right to enforce a covenant to which this section applies which they or he would have had if this section had not been enacted.

Amendment of section 88 of Cumberland County Council Act, 1948.

11. Subsection (1) of section 88 (Power for Council to contribute to open spaces) of the Act of 1948 shall have effect as if for the words " any trustees or public bodies " there were substituted the words " any public body or any person or trustees " and as if for the words " any open space for public use and recreation " there were substituted the words " any public or private open space, recreation or pleasure ground, sports ground or playing fields or any public walk ".

Protection of foreshore and adjoining land from pollution.

12.—(1) Subject to the provisions of subsection (2) of this section, a local authority to whom this section applies may—

(*a*) cleanse the foreshore within their district and the adjoining land (including land below low-water mark of ordinary spring tides, but excluding land in any other district) by removing therefrom oil or any mixture containing oil or any other polluting, offensive or injurious substance which may have been deposited thereon by the action of any tidal or other waters; and

(*b*) for the purpose of preventing the pollution of the foreshore within their district and such adjoining land as aforesaid by any such substance as aforesaid, spray or

PART II —*cont.*

cause to be sprayed with chemicals or other substances any tidal or other waters, and may do any other thing or take any other measure which in their opinion is likely to achieve that purpose.

(2) The local authority shall not in exercise of the powers of subsection (1) of this section, spray chemical substances or cause chemical substances to be sprayed except with the consent of the Minister of Agriculture, Fisheries and Food.

(3) Nothing in this section or done thereunder shall prejudice or affect the operation of the Salmon and Freshwater Fisheries Act, 1923, the Water Act, 1945, the Rivers (Prevention of Pollution) Act, 1951, or the Oil in Navigable Waters Act, 1955, or permit the doing of any act which would have been unlawful by virtue of the provisions of the said Acts if this section had not been enacted.

(4) The powers conferred on a local authority by this section shall not be exercised—

(*a*) in any area within the jurisdiction of a harbour authority without the consent of that authority; or

(*b*) on land held or used by the British Railways Board for the purposes of their railways without their consent but in such case consent shall not be unreasonably withheld and any question whether it is unreasonably withheld shall be determined by the Minister of Transport.

(5) In this section—

" harbour authority " and " oil " have the same respective meanings as in the Oil in Navigable Waters Act, 1955.

(6) This section applies to the following local authorities:—

The Whitehaven Corporation;

The Workington Corporation;

The Maryport Urban District Council;

The Border Rural District Council;

The Cockermouth Rural District Council;

The Ennerdale Rural District Council;

The Millom Rural District Council;

The Wigton Rural District Council.

Provision of boating facilities by certain local authorities.

13.—(1) Subject to the provisions of this section the Keswick Urban District Council (hereafter in this section referred to as " the Keswick Council ") may provide facilities for boating, sailing or rowing on Derwentwater and for that purpose may by agreement acquire, whether by way of purchase, lease or

PART II —*cont.*

exchange, or appropriate land situated within or outside their district, and may provide and maintain such buildings, slipways, jetties and moorings and carry out such other works and do such other things as may be necessary or expedient.

(2) (*a*) Nothing in this section shall authorise the Keswick Council to do anything on land, or as respects water over land, in which any other person has an interest, if apart from this section the doing of that thing would be actionable at his suit by virtue of that interest and he does not consent thereto.

(*b*) In this subsection " interest " has the same meaning as in section 114 of the Act of 1949.

(3) The Keswick Council may demand and take such reasonable charges as they think fit from any person using the facilities provided by them under this section and may either—

(*a*) themselves manage any lands acquired or appropriated and buildings and works provided under this section; or

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

(4) The provisions of subsections (1), (2) and (3) of this section shall apply to the Cockermouth Rural District Council and the Penrith Rural District Council in relation to any waterway in the Lake District National Park within their district, and for that purpose those provisions shall have effect subject to the substitution for references therein to the Keswick Council and to Derwentwater of references to the Cockermouth Rural District Council or the Penrith Rural District Council (as the case may be) and to any such waterway (including, in the case of the Cockermouth Rural District Council, Derwentwater) in their district respectively and to any other necessary modifications.

Application of provisions in Part II to local authorities.

14.—(1) Subject to the provisions of this section, the provisions of section 6 (Reclamation and improvement of land) and section 10 (Enforcement of restrictive covenants relating to land acquired for open spaces) of this Act shall apply to a local authority, and for that purpose those provisions shall have effect subject to the substitution for references therein to the Council and to the county of references to the local authority and to their district respectively and to the modification specified in subsection (2) of this section and any other necessary modifications.

(2) In its application to a local authority, the said section 10 shall have effect as if in subsection (1) for the words " any other administrative county " there were substituted the words " any administrative county ".

PART III

GENERAL PROVISIONS RELATING TO LAND AND INDUSTRIAL DEVELOPMENT

Industrial development

Acquisition of land for development.

15.—(1) The Council may purchase by agreement, and (in any case where the Council are unable to acquire land by agreement on terms which in their opinion are reasonable) may be authorised, by means of an order made by the Council and submitted to the Minister and confirmed by him, to purchase compulsorily, land in the county for any of the following purposes:—

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

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

(2) The Act of 1946 shall apply as if this section were an enactment contained in a public general Act and in force immediately before the commencement of that Act.

(3) In this section " undertaking " means any trade or business, or any other activity providing employment.

Power to Council to assist industry.

16. The Council 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 nothing in this section shall authorise the Council 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 to provide or improve.

PART III —*cont.*

Agreement with statutory undertakers for provision of works.

17. The Council 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 or desirable for any of the purposes specified in subsection (1) of section 15 (Acquisition of land for development) of this Act, or for the purpose of the use of any land after it has been developed for any of those purposes.

Power to Council to guarantee rents, etc., of industrial buildings.

18. The Council 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, guarantee or contract to secure the payment of—

(*a*) any rent or other sum payable in respect of the building or part thereof;

(*b*) any sums payable to any statutory undertakers in respect of the provision or maintenance of any works, facilities, supplies or services for the purposes of any trade or business carried on, or to be carried on, in the building.

Duration of foregoing provisions.

19.—(1) Subject to the provisions of subsection (2) of this section the foregoing provisions of this Part of this Act shall continue in force until the 31st day of December, 1969.

(2) (*a*) The Minister may on the application of the Council by order extend the period referred to in subsection (1) of this section until the 31st day of December, 1974.

(*b*) An order under this subsection shall be made by statutory instrument and contain such supplemental or incidental provisions as appear to the Minister to be expedient.

(*c*) No order under this subsection shall have effect until approved by resolution of each House of Parliament.

(3) Nothing in this section shall prejudice or affect any rights, obligations or liabilities in respect of any guarantee given, or contract made, under any of the said provisions of this Act.

Power to survey harbours.

20.—(1) The Council may, with the consent of the harbour authority, carry out a survey of any harbour within the county and the sea approaches to any such harbour.

(2) The Council may, if requested to do so by any person who intends to carry out a survey of any harbour within the county, contribute to the costs and expenses incurred in and for the purposes of any such survey.

PART III —*cont.*

(3) In this section " harbour " has the same meaning as in the Merchant Shipping Act, 1894.

Power to make grants to harbour authorities.

21.—(1) For the purpose of assisting any harbour authority to maintain, extend, adapt or improve a harbour undertaking within the county, the Council may make grants or loans to the harbour authority upon such terms as may be agreed by the Council and the harbour authority.

(2) In this section " harbour authority " has the same meaning as in the Oil in Navigable Waters Act, 1955.

Power to acquire Whitehaven Harbour securities.

22. The Council and the Whitehaven Corporation may severally purchase and hold any bonds or other securities issued by the Whitehaven Harbour Commissioners or the predecessors of the said commissioners.

Exercise of powers of foregoing provisions in Part III by local authorities.

23.—(1) Where it is represented to the Council by a local authority that it is expedient in any particular case that any of the powers of the Council under the foregoing provisions in this Part of this Act, other than subsection (1) of section 20 (Power to survey harbours) and section 22 (Power to acquire Whitehaven Harbour securities), should be exercised by the local authority, and the Council agree, the powers shall be exercisable in that case by the local authority, either in conjunction with, or in place of, the Council, as may be so agreed.

(2) So far as is necessary for giving effect to any agreement under this section, references in the said foregoing provisions of this Part of this Act to the Council and to the county shall be construed as references to the local authority with whom such an agreement is made and to their district respectively.

General provisions relating to land

Loans for erection, etc., of buildings.

24.—(1) Subject to the provisions of this section, the Council may advance money to—

(*a*) any person for the purpose of enabling or assisting him to purchase or lease any land in the county; or

(*b*) the purchaser or lessee of any land in the county for the purpose of enabling or assisting him to build on the land or to extend or improve any existing building thereon.

(2) The amount of the principal of any advance made under this section shall not exceed three-quarters of the amount which

PART III —*cont.*

in the opinion of the Council will be the market value of the interest of the borrower in the land after the purpose of the loan has been effected.

(3) The provisions of subsections (2), (4) and (5) of section 3 of the Local Authorities (Land) Act, 1963 (which section empowers local authorities to make advances for the erection of buildings on land sold or let by them) shall apply in relation to an advance made under subsection (1) of this section, and for that purpose those provisions shall have effect subject to the substitution for references therein to an advance made under the said section 3 of references to an advance made under subsection (1) of this section and to any other necessary modifications.

(4) Any person acting on behalf of the Council and authorised in writing by their clerk shall have power at all reasonable times, after giving not less than seven days' notice to the occupier, to enter any building in respect of which an advance has been made under this section for the purpose of ascertaining whether the conditions of this section and of the instrument aforesaid are being complied with.

(5) In this section " lessee " includes a person to whom the owner has agreed to grant a lease, and " lease " shall be construed accordingly.

Disposal of land.

25. Any land acquired under section 15 (Acquisition of land for development) of this Act may be disposed of under section 165 of the Act of 1933, whether or not the land is required for the purpose for which it was acquired or is being used.

Power to reinstate owners or occupiers of property.

26.—(1) The Council may enter into and carry into effect an agreement or arrangement with the owner or occupier of any land acquired, or to be acquired, by the Council under the Act of 1948 or this Act with respect to his reinstatement.

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

Power as to re-housing

27.—(1) The Council may enter into and carry into effect agreements with any local authority for the provision by that authority of houses for the purpose of providing for the re-housing of persons displaced from any land acquired by the Council under any enactment, and any such agreement may provide for the making of contributions by the Council towards the whole or any part of the expense thereby incurred by the local authority.

PART III —*cont.*

(2) In this section " local authority " means the council of any administrative county, county borough or county district.

Compensation may be in land.

28.—(1) The Council, when they are required by any enactment to make compensation to any person interested in any lands, may, by agreement with such person, make such compensation wholly or partly in works, land or money, but in the case of land for the alienation of which the consent of any government department is required, only with such consent.

(2) Nothing in this section shall release the Council, or any person purchasing or acquiring any land or interest in land from them, from any rents, covenants, restrictions, reservations, terms or conditions made payable by, or contained in, any conveyance, lease or other deed or instrument by which the land or interest has been conveyed or leased to, or otherwise acquired by, the Council, or any persons from or through whom the Council have derived title to it.

Suspension of restrictive covenants.

29.—(1) If the Council—

(*a*) acquire land by agreement; or

(*b*) enter into an agreement to acquire land;

for a purpose for which they are for the time being authorised to acquire land compulsorily, or could under any enactment for the time being in force (including this Act) be authorised to acquire the land compulsorily, and the land is, before such acquisition or agreement to acquire, affected by any restriction arising under covenant as to the user thereof or the building thereon, the Council may, subject to the provisions of this section, by resolution suspend the operation of such restriction.

(2) The resolution shall describe by reference to a map the land to which it applies.

(3) The Council shall—

(*a*) in three successive weeks, publish in one or more local newspapers circulating in the locality in which the land referred to in the resolution is situated a notice stating that the resolution has been passed, describing the land and naming a place within the locality where a copy of the resolution and map may be inspected and specifying the period (not being less than three months from the first publication of the notice) within which, and the manner in which, objections to the suspension of the restriction can be made;

PART III —*cont.*

(*b*) on or before the date of the first publication of the said notice serve a copy of the said notice on every person who appears to them, after diligent inquiry, to be entitled to the benefit of the restriction to which the resolution relates; and

(*c*) on or before the date of the first publication of the said notice affix a copy or copies of the said notice to some conspicuous object or objects on the land to which the resolution relates.

(4) Any person claiming to be entitled to the benefit of the restriction may object to the suspension of the restriction by sending notice of his objection and of the grounds thereof to the appropriate Minister within the period specified in the notice and by sending a copy thereof to the Council.

(5) If any objection is duly made as aforesaid and is not withdrawn, the resolution shall be of no effect unless and until it is confirmed by the appropriate Minister, and before confirming the resolution, the appropriate Minister shall cause a public local inquiry to be held into the proposed suspension of the restriction and, after considering the report of the person who held the inquiry, may confirm the resolution.

(6) (*a*) If no objection is duly made under subsection (4) of this section, or if all objections so made are withdrawn, the restriction shall be suspended on and after the date of the expiration of the period specified in the notice, or the date of the withdrawal of the objection, or (if more than one) the last objection, or the date on which the Council acquire the land (whichever is the latest).

(*b*) If objection is duly made as aforesaid and the appropriate Minister confirms the resolution, the restriction shall be suspended on and after such date as the appropriate Minister shall determine, not being earlier than the date on which the Council acquire the land.

(7) The Council shall pay compensation in accordance with the provisions of section 68 of the Lands Clauses Consolidation Act, 1845, to any person entitled to the benefit of a restriction suspended under the powers of this section who suffers loss in consequence thereof, and the amount of the compensation shall, in case of dispute, be determined in accordance with the Land Compensation Act, 1961.

(8) Any restriction suspended under the powers of this section shall be unenforceable so long as the Council are the owners of

PART III —*cont.*

the land to which the restriction relates, or, if the Council convey the land to any body for any of the purposes of the Education Acts, 1944 to 1962, so long as the land is used by that body for the purpose of those Acts, and, if compensation is paid by the Council under subsection (7) of this section in respect of the suspension of a restriction relating to the building upon, or use of, land, that restriction shall remain unenforceable in respect of such building or use notwithstanding any subsequent conveyance or disposition of the land to any other person:

Provided that if such compensation is paid on the basis that land may be used for a particular purpose, the restriction shall, after any subsequent conveyance or disposition of the land to a person, otherwise than for any of the purposes of the Education Acts, 1944 to 1962, remain unenforceable only so long as the land is used for that purpose.

(9) If the Council dispose of any land to which the restriction suspended under the powers of this section relates, they shall, in two successive weeks, publish notice thereof in one or more local newspapers circulating in the locality in which the land is situated.

(10) Nothing in this section shall apply to—

(*a*) any restriction arising under a covenant granted to the National Trust for Places of Historic Interest or Natural Beauty restricting the development or use of land; or

(*b*) any restriction for the protection of, or for securing access to, apparatus of any statutory undertakers or the British Railways Board contained in any deed, wayleave agreement or other instrument.

(11) In this section " the appropriate Minister " means the Minister of the Crown having power to authorise the compulsory purchase of the land for the purpose for which the Council have acquired or agreed to acquire that land.

Application of certain provisions of Housing Act, 1957.

30.—(1) For the purposes of Part II and this Part of this Act the provisions of sections 64 and 65 of the Housing Act, 1957 (which make provision for the extinguishment of public and private rights of way and rights relating to apparatus and other rights and easements and for the removal or alteration of apparatus of statutory undertakers), shall extend and apply as if—

(*a*) the Council were a local authority for the purposes of the said Act of 1957;

PART III —*cont.*

(*b*) land acquired by the Council under Part II or Part III of this Act had been acquired by the Council under Part III of the said Act of 1957; and

(*c*) any works executed by the Council in such land were executed under powers exercisable by the Council by virtue of that Part of the said Act of 1957;

and accordingly the said sections as so extended and applied shall have effect as if for the words " this Part of this Act " wherever those words occur there were substituted the words "Part II or Part III of the Cumberland County Council Act 1964":

Provided that the said section 65 as so extended and applied shall have effect subject to the following further modifications—

(i) in subsection (1) the words " the foregoing provisions of " shall be omitted;

(ii) in subsection (2) after the word " subsection " there shall be inserted the words " or to execute under the powers conferred by the Cumberland County Council Act 1964 any works near to or likely to affect any apparatus " and before the words " the undertakers may " there shall be inserted the words " in any case where the local authority intend to remove or alter any apparatus "; and

(iii) in subsection (4) after the words " by reason of " there shall be inserted the words " the exercise of any powers conferred by Part II or Part III of the Cumberland County Council Act 1964 in respect of any land purchased under or appropriated for any of the purposes of the said Part II or the said Part III (as the case may be) or ".

(2) On or before the date of publication of notice of the making of an order under the said section 64 as extended and applied by subsection (1) of this section, the Council shall serve a copy of the notice on the statutory undertakers in whose area or limits of supply the land to which the order relates is situate and on any other statutory undertakers who appear to the Council to be concerned.

(3) Where in pursuance of an order made by the Council under the said section 64 as extended and applied by subsection (1) of this section a public right of way is extinguished, the following provisions of this subsection shall have effect in relation to so much of any telegraphic line belonging to or used by the

PART III —*cont.*

Postmaster General as is under, in, upon, over, along or across the land over which the said right existed (in this subsection referred to as " the affected line "), that is to say:—

(*a*) The power of the Postmaster General to remove the affected line shall be exercisable notwithstanding that the said right is extinguished, so however that the said power shall not be exercisable, as respects the whole or any part of the affected line, after the expiration of a period of three months from the date of the sending of the notice referred to in the next following subsection unless before the expiration of that period the Postmaster General has given notice to the Council of his intention to remove the affected line or that part thereof, as the case may be;

(*b*) The Postmaster General may by notice in that behalf to the Council abandon the affected line or any part thereof, and shall be deemed, as respects the affected line or any part thereof, to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;

(*c*) The Postmaster General shall be entitled to recover from the Council the expense of providing in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line, a telegraphic line in such other place as he may require;

(*d*) Where under paragraph (*b*) of this subsection the Postmaster General has abandoned or is deemed to have abandoned the whole or any part of the affected line, it shall vest in the Council and the provisions of the Telegraph Acts, 1863 to 1962, shall not apply in relation to it as respects anything done or omitted after the abandonment thereof.

(4) As soon as practicable after such an order as is mentioned in subsection (3) of this section has been approved by the Minister the Council shall by notice to the Postmaster General inform him of the making of the order.

(5) In this section " statutory undertakers " has the same meaning as in the Housing Act, 1957.

Application of provisions in Part III to local authorities.

31.—(1) The provisions of this Part of this Act mentioned in subsection (2) of this section shall apply to a local authority, and for that purpose those provisions shall have effect subject to the substitution for references therein to the Council and to the county of references to the local authority and to their district respectively, and to the modifications specified in subsection (3) of this section and any other necessary modifications.

PART III —*cont.*

(2) The provisions hereinbefore referred to are the following:—

Section 24 (Loans for erection, etc., of buildings);

Section 26 (Power to reinstate owners or occupiers of property);

Section 28 (Compensation may be in land);

Section 29 (Suspension of restrictive covenants); and

Section 30 (Application of certain provisions of Housing Act, 1957).

(3) In its application to a local authority—

(*a*) the said section 26 shall have effect as if the words " the Act of 1948 or " were omitted;

(*b*) the said section 30 shall have effect as if paragraph (*a*) of subsection (1) were omitted.

PART IV

HIGHWAYS

Interpretation

Interpretation for Part IV.

32.—(1) In this Part of this Act—

" code of 1875 " and " code of 1892 " have the same respective meanings as in section 173 of the Act of 1959;

" new street byelaws " means byelaws for regulating matters which may be regulated under section 157 of the Act of 1959;

" private street ", " street works " and " street works authority " have the same respective meanings as in section 213 of the Act of 1959;

" structure " means a wall, fence, hoarding or similar erection, but for the purposes of this definition " wall " does not include a wall forming part of a permanent building;

" verge " includes any lands situated between two carriageways and any part of a street which is not a carriageway, footway or cycle track.

(2) For the purposes of this Part of this Act the erection of a building or structure shall be deemed to have begun at the time when the clearing of the site therefor, or the excavation for the foundations thereof, whichever is the earlier, began.

PART IV —*cont.*

New streets

Prohibition of building until street defined.

33.—(1) Where a plan and sections of a new street have been deposited with a local authority in pursuance of new street byelaws and have been approved by them, no person shall, without their consent, begin to erect a building on land abutting on the street until he has defined by posts or in some other suitable manner the approved line, width and level of so much of the street as abuts on any land which will be occupied as the site of, or in connection with, the building.

(2) Where the approved width of a new street has been defined as aforesaid, no person shall begin to erect a building or structure nearer to the centre of the street than the line of the posts or other marks by which the width has been so defined.

(3) If any person contravenes the provisions of either of the foregoing subsections, he shall be liable to a fine not exceeding twenty pounds and the local authority may—

(*a*) in the case of a contravention of subsection (1), define as aforesaid the approved line, width and level of the new street; and

(*b*) in the case of a contravention of subsection (2), remove the building or structure;

and in either case recover the expenses of so doing from that person.

Prohibition of building until street formed and sewered.

34.—(1) Where a plan and sections of a new street deposited with a local authority in pursuance of new street byelaws are approved by them, they may, by notice prohibit the erection of any building on land abutting on the street until the carriageway of the street has been constructed and the street has been sewered in accordance with the said byelaws:

Provided that where the plan shows that the street will exceed one hundred yards in length, the local authority shall divide the street, for the purpose of the notice, into lengths not exceeding one hundred yards and each such length shall, for that purpose, be treated as a separate street.

(2) Such a notice shall be given to the person by whom, or on whose behalf, the plan and sections were deposited and the prohibition imposed thereby shall be binding on successive owners of the land to which it relates.

(3) If any person contravenes the provisions of such a notice, he shall be liable to a fine not exceeding twenty pounds and the local authority may construct the carriageway and works of sewerage which should have been constructed and recover the expenses of so doing from that person.

PART IV —*cont.*

(4) This section shall have effect subject to the provisions of the Land Charges Act, 1925, as amended by the Law of Property (Amendment) Act, 1926, with respect to the avoidance of any such notice for want of registration as a local land charge.

(5) The execution of any works under the provisions of this section shall not relieve any person from any liability under any enactment relating to private street works for the time being in force in the district in which the street is situated.

Access to new streets.

35.—(1) Where a plan and sections of a new street deposited with a local authority in pursuance of new street byelaws are approved by them, they may, for the purpose of securing adequate means of communication between the new street and any other street whether existing or intended, by notice prohibit the erection or retention of any building or structure at either end of the new street on land belonging at the time of the deposit to the owner of the land upon which the new street is proposed to be constructed or laid out:

Provided that no such notice shall affect any building or structure existing at the time of the deposit until both the new street and that other street have become highways maintainable at the public expense.

(2) Such a notice shall be given to the person by whom, or on whose behalf, the plan and sections were deposited and the prohibition imposed thereby shall be binding on successive owners of the land to which it relates.

(3) If any person contravenes a notice under this section, he shall be liable to a fine not exceeding twenty pounds and the local authority may remove the building or structure and recover the expenses of so doing from that person.

(4) This section shall have effect subject to the provisions of the Land Charges Act, 1925, as amended by the Law of Property (Amendment) Act, 1926, with respect to the avoidance of any such notice for want of registration as a local land charge.

Rounding or splaying off corners at street junctions.

36.—(1) Where a plan and sections of a new street deposited with a local authority in pursuance of new street byelaws are approved by them, they may, for the purposes of safety, by notice require that the corners formed at the junction of the new street with another street, whether existing or intended, but not being a trunk road, shall be rounded or splayed off in such manner as may be specified in the notice.

(2) Such a notice shall be given to the person by whom, or on whose behalf, the plan and sections were deposited, and the requirements thereof shall be binding on successive owners of the land to which it relates.

PART IV – *cont.*

(3) (*a*) Any person who suffers loss by the exercise of the powers conferred by this section may recover compensation from the local authority and the amount of the compensation shall, in case of dispute, be determined by the Lands Tribunal.

(*b*) Rules 2 to 4 of the rules set out in section 5 of the Land Compensation Act, 1961 (which provides rules for valuation on a compulsory acquisition) shall apply to the calculation of compensation under this subsection in so far as it is calculated by reference to the depreciation of the value of the interest of any such person in the land to which the notice under subsection (1) of this section relates.

(4) If any person lays out or constructs a new street otherwise than in compliance with a notice under subsection (1) of this section, he shall be liable to a fine not exceeding twenty pounds and the local authority may do such work as may be necessary to comply with the notice and recover the expenses of so doing from that person.

(5) This section shall have effect subject to the provisions of the Land Charges Act, 1925, as amended by the Law of Property (Amendment) Act, 1926, with respect to the avoidance of any such notice for want of registration as a local land charge.

Adjustment of boundaries of estates in connection with streets.

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

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

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

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

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

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

PART IV —*cont.*

(4) The provision so to be made and the terms and conditions upon which it is to be made shall, failing agreement between the local authority and the persons interested in the respective estates, be determined by arbitration.

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

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

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

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

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

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

(11) In this section " estate " includes any parcel of land.

Private streets

Application of code of 1875 and code of 1892 to parts of public streets.

38.—(1) Where in any district it appears to the street works authority that a new street has been formed by reason of additions made to an existing footpath, bridleway or other highway maintainable at the public expense (not being or comprising a carriageway within the meaning of the Act of 1959), otherwise than by the giving up for the purpose by the street works authority of lands owned by them, the street works authority may, notwithstanding anything in the code of 1875 or the code of 1892, carry

PART IV —*cont.*

out street works in respect of such street, or any part of such street, and apportion the expenses thereof on the premises fronting, adjoining or abutting on such street, or such part thereof as if no part of the said street was so maintainable.

(2) Save in a case falling within the provisions of subsection (1) of this section, for the purposes of any apportionment of the expenses of carrying out street works in part of a street where any other part of that street consists of a highway maintainable at the public expense, premises fronting, adjoining or abutting on the street shall, if the street works authority so resolves, be deemed to front, adjoin or abut on the part of the street which is not so maintainable.

(3) Where, in consequence of any order or orders made under sections 30 or 32 of the Public Health Act, 1925, or sections 159 or 166 of the Act of 1959, any lands have been or are added to an existing highway maintainable at the public expense in any district, such lands, if so resolved by the street works authority, shall for the purposes of the code of 1875 or the code of 1892 be deemed to be a street which is not maintainable at the public expense and the street works authority may apportion the whole or any portion of the expenses of any street works carried out in respect of such street, or any part of such street, on the premises of which such lands formed part immediately before their addition to the highway as aforesaid:

Provided that such expenses shall not include any expenses which under subsection (4) of section 163 of the Act of 1959, are to be borne by the street works authority.

Recovery of street works charges where owner unknown.

39.—(1) Where any street works in the county have been completed by a street works authority but they are unable to recover the amount due from the owner of any premises or otherwise under the code of 1892 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 twelve years from the date when the said amount becomes due, apply to the county court, and that court may, on the receipt of such application and on being satisfied that the provisions of this subsection have been complied with, make an order vesting the said premises in the street works authority absolutely, and thereupon the street works authority may appropriate the said premises subject to, and in accordance with, the provisions of section 163 of the Act of 1933 as if the said premises were land which was not required for the purpose for which it was acquired.

PART IV —*cont.*

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

(3) Any sum to be deposited under subsection (2) of this section shall be deposited in accordance with section 76 of the Lands Clauses Consolidation Act, 1845, as if it was a sum awarded to be paid to an owner who cannot be found and as if the street works authority were the promoters of an undertaking and such sum shall be applied in accordance with section 78 of the said Act.

(4) The powers conferred by subsection (1) of this section 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 passing of this Act.

(5) In relation to a street works authority which is the council of an urban district this section shall have effect as if for reference to the code of 1892 there were substituted reference to the code of 1875 or the code of 1892, whichever shall be the appropriate code.

Protection of highways, etc.

Restriction on buildings under footways.

40.—(1) After the passing of this Act, no part of any building (including the foundations) shall, except with the consent of the highway authority, be constructed so as to extend under the footway of any street in the county at a less depth than six feet below the surface of such footway.

(2) The giving of consent by the highway authority shall not relieve the owner or occupier of the building from any liability to any statutory undertakers to which he would have been subject if this section had not been enacted.

PART IV —*cont.*

(3) Any person aggrieved by the withholding of a consent under subsection (1) of this section may appeal to a magistrates' court.

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

(5) Nothing in this section shall extend or apply to the construction of any building (not being a house or building to be used as offices) by any statutory undertakers or railway, dock, canal or inland navigation undertakers in the exercise of their statutory powers.

Mixing of mortar in streets.

41.—(1) No person shall mix mortar or any like substance in any street in the county which is a highway maintainable at the public expense except upon a board or in a receptacle which will protect the street from such mortar or substance:

Provided that this section shall not apply to the mixing in any street of mortar or any like substance for the purposes of making up, repairing, reinstating, altering or improving a street or any bridge over or under a street.

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

Removal of furniture, etc., from streets etc.

42.—(1) Where it appears to the highway authority that any furniture, articles, goods or materials have been placed or dropped (whether accidentally or otherwise) in or upon any verge of a street or roadside waste or open space adjoining any street in the county (not being in any such case part of a highway) and that—

(*a*) they have remained there for more than seven days; or

(*b*) are likely to cause an obstruction;

the highway authority may remove and store any such furniture, articles, goods or materials and shall not be liable for any loss or damage caused by such removal or storage.

(2) If the highway authority remove any furniture, articles, goods or materials under the powers of this section—

(*a*) they shall, if and as soon as it is reasonably practicable to do so, notify the person whom they believe to be the owner thereof; and

(*b*) the furniture, articles, goods or materials shall be deemed to be materials within the meaning of section 276 of the Public Health Act, 1936 (which empowers local

PART IV —*cont.*

authorities to sell materials removed by them), but the highway authority shall not exercise any power to sell any such furniture, articles, goods or materials, whether under that section or otherwise, until after the expiration of twenty-eight days from the date of such notification or six months from the day on which they removed the furniture, articles, goods or materials, whichever shall first occur.

(3) The provisions of the said section 276 as applied by this Act shall, for the purposes of this section, have effect as if that section referred to the highway authority instead of the local authority, and the highway authority may recover from the person to whom the furniture, articles, goods or materials belonged any balance of the cost outstanding after exercising their powers under the said section 276.

(4) Nothing in this section shall apply to any articles, goods or materials placed in or upon any street in connection with, or for the purposes of, undertakers' works, within the meaning of section 1 of the Act of 1950, or to any building materials, rubbish or other things deposited in a street in accordance with the terms of a consent of the highway authority under section 146 of the Act of 1959.

(5) In this section "article" includes a derelict vehicle or part of a vehicle.

Damage to trees, etc., on streets and in open spaces.

43.—(1) No person (except in the execution of some act which he has lawful authority to perform) shall in any street in the county, or in any open space to which the public have access adjacent to any street in the county—

(*a*) remove or cut any turf; or

(*b*) remove, cut or displace any tree, shrub or plant which has been planted for the purpose of improving amenities, or cut or pluck any bud, blossom, flower or leaf of any such tree, shrub or plant.

(2) If any person contravenes the provisions of this section, he shall be liable to a fine not exceeding five pounds and to the payment of such further amount as appears to the court reasonable compensation for any damage done by such contravention, which last-mentioned amount shall be paid to the person having control of the street or open space.

(3) In any proceedings under this section in respect of any matter referred to in paragraph (*b*) of subsection (1) of this section it shall be a defence for the defendant to show that he did

PART IV —*cont.*

not know, and had no reason to know, that the tree, shrub or plant in question had been planted for the purpose of improving amenities.

(4) Nothing in this section shall apply to any open space vested in, or under the control of, a local authority, a board of conservators or the National Trust for Places of Historic Interest or Natural Beauty, or to any land as respects which byelaws have been made under section 90 of the Act of 1949.

Verges, etc., of housing estates.

44.—(1) Where any grass verge, garden or space which has been provided by a local authority in pursuance of the Housing Act, 1957, or by a housing association in pursuance of arrangements made with a local authority under that Act, or any enactment repealed by that Act, is maintained in an ornamental condition or mown, the local authority may by notice prohibit any person from—

(*a*) causing or permitting motor vehicles or caravans to enter upon any such grass verge, garden or space; or

(*b*) entering upon any such garden.

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

(3) If any person (except in a case of emergency) contravenes a notice so posted he shall be liable to a fine not exceeding forty shillings.

(4) Before exercising their powers under subsection (1) of this section in relation to any grass verge, garden or space provided by a housing association, the local authority shall consult the association.

(5) The powers of this section shall not be exercisable in relation to any grass verge, garden or space which forms part of a highway maintainable at the public expense.

Erections, etc., in highways

Trees, grass verges and gardens.

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

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

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

(*c*) to plant flowers and other vegetation on or between any pillars or walls provided by the highway authority;

PART IV —*cont.*

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

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

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

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

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

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

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

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

(5) A local authority who are not the highway authority may exercise the powers conferred on the highway authority by subsection (1) of this section in relation to any street vested in them and, with the consent of the highway authority, in relation to any street in their district which is a highway maintainable at the public expense.

(6) Section 82 of the Act of 1959 (which empowers highway authorities and local authorities to plant trees and lay out grass verges in highways) shall cease to apply to highways vested in the Council or a local authority, or to any such land as is referred to in subsection (1) of this section, and anything done by the Council or a local authority under that section, or under section 1 of the Roads Improvement Act, 1925, with respect to such highways or land before the passing of this Act shall be deemed to have been done under this section.

PART IV —*cont.*

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

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

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

Signs indicating stopping places for public service vehicles.

46.—(1) A local authority or parish council may, with the consent of the highway authority, and subject to such conditions as the highway authority may impose, provide, erect and maintain in proper and convenient situations within their district or parish, on or near to the route of any public service vehicles, signs or directions indicating the position of stopping places on such routes.

(2) A local authority or parish council may enter into and carry into effect agreements with any persons authorised to run public service vehicles within their district or parish in relation to the provision, erection and maintenance of any such signs or directions and as to the contributions to be made by any such person towards the cost of the provision, erection and maintenance thereof.

(3) The exercise of powers conferred by this section shall be subject to the provisions of the Road Traffic Act, 1960, and to any regulations made, or any general or other directions given, by the Minister of Transport in pursuance of the said provisions.

(4) In this section " public service vehicle " has the same meaning as in section 117 of the Road Traffic Act, 1960.

Erection of village place names.

47.—(1) A rural district council or parish council may, with the consent of the highway authority, and subject to such conditions as the highway authority may impose, provide, erect and maintain in proper and convenient situations within their district or parish place-name signs of such size, colour and type as they may, subject to such consent, from time to time determine.

(2) Any sign provided or erected under this section shall comply with any order or regulation made by the Minister of Transport in respect of traffic signs, or any general or special directions given by him, in pursuance of the Road Traffic Act, 1960.

PART IV —*cont.*

Extension of section 126 of Highways Act, 1959.

48.—(1) Subsection (1) of section 126 of the Act of 1959 (which empowers highway authorities to authorise the erection of stiles, gates and other works in footpaths or bridleways for securing the efficient use of land for agriculture) shall, in its application to the county, have effect as if for the purposes of that section " agriculture " included the use of land for woodlands whether or not that use is ancillary to the farming of land for other agricultural purposes.

(2) Where statutory undertakers represent to the highway authority for a footpath or bridleway that, for the purpose of protecting against pollution any water, whether on the surface or underground, which belongs to the undertakers or which they are for the time being authorised to take, it is expedient that stiles, gates or other works for preventing the ingress or egress of animals should be erected on the footpath or bridleway, the highway authority shall have the same power to authorise the erection of stiles, gates or other works as they have in a case where a representation is made to them under the said section 126, and that section shall apply accordingly.

Oil pipes and manholes in streets.

49.—(1) The owner or occupier of any premises situated under, or abutting on part of, a street in any district may, with the consent of the highway authority, provide—

(*a*) pipes under the street for conveying oil for use or storage to such premises; or

(*b*) manholes in the street in connection with any such pipes.

(2) In giving their consent under this section the highway authority may attach thereto such terms and conditions as they think fit, and such terms and conditions, and any conditions imposed by them under subsection (5) of this section, shall be binding on successive owners and occupiers of the premises and shall be treated as a local land charge for the purposes of the Land Charges Act, 1925.

(3) Any person aggrieved by the refusal of the highway authority to give a consent under subsection (1) of this section or by any term or condition imposed by the highway authority under subsection (2) or subsection (5) of this section may appeal to a magistrates' court.

(4) If any person carries out any works to provide pipes or manholes as aforesaid without the consent of the highway authority, or fails to comply with any term or condition of a highway authority imposed on him under subsection (2) or subsection (5) of this section, he shall, subject to any order made on appeal, but without prejudice to any other liability to which he may be subject, be liable to a fine not exceeding five pounds.

PART IV —*cont.*

(5) (*a*) Before the highway authority determine to give any consent under this section, they shall give at least twenty-eight days' notice of the application therefor to the Postmaster General and to any statutory undertakers who appear to them to be concerned, and on giving any such consent shall attach thereto such conditions as the Postmaster General or any such statutory undertakers may reasonably require for the protection of any apparatus belonging to, or used or maintained by, the Postmaster General or those statutory undertakers.

(*b*) As soon as may be after the highway authority have given a consent under this section they shall give notice thereof to the Postmaster General and to any such statutory undertakers.

(6) (*a*) Nothing in this section shall authorise any person to alter, or require any alteration of, any telegraphic line belonging to or used by the Postmaster General.

(*b*) In this subsection "alter" and "alteration" have the same meanings as in the Telegraph Act, 1878.

(7) The Act of 1950 shall not apply to the provision of pipes or manholes under subsection (1) of this section.

(8) This section shall not apply to—

(*a*) any street belonging to or repairable by the British Railways Board; or

(*b*) a pipe-line (as defined in section 65 of the Pipe-lines Act, 1962), being a pipe-line which may be placed in a street under the provisions of section 15 of the Pipe-lines Act, 1962, and in exercise of the powers given by that section; or

(*c*) the carrying out of any works in a street by statutory undertakers in the exercise of their statutory powers.

Licence to erect scaffolding.

50.—(1) Any person may, in connection with any building operations or work of demolition, or in connection with the alteration, repair, maintenance or cleansing of the exterior of any building, erect or place, or cause to be erected or placed, any scaffolding, obstruction or projection constituting an obstruction (each of which is hereafter in this section referred to as "scaffolding") in, upon or over any street in the county if he has previously obtained a licence from the highway authority and complies with such terms and conditions as may be attached to the licence:

Provided that the highway authority shall be entitled to refuse a licence only on the grounds that the scaffolding would cause an avoidable or unreasonable obstruction of the highway.

(2) Any scaffolding erected under a licence granted under this section shall be sufficiently lighted during the hours of darkness:

PART IV —*cont.*

Provided that this subsection shall not apply to scaffolding projecting over the footway of a street but not over the carriageway if no part thereof is less than eight feet above the level of the footway measured vertically and if the nearest part thereof to the carriageway is at least one foot six inches from the carriageway measured horizontally.

(3) If any person without a licence from the highway authority erects or places, or causes to be erected or placed, any scaffolding in, upon or over any street in the county, or contravenes the terms or conditions attached to any licence granted under this section, he shall be liable for every such offence to a fine not exceeding five pounds and to a daily fine not exceeding forty shillings.

(4) Any person aggrieved by the refusal of the highway authority to grant a licence under this section, or by the terms and conditions attached to any such licence, may appeal to a magistrates' court.

(5) No licence shall be required under this section in respect of any scaffolding erected or placed by the British Railways Board for the purpose of constructing, reconstructing or maintaining any works pursuant to their statutory powers.

Conditional consent under section 146 of Highways Act, 1959.

51.—(1) Where a highway authority determine to give a consent under section 146 of the Act of 1959 (which makes provision for the regulation of the deposit of things and the making of excavations in streets) to the temporary deposit of building materials, rubbish or other things in a street, or to the making of a temporary excavation in a street, they may attach thereto such reasonable conditions as they think fit, including such conditions as may be required, to secure that the person to whom the consent is given complies with the reasonable requirements of statutory undertakers for the protection of any apparatus belonging to, or maintained by, them in the street or for securing access to such apparatus.

(2) Where it appears to the highway authority that any statutory undertakers may be concerned by an application for a consent under section 146 of the Act of 1959, they shall, before determining to give the consent, give due notice of the application to such undertakers and take into consideration any representations which may, within such reasonable time specified in the notice, be made to them by such undertakers.

(3) A person aggrieved by any conditions so attached to a consent given under the said section 146 may appeal to a magistrates' court.

(4) Subsection (4) of the said section 146 shall apply in relation to a contravention of any condition so attached to a consent given under that section as it applies to a contravention of the provisions of subsection (3) of that section.

PART IV —*cont.*

Miscellaneous

Exercise by Council of powers with respect to county roads.

52.—(1) The provisions of the Act of 1959 mentioned in subsection (2) of this section shall apply in relation to—

(*a*) any county road (not being a claimed county road) in the county; and

(*b*) any road constructed by the Council or by some other person by agreement with them which, when completed, is intended to become a county road;

and shall have effect as if the Council were the local authority in whose area the road is situated.

(2) The provisions of the Act of 1959 hereinbefore referred to are the following:—

Section 74 (which empowers a local authority to fix a frontage line where a building in a street is taken down in order to be rebuilt or altered);

Subsection (7) of section 131 (which provides that certain dangerous projections from buildings are to be deemed obstructions to safe and convenient passage along streets); and

Section 132 (which relates to doors and other things opening outwards into streets).

(3) The Council shall not in the exercise of the powers of this section perform or discharge any of the functions under the provisions mentioned in subsection (2) of this section in any urban district except at the request of, and by agreement with, the local authority of the district and, during the continuance of any such agreement, the functions to which the agreement relates shall cease to be exercisable by the local authority in relation to the road to which the agreement applies:

Provided that nothing in this subsection shall prevent the Council from exercising any powers conferred on them by any other enactment.

(4) Any agreement made under the provisions of this section may relate to any one or more roads in a district.

Enforcement of improvement line.

53.—(1) In the case of a street in relation to which an improvement line has been prescribed under section 72 of the Act of 1959 or section 33 of the Public Health Act, 1925, the highway authority may, for the purpose of avoiding obstruction to the view of persons using the street or other inconvenience or unsightliness arising from irregularity of the boundary of the street, by notice require the owner of any building, which, or any part of which, was beyond, or in front of, the improvement line at the time when the line was prescribed, to demolish, set back or alter the said building within such reasonable time as may be specified

PART IV —*cont.*

in the notice, not being less than six months from the date of the service of the notice, so that it shall not project beyond, or in front of, the improvement line.

(2) (*a*) If, within twenty-eight days of the date of the service by the highway authority of a notice under subsection (1) of this section, the person on whom the notice is served gives counter-notice to the highway authority objecting to any of the requirements specified in the notice and stating the reasons for his objection, the notice shall not take effect unless it is confirmed by the Lands Tribunal, either without modifications or subject to such modifications as the tribunal may determine.

(*b*) The tribunal shall disregard any objection to a notice under subsection (1) of this section which they are satisfied is an objection to the improvement line prescribed.

(*c*) The tribunal shall not confirm a notice under subsection (1) of this section if it appears to them that—

(i) the notice is not justified by the terms of subsection (1) of this section;

(ii) the highway authority have refused unreasonably to approve the execution of works alternative to those required by the notice, or the works so required are otherwise unreasonable in character or extent or are unnecessary; or

(iii) the time specified in the notice within which the works are to be executed is not reasonably sufficient for the purpose;

and, in a case within sub-paragraphs (ii) and (iii) of this paragraph, that it would not be equitable to modify the notice.

(*d*) Without prejudice to the provisions of paragraph (*c*) of this subsection, the tribunal shall not confirm a notice under subsection (1) of this section where it appears to them that—

(i) any requirement in the notice cannot be complied with without material detriment to the interest of the person on whom the notice is served in the building to which the notice relates, or the land on which it is situated, or any adjoining land in which that person has an interest ; and

(ii) that person is able and, in the circumstances of the case, willing to sell the building to the highway authority, with or without adjoining lands, on terms not less favourable to the highway authority than those on which they could have acquired the building under a compulsory purchase order made under section 214 of the Act of 1959 (which authorises the acquisition of lands for the improvement of streets) and the Act of 1946.

PART IV —*cont.*

(*e*) Where a notice under subsection (1) of this section has been confirmed by the tribunal it shall have effect as from the date on which the highway authority serve on the owner of the building to which it relates a copy of the notice as so confirmed.

(3) For the purpose of complying with any notice under subsection (1) of this section, the owner may, notwithstanding anything in any lease or other agreement, enter upon any land or building affected by any requirement of the notice and carry out the work required by the notice.

(4) (*a*) Where a building is demolished, set back or altered in compliance with a notice under subsection (1) of this section, any owner or tenant thereof may recover from the highway authority compensation for the damage or loss sustained by him in consequence of the compliance, and the amount of the compensation shall, in case of dispute, be determined by the Lands Tribunal.

(*b*) Rules 2 to 4 of the rules set out in section 5 of the Land Compensation Act, 1961 (which provides rules for valuation on a compulsory acquisition), shall apply to the calculation of compensation under this subsection in so far as it is calculated by reference to the depreciation of the value of the interest of the owner or tenant in the building.

(5) In determining the amount of the compensation payable under this section to the owner or tenant of a building in a case where—

(*a*) he has an interest in land abutting on so much of the improvement line, as immediately before the service of the notice under subsection (1) of this section, intersected, or abutted on, the building or land occupied in connection therewith; and

(*b*) the value of his said interest is enhanced by reason of the widening or improvement of the street;

the amount of the enhancement in value shall be set off against the compensation.

(6) If any person fails to comply with a notice under this section, he shall be liable to a fine not exceeding twenty pounds and the highway authority may do all such things as may be necessary to comply with the notice and recover the cost of so doing from that person.

(7) In this section " building " includes a structure.

Application of section 144 of Highways Act, 1959 to Council.

54. The Council may exercise the powers of section 144 of the Act of 1959 (which makes provision for the fencing of dangerous land adjoining a street) in relation to any land adjoining a county road (not being a claimed county road) in the county as if they were the local authority in whose area the road is situated.

PART IV —*cont.*

Prevention or restriction of vehicular access to and from county roads.

55.—(1) The Minister of Transport on the application of a highway authority may, for the purpose of facilitating the movement of vehicular traffic along, or the safety of the public on, any county road (or on any proposed widening, improvement, realignment or reconstruction thereof), authorise the highway authority to construct and maintain works in, and at the junction of, any other street for the prevention or limitation of access by vehicular traffic to or from such county road (or any proposed widening, improvement, realignment or reconstruction thereof) from or to any such street.

(2) Before making application to the Minister of Transport for an authorisation under subsection (1) of this section, the highway authority shall—

(*a*) cause notice of the proposed application to be published in at least one newspaper circulating in the locality in which the road to which the application relates is situated, specifying the nature of the proposal and stating that a copy of the proposed application is open to inspection at a specified place in that locality and the period, which shall not be less than twenty-eight days, within which any persons affected thereby may send to the said Minister, and to the highway authority, objections in writing; and

(*b*) affix copies of the said notice in conspicuous places at each end of the road to which the application relates;

and the said Minister shall consider any such objections received before the expiration of the period so specified and, if he thinks fit, cause a local inquiry to be held with respect to the proposal.

(3) Before making any application for an authorisation under subsection (1) of this section, the highway authority shall, where they are not the local authority for the district in which the road is situated, consult with the local authority, and the Minister of Transport, before exercising his powers under subsection (1) of this section, shall consider any representations made by the local authority.

(4) Before making application for an authorisation under subsection (1) of this section relating to any highway adjoining, or near to, any station or depot of the British Railways Board, the highway authority shall consult with that board.

(5) An authorisation given under subsection (1) of this section shall include power to light any works so authorised, to pave, grass or otherwise cover such works, or any part of them, to erect pillars, walls, rails or fences on, around or across such works, or any part of them, and to plant trees, shrubs and other vegetation either for ornament or in the interests of safety.

PART IV —*cont.*

(6) The highway authority may alter or (with the consent of the Minister of Transport) remove any works constructed by them under this section.

(7) In relation to any works done by the highway authority pursuant to an authorisation under subsection (1) of this section, being works to which, apart from this subsection, the provisions contained in Part II of the Act of 1950 (which regulate the relations between an authority carrying out road alterations and undertakers whose apparatus is affected thereby) would not apply, the said provisions shall apply as if the works were executed for road purposes by an authority mentioned in subsection (1) of section 21 of that Act and were included in the works mentioned in paragraph (*a*) of the said subsection (1) of section 21.

(8) If any person, without lawful authority, removes or interferes with any works constructed pursuant to an authorisation under subsection (1) of this section, he shall be liable on summary conviction to a fine not exceeding five pounds.

Temporary stoppage of footpaths and bridleways.

56.—(1) For the purpose of the execution of any works on or near a public footpath or bridleway in the county the highway authority may restrict or prohibit temporarily the use of that footpath or bridleway, or of any part thereof:

Provided that—

(*a*) the highway authority shall not exercise the powers of this section so as to deprive persons bona fide going to or from any building or land of reasonable access to the building or land;

(*b*) the exercise by the highway authority of the powers of this section in relation to any footpath or bridleway in the county shall not prejudice or affect the right of the Postmaster General or any statutory undertakers—

(*a*) to maintain, inspect, repair, renew or remove any telegraphic line or apparatus belonging to, or used or maintained by, him or them which may for the time being be under, in, upon, over, along or across that footpath or bridleway; or

(*b*) for the purpose of such maintenance, inspection, repair, renewal or removal, to enter upon or break open that footpath or bridleway.

(2) The powers of this section may be exercised by a parish council for the purposes of the execution of works for the maintenance of any footpath or bridleway undertaken by them as if they were the highway authority for the footpath or bridleway.

PART IV —*cont.*

Street lighting.

57.—(1) Section 84 of the Act of 1959 (which empowers the Council to light county roads) shall extend to empower the Council, for the purposes of lighting any county road (other than a claimed county road) to maintain lamps, lamp-posts and other materials and apparatus provided in pursuance of an agreement for the adoption of the highway under section 40 of that Act, or in the execution of street works under the code of 1875 or the code of 1892, in the street before it becomes a highway maintainable at the public expense.

(2) Where the Council propose to enter into an agreement under the said section 40 for the provision of means of lighting any highway, or to include, in street works required to be executed under the code of 1875 or the code of 1892, works for the provision of means of lighting any street, being a highway or street in any area in which a street lighting authority have power to light roads, the Council shall consult the street lighting authority.

(3) In this section " street lighting authority " has the same meaning as in section 84 of the Act of 1959.

Sale of food and articles on verges, etc.

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

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

(3) (*a*) This section applies to all trunk roads in the county, to such parts of the classified roads A 5086, A 5091, A 5093, A 591, A 594, A 595 and A 686 as are situate in the county, and to any other county road, or part of a county road, in the county to which the Minister of Transport may by order, on the application of the highway authority, apply this section.

(*b*) Before making application for an order under this subsection, the highway authority shall publish once at least in each of two successive weeks in a local newspaper circulating in the locality in which the road is situated a notice stating the general effect of the intended order, and stating that within a period

PART IV —*cont.*

specified in the notice (not being less than twenty-eight days from the first publication of the notice) any person may object to the application by sending notice of his objection and of the grounds thereof to the Minister of Transport and by sending a copy thereof to the highway authority.

(*c*) If, before the expiration of the period specified in the notice, any objection to the application is received by the Minister of Transport from any person appearing to him to be affected, the said Minister shall, before making the order, cause a local inquiry to be held and consider the report of the person who held the inquiry.

(4) Nothing in this section shall apply to—

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

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

Provision of parking places on trunk roads and county roads.

59.—(1) Where for the convenience of persons using a trunk road or county road (other than a claimed county road) it appears to the Council to be necessary to provide parking places for vehicles, they shall have for such purpose the powers of a local authority under section 81 of the Road Traffic Act, 1960, to provide, in the county, parking places (other than underground parking places), and the said powers, as extended to the Council by virtue of this section, shall include powers to provide and maintain any camping places, refreshment rooms, office accommodation, shelters, cloakrooms or other conveniences for use in connection with any such parking place.

(2) Accordingly, the said section 81 in its application to the Council shall have effect as if—

(*a*) references to a parking place were construed as including references to any such camping places, refreshment rooms, office accommodation, shelters, cloakrooms or other conveniences;

(*b*) in subsection (1) for the words " purpose of relieving or preventing congestion of traffic " there were substituted the words " convenience of persons using a trunk road or county road (other than a claimed county road) within the meaning of the Highways Act, 1959 " and the words " whether above or below ground and " were omitted ;

PART IV —*cont.*

(*c*) in subsection (16) the words from " and for the purposes of this section " to the end of the subsection were omitted;

(*d*) for subsection (17) there were substituted the following subsection:—

" (17) Any power conferred by this section to provide a parking place includes power to maintain it and any buildings comprised in it "; and

(*e*) subsections (9) and (18) were omitted;

and subsections (2) to (7) and (12) and (15) of section 11 and section 14 of the Road Traffic and Roads Improvement Act, 1960, and section 30 of the Road Traffic Act, 1962, shall have effect as if the Council were a local authority within the meaning of the said section 81.

(3) Subsections (1) to (3) and (7) of section 13 of the Road Traffic and Roads Improvement Act, 1960, and section 34 of the Road Traffic Act, 1962, so far as it amends section 81 of the Road Traffic Act, 1960, shall not apply to the Council, and in the rest of the said section 13 references to the said section 81 shall be construed as references to that section as applied by virtue of this section.

(4) Where the Council propose to acquire any land or to utilise any land appropriated by them for the purposes of subsection (1) of this section, they shall, before carrying the proposal into effect—

(*a*) cause notice of the proposal (specifying the land to which it relates and notifying the period, which shall not be less than twenty-eight days, within which any representations relating to the proposal shall be sent in writing to the Council) to be published in at least one newspaper circulating in the area in which the land is situate and a copy of the notice to be posted for not less than fourteen days on, or adjacent to, the land ; and

(*b*) consider any representations which are sent to them in writing within the time fixed in that behalf and give notice of their decision on the representations to the person by whom they were made.

(5) The Council shall not themselves provide or sell refreshments at any refreshment room or other premises provided for the purposes of subsection (1) of this section, and any refreshment room or other premises so provided shall be disqualified for receiving a licence granted by licensing justices under the Licensing Acts, 1953 to 1961, other than a restaurant licence within the meaning of section 1 of the Licensing Act, 1961.

PART V

FIRE PROTECTION

Parts of buildings used for storage of inflammable substances.

60.—(1) This section applies to—

(*a*) any building of which part (hereafter in this section referred to as " the storage part of the building ") is used, or intended to be used, for the storage for the purposes of sale or trade of any substance to which this section applies and part is used, or intended to be used, as a habitable room or a place in which any person works, if the part used, or intended to be used, as a habitable room or a place in which a person works communicates directly or indirectly with, or is adjacent to, or constructed at a higher level than, the storage part of the building;

(*b*) any substance which is gaseous at a temperature of thirty-three degrees Fahrenheit at atmospheric pressure and which is inflammable, and any other substance which, when tested by a method approved by the Secretary of State, gives off an inflammable vapour at a temperature of less than one hundred and fifty degrees Fahrenheit:

Provided that this section shall not apply to any building in which no substance to which this section applies is stored other than—

(i) one or more of the substances to which sections 1 and 2 of the Petroleum (Consolidation) Act, 1928, apply; or

(ii) any substance which does not, when tested by a method approved by the Secretary of State, give off an inflammable vapour at a temperature of less than eighty degrees Fahrenheit and which is stored in securely closed metal containers in good condition and containing not more than five gallons each; or

(iii) any substance which does not, when tested by a method approved by the Secretary of State, give off an inflammable vapour at a temperature of less than eighty degrees Fahrenheit and which is stored in separate glass or glazed earthenware vessels securely stoppered and the aggregate amount of all such substances stored in such manner would not, if the whole contents were in bulk, exceed twenty-five gallons.

(2) The occupier of any part of a building to which this section applies in a district which, after the appointed day, is used or intended to be used for the storage for the purposes of sale or

PART V —*cont.*

trade of any substances to which this section applies shall give notice to the local authority of such use, or intention to use (as the case may be), and such notice shall be given—

(*a*) in the case of any part of a building which is so used immediately before the appointed day, within twenty-one days after the appointed day; and

(*b*) in the case of any part of a building which after the appointed day is intended to be so used, not less than twenty-one days before such user takes place.

(3) If the local authority are of the opinion that the storage for the purposes of sale or trade of any substances to which this section applies in any part of a building to which this section applies in their district is—

(*a*) in such quantity as to be likely to prove a source of danger to any person inhabiting or using any part of the building as a habitable room or as a place where any person works; or

(*b*) in such manner as to be liable to cause fire or explosion;

they may by notice require the occupier of any part of the building (whether or not notice has been served in respect thereof under subsection (2) of this section) to provide, within such reasonable period as may be specified in the notice—

(i) adequate means for extinguishing fire and safeguards to prevent the spread of fire to or from the storage part of the building;

(ii) means of ready escape in case of fire from the storage part of the building and any other part of the building, being a part comprising a habitable room or a place in which any person works if that other part communicates directly or indirectly with, or is adjacent to, or constructed at a higher level than, the storage part of the building;

(iii) notices in or on the storage part of the building indicating the existence of danger from fire.

(4) The occupier of any building who—

(*a*) by reason of a restriction affecting his interest in the building, is unable to execute works for the purpose of complying with a notice given by the local authority under subsection (3) of this section; or

(*b*) considers that the owner of the building, or any other person having an interest therein, should contribute towards the cost of the execution of works as aforesaid, and is unable to agree with the owner or such other person as to whether such a contribution should be made or as to the amount thereof;

PART V —*cont.*

may apply to the county court for an order to enable the execution of such works as may be necessary for the purpose of complying with the notice, or, as the case may be, to direct the owner of the building, or any other person who appears to the court to have an interest therein, to contribute towards the cost of such works as aforesaid such an amount as appears to the court, in all the circumstances of the case, to be fair and reasonable, and the court may on such application make an order in respect of either or both of the matters aforesaid accordingly.

(5) Upon compliance with a notice under subsection (3) of this section the local authority shall forthwith issue to the person to whom the notice was given a certificate of such compliance.

(6) (*a*) If, after a certificate of compliance with a notice under subsection (3) of this section has been granted by the local authority, any material extension or material structural alteration of the building to which the certificate relates is made, the local authority may serve a further notice varying any requirement made under subsection (3) of this section in respect of that building.

(*b*) Upon compliance being made with such varied requirements the local authority shall amend the certificate or grant a new certificate in respect of the building, but if anything required to be provided in accordance with a further notice served under this subsection is not provided within such reasonable time as may be specified in the notice, the local authority may cancel the certificate previously granted in respect of the building.

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

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

(*b*) The result of any test of a sample taken by an authorised officer of the local authority by virtue of this section shall not be admissible as evidence in any legal proceedings under this section, including an appeal under subsection (9) of this section, unless the following requirements have been complied with, that is to say, the said officer shall forthwith after taking the sample, notify the occupier of the building of his intention to have

PART V —*cont.*

it tested and shall there and then divide the sample into three parts, shall cause each part to be placed in a suitable container, which shall be sealed up and marked, and shall—

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

(ii) retain one part for future comparison; and

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

(9) (*a*) Any person aggrieved by a requirement of the local authority under subsection (3) of this section, or by a variation of a requirement under subsection (6) of this section, may appeal to a magistrates' court on any or all of the following grounds:—

(i) that the requirement or variation is not justified by the terms of this section;

(ii) that the requirement or variation is unreasonable in character or extent;

(iii) that the period specified in the notice is not reasonably sufficient for the purpose of complying with the requirements in the notice.

(*b*) Any person aggrieved by the refusal of the local authority to grant or amend a certificate under this section or by the cancellation of a certificate under subsection (6) of this section may appeal to a magistrates' court.

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

(11) In this section " building " where used in relation to the storage of substances therein includes the curtilage of the building.

(12) Nothing in this section shall apply to premises which are subject to the Factories Act, 1961, or the Offices, Shops and Railway Premises Act, 1963 or regulations made under those Acts.

Oil-fired boilers.

61.—(1) As from the appointed day any person intending to install or place oil-burning equipment in any building in a district, whether erected before or after the passing of this Act, or on any land in a district, shall give not less than fourteen days' notice to the local authority of his intention to do so.

(2) (*a*) The local authority may make byelaws for securing that, in relation to any oil-burning equipment so installed or placed after the coming into operation of the byelaws, proper arrangements are made for preventing or reducing danger from fire, and, for that purpose, prescribing the works, apparatus and fittings and fire-fighting appliances to be provided in connection

PART V —*cont.*

with the installation or placing of oil-burning equipment in any such building, or on any such land, as aforesaid and the mode of arrangement of any such works, apparatus, fittings and appliances.

(*b*) The confirming authority in respect of byelaws made under this section shall be the Secretary of State and in relation thereto section 250 of the Act of 1933 (which makes provision as to the procedure for making and confirming byelaws) shall have effect as if in subsection (6) thereof after the word " confirm " where it secondly occurs there were inserted the words " or confirm with modifications ".

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

(*b*) If the local authority do not, within two months from the submission of plans and specifications of any equipment under this subsection, notify the person by whom they were submitted of the rejection or passing of the said plans and specifications, they shall be deemed to have passed them.

(4) If, in relation to the installation or placing of any oil-burning equipment in any building or on any land, the local authority are satisfied that proper arrangements will be made for preventing or reducing danger from fire, they may, on the application of the person proposing to install or place such equipment, approve the installation or the placing of the equipment notwithstanding that it may not comply with the appropriate specification for such equipment contained in the byelaws.

(5) (*a*) Any person aggrieved by the refusal of the local authority to approve the installation or placing of any equipment under subsection (4) of this section may, within twenty-one days from the receipt of notification of the refusal, appeal to the Secretary of State.

(*b*) Where an appeal is brought under this subsection the Secretary of State may dismiss or allow the appeal, or may vary the decision of the local authority 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 local authority given under this section.

PART V —*cont.*

(6) For the purposes of paragraph (*a*) of subsection (1) of section 287 of the Public Health Act, 1936, as applied by this Act, the provisions of this section, and of any byelaws made thereunder, shall be provisions which it is the duty of the local authority to enforce.

(7) (*a*) If any person installs oil-burning equipment in any building or on any land in a district without giving notice to the local authority in accordance with subsection (1) of this section, he shall be liable to a fine not exceeding fifty pounds.

(*b*) If any person contravenes any byelaw made under subsection (2) of this section, he shall be liable to a fine not exceeding fifty pounds, and if—

(i) that person, after conviction of the contravention; or

(ii) any other person, after notice of the conviction has been served on him by the local authority;

uses the oil-burning equipment in contravention of that byelaw, he shall be liable to a fine not exceeding ten pounds for each day on which he so uses it.

(8) In this section—

" oil-burning equipment " means a boiler designed or adapted for the combustion of oil and includes the burner, 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;

" 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 " includes pipes and pipe fittings, taps, valves, pumps, gauges, vessels, fans and filters.

(9) Nothing in this section or any byelaws made thereunder shall apply to—

(*a*) any oil-burning equipment if the storage tank or tanks supplying or designed or adapted to supply oil to the boiler has or have a total capacity not exceeding seven hundred and fifty gallons; or

(*b*) the installation of any oil-burning equipment in any building in respect of which a licence under the Cinematograph Acts, 1909 and 1952, is for the time being in force; or

(*c*) the installation by the Central Electricity Generating Board, the North Western Electricity Board, the

PART V —*cont.*

Northern Gas Board, the North Western Gas Board or the British Railways Board, for the purposes of their respective undertakings, of any oil-burning equipment in or on any building or land, other than in houses or in buildings used as offices or showrooms not being, in the case of the British Railways Board, buildings so used which form part of a railway station.

(10) The provisions of any byelaw made under this section shall cease to apply in relation to any premises to which the Factories Act, 1961, applies on the coming into force in relation to those premises of regulations made under that Act and relating to the same subject-matter as this section.

As to consultation by local authorities with fire authority.

62.—(1) Subject to the provisions of this section, a local authority shall consult with the Council as the fire authority—

(*a*) before granting, with or without conditions, a petroleum spirit licence under the Petroleum (Consolidation) Act, 1928;

(*b*) before exercising their functions under sections 59 or 60 of the Public Health Act, 1936 (which require a local authority to reject building plans for certain public and other buildings unless satisfactory exits, entrances and passages are provided and to reject building plans for certain high buildings unless means of escape from fire are provided);

(*c*) before constructing in their district any building, other than a building to which building regulations do not apply by virtue of paragraph (*b*) of section 71 of the Public Health Act, 1936 (which exempts from building regulations certain buildings constructed in accordance with plans approved by the Minister of Agriculture, Fisheries and Food);

(*d*) before serving a notice under subsection (3) of section 60 (Parts of buildings used for storage of inflammable substances) of this Act;

(*e*) before making any byelaws under section 61 (Oil-fired boilers) of this Act or approving, under subsection (4) of that section, the installation or placing of equipment which does not comply with the appropriate specification contained in those byelaws;

(*f*) before issuing a site licence, with or without conditions to which this paragraph applies or altering any such conditions attached to a site licence, or providing a site for caravans under the Caravan Sites and Control of Development Act, 1960.

PART V —*cont.*

(2) For the purposes of subsection (1) of this section, so far as it relates to the matters referred to in paragraph (*a*) thereof, the expression " a local authority " shall include a harbour authority, as defined in the Petroleum (Consolidation) Act, 1928, within the county.

(3) No consultation in respect of the matters specified in paragraphs (*b*), (*c*), (*d*) and (*e*) of subsection (1) of this section shall be required in relation to the erection of—

(*a*) a one-storeyed private dwelling-house of a capacity of less than eighteen thousand cubic feet, or such other capacity as the Secretary of State may by order prescribe; or

(*b*) a private dwelling-house of two storeys neither of which storey has a floor area of more than one thousand square feet, or of such other area as the Secretary of State may by order prescribe;

not being a flat or maisonette.

(4) Paragraph (*f*) of subsection (1) of this section applies to conditions for securing that proper measures are taken for preventing and detecting the outbreak of fire and that adequate means of fire fighting are provided and maintained, and consultation in respect of the matters specified in that paragraph shall only be required in relation to such measures for preventing and detecting the outbreak of fire and such means of fire fighting.

(5) An order under subsection (3) of this section shall be made by statutory instrument.

Notification to fire authority of application for licence for public dancing, etc.

63. An applicant for a licence, or for the transfer of a licence, for the use of any premises in the county for public dancing, singing, music or other public entertainment under Part IV of the Public Health Acts Amendment Act, 1890, shall send to the Council a copy of the notice of his intention to make such application.

Prescription of signs to be used on certain buildings.

64.—(1) The Council may, in relation to any substance to which this section applies—

(*a*) prescribe standard uniform signs or symbols or warning notices in a form approved by the Secretary of State clearly indicating the nature of the substance and the existence of danger from fire;

(*b*) by notice require the occupier of any part of a building used for the manufacture or storage of the 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.

PART V —*cont.*

(2) This section applies to any substance likely to involve special hazard to persons engaged in operations for fire-fighting purposes.

(3) If any person fails to comply with the requirements of the Council under this section he shall be liable to a fine not exceeding ten pounds and to a daily fine not exceeding five pounds.

(4) In this section "fire-fighting purposes" has the same meaning as in the Fire Services Act, 1947.

Firemen's switches for luminous tube signs.

65.—(1) This section applies to apparatus consisting of luminous tube signs designed to work at a voltage normally exceeding six hundred and fifty volts, or other equipment so designed, and of the transformers required to raise the voltage so as to operate the signs or equipment, not being apparatus which is inside a building and is attended while in operation.

(2) As from the coming into operation of this section apparatus to which this section applies in the county shall be provided with a cut-off switch on the low-voltage side of the transformer, and the switch shall be so placed, and coloured or otherwise marked, as to satisfy such reasonable requirements as the Council may impose to secure that it shall be readily accessible to, and recognisable by, firemen.

(3) Not less than fourteen days before work is begun to install apparatus to which this section applies, the consumer shall give notice to the Council showing where the cut-off switch is to be placed and how it is to be coloured or otherwise marked.

(4) Where apparatus to which this section applies has been installed before the date of the coming into operation of this section, the consumer shall, not less than fourteen days before that date, give notice to the Council—

(*a*) in the case of apparatus already provided with a cut-off switch on the low-voltage side of the transformer, showing where the switch is placed and how it is coloured or otherwise marked;

(*b*) in the case of apparatus not already provided with such a cut-off switch as aforesaid, showing where the switch is to be placed and how it is to be coloured or otherwise marked.

(5) Where notice has been given to the Council as required by subsection (3) or subsection (4) of this section, the proposed or, as the case may be, actual, position, colouring or marking of the switch shall be deemed to satisfy the requirements of the

PART V —*cont.*

Council unless, within ten days from the date of the service of the notice, if the notice is served under subsection (3) of this section, or within twenty-one days from the date of the service of the notice, if the notice is served under subsection (4) of this section, the Council have served on the consumer a counter-notice stating that their requirements are not satisfied.

(6) A cut-off switch which complies with the regulations of the Institution of Electrical Engineers shall for the purposes of this section be deemed to satisfy the requirements of the Council.

(7) A person aggrieved by a counter-notice served by the Council under subsection (5) of this section may appeal to a magistrates' court and the court, if it allows the appeal, shall order the cancellation of the counter-notice.

(8) If the owner or the occupier of any premises where apparatus to which this section applies is installed does not comply with subsection (2) of this section he shall be liable to a fine not exceeding five pounds and to a daily fine not exceeding forty shillings.

(9) If any person fails to give notice as required by subsection (3) or subsection (4) of this section, he shall be liable to a fine not exceeding five pounds.

(10) The provisions of this section shall not affect the requirements of the Electricity Supply Regulations, 1937, or any regulations that may be made under section 60 of the Electricity Act, 1947.

(11) This section shall not apply to apparatus installed on or in premises, or any part of premises, in respect of which a licence under the Cinematograph Acts, 1909 and 1952, is for the time being in force:

Provided that where any luminous tube sign to which, but for this subsection, this section would apply is proposed to be fitted on or in any such premises, the owner or occupier thereof shall before such apparatus is fitted, give notice under subsection (3) of this section to the Council informing them of the position in which it is proposed to place the cut-off switch.

(12) This section shall come into operation in the county on the 1st day of October, 1964.

(13) (*a*) The Council shall as soon as may be after the passing of this Act, cause public notice to be given of the effect of the foregoing provisions of this section by advertisement in two or more newspapers circulating in the county, and otherwise in such manner as the Council think fit.

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

PART V —*cont.*

Instructions, lectures, etc., on questions relating to fire services, etc.

66.—(1) The Council may arrange for—

(*a*) the publication of information on questions relating to fire services, fire fighting and precautions for avoiding the occurrence of fires in the county;

(*b*) the delivery of lectures and addresses and the holding of discussions on such questions; and

(*c*) the display of pictures, cinematograph films or models or the holding of exhibitions relating to such questions.

(2) The Council may prepare, or join in, or contribute to the cost of, the preparation of, pictures, films, models or exhibitions relating to such questions to be displayed or held whether within or outside the county.

PART VI

HEALTH, WELFARE AND EDUCATION, ETC.

Insurance of certain voluntary workers.

67.—(1) The Council may enter into a contract with any person whereby, in consideration of payments made by way of premium or otherwise by the Council, that person undertakes to pay to the Council such sums as may be provided in the contract in the event of any voluntary health service assistant or voluntary welfare service assistant meeting with a personal accident, whether fatal or not, while he is engaged as such, or suffering any disease or sickness, whether fatal or not, as a result of being so engaged.

(2) Any sum received by the Council under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by the Council to, or to the personal representatives of, the voluntary health service assistant or voluntary welfare service assistant who suffered the accident, disease or sickness in respect of which the sum is received.

(3) The provisions of the Life Assurance Act, 1774, shall not apply to any such contract, but any such contract shall be deemed for the purposes of the Insurance Companies Act, 1958, to be a policy of insurance upon the happening of personal accidents, disease or sickness.

(4) In this section " voluntary health service assistant " and " voluntary welfare service assistant " mean a person who, at the request of the Council, or a duly authorised officer of the Council, performs any service or does anything, otherwise than for profit or reward, for the purposes of, or in connection with, the carrying out of any of the functions of the Council under the National Health Service Act, 1946, the National Assistance Act, 1948, the Disabled Persons (Employment) Act, 1958, and the Mental Health Act, 1959, and any other enactment relating to the health or

PART VI —*cont.*

welfare services of the Council (as the case may be) and includes any officer of a voluntary organisation which provides in the county services or facilities of the kind provided by the Council in pursuance of these functions.

Boarding out of aged and handicapped persons.

68. In pursuance of their duty under paragraph (*a*) of subsection (1) of section 21 of the National Assistance Act, 1948, to provide residential accommodation for persons who, by reason of age, infirmity or any other circumstances, are in need of care and attention which is not otherwise available to them, the Council may make arrangements, on such terms as to payment by the Council and otherwise as the Council may determine, for boarding out such persons, and for the purposes of the said Act of 1948 accommodation in which any such person is for the time being boarded out under this section shall be deemed to be accommodation provided under Part III of the said Act of 1948.

Prohibition on solicitation of children to sell or exchange articles at schools.

69.—(1) While any child is entering or leaving any school in the county, or is entering or leaving any yard or playground appurtenant to any such school, or is in any such yard or playground, no person shall solicit such child—

(*a*) to sell to such person any article or thing;

(*b*) to exchange with such person any article or thing for any other article or thing.

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

(3) In this section—

" child " has the same meaning as in section 114 of the Education Act, 1944;

" article or thing " includes any animal, fish, bird or other living thing.

Power to lend museum objects for educational purposes.

70. Any work of art or other object in the possession of the Council for the purposes of any museum provided by them may be used by them for educational purposes and circulated to schools, colleges and other educational establishments in the county or loaned to any such establishment for such period and subject to such conditions as the Council may determine.

Disposal of museum objects, etc.

71.—(1) The Council may sell, exchange or give, or otherwise dispose of, or hire or lend any object or work of art vested in them which, in the opinion of the Council, is not required for exhibition or use in any museum, art gallery or other building of the Council.

(2) Where any object or work of art has become vested in the Council by virtue of a gift or bequest—

(*a*) the Council shall, if reasonably practicable, consult with the donor or his executors or trustees before exercising the powers of this section; and

PART VI —*cont.*

(*b*) the powers conferred by this section to sell, exchange, give or otherwise dispose of it shall not, during a period of thirty-five years commencing on the date on which it became so vested, be exercisable as respects that thing without the consent of the donor, or his executors or trustees, unless after reasonable inquiry the donor or his executors or trustees cannot be found.

(3) Any moneys received by the Council in the exercise of the powers of this section shall be applied by them in the purchase of museum specimens or works of art.

Contributions to cultural bodies.

72.—(1) The Council may, upon such terms and conditions as may be agreed by them with any body rendering public service to the inhabitants of the county, or any part of the county, by means of cultural activities carried on either wholly or partly within the county, contribute such sum or sums as they may determine to be reasonable in the circumstances of the case towards the funds or towards the expenses of such body.

(2) Nothing in this section shall derogate from the provisions of any other enactment enabling the Council to pay, or contribute towards, the expenses of carrying on activities for the benefit of the county or the inhabitants thereof :

Provided that the amount of any expenditure incurred by the Council under this section shall not in any financial year exceed the equivalent of one-tenth of the product of a penny rate for the county, as ascertained or estimated for the purposes of subsection (2) of section 9 of the Rating and Valuation Act, 1925.

(3) In this section—

" body " includes an association, institution, society or similar organisation and a company howsoever constituted;

" cultural activities " includes the provision of public entertainment having cultural value and the provision and maintenance of any museum or art gallery.

Return of library books, etc.

73.—(1) In this section—

" a library " means any library maintained under the Public Libraries Acts, 1892 to 1919, by a library authority (either alone or in combination with another authority), and any library maintained under the said Acts any part of the cost of the maintenance of which is borne by a library authority;

" a library authority " means the library authority for any area or district within the county for which the Public Libraries Acts, 1892 to 1919, have been adopted;

" article " includes a book, music (whether printed or manuscript), pamphlet, manuscript, gramophone record or specimen of art;

PART VI —*cont.*

and in relation to a library maintained by two or more authorities in combination, or the cost of the maintenance of which is shared by two or more authorities, references to the authority by whom the library is maintained shall be construed as references to those authorities.

(2) Any person borrowing an article from a library shall not be entitled to retain the same after the expiration of such period (not being less than fourteen days) after the date of the borrowing thereof as may be prescribed in relation to that article by the authority by whom the library is maintained, and for the purposes of this provision the authority may prescribe different periods for different kinds of books or articles.

(3) The authority by whom the library is maintained may recover from any person failing to return any article borrowed from that library within such period as may be prescribed as aforesaid such reasonable sum as they may prescribe in respect of each day or each week or part of a week during which he fails to return the article, together with any expenses incurred in sending to him notices in respect of the article:

Provided that the sum prescribed as aforesaid shall not exceed sixpence, or such greater sum as may be approved from time to time by the Minister of Education, in respect of any week or part of a week during which the article is not returned as aforesaid.

(4) Where a library authority become entitled under this section to recover any sum from any person, that person shall not have any right, until that sum has been duly paid, to borrow any other article from any library maintained by that authority.

(5) The powers conferred on a library authority under this section shall be additional to, and not in derogation from, their powers under the Public Libraries Acts, 1892 to 1919, or otherwise with respect to articles borrowed from a library.

Provision of lectures, etc., by Council.

74.—(1) Subject to the provisions of this section, the Council may—

(*a*) provide lecture rooms and cause lectures to be given on such subjects as the Council think fit;

(*b*) provide rooms for art exhibitions and provide or permit art exhibitions in such rooms;

(*c*) make reasonable charges for admission to such lectures and exhibitions; and

(*d*) let any rooms provided under this section on such terms as the Council think fit.

(2) The sum to be expended by the Council in any one financial year under this section on the provision of lectures and on the provision of art exhibitions shall not, for either such purpose, exceed the equivalent of one-third of the product of a penny rate as ascertained or estimated for the purpose of subsection (2) of

PART VI —*cont.*

section 9 of the Rating and Valuation Act, 1925, in addition to any moneys received by the Council under the provisions of this section.

(3) The Council may use, or allow to be used, or let, any part of any public library provided by them, and not at the time required for the purpose of a library, for public and other meetings, and for lectures, exhibitions and performances for, or in connection with, the advancement of art, education, drama, science, music or literature.

(4) The Council may provide and sell, or authorise the provision and sale of, programmes of any lectures, exhibitions or performances given in pursuance of this section.

(5) Nothing in this section shall be taken to dispense with the consent of a Minister of the Crown to any appropriation, lease or other disposition of any lands of the Council in any case in which such consent would have been required if this section had not been enacted.

(6) Nothing in this section shall affect the provisions of any enactment by virtue of which a licence is required for the public performance of stage plays or for public music or dancing or other public entertainment of the like kind or a cinematograph exhibition.

Power to publish bulletins, etc.

75.—(1) In connection with their powers under section 74 (Provision of lectures, etc., by Council) of this Act, and under the Public Libraries Acts, 1892 to 1919, the Council may publish and sell, or dispose of, bulletins, journals, periodicals and leaflets and documents of historical or literary interest having a local connection.

(2) Nothing in this section shall affect the rights of any person under the law for the time being relating to copyright.

PART VII

FINANCE

Power to borrow.

76.—(1) The Council may borrow—

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

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

(*c*) without the consent of any sanctioning authority, such sums as may be requisite for the purpose of lending under section 77 (Power to Council to lend money to certain authorities) of this Act;

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

PART VII —*cont.*

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

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

Power to Council to lend money to certain authorities.

77.—(1) The Council may lend to any local authority such money as the Council think fit to lend and as the local authority are authorised to borrow, and any money so lent shall be repaid to the Council by the local authority within the period prescribed by the sanctioning authority, or otherwise, for the repayment thereof.

(2) Any agreement under this section may be made by resolutions passed respectively by the Council and by the local authority.

(3) Every sum borrowed by the Council for the purpose of this section shall be repaid within the period to expire not more than one year after that for which the same was lent by them to the local authority.

(4) The Council shall be entitled to charge such rate of interest in respect of any particular loan under this section as may be agreed between the Council and the borrower:

Provided that the Council shall ensure, so far as it is reasonably practicable to do so, that, having regard to all the circumstances existing at the time the loan is made, the rate of interest agreed is such that no loss is incurred by the Council in respect of the loan.

(5) All costs, charges and expenses incurred by the Council in respect of any particular loan under this section shall be met by the borrower.

(6) In this section " local authority " means the council of any county district in the county and any other authority having jurisdiction within the county, being a local authority as defined by section 34 of the Local Loans Act, 1875, and includes any river board or drainage board having jurisdiction within the county and any joint board if all the constituent authorities are such local authorities as aforesaid.

Closing of registers.

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

PART VII —*cont.*

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

Receipt in case of minors.

79. If any money is payable by the Council to any employee (other than wages or salary), or to any creditor, or to the holder of any authorised security, and the person entitled to such payment is a minor, the receipt of the guardian shall be a sufficient discharge to the Council.

Recovery of sums paid to officers.

80. Where the Council have paid in advance to any officer of the Council, or to any officer whose salary or wages are payable by the Council, the amount of his salary or wages, and such officer dies before the expiration of the period in respect of which such payment is made, the Council shall not be required to demand the return of any portion, not being more than ten pounds, of such payment.

Officers acting as receivers, etc.

81.—(1) The Council may pay to any of their officers who acts in any of the following capacities:—

(*a*) as the receiver appointed by an order made under Part VIII of the Mental Health Act, 1959;

(*b*) as the administrator of the estate of a deceased person acting by virtue of a grant made to him as the nominee of the Council;

(*c*) as a surety to a bond required by law from an officer acting in accordance with paragraph (*a*) of this subsection;

the amount of any sum forfeited by him to the Crown or the Principal Probate Registrar, or the amount of any payment which the officer is liable to make by reason of his acting in any such capacity as aforesaid.

(2) The Council may pay the amount of any premiums upon an insurance policy indemnifying an officer acting in one of the capacities mentioned in subsection (1) of this section against any act, neglect or default, whether his own or that of any other person, occurring in the course of the receivership or administration.

(3) Any payments which the Council have power to make under the provisions of subsection (1) of this section, and any of the risks referred to in subsection (2) of this section, may for the purposes of section 59 (Insurance fund of Council) of the Act of 1948 be treated as risks against which the Council would ordinarily insure and that section shall be construed accordingly.

Expenses of investment of superannuation fund.

82. All costs, charges and expenses incurred by the Council in investing moneys forming part of the superannuation fund maintained by them, or otherwise in relation thereto, shall be paid by the Council out of that fund.

PART VII —*cont.*

Exclusion of certain remuneration and service for superannuation purposes.

83.—(1) Subject to the provisions of subsection (4) of this section, subsection (2) of this section applies to employees—

(*a*) who are contributory employees for the purposes of the Local Government Superannuation Acts, 1937 to 1953; or

(*b*) who are teachers employed in contributory service within the meaning of the Teachers (Superannuation) Acts, 1918 to 1956; or

(*c*) who are firemen participating in the Firemen's Pension Scheme; or

(*d*) who by virtue of the provisions of rule 3 of the Superannuation (Policy and Local Government Schemes) Interchange Rules, 1948, are not subject to the provisions of the Local Government Superannuation Acts, 1937 to 1953;

and who are employed whole-time by the Council, a local authority, a magistrates' courts' committee, a probation committee, the managers or governors of a voluntary school, a local valuation panel or any voluntary organisation, undertakers or other body approved by the Minister and who participate in the benefits of the superannuation fund maintained by the Council.

(2) The salary, wages, fees and other payments paid or made (whether before or after the passing of this Act) to an employee to whom this subsection applies in respect of any part-time employment (not being employment the duties of which may be performed during the hours which such employee is normally required to devote to his ordinary whole-time employment) by the Council or any other authority or body the employees of which participate in the benefits of the superannuation fund maintained by the Council—

(*a*) as an instructor or other employee performing duties at, or for the purposes of, an evening institute or for the purposes of evening classes; or

(*b*) as a warden of, or other employee performing duties at, or for the purposes of, a youth centre; or

(*c*) as a civil defence instructor; or

(*d*) in any other capacity for the performance of duties which are not duties which he may be called upon to perform in his ordinary whole-time employment;

shall not be remuneration within the meaning of the Local Government Superannuation Acts, 1937 to 1953, or of any other enactment affecting the superannuation fund maintained by the Council under those Acts, and the service of any such contributory employee in any such part-time employment shall not be reckoned as service for any of the purposes of those Acts.

(3) Where, before the passing of this Act, any person to whom subsection (2) of this section applies has paid any contribution

PART VII —*cont.*

or contributions to the superannuation fund maintained by the Council which would not have been so paid if this section had been in force when such contribution or contributions were made, the Council shall repay to such person a sum equal to the amount of such contribution or contributions, together with compound interest thereon calculated to the date of repayment at the rate of three pounds per centum per annum with half-yearly rests.

(4) Subsection (2) of this section shall not apply to any such person as is referred to in subsection (3) of this section unless within six months after the passing of this Act he gives notice in writing to the Council that the said subsection (2) is to apply to him, whereupon that subsection shall apply to him as if this Act had come into force on the date of the receipt by the Council of such notice.

(5) In this section, unless the subject or context otherwise requires, words and expressions to which meanings are assigned in the Local Government Superannuation Acts, 1937 to 1953, have the same respective meanings.

Transfer of certain sums from superannuation fund.

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

(2) If a contributory employee of an employing authority whose employees participate in the benefits of the superannuation fund maintained by the Council is dismissed, resigns or otherwise ceases to hold employment in consequence of an offence of a fraudulent character or grave misconduct by reason of which the employing authority have suffered direct financial loss, the Council shall, on demand from the employing authority, pay to them out of such fund an amount equal to so much of the employee's contributions to the fund as the employing authority have not directed to be returned to the employee or paid to his wife or family, or the amount of such loss suffered by the employing authority in consequence of his offence or misconduct, whichever is the less:

Provided that where a payment in lieu of contributions falls to be made in respect of the employee under the National Insurance Act, 1959, the Council shall not under this subsection be required to pay to the employing authority so much of the employee's contributions as amounts to one-half of such payment in lieu of contributions.

PART VII —*cont.*

(3) In this section " contributory employee " and " employing authority " have the same respective meanings as in the Local Government Superannuation Act, 1937.

As to proof of continued existence of pensioners.

85. Notwithstanding anything in the Local Government Superannuation Acts, 1937 to 1953, the Council shall not be required to make any payment by way of superannuation allowance or pension under those Acts, or under the Pensions (Increase) Acts, 1920 to 1962, or any other superannuation, pension, compensation or other such payment under any statutory authority to, or for the benefit of, any person unless satisfactory proof is given to the Council, in such manner and at such times as they may from time to time require, of the continued existence of such person.

Gratuities to non-teaching staff in voluntary schools.

86. For the purposes of section 18 of the Local Government Superannuation Act, 1953 (which authorises the granting of gratuities to employees and others), as applied to the Council, a person employed in a voluntary school in the county, otherwise than as a teacher, shall be deemed to be employed by the Council, and the Council may grant to any such person a gratuity in accordance with the provisions of the said section 18.

Determination of sums for maintenance.

87. In any case in which the Council are empowered (in whatever terms the power is conferred) to recover the whole, or any part, of the cost incurred by them—

(1) in respect of the accommodation or maintenance of any person, or the provision of health services for any person, in any premises which are provided or maintained by the Council, or to the cost of the provision or maintenance of which the Council contribute; or

(2) in respect of the accommodation or maintenance of any person in any premises which are not provided or maintained by the Council, or to the cost of the provision or maintenance of which the Council do not contribute;

the Council, for the purpose of ascertaining such cost, may determine that two or more such premises (being premises used for comparable purposes) shall be regarded as one and that such cost shall be ascertained by reference to the expenses incurred in respect of such premises regarded as one.

Power to charge in respect of establishment expenses.

88. Without prejudice to section 292 of the Public Health Act, 1936 (which relates to charges in respect of establishment expenses on work done under that Act), and to that section as applied by any other enactment, where, under any enactment, the Council are empowered to execute works at the request of, or in default of, the owner or occupier of any premises and to recover from him the expenses incurred by them in so doing, they may include in, and recover as part of, the expenses such additional sum, not exceeding five per centum of the cost of the works, as they think fit in respect of their establishment charges.

PART VII —*cont.*

Modification of mortgages by endorsement under hand.

89. Notwithstanding anything in any enactment or in any rule of law or otherwise to the contrary, where it is agreed between the Council and a person at any time entitled to any mortgage granted by the Council to extend the time for the repayment of the principal moneys secured by such mortgage, or to alter the rate of interest payable by the Council on the principal moneys so secured and not repaid, or both to extend such time and to alter such rate of interest, effect may be given thereto by an endorsement in writing under the hands of such person (or in the case of a corporate body, by the duly authorised representative of that body) and of the clerk of the Council or his duly authorised representative, endorsed on the deed by which such mortgage was originally granted, and the provisions of any such endorsement shall be deemed to be incorporated in the said deed and shall, as from the date specified in such endorsement, operate and take effect accordingly.

As to repayment of loans under Small Dwellings Acquisition Acts, 1899 to 1923.

90. Notwithstanding anything in subsection (5) of section 1 of the Small Dwellings Acquisition Act, 1899 (which empowers the Council, and local authorities who have duly undertaken to act under that Act, to advance money to residents in houses for the purchase of houses), where any person repays any part of any advance made to such person by the Council or a local authority under the Small Dwellings Acquisition Acts, 1899 to 1923, it shall not be obligatory upon the Council or the local authority (as the case may be) to reduce, in accordance with the table referred to in the said subsection, the amount of each periodical payment subsequently to be made by such person, and the periodical payments may accordingly remain unvaried, and in that event the period during which the advance is to be repaid shall be appropriately reduced.

Notice of variation of rent, etc.

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

(*a*) four weeks after the service thereof; or

(*b*) the date on which, if this section had not been enacted, the tenancy could have been terminated by serving a notice to quit on the date of the service of the notice under this section;

whichever shall be the later:

PART VII —*cont.*

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

False statements to obtain rent rebates, etc.

92.—(1) If a person, for the purposes of obtaining for himself or another person—

(*a*) the tenancy or occupation of a house belonging to, or at the disposal of, the Council; or

(*b*) a grant, loan, allowance or other payment by, or on behalf of, the Council; or

(*c*) a reduction of a rent, rate, charge, or other payment due, or to come due, to the Council;

knowingly or recklessly makes, or permits to be made, to the Council, or to any committee of the Council or member of the Council or employee of the Council, a statement which is false in a material particular about his, or that other person's, needs or means, he shall be liable to a fine not exceeding fifty pounds or to imprisonment for a term not exceeding three months or to both such fine and term of imprisonment.

(2) Where the making of a false statement for any of the purposes aforesaid is an offence under any enactment other than the Perjury Act, 1911, it shall not be an offence under this section.

(3) The court by which a person is convicted of an offence under this section may, by the conviction, adjudge him—

(*a*) to repay to the Council a sum not exceeding the amount of the grant, allowance or other payment, not being a loan, obtained by means of the false statement;

(*b*) to pay to the Council a sum not exceeding the difference between any reduced payment accepted by the Council in faith of the false statement and the payment which the Council would otherwise have accepted.

Recovery of rates from certain owners.

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

PART VII —*cont.*

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

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

(3) This section shall not apply to any hereditaments to which subsection (1) of section 11 of the Rating and Valuation Act, 1925, applies by virtue of a resolution of the local authority.

Recovery of water rates and charges by local authorities.

94. The following provisions shall have effect with respect to the collection by a local authority of water rates and charges in pursuance of any agreement entered into between the local authority and a joint board authorised to supply water in the county, or in pursuance of any requirement made by such a joint board, under any enactment relating to the board:—

(1) For the collection and recovery of such rates or charges the local authority shall have the same powers as they have for the collection and recovery of the general rate:

(2) The same books and forms of demand note and receipt may be used for the general rate and such rates or charges.

Application of general rate fund for certain purposes.

95. If, in respect of any financial year, the moneys received by a local authority on account of the revenue of any of their undertakings (including the interest and other annual proceeds received by the local authority in that year on the investments representing, or forming part of, any authorised fund provided in connection with the undertaking) shall exceed the moneys expended or applied by the local authority in respect of that undertaking properly chargeable to revenue, the local authority may, in respect of that year, if they think fit, apply out of the general rate fund a sum not exceeding the amount of such excess to any of the following purposes:—

(*a*) in the reduction of capital moneys borrowed for the purpose of the undertaking; or

(*b*) in the renewal, construction, extension or improvement of any works and conveniences for the purposes of the undertaking; or

(*c*) towards the provision of any reserve fund in respect of the undertaking which the local authority are authorised to provide.

Application of provisions in Part VII to local authorities.

96.—(1) The provisions of this Part of this Act mentioned in subsection (2) of this section shall apply to a local authority, and for that purpose those provisions shall have effect subject

PART VII —*cont.*

to the substitution for references therein to the Council of references to the local authority and to the modifications specified in subsection (3) of this section and any other necessary modifications.

(2) The provisions hereinbefore referred to are the following:—

Section 79 (Receipt in case of minors);

Section 80 (Recovery of sums paid to officers);

Section 81 (Officers acting as receivers, etc.);

Section 85 (As to proof of continued existence of pensioners);

Section 88 (Power to charge in respect of establishment expenses);

Section 89 (Modification of mortgages by endorsement under hand);

Section 91 (Notice of variation of rent, etc.);

Section 92 (False statements to obtain rent rebates, etc.).

(3) In its application to a local authority the said section 81 shall have effect as if—

(*a*) paragraphs (*a*) and (*c*) of subsection (1) were omitted; and

(*b*) in subsection (3) after the words " Act of 1948 " there were inserted the words " as extended by section 69 (Insurance fund of local authorities) of that Act".

PART VIII

MISCELLANEOUS

Supply of goods by Council to other authorities.

97.—(1) The Council may purchase and store and supply to an authority any goods or materials required for the discharge of the functions of that authority, and for those purposes the Council and any authority may enter into and carry into effect agreements and do all such other acts as may be necessary or convenient:

Provided that the Council shall not, in pursuance of this section, supply building materials to an authority for the purpose of the erection, alteration or extension or repair and maintenance of houses or other buildings by that authority.

(2) In this section " authority " means—

(*a*) a local authority or a joint committee appointed by two or more local authorities;

(*b*) any statutory undertakers or other body of persons discharging functions in pursuance of any enactment;

PART VIII —*cont.*

(*c*) a voluntary organisation in receipt of a grant lawfully made by the Council within twelve months of the exercise of the powers of this section;

(*d*) the council of the county borough of Carlisle.

Provision of reciprocal services, etc., by Council and other bodies.

98.—(1) For the better performance of their respective powers or duties, provision may be made by agreement between any of the Council and the local authorities, or between the Council or any of the local authorities and any authority or body specified in subsection (4) of this section, for the taking by either party thereto of action of the following kinds:—

(*a*) the undertaking by one party for the other of any administrative, clerical, professional or technical services;

(*b*) the use or maintenance by one party of any vehicle, plant, equipment or apparatus of the other party and, if it appears convenient, the services of any staff employed in connection therewith;

(*c*) the carrying out of works of maintenance by one party in connection with land or buildings for the maintenance of which the other is responsible.

(2) Where provision could be made either by an agreement under this section or by virtue of the powers conferred by section 271 of the Public Health Act, 1936, it shall be made under the said section 271 and not under this section.

(3) In its application to the use of any mechanical road-making equipment or plant the provisions of subsection (1) of this section shall extend to enable the Council to let for hire such equipment or plant to any local authority or any authority or body specified in subsection (4) of this section or any person carrying out work for, or on behalf of the Council.

(4) The authorities and bodies hereinbefore referred to are the council of any administrative county other than the Council, the council of a county borough and the Cumberland River Board and, in the application of subsection (1) of this section to the Council, include any voluntary organisation in receipt of a grant lawfully made by the Council within twelve months of the exercise by the Council of the powers of that subsection.

Electronic or mechanical accounting equipment.

99. At any time after the Council have provided any electronic or mechanical accounting equipment for the purposes of all or any of their accounting work, they may, by agreement with any local authority or other person, use, or permit that local authority or person to use, the said equipment for the purposes of that local authority or person and they may make such charges as may be agreed for the use of the said equipment.

PART VIII —*cont.*

As to minutes of council meetings, etc.

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

(2) The provisions of subsection (1) of this section shall apply to the standing joint committee and for that purpose shall have effect subject to the substitution for references therein to the Council of references to the standing joint committee and to any other necessary modifications.

(3) The provisions of subsection (1) of this section shall apply to a local authority and for that purpose shall have effect subject to the substitution for references therein to the Council of references to the local authority and to any other necessary modifications.

Securing of unoccupied houses under Housing Act, 1957.

101.—(1) (*a*) Before accepting, under section 16 of the Housing Act, 1957, an undertaking that any house will not be used for human habitation until the authority cancel the undertaking, a local authority may require an additional undertaking that, until the first-mentioned undertaking is cancelled, the premises will be effectively secured so as to prevent, so far as is reasonably practicable, the entry into the premises, or any part thereof, when unoccupied, of any person other than a person authorised by the owner or the local authority.

(*b*) Section 17 of the Housing Act, 1957, shall, subject to any necessary modifications, apply in relation to any such additional undertaking as it applies in relation to such undertaking as is mentioned in the said section 16.

(2) Where—

(*a*) by a closing order made under sections 17, 18, 26 or 35 of the Housing Act, 1957, a local authority have ordered any house or building, or any part thereof, to be closed; or

(*b*) by a clearance order made under section 44 of the Housing Act, 1957, a local authority have ordered any building, or any part thereof, to be vacated, and in such a case it appears to the local authority that the building, or the part thereof (as the case may be), will not be, or is

PART VIII —*cont.*

unlikely to be, demolished within six weeks from the date when, in pursuance of the order, the premises are vacated;

they may, by notice to the owner of the house or building, require him, within such reasonable time as may be specified in the notice (not being less than seven days from the date when the notice becomes operative), to do such things in relation to the house or building, or the part thereof (as the case may be), as are reasonably required effectively to secure it so as to prevent the entry into the premises, when unoccupied, of any person other than a person authorised by the owner or the local authority.

(3) A notice under subsection (2) of this section shall not require a person, when he has effectively secured a house or building, or any part thereof, as may be required in the notice, to keep the premises so secured but, if at any time after the premises have been so secured it appears to the local authority that they are no longer so secured, they may, after giving to the owner not less than forty-eight hours' notice of their intention to do so, themselves do such things in relation to the house or building, or part thereof, as will so secure the premises against entry.

(4) Sections 10, 11 and 37 of the Housing Act, 1957 (which make provision for enforcement of certain notices and with respect to appeal against, and the date of operation of, such notices) shall, subject to any necessary modifications, apply in relation to a notice under subsection (2) of this section.

(5) A notice shall not be given under subsection (2) of this section in any case where the local authority have approved the use for any purpose of any premises which have been ordered to be closed so long as the premises are used for that purpose.

(6) Nothing in this section shall prejudice the powers of a local authority to take steps to deal with any dangerous building under section 25 of the Public Health Act, 1961.

(7) In this section—

"house" has the same meaning as in the Housing Act, 1957;

"owner" includes any person deemed to be the person having control of the house for the purposes of Part II of that Act.

Protection of dangerous excavations.

102.—(1) Where there is on any land in their district a pond, well, mineshaft, quarry or other excavation which, by reason of its being unfenced or inadequately fenced or otherwise inadequately protected, constitutes a source of danger to children or other persons, the local authority may pay, or contribute to the payment

PART VIII —*cont.*

of, any expenses incurred in the execution, by any person who has the right to do so, of any works of repair, protection or enclosure which may be required to obviate the danger:

Provided that, in the case of any such excavation in respect of which any person may, under section 144 of the Act of 1959, or section 151 of the Mines and Quarries Act, 1954, be required to execute works to obviate the danger, the local authority shall only pay, or contribute to the payment of, the expenses of executing such works where they are satisfied that it would be unreasonable in the circumstances of the case for such person to be required to bear the expense, or the whole of the expense (as the case may be), of executing such works.

(2) If in the case of any such pond, well, mineshaft, quarry or other excavation as aforesaid on any land in their district—

(*a*) the local authority are unable, after making reasonable inquiry, to ascertain the name and address of the owner or occupier of the land; or

(*b*) the local authority have, by notice given to the owner or occupier of the land, requested the execution of such works of repair, protection or enclosure as they may consider necessary to obviate the danger and, despite an offer made by the local authority to pay or contribute to the payment of any expenses incurred by the owner or occupier in the execution of such works, the works are not executed within such reasonable time thereafter as may be necessary for the purpose;

the local authority may, subject to the provisions of subsection (3) of this section, themselves execute such works at their own expense.

(3) (*a*) Where, in a case referred to in paragraph (*b*) of subsection (2) of this section, the local authority propose themselves to execute works on any land they shall, before carrying the proposal into effect, serve notice on the owner or occupier of the land specifying the place where they propose to execute such works and the nature of the works proposed and the period, which shall not be less than twenty-eight days, within which notice of objection to the proposal may be sent in writing to the local authority, and including notice of the right of appeal under paragraphs (*b*) and (*c*) of this subsection.

(*b*) The local authority shall consider any notice of objection sent to them by the owner or occupier of the land within the period so specified and give notice of their decision on the objection to the person by whom it was made.

PART VIII —*cont.*

(*c*) If that person is aggrieved by the decision of the local authority he may, within twenty-one days after receiving notice thereof, appeal to a magistrates' court, and the court shall have power to make such order in the matter as it considers reasonable.

(4) If in pursuance of subsection (2) of this section, or of an order of a court made under paragraph (*c*) of subsection (3) of this section, the local authority themselves execute works of repair, protection or enclosure on any land, they shall, unless otherwise agreed in writing between the local authority and the owner or occupier of the land and unless otherwise provided in any such order of the court, maintain those works.

(5) The Council may pay such contributions as they think fit towards any expenses incurred by any person (including a local authority) in executing works in relation to any such pond, well, mineshaft, quarry or other excavation in the county for the purpose of obviating danger to persons.

Aerodrome undertaking.

103.—(1) In the event of a local authority to whom this section applies establishing, in pursuance of sections 19 and 20 of the Civil Aviation Act, 1949 (which empower local authorities to provide aerodromes and to carry on ancillary businesses), an aerodrome, with or without any ancillary business in connection therewith, (in this section referred to as "the aerodrome undertaking") they may either—

(*a*) themselves manage the aerodrome undertaking, making such reasonable charges in respect thereof as they think fit; or

(*b*) subject to the provisions of subsection (6) of the said section 19, let it, or any part thereof, for such consideration, and on such terms and conditions, as they think fit:

Provided that nothing in this subsection shall authorise any variation of a scale of charges approved or prescribed by the Minister of Aviation in pursuance of powers conferred on him by or under the said Act.

(2) The local authority may make byelaws with respect to the aerodrome undertaking, and for maintaining order in, and for regulating the use of, any premises used in connection therewith.

(3) The aerodrome undertaking shall be in the same relation to the Minister of Aviation, and subject to the like control by him under the Civil Aviation Act, 1949, as if this Act had not been passed.

(4) This section applies to the following local authorities:—

The Whitehaven Corporation;

The Workington Corporation.

PART VIII —*cont.*

Removal of vehicles.

104.—(1) If a vehicle is left in a district elsewhere than on a road or in an off-street parking-place provided under section 81 of the Road Traffic Act, 1960, the local authority may, with the consent of the occupier of the land on which the vehicle is left and after giving not less than seven days' notice to the owner of the vehicle, cause it to be removed:

Provided that, where the vehicle appears to the local authority to be abandoned—

(*a*) the local authority may cause it to be removed without the consent of the occupier of the land if they are unable, after reasonable inquiry, to ascertain his name and address; and

(*b*) the local authority may cause the vehicle to be removed without notice to the owner thereof if they are unable, after reasonable inquiry, to ascertain his name and address.

(2) The provisions of any regulations for the time being in force under section 43 of the Road Traffic Act, 1960 (which relates to the removal of vehicles from roads), about the method of removing vehicles and their loads and arrangements for the safe custody of vehicles and their loads, shall apply to vehicles removed under this section.

(3) Section 15 of the Road Traffic and Roads Improvement Act, 1960 (which relates to charges for the removal and storage of vehicles), and any order for the time being in force under that section, shall apply to a vehicle removed under this section as if it had been removed from a road in pursuance of regulations under section 43 of the Road Traffic Act, 1960.

(4) For the purpose of the said section 15 and any such order as applied by the last foregoing subsection, " the appropriate authority " means the local authority, and any reference in regulations made under section 43 of the Road Traffic Act, 1960, to a charge to payment of which the local authority are entitled under the said section 15 shall be construed accordingly.

(5) If it appears to the local authority that a vehicle removed under this section has been abandoned, the local authority may sell, or otherwise dispose of it, subject to compliance with such regulations as are for the time being in force under section 43 of the Road Traffic Act, 1960, relating to the disposal of vehicles abandoned on roads, and the provisions of any regulations under that section relating to the proceeds of the sale of vehicles abandoned on roads and to the recoupment of costs incurred in connection with the disposal of such vehicles, shall, with the necessary modifications, apply to the sale and disposal of vehicles under this subsection.

PART VIII —*cont.*

(6) A notice given to the owner of a vehicle under subsection (1) of this section shall state the powers of the local authority under subsection (5) of this section to sell or otherwise dispose of the vehicle if it appears to them that it has been abandoned.

(7) In this section " owner " in relation to a vehicle which is the subject of a hiring agreement or hire-purchase agreement means the person in possession of the vehicle under that agreement.

Extension of power to maintain burial grounds

105.—(1) The powers of a burial authority in the county in relation to a burial ground maintainable by them shall include power—

(*a*) to put and keep in order any tombstone therein;

(*b*) to level any grave therein;

(*c*) to remove any tombstone or memorial on any grave therein, or any railings surrounding any grave therein or any such tombstone or memorial;

(*d*) to alter the position of any such tombstone, memorial or railings.

(2) Before exercising a power conferred by paragraph (*b*), (*c*) or (*d*) of the foregoing subsection the burial authority shall—

(*a*) publish a notice of their intention to do so once in each of two successive weeks in a local newspaper circulating in their area, with an interval between the dates of publication of not less than six clear days;

(*b*) display a notice thereof in a conspicuous position in the burial ground; and

(*c*) serve a notice thereof upon the owner of the grave, or upon a relative of a deceased person whose remains are interred therein, if after reasonable inquiry the name and address of the owner, or of a relative of such a person, can be ascertained.

(3) Each of the notices shall—

(*a*) contain brief particulars of the burial authority's proposals, and specify an address at which full particulars of the proposals can be obtained, unless the brief particulars are of proposals incapable of further statement;

(*b*) specify the date on which it is intended that the burial authority will begin to carry out the proposals, which shall be not earlier than the fourteenth day after the date of the later of the two publications, or than the twenty-first day after the date on which the notice in the burial

PART VIII —*cont.*

ground is first displayed, or, where notice is required to be served, than the twenty-first day after the date of service whichever is the latest; and

(*c*) state the effect of the next following subsection.

(4) If notice of objection to a proposal, and of the ground thereof, is given to the burial authority before the date specified under paragraph (*b*) of the last foregoing subsection, that proposal shall not be carried out without the consent of the Minister, unless the notice is withdrawn.

(5) The burial authority may put to such use as they think appropriate, or destroy, any tombstone, memorial or railings removed under this section, unless claimed and removed by the person claiming it, or some other person acting on his behalf, within three months after the date of the earlier of the two publications of the notice required by paragraph (*a*) of subsection (2) of this section, or, where notice has been served under paragraph (*c*) thereof, after the date of such service, whichever is the later.

(6) Where a tombstone is removed by the burial authority under this section, the burial authority may erect at their own expense, in substitution, a tombstone of a value not exceeding twenty-five pounds.

(7) The burial authority shall cause a record to be made of each tombstone or memorial taken from the burial ground under this section containing—

(*a*) a copy of any inscription on it; and

(*b*) if it is intended to preserve the tombstone or memorial, a statement showing where it has been taken to;

and shall deposit a copy of the record with the Registrar General.

(8) Nothing in the foregoing provisions of this section shall relieve the burial authority from any obligation to which they are subject, apart from those provisions, to obtain for any work a faculty or licence of a consistory court, but subsections (2) to (4) of this section shall not have effect in relation to any work for which the burial authority obtain such a faculty or licence and subsection (5) thereof shall not have effect in relation to any tombstone, memorial or railings for whose removal such a faculty or licence was obtained.

(9) In this section—

" burial authority " has the same meaning as in section 11 of the Burial Act, 1900;

" burial ground " includes a cemetery;

" grave " includes a grave space;

" tombstone " includes a kerb.

PART VIII —*cont.*

For protection of Commonwealth War Graves Commission.

106.—(1) In this section—

" the Commission " means the Commonwealth War Graves Commission;

" Commonwealth war burial " means a burial of any officer or man of the naval, military or air forces of His Majesty fallen in the war of 1914 to 1921 or in the war of 1939 to 1947.

(2) In relation to any burial ground to which the provisions of section 105 (Extension of power to maintain burial grounds) of this Act apply and in which there are situated any Commonwealth war graves relating to the war of 1914 to 1921 or to the war of 1939 to 1947 the burial authority shall—

(*a*) not later than the date upon which such notice is first published in a newspaper circulating in their area serve upon the Commission a copy of any notice which the burial authority are required to publish pursuant to the said section 105;

(*b*) give written notification to the Commission of their intention to apply for a faculty or licence of a consistory court for the purpose of exercising a power conferred by paragraph (*b*), (*c*) or (*d*) of subsection (1) of the said section 105;

and in any such case shall have due regard to any written representations made by the Commission within a period of one month from the service of the notice or the giving of the notification, as the case may be.

(3) The burial authority shall not in pursuance of the powers of the said section 105 remove any tombstone or other memorial placed or erected over any Commonwealth war grave unless they have first given to the Commission satisfactory assurances in writing in regard to all or such of the following matters as the Commission consider appropriate, namely:—

(*a*) that no other memorial shall be placed or erected over such grave;

(*b*) that any Commonwealth war burial in such grave shall at all times be protected from interference or disturbance otherwise than interference or disturbance authorised by a licence granted by the Secretary of State or authorised by a faculty of a consistory court after prior notification to the Commission of the application for the licence or faculty;

(*c*) that in the case of any tombstone placed or erected by the Commission over any such grave such tombstone

shall be removed only in accordance with such arrangements and in such manner including disposal of the tombstone as shall be agreed in writing between the burial authority and the Commission. PART VIII —*cont.*

(4) If a Commonwealth war burial would be affected by a consent given by the Minister under subsection (4) of the said section 105 the burial authority shall, not later than the date on which the matter is referred to the Minister, inform the Commission in writing of such reference and the Minister shall consider any representations submitted to him by the Commission within a period of twenty-eight days from the date of reference to the Minister.

Power to provide car parks for certain purposes.

107.—(1) The Council may acquire by agreement, whether by way of purchase, lease or exchange, or appropriate any land, situate within the county or the county borough of Carlisle, for the purpose of providing parking places for vehicles used by members or officers of the Council, and may adapt and use for that purpose any land acquired by them under this section.

(2) The provisions of subsection (1) of this section shall apply to a local authority and for that purpose shall have effect subject to the substitution for the references therein to the Council of references to the local authority.

Entry on land for certain purposes.

108.—(1) Whenever it becomes necessary for the Council or a local authority, or any of their officers, contractors or workmen, to enter, examine or lay open any lands (not being lands on which buildings for manufacturing purposes are erected) for the purpose of making plans, surveying, measuring, taking levels or making trial holes, and the owner or occupier of such land or premises refuses to permit the same to be entered upon, examined or laid open for the purposes aforesaid or any of them, the Council or the local authority (as the case may be) may, after written notice to such owner or occupier, apply to a magistrates' court for an order under this section.

(2) If sufficient cause is shown for the application the court may make an order accordingly, and on such order being made the Council or the local authority (as the case may be) or any of their officers, contractors or workmen, may at all reasonable times between the hours of nine in the forenoon and six in the afternoon enter, examine or lay open the lands mentioned in such order for such of the said purposes as are therein specified without being subject to any action or molestation for so doing:

Provided that, except in case of emergency, no entry shall be made or works commenced under this section unless at least

PART VIII —*cont.*

twenty-four hours' notice of the intended entry and of the object thereof be given to the occupier of the lands intended to be entered.

(3) The Council or the local authority (as the case may be) shall at their own expense make good and restore to their former condition any lands laid open by them, or their officers, contractors or workmen, and shall make good, to the reasonable satisfaction of the owner or occupier of the lands entered, all damage or loss sustained by him in consequence of such entry, examination or laying open, and any dispute as to the amount of damage or loss so sustained as aforesaid shall, in default of agreement, be assessed by a magistrates' court, and the amount so assessed shall be recoverable in such court.

(4) If any statutory undertakers refuse to permit any of their operational lands, or the British Railways Board refuse to permit any lands belonging to them and used for the purposes of their undertaking, to be entered upon, examined or laid open for any of the purposes mentioned in subsection (1) of this section, application under that subsection shall not be made to a magistrates' court but any question arising as to whether permission for any such lands to be so entered upon, examined or laid open is unreasonably withheld shall be determined by arbitration, and if the arbitrator shall determine that such permission is unreasonably withheld, the Council or the local authority (as the case may be) shall have the like powers of entering, examining and laying open the said land for the purposes for which permission was refused and be under the same liabilities as under an order of the court made under subsection (2) of this section.

PART IX

GENERAL

Protection of members and officers from personal liability.

109. Section 265 of the Public Health Act, 1875 (which affords protection to local authorities and their members and officers from personal liability) shall apply to the Council and a local authority as if any reference in that section to the said Act of 1875 included a reference to this Act, and as if references in that section to a member of a local authority included reference to a member of a committee of the Council or of a local authority.

For protection of statutory undertakers.

110. For the protection of statutory undertakers, the following provisions shall, unless otherwise agreed in writing between the authority and the undertakers concerned, apply and have effect:—

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

" apparatus " means mains, pipes or other apparatus, and electric lines and works (as respectively defined in the Electric Lighting Act, 1882), belonging to or

PART IX —*cont.*

maintained by any statutory undertakers, and includes any works constructed for the lodging therein of apparatus;

" the authority " means the Council, a local authority or highway authority, as the case may be;

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

" operational land " has the same meaning as in section 221 of the Act of 1962;

" position " includes depth;

" undertakers " means statutory undertakers or any of them, as the case may be:

(2) For the purposes of section 33 (Prohibition of building until street defined) of this Act, land shall not be deemed to be occupied in connection with a building by reason only of the existence of apparatus in such land:

(3) Nothing in the said section 33 or in section 34 (Prohibition of building until street formed and sewered) of this Act shall prevent undertakers from beginning to erect, or proceeding with the erection of, apparatus (including an electricity sub-station, a feeder pillar, a pressure governor or meter house) for the purposes of their undertaking on land abutting on any new street before, in the case of the said section 33, such new street is defined or, in the case of the said section 34, such new street is constructed or sewered in accordance with new street byelaws:

(4) (*a*) Not less than twenty-eight days before the authority in the exercise of the powers of section 36 (Rounding or splaying off corners at street junctions) of this Act require the addition to the carriageway of a street of any portion of a footway or grass margin or garden in which any apparatus is situate the authority shall give to the undertakers concerned notice of their intention so to do accompanied by a plan and section of the intended alteration and the undertakers may (and if reasonably so required by the authority shall) alter the position of the apparatus to such other position in—

(i) the carriageway or footway; or

(ii) the grass margin or garden (if any) as altered;

as may be reasonable;

(*b*) The undertakers shall within twenty-eight days from the receipt of a notice from the authority under sub-paragraph (*a*) of this paragraph give to the authority not less than fourteen days' notice of their intention to

PART IX —*cont.*

alter the position of any apparatus (otherwise than on the requirement of the authority) accompanied by a plan and section of the proposed alteration. If such plan and section is not disapproved by the authority within fourteen days from the receipt thereof the proposed position of the apparatus shown thereon shall be deemed to be approved;

(*c*) The authority shall repay to the undertakers the reasonable expenses incurred by the undertakers of or in connection with the alteration of the position of any apparatus under this paragraph and the reasonable costs of and incidental to (i) the cutting off of any apparatus from any other apparatus and (ii) any other work or thing rendered necessary in consequence of any such works:

Provided that subsections (3) and (4) of section 23 of the Act of 1950 (which imposes limitations on undertakers' rights to payment) shall so far as applicable apply to any payment to be made by the authority under this sub-paragraph as if the works hereinbefore in this paragraph mentioned were such undertakers' works as are referred to in the said subsection (3) and as if in that subsection for the words " specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority " there were substituted the words " agreed or settled by arbitration under section 110 (For protection of statutory undertakers) of the Cumberland County Council Act, 1964 ":

(5) Notwithstanding anything in section 37 (Adjustment of boundaries of estates in connection with streets) of this Act, undertakers shall not, under the provisions of that section, be required to exchange any operational land except with their consent, which shall not be unreasonably withheld:

(6) (*a*) Before the authority determine to give any consent pursuant to section 40 (Restriction on buildings under footways) of this Act they shall give at least twenty-eight days' notice of the application therefor to any undertakers who appear to them to be concerned thereby, and any such consent, if granted, shall contain such reasonable conditions as may be required to secure that the owner or occupier of premises, or the person to whom such consent is given, shall comply with the reasonable requirements of the undertakers for the protection of apparatus;

PART IX —*cont.*

(*b*) As soon as may be after the authority have given a consent under the said section 40 they shall give notice thereof to any such undertakers:

(7) Nothing in section 44 (Verges, etc., of housing estates) or section 45 (Trees, grass verges and gardens) of this Act shall affect the rights of undertakers with respect to apparatus (including the placing of apparatus) in any grass verge, garden or space:

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

(8) Nothing in the following provisions of this Act shall relieve the authority, or any person acting by the requirement or with the consent of the authority, from liability for damage caused by them or him to any apparatus in the exercise of the powers of the said provisions, and the said powers shall be so exercised as not to obstruct or render less convenient, so far as is reasonably practicable, the access to any apparatus:—

Section 44 (Verges, etc., of housing estates);

Section 45 (Trees, grass verges and gardens);

Subsection (1) of section 48 (Extension of section 126 of Highways Act, 1959);

Section 49 (Oil pipes and manholes in streets);

Section 59 (Provision of parking places on trunk roads and county roads):

(9) Before the authority grant any licence under section 50 (Licence to erect scaffolding) of this Act, they shall, except in case of emergency, give due notice of their intention to do so to any undertakers who appear to them to be concerned thereby, and any such licence shall contain such reasonable conditions as the undertakers may, within the period of seven days after the giving of such notice to them, require to secure that the person to whom such licence is granted shall comply with the reasonable requirements of the undertakers for the protection of apparatus or for securing access thereto:

(10) Nothing in section 53 (Enforcement of improvement line) of this Act shall apply to any building of the undertakers which is used by them for the manufacture, distribution or storage of gas or for the generating, transforming, switching, distribution or regulation of electricity or as a pumping station, treatment works or

PART IX —*cont.*

reservoir for water except with the consent of the undertakers concerned which consent shall not be unreasonably withheld:

(11) Nothing in section 60 (Parts of buildings used for storage of inflammable substances) of this Act shall apply to any building, or part of a building, by reason only that part of that building is used, or intended to be used, to contain a pressure governor, meter, booster or other apparatus for, or in connection with, the supply of gas:

(12) (*a*) Before the authority serve a notice under subsection (2) of section 101 (Securing of unoccupied houses under Housing Act, 1957) of this Act they shall give to the undertakers not less than seven days' notice of their intention to do so;

(*b*) Nothing in the said section 101 shall prejudice the right of the undertakers to enter upon any premises in exercise of their statutory powers in that behalf:

Provided that, without prejudice to any other obligation or liability arising in respect of any entry in exercise of statutory powers, any undertakers exercising such powers of entry in respect of any premises required to be secured under the said section 101 shall ensure that the premises are not left less secure by reason of the entry:

(13) (*a*) Any difference which may arise between the authority and any undertakers under this section (other than a difference as to the meaning or construction of this section) shall be determined by arbitration;

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

Apportionment of expenses in case of joint owners.

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

PART IX —*cont.*

Local inquiries.

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

(2) Subsections (2) to (5) of section 290 of the Act of 1933 (which relate to the giving of evidence at, and the defraying of the cost of, local inquiries) shall apply in relation to any such inquiry and for that purpose shall have effect as if the expression " department " in that section included any Minister of the Crown having functions under this Act.

Liability of directors, etc.

113.—(1) Where an offence under any of the provisions of this Act mentioned in subsection (2) of this section 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, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(2) The provisions hereinbefore referred to are the following:—

Section 58 (Sale of food and articles on verges, etc.);

Section 60 (Parts of buildings used for storage of inflammable substances);

Section 61 (Oil-fired boilers);

Section 64 (Prescription of signs to be used on certain buildings);

Section 65 (Firemen's switches for luminous tube signs).

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

Restriction on right to prosecute.

114. The written consent of the Attorney-General shall be requisite for the taking of proceedings in respect of an offence created by or under this Act by any person other than a party aggrieved or the Council or a constable or the local authority, as the case may be.

Appeals.

115.—(1) Section 300 of the Public Health Act, 1936 (which relates to appeals to magistrates' courts) shall apply to appeals to a magistrates' court under this Act (except under the provisions thereof mentioned in subsection (2) of section 117 (Application of general enactments) of this Act) and sections 301 and 302 of

PART IX —*cont.*

that Act (which make provision for appeals to courts of quarter sessions and as to the effect of a decision of any court upon appeal) shall apply accordingly.

(2) Where any requirement, refusal or other decision of the Council or a highway authority or 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 any person to carry on a business which he was lawfully carrying on up to the time of the requirement, refusal or decision, or to use premises for any purpose for which they were lawfully used up to that time;

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

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

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

Arbitration.

116. In arbitrations under a provision of this Act mentioned in the first column of the following table the reference shall be to a single arbitrator to be appointed by agreement between the parties, or, in default of agreement, to be appointed by the person mentioned in the second column of that table on the application of any party after giving notice in writing to the other party or parties:—

Provision of Act	Person appointing arbitrator
Subsection (4) of section 37 (Adjustment of boundaries of estates in connection with streets)	The Minister.
Subsection (4) of section 108 (Entry on land for certain purposes)	The President of the Institution of Civil Engineers.
Paragraph (13) of section 110 (For protection of statutory undertakers)	The President of the Institution of Civil Engineers.

Provided that in arbitrations under paragraph (13) of the said section 110 on any difference arising under paragraph (5) of that section the arbitrator shall, in default of agreement between the parties, be appointed by the Minister.

PART IX —*cont.*

Application of general enactments.

117.—(1) The sections of the Public Health Act, 1936, mentioned in Part I of Schedule 1 to this Act shall have effect as if references therein to that Act included reference to this Act, except the provisions thereof mentioned in subsection (2) of this section.

(2) The sections of the Act of 1959 mentioned in Part II of Schedule 1 to this Act shall have effect as if references therein to that Act included reference to the following provisions of this Act:—

Section 40 (Restriction on buildings under footways);

Section 49 (Oil pipes and manholes in streets);

Section 50 (Licence to erect scaffolding);

Section 58 (Sale of food and articles on verges, etc.).

(3) The sections of the Public Health Act, 1936, mentioned in Part III of Schedule 1 to this Act shall have effect as if references therein to that Act included a reference to section 12 (Protection of foreshore and adjoining land from pollution), Part IV (Highways), Part V (Fire protection) and section 102 (Protection of dangerous excavations) of this Act.

Repeal.

118. The provisions of the Act of 1948 specified in the first column of Schedule 2 to this Act shall, to the extent indicated in the second column thereof, be repealed.

Crown rights.

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

(*a*) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose; 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) Nothing in this section shall prejudice or affect any statutory powers of the Council or any local authority or highway authority—

(*a*) to carry out code-regulated works within the meaning of the Act of 1950, in any highway vested in or maintained by the Minister of Transport; or

PART IX —*cont.*

(*b*) to carry out any works by reason only that such works involve, or are likely to involve, an alteration in any telegraphic line of the Postmaster General in relation to which paragraphs (1) to (8) of section 7 of the Telegraph Act, 1878, apply.

Costs of Act.

120. The costs, charges and expenses preliminary to, and of and incidental to, the preparing, applying for, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the Council out of the county fund, or out of moneys to be borrowed under this Act.

SCHEDULES

SCHEDULE 1

Section 117.

GENERAL ENACTMENTS APPLIED

PART I

SECTIONS OF PUBLIC HEALTH ACT, 1936, APPLIED TO THIS ACT, OTHER THAN SECTIONS 40, 49, 50 AND 58

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

PART II

SECTIONS OF ACT OF 1959 APPLIED TO SECTIONS 40, 49, 50 AND 58 OF THIS ACT

Section	Marginal note
269	Summary proceedings for offences.
270	Continuing offences.
273	Notice to be given of right of appeal.
274	Appeals and applications to magistrates' courts.
275	Appeals to quarter sessions from decisions of magistrates' courts.
277	Effect of decision of court upon an appeal.
278	Judges and justices not to be disqualified by liability to rates.
280	Notices, etc., to be in writing; forms of certain documents.
281	Authentication of documents, etc.
282	Service of notices, etc.
283	Reckoning of periods, etc.

PART III

SECTIONS OF PUBLIC HEALTH ACT, 1936, APPLIED TO SECTION 12, PARTS IV AND V AND SECTION 102 OF THIS ACT

Section	Marginal note
275	Power of local authority to execute certain work on behalf of owners or occupiers.
276	Power of local authority to sell certain materials.
277	Power of councils to require information as to ownership of premises.
287	Power to enter premises.
289	Power to require occupier to permit works to be executed by owner.
291	Certain expenses recoverable from owners to be a charge on the premises: Power to order payment by instalments.
293	Recovery of expenses, &c.
294	Limitation of liability of certain owners.
295	Power of local authority to grant charging orders.
299	Inclusion of several sums in one complaint, &c.
329	Saving for certain provisions of the Land Charges Act, 1925.

Section 118.

SCHEDULE 2

PROVISIONS OF THE CUMBERLAND COUNTY COUNCIL ACT, 1948, REPEALED

Provision (1)	Extent of repeal (2)
Section 5 (Crossings for horses or vehicles over footways &c.)	The whole section.
Section 6 (Hoards to be set up during building operations)	The whole section.
Section 12 (Power to provide cattle grids)	The whole section.
Section 15 (As to evasion by owners of private street works expenses)	The whole section.
Section 21 (Boating pools) ...	The whole section.
Section 22 (Saving for trusts covenants &c. in conveyances and leases)	The words " and section 21 (Boating pools) ".
Section 77 (Recovery of sums due for fittings &c.)	The whole section.
Section 83 (For protection of electricity boards)	Paragraphs (2), (3) and (4).
Section 86 (For protection of Carlisle Corporation)	Paragraphs (2), (3) and (4).
Section 88 (Power for Council to contribute to open spaces)	Subsection (2).
Section 94 (Byelaws as to hairdressers' and barbers' premises)	The whole section.
Section 97 (School agreements) ...	The whole section.
Section 103 (Restriction on right to prosecute)	The words " section 6 (Hoards to be set up during building operations) " and the words " section 94 (Byelaws as to hairdressers' and barbers' premises) ".
Section 104 (As to appeals) ...	The words " section 5 (Crossings for horses or vehicles over footways &c.); section 6 (Hoards to be set up during building operations) ".

Table of Statutes referred to in this Act

Short title	Session and chapter
Life Assurance Act, 1774	14 Geo. 3 c. 48.
Lands Clauses Consolidation Act, 1845	8 & 9 Vict. c. 18.
Public Health Act, 1875	38 & 39 Vict. c. 55.
Local Loans Act, 1875	38 & 39 Vict. c. 83.
Telegraph Act, 1878	41 & 42 Vict. c. 76.
Electric Lighting Act, 1882	45 & 46 Vict. c. 56.
Local Government Act, 1888	51 & 52 Vict. c. 41.
Public Health Acts Amendment Act, 1890	53 & 54 Vict. c. 59.
Merchant Shipping Act, 1894	57 & 58 Vict. c. 60.
Small Dwellings Acquisition Act, 1899	62 & 63 Vict. c. 44.
Burial Act, 1900	63 & 64 Vict. c. 15.
Open Spaces Act, 1906	6 Edw. 7 c. 25.
Cinematograph Act, 1909	9 Edw. 7 c. 30.
Perjury Act, 1911	1 & 2 Geo. 5 c. 6.
Salmon and Freshwater Fisheries Act, 1923	13 & 14 Geo. 5 c. 16.
Land Charges Act, 1925	15 & 16 Geo. 5 c. 22.
Roads Improvement Act, 1925... ...	15 & 16 Geo. 5 c. 68.
Public Health Act, 1925	15 & 16 Geo. 5 c. 71.
Rating and Valuation Act, 1925 ...	15 & 16 Geo. 5 c. 90.
Law of Property (Amendment) Act, 1926	16 & 17 Geo. 5 c. 11.
Petroleum (Consolidation) Act, 1928 ...	18 & 19 Geo. 5 c. 32.
Local Government Act, 1933	23 & 24 Geo. 5 c. 51.
Public Health Act, 1936	26 Geo. 5 & 1 Edw. 8 c. 49.
Local Government Superannuation Act, 1937	1 Edw. 8 & 1 Geo. 6 c. 68.
Education Act, 1944	7 & 8 Geo. 6 c. 31.
Water Act, 1945	8 & 9 Geo. 6 c. 42.
Ministers of the Crown (Transfer of Functions) Act, 1946	9 & 10 Geo. 6 c. 31.
Acquisition of Land (Authorisation Procedure) Act, 1946	9 & 10 Geo. 6 c. 49.
Borrowing (Control and Guarantees) Act, 1946	9 & 10 Geo. 6 c. 58.
National Health Service Act, 1946 ...	9 & 10 Geo. 6 c. 81.
Fire Services Act, 1947	10 & 11 Geo. 6 c. 41.
Electricity Act, 1947	10 & 11 Geo. 6 c. 54.
Local Government Act, 1948	11 & 12 Geo. 6 c. 26.
National Assistance Act, 1948	11 & 12 Geo. 6 c. 29.
Cumberland County Council Act, 1948	11 & 12 Geo. 6 c. xliii.
Lands Tribunal Act, 1949	12, 13 & 14 Geo. 6 c. 42.
Civil Aviation Act, 1949	12, 13 & 14 Geo. 6 c. 67.
Coast Protection Act, 1949	12, 13 & 14 Geo. 6 c. 74.
National Parks and Access to the Countryside Act, 1949	12, 13 & 14 Geo. 6 c. 97.
Public Utilities Street Works Act, 1950	14 Geo. 6 c. 39.
Rivers (Prevention of Pollution) Act, 1951	14 & 15 Geo. 6 c. 64.
Magistrates' Courts Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2 c. 55.
Cinematograph Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2 c. 68.
Local Government Superannuation Act, 1953	1 & 2 Eliz. 2 c. 25.
Mines and Quarries Act, 1954	2 & 3 Eliz. 2 c. 70.
Oil in Navigable Waters Act, 1955 ...	3 & 4 Eliz. 2 c. 25.

Short title	Session and chapter
Housing Act, 1957	5 & 6 Eliz. 2 c. 56.
Disabled Persons Employment Act, 1958	6 & 7 Eliz. 2 c. 33.
Insurance Companies Act, 1958 ...	6 & 7 Eliz. 2 c. 72.
Highways Act, 1959	7 & 8 Eliz. 2 c. 25.
National Insurance Act, 1959	7 & 8 Eliz. 2 c. 47.
Mental Health Act, 1959	7 & 8 Eliz. 2 c. 72.
Road Traffic Act, 1960	8 & 9 Eliz. 2 c. 16.
Local Employment Act, 1960	8 & 9 Eliz. 2 c. 18.
Caravan Sites and Control of Development Act, 1960	8 & 9 Eliz. 2 c. 62.
Road Traffic and Roads Improvement Act, 1960	8 & 9 Eliz. 2 c. 63.
Land Compensation Act, 1961 ...	9 & 10 Eliz. 2 c. 33.
Factories Act, 1961	9 & 10 Eliz. 2 c. 34.
Licensing Act, 1961	9 & 10 Eliz. 2 c. 61.
Public Health Act, 1961	9 & 10 Eliz. 2 c. 64.
Town and Country Planning Act, 1962	10 & 11 Eliz. 2 c. 38.
Pipe-lines Act, 1962	10 & 11 Eliz. 2 c. 58.
Road Traffic Act, 1962	10 & 11 Eliz. 2 c. 59.
Local Authorities (Land) Act, 1963 ...	1963 c. 29.
Offices, Shops and Railway Premises Act, 1963	1963 c. 41.

PRINTED BY THE SOLICITORS' LAW STATIONERY SOCIETY, LTD., FOR
SIR PERCY FAULKNER, K.B.E., C.B.
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament
LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE
Price 5*s.* 0*d.* net
PRINTED IN ENGLAND