ELIZABETH II

1981 CHAPTER xxv

An Act to re-enact with amendments and to extend certain local statutory provisions in force within the county of East Sussex; to confer further powers on the East Sussex County Council and local authorities in the county; to make further provision with respect to the local government, improvement and health of the county and those local authorities; to vest lands in the Hastings Borough Council; to amend the Ashdown Forest Act 1974; and for other purposes.

[27th July 1981]

WHEREAS—

(1) The county of East Sussex (hereinafter referred to as " the county ") is a non-metropolitan county comprising the following areas, described by reference to administrative areas existing immediately before the passing of the Local Government Act 1972:— **1972 c. 70.**

The county boroughs of Brighton, Eastbourne and Hastings;

The administrative county of East Sussex, except the areas in West Sussex:

(2) Section 262 of the said Act of 1972 provides that, subject to modifications and exceptions, local statutory provisions in force in the area of any non-metropolitan counties shall continue in force until the end of 1984, and that such provisions shall then cease to have effect:

(3) There are numerous local statutory provisions so applicable in the county and it is expedient that certain of those provisions should be re-enacted with amendments, or otherwise continued in force, and applied to the whole county or to parts of the county, and that other such provisions should be repealed:

(4) It is further expedient that new provision should be made for the improvement and local government of the county and to confer further powers on the East Sussex County Council and local authorities within the county:

1890 c. cxliii.

(5) The Hastings Harbour Arm is a jetty or breakwater authorised by the Hastings Harbour Act 1890; the present ownership of the Harbour Arm is unknown and it is expedient that the Harbour Arm and certain adjoining lands be vested in the Hastings Borough Council:

(6) A plan showing the area and situation of the lands to be vested and a book of reference to such plan were duly deposited in the office of the Clerk of the Parliaments and in the Private Bill Office of the House of Commons and with the proper officer of the East Sussex County Council, which plan and book of reference are respectively referred to in this Act as the deposited plan and the deposited book of reference:

(7) It is expedient that certain procedures of the commoners of Ashdown Forest should be altered as provided in this Act:

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

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

(10) In relation to the promotion of the Bill for this Act the requirements of section 239 of the said Act of 1972 have been observed:

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

PART I

PRELIMINARY

Citation and commencement.

1.—(1) This Act may be cited as the East Sussex Act 1981.

(2) This Act shall come into operation on the expiration of three months after the passing of this Act.

PART I
—*cont.*

Interpretation.

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

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

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

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

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

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

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

" the chief constable " means the chief constable for the county and includes the deputy chief constable acting by virtue of section 6 (1) of the Police Act 1964; 1964 c. 48.

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

" the county " means the county of East Sussex;

" the county council " means the council of the county;

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

" district " means a district in the county;

" district council " means the council of a district;

" esplanade " means any esplanade, parade, promenade, marine drive or marine way to which the public commonly have access whether or not as of right and which is adjacent to the seashore and is not separated therefrom by the carriageway of any highway;

" the fire authority " has the meaning given by the Fire Services Act 1947; 1947 c. 41.

" functions " includes powers and duties;

" the highway authority " means the local highway authority as defined in the Act of 1972;

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

" open space " has the meaning given by section 290 of the Act of 1971;

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

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

" public service vehicle " has the meaning given by section 117 of the Road Traffic Act 1960; 1960 c. 16.

" seashore " has the meaning given by section 49 (1) of the Coast Protection Act 1949; 1949 c. 74.

PART I —*cont.*

" statutory undertakers " means the South Eastern Electricity Board, the British Gas Corporation, the Central Electricity Generating Board, the Southern Water Authority, the Eastbourne Waterworks Company, the West Kent Water Company and the Post Office, or any of them as the case may be, and " statutory undertaker " shall be construed accordingly;

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

" traffic sign " has the meaning given by section 54 of the Road Traffic Regulation Act 1967.

1967 c. 76.

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

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

Appointed day.

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

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

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

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

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

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

PART II

HIGHWAYS

Highway amenities.

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

(*a*) footpaths within the meaning of the Act of 1980;

(*b*) subways constructed under section 69 of that Act; PART II —*cont.*

(*c*) bridges constructed under section 70 of that Act; and

(*d*) roads the use of which by vehicular traffic is prohibited by a traffic regulation order made under section 1 (3) of the Road Traffic Regulation Act 1967; 1967 c. 76.

as it applies to a highway in relation to which an order has been made under section 212 (2) of the Act of 1971.

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

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

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

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

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

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

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

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

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

PART II —*cont.*

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

(*b*) Any question whether consent is unreasonably withheld under paragraph (*a*) above shall be determined by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

(7) Where a competent authority propose—

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

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

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

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

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

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

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

(9) The competent authority shall not proceed with any proposal to exercise any such powers, or to grant any such permission, as are mentioned in subsection (7) above until they have taken into consideration all representations made in accordance with that subsection.

PART II —*cont.*

(10) The competent authority shall take such steps as they think necessary for affording to any organisation appearing to them to represent the interests of persons trading in shop premises which may be affected by the provision of facilities under this section an opportunity to make representations to the authority about any such proposal as is mentioned in subsection (7) above.

Power to provide kiosks, etc.

5.—(1) A district council may provide in any street in their district kiosks, show cases or other structures for the sale of articles, the display of articles for sale or the display of posters or advertisements and may let any such structure on such terms and conditions as they think fit.

(2) A power exercisable under subsection (1) above may be so exercised as to restrict the access of the public to any part of a street, but shall not be so exercised as—

(*a*) to prevent persons from entering the street at any place where they could enter it before the power was exercised; or

(*b*) to prevent the passage of the public along the street; or

(*c*) to prevent normal access by pedestrians to premises adjoining the street; or

(*d*) to obstruct any use of vehicles which is lawful; or

(*e*) to prevent statutory undertakers from having access to any works of theirs under, in, on, over, along or across the street.

(3) The power exercisable by a district council under subsection (1) above to provide kiosks, show cases or other structures includes power to permit their provision by any person on such conditions as the district council think fit.

(4) A district council shall not themselves by virtue of this section undertake or engage in the business of newspaper vendors or any other business at, or in connection with, any structures provided under this section.

(5) A district council shall not exercise the powers conferred by this section in any street which is a highway without the consent of the highway authority.

(6) (*a*) The county council may, with the consent of the district council and, where the county council are not the highway authority, of that authority, provide in any street in a district such structures as are mentioned in subsection (1) above.

(*b*) For the purposes of this subsection, subsections (2) and (4) above shall apply and for that purpose shall have effect as if for

PART II —*cont.*

the reference in subsection (2) to subsection (1) there were substituted reference to this subsection and for the reference in subsection (4) to a district council there were substituted reference to the county council.

(7) For the purposes of this section the following provisions of section 4 (Highway amenities) of this Act shall apply subject to the following modifications:—

(*a*) subsection (5), as if the reference therein to that section were a reference to this section;

(*b*) subsections (7) to (9), as if any proposal of a district council or the county council to exercise the powers of subsection (1) above, or of a district council to exercise the powers of subsection (3) above, for the provision of any structure in a street were a proposal for that provision of the structure in exercise of the powers of section 213 of the Act of 1971 as having effect in accordance with the said section 4.

(8) (*a*) A local authority shall not exercise the powers of this section in relation to—

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

(ii) any part of a street which—

(A) is carried over any railway of that board by means of a bridge;

(B) abuts on any retaining wall or cutting slope forming part of any such railway; or

(C) is directly beneath the arch or span of a bridge carrying any such railway over that street;

except with the consent of that board, which consent shall not be unreasonably withheld.

(*b*) Any question whether consent is unreasonably withheld under paragraph (*a*) above shall be determined by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Buildings under highways.

6.—(1) Section 179 of the Act of 1980 (prohibition of construction of vaults, arches or cellars under the carriageway of a street without consent) shall in the county apply to—

(*a*) the construction of a vault, arch or cellar under any highway;

(*b*) the construction under a highway of any part of a building on land adjoining the highway;

and shall have effect as if the appropriate authority thereunder were in every case the highway authority. PART II —*cont.*

(2) Accordingly, the said section 179 shall have effect in the county as if there were substituted the following:—

"Buildings under highways.

179.—(1) No person shall construct under a highway any part of a building on land adjoining the highway or any vault, arch or cellar without the consent of the highway authority, and the authority may by notice served on a person who has constructed any part of a building or any vault, arch or cellar in contravention of this section require him to remove it, or to alter or deal with it in such manner as may be specified in the notice.

(2) A person aggrieved by the refusal of a consent, or by a requirement of a notice, under subsection (1) above may appeal to a magistrates' court.

(3) A person who constructs any part of a building or any vault, arch or cellar in contravention of this section is guilty of an offence and is liable to a fine not exceeding £25; and, subject to any order made on appeal, if he fails to comply with a requirement of a notice served on him under subsection (1) above he is guilty of a further offence and is liable to a fine not exceeding £2 for each day during which the failure continues.

(4) The highway authority may also cause any part of a building or any vault, arch or cellar constructed in contravention of this section to be removed, altered or otherwise dealt with as they think fit, and may recover the expenses reasonably incurred by them in so doing from the offender.

(5) As soon as may be after an authority consent to the construction of a vault, arch or cellar under a highway they shall give notice thereof to any public utility undertakers having any apparatus under the highway.

(6) Subsection (1) above does not apply to the construction of code-regulated works as defined in section 1 (5) of the Public Utilities Street Works Act 1950 c. 39. 1950.".

(3) Section 180 of the Act of 1980 (control of openings into cellars, etc., under streets, and pavement lights and ventilators) shall have effect in the county as if, in substitution for the words

PART II —*cont.*

" For the purposes of this section the appropriate authority is the same as for the purposes of section 179 above." in subsection (1), there were inserted—

" For the purposes of this section the appropriate authority, in relation to any street which is a highway, is the highway authority for the street, and, in relation to any other street, is the local authority in whose area the street is situated.".

Damage to footways, etc., during building operations.

7.—(1) The highway authority may recover from any person carrying on building operations, whether on his own account or as a contractor, the cost of making good damage caused in the course of those operations to the grass verge or footway of a highway maintainable at the public expense by vehicles being taken across, or machinery being on, or the loading or unloading or stacking of materials on, the grass verge or footway.

(2) In this section " building operations " includes any work of rebuilding, demolition, excavation, structural alteration of, or addition to, buildings and other operations normally undertaken by a person carrying on business as a builder or contractor.

PART III

OPEN SPACES AND MUNICIPAL PROPERTY

Power to close parks, etc., on certain days. 1890 c. 59.

8.—(1) Subsection (1) of section 44 of the Public Health Acts Amendment Act 1890 (which authorises the closing of parks and pleasure grounds) shall have effect in the county as if—

(*a*) for so much of the said subsection as restricts the power of closing a park or pleasure ground in any one year to 12 days there were substituted a provision restricting the closing in any one year to 28 days;

(*b*) for so much of the said subsection as restricts the power of closing a park or pleasure ground on any one occasion to six consecutive days (excluding Sundays), and provides for the computation of any such period of six consecutive days, there were substituted a provision restricting the closing on any one occasion to 14 consecutive days including Sundays;

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

(*d*) for the words " to any public " to " show or purpose," there were substituted—

" (i) to any person for any purpose entailing a use

PART III —*cont.*

of the land so closed for an event to which the public have access, either gratuitously or for payment; and

(ii) in the case of White Rock Gardens in the borough of Hastings, to any person for any purpose, whether or not of the sort described in paragraph (i) above, but so that the grant of the said Gardens under this section for a purpose not so described shall be for a period or periods not exceeding fourteen days in any year;".

(2) On each occasion of the exercise of the powers of the said subsection (1) the district council shall give reasonable prior notice thereof by advertisement in a newspaper circulating in their district and shall affix a copy or copies of the notice to some conspicuous object or objects in the park or pleasure ground.

Byelaws as to entertainments, leisure centres, etc.

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

(*a*) the good and orderly conduct of persons resorting to concerts, entertainments, exhibitions or amusements provided or carried on in premises owned by the local authority;

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

(*c*) the regulation of the movement and parking of vehicles at any leisure centre;

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

(2) Byelaws made under paragraphs (*a*) and (*b*) of subsection (1) above may provide for the removal by any proper officer from the premises on which the concerts, entertainments, exhibitions or amusements are carried on or from the leisure centre respectively of any person infringing any such byelaw.

(3) In this section " leisure centre " means any place owned or managed by a local authority (whether alone or in conjunction with any other local authority or body) at which recreational facilities of any kind are provided.

(4) In this section " local authority " includes a parish council.

PART IV

SEAFRONT AMENITIES

Byelaws as to boats. 1961 c. 64.

10.—(1) The powers of a district council under section 76 of the Public Health Act 1961 (byelaws as to seaside pleasure boats) shall extend to enable the district council to make byelaws—

(*a*) prohibiting (except in case of emergency) or regulating the

PART IV —*cont.*

use of boats propelled otherwise than by hand, within such areas as may be prescribed by the byelaws, being areas not more than 200 metres seaward of the level of mean low-water springs;

(*b*) prohibiting, regulating or controlling the keeping or landing of boats on such parts of the seashore as may be specified in the byelaws and requiring the licence of the district council to be obtained for the keeping of any boat on a part of the seashore owned by the district council;

(*c*) requiring boats of any specified class or description to be kept on such parts of the seashore as may be specified in the byelaws.

(2) The district council may charge for any licence granted by them to keep a boat on any part of the seashore owned by them such reasonable fee to cover the expense of the district council in dealing with the grant of such licences as they may by resolution prescribe.

(3) No byelaw made under subsection (1) above shall—

(*a*) restrict, prevent or interfere with the use of boats by the British Railways Board or Sealink U.K. Limited in pursuance of their statutory functions; or

(*b*) affect any right, privilege or benefit of persons exercising a right of fishery which is enjoyed by them by virtue of any Act, charter, power or award or under any ancient custom.

Obstruction of highway by boats.

11.—(1) A local authority may remove or cause to be removed any boat which may at any time be placed upon any highway in the area of that authority or so as to obstruct access to the seashore without liability in respect of such removal.

(2) A local authority may detain and keep any boat removed under subsection (1) above together with its cargo and anything associated with the boat until payment is made of all expenses incurred by the authority in connection with the removal and detention of the boat.

(3) All expenses referred to in subsection (2) above may be recovered by the local authority from the owner of the boat:

Provided that the local authority may if they think fit after giving seven days' notice to the owner of the boat, and shall if so required by the owner of the boat, sell or otherwise dispose of the boat or anything detained with it, in such manner as they think fit and reimburse themselves out of the proceeds of sale, and the local authority shall hold any surplus of such proceeds of sale in trust for the person entitled thereto.

PART IV —*cont.*

(4) If the owner of the boat is unknown and cannot after diligent inquiry be found the local authority may apply to a magistrates' court for an order empowering them to dispose of the boat; and the court may order the disposal and manner of disposal of the boat and the reimbursement to the local authority out of the proceeds of sale of the expenses of removal and disposal and the costs of applying for and obtaining the order, and may give directions as to the disposal by the local authority of the surplus (if any) of such proceeds of sale.

Removal of boats from seashore.

12.—(1) (*a*) The owner of any boat which is on any part of the seashore which is owned by, leased to or under the control of a district council shall, if so required by that council by notice in writing, remove such boat from the seashore within 14 days from the date of the notice.

(*b*) Any person who without reasonable excuse fails to comply with a requirement made in pursuance of this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5.

(2) (*a*) If any person upon whom a notice is served under subsection (1) above fails to comply with the notice, the district council may remove the boat to which the notice relates and may sell or otherwise dispose of it in such manner as they think fit and may recover the expenses of so doing from that person.

(*b*) Where in exercise of the powers of this subsection the district council sell a boat, they may reimburse themselves out of the proceeds of sale and shall hold any surplus in trust for the person entitled thereto.

(3) If the owner of the boat is unknown and cannot after diligent inquiry be found, the district council may apply to a magistrates' court for an order empowering them to remove and dispose of the boat; and the court may order the removal of the boat, its disposal and manner of disposal and the reimbursement to the council out of any proceeds of sale of the expenses of removal and disposal and the costs of applying for and obtaining the order, and may give directions as to the disposal by the council of the surplus (if any) of such proceeds of sale.

(4) Nothing in this section shall—

(*a*) apply to a boat kept on the seashore under and in accordance with a licence granted by the district council or otherwise in accordance with any right; or

(*b*) affect any statutory powers conferred upon any person in relation to any wrecked, stranded or abandoned vessel.

(5) In this section " owner " in relation to any boat in respect of which a notice is served under subsection (1) above means the

PART IV —*cont.*

owner of that boat at the time of the service of the notice and " seashore " does not include the shore and bed of the sea below low-water mark of ordinary spring tides.

Power to enclose esplanades during certain hours.

13.—(1) A district council may by resolution enclose any portion of any esplanade within their district not exceeding 100 metres in length on such days and during such hours as the council shall determine for any purpose tending to promote the health, amusement or enjoyment of inhabitants of and visitors to the district, and during such times may charge reasonable sums for the admission of persons thereto and may exclude therefrom all persons unless payment has been made of such sums:

Provided that—

(*a*) the district council shall not enclose any portion of such esplanade for a longer period than 12 hours during any one day or without leaving a passage along such esplanade not less than 2 metres wide; and

(*b*) a notice of the resolution shall be placed at each end of such enclosure.

(2) The powers of subsection (1) above shall not be exercised in respect of any highway except with the consent of the highway authority, which consent shall not be unreasonably withheld.

(3) Nothing in this section shall prejudice the exercise of the powers conferred by section 77 (Power to close promenades for certain purposes) of this Act.

Power to limit numbers of pleasure boats. 1907 c. 53.

14. A district council may limit the number of pleasure boats licensed by them under section 94 of the Public Health Acts Amendment Act 1907 (power to license pleasure boats) for use for carrying passengers for hire to such number as they may from time to time by resolution prescribe.

PART V

PUBLIC HEALTH

Extension of summary power to remedy stopped-up drains. 1961 c. 64.

15. Section 17 of the Public Health Act 1961 shall have effect in the county as if in subsection (1)—

(*a*) after the words " water closet " there were inserted " waste pipe "; and

(*b*) after the words " stopped up " there were inserted " or otherwise so defective as to be in need of urgent repair ".

Definition of " inhabitant " in Act of 1936. 1956 c. 52.

16.—(1) In section 92 of the Act of 1936 (statutory nuisances) and in section 16 of the Clean Air Act 1956 (abatement of smoke nuisances) in their application to a district the expression " inhabitants of the neighbourhood " includes persons who work within the neighbourhood.

PART V —*cont.*

(2) Nothing in this section shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the Health and Safety at Work etc. Act 1974. 1974 c. 37.

Dust, etc., from building operations.

17.—(1) This section applies to any building operation, including any work of demolition or the cleansing of any building or structure, which is either carried out in the open air or carried out in such circumstances that dust from the operation is emitted into the open air.

(2) Except as provided in subsection (6) below, a district council may give notice to any person carrying out, or controlling the carrying out of, an operation to which this section applies in their district requiring him, within such time as is specified in the notice, to take such reasonably practicable steps as are so specified to reduce the emission of dust from the operation.

(3) In considering what steps are reasonably practicable for the purposes of subsection (2) above, the district council shall have regard, amongst other matters, to the requirements of safety and safe working conditions, any relevant provisions of any code of practice approved under section 16 of the Health and Safety at Work etc. Act 1974 and to the financial implications.

(4) Any person aggrieved by a notice under subsection (2) above may appeal to the county court and the judge may make such order, either confirming or quashing or varying the notice, as he thinks fit but shall not so vary the notice that it is more onerous than the notice given by the district council.

(5) (*a*) Subject to any order made on appeal under subsection (4) above, any person who fails to comply with a notice under subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

(*b*) In any proceedings under this subsection it shall be a defence to show that the quantity of dust emitted into the open air was not materially greater than would have been emitted if the notice had been complied with.

(6) (*a*) If, before the carrying out of any operation to which this section applies, the person who intends to carry it out applies to the district council for their consent to the operation giving particulars of—

(i) the operation and the method by which it is to be carried out; and

(ii) the steps proposed to be taken to reduce the emission of dust from the operation;

and the district council consider that, on the carrying out of the operation in accordance with the application, they would not serve a notice under subsection (2) above in respect of that

PART V —*cont.*

operation, the district council may give their consent to the operation for the purposes of this section, either unconditionally or subject to such conditions as may be specified in the consent.

(*b*) In acting under this subsection the district council shall have regard to the matters specified in subsection (3) above.

(*c*) If the district council do not within 28 days from the receipt of an application under this subsection give to the applicant a consent with or without conditions which is acceptable to the applicant, he may appeal to the county court.

(*d*) On any appeal under this subsection the judge may make such order either confirming the refusal of the consent or varying any conditions subject to which the consent has been given or ordering the giving of the consent with or without conditions as he thinks fit but shall not so vary any conditions that they are more onerous than those specified by the district council.

(7) In this section " dust " includes chemicals in solution and grit.

Power to order alteration of chimneys.

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

(*a*) to cause it to be raised to a height so specified; or

(*b*) to cause such other means for remedying the cause of complaint to be adopted as the court thinks fit.

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

(*a*) in the case of a single private dwelling-house, £300; and

(*b*) in any other case, £500;

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

(3) Any person who without reasonable excuse fails to comply with an order made under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5.

(4) Except with the consent of the Secretary of State no complaint shall be made to a magistrates' court under this section in respect of a building which is included in—

(*a*) a list published by the Secretary of State under any enactment in force with respect to ancient monuments; or

PART V —*cont.*

(*b*) a list of buildings of special architectural or historic interest compiled by the Secretary of State under section 54 of the Act of 1971.

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

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

Urgent repairs to supply pipes and water fittings.

19.—(1) This section applies to any house—

(*a*) which is occupied by persons who do not form a single household; or

(*b*) which is one of two or more houses or other buildings supplied with water by one common supply pipe.

(2) Where a district council are satisfied that, by reason of any injury to, or defect in, a water fitting in, or the supply pipe for supplying water to, any occupied house or houses in the district to which this section applies, any such house, or any part thereof, has ceased to be supplied with water sufficient for the domestic purposes of the occupants, the district council may, without prejudice to any other action which they may be authorised to take under any other enactment, repair or renew the pipe or execute such works and provide or repair such fittings and do such other things as they may consider necessary to secure that the supply of water is restored and recover from the owner of the house or, as the case may be, from the owners of the houses, the expenses necessarily incurred by them in so doing not exceeding £200 or such greater sum as may be specified in an order made by the Secretary of State by statutory instrument under this section.

(3) Except in cases of emergency, admission to any premises shall not be demanded as of right for the purpose of doing any work under subsection (2) above unless not less than 24 hours' notice of the intended entry has been given to the occupier.

(4) (*a*) In proceedings to recover expenses under subsection (2) above the court may inquire whether those expenses ought to be borne wholly or in part by some person, being the occupier of the premises in respect of which they were incurred, other than the defendant in the proceedings and, subject as provided in paragraph (*b*) below, the court may make such order concerning the expenses or their apportionment as appears to the court to be just.

(*b*) The court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has, at

PART V —*cont.*

the instance of the defendant, had due notice of the proceedings and an opportunity of being heard.

(5) The district council may if they think fit themselves bear the whole or any part of any expenses recoverable under this section.

(6) Before, or, in case of emergency, as soon as possible after, exercising the powers of subsection (2) above in relation to any premises the district council shall notify the statutory water undertakers within whose limits of supply the premises are situated.

(7) In this section "supply pipe" and "water fitting" have the meanings given by Schedule 3 to the Water Act 1945.

1945 c. 42.

Control of rats and mice.

20.—(1) A district council may with the consent of the owner or occupier of land take any steps for the destruction of rats or mice on the land, or otherwise for keeping it free from rats or mice, and recover from him any expenses reasonably incurred by them in doing so.

(2) Expressions used in subsection (1) above and in the Prevention of Damage by Pests Act 1949 have the same meanings as in that Act.

1949 c. 55.

(3) Section 294 of the Act of 1936 (limitation of liability of owners receiving rent as agent or trustee) shall apply to expenses incurred under this section as if they were expenses incurred under section 5 of the said Act of 1949.

Powers of entry for Prevention of Damage by Pests Act 1949.

21. Section 22 of the Prevention of Damage by Pests Act 1949 (powers of entry) shall have effect in a district as if after subsection (1) there were inserted—

"(1A) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—

(*a*) that admission to any land has been refused or that refusal is apprehended; or

(*b*) that the land is unoccupied or that the occupier is temporarily absent or that the case is one of urgency or that an application for admission would defeat the object of the entry;

and, in either case, that there is reasonable ground for entry upon the land for any such purpose as is mentioned in subsection (1) of this section, the justice may by warrant under his hand authorise the local authority by any person duly authorised by them in writing to enter upon the land, if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier or that the circumstances are as mentioned in paragraph (*b*) of this subsection.

PART V —*cont.*

(1B) A person entering upon any land by virtue of the foregoing provisions of this section or of a warrant issued under this section may take with him such other persons as may be necessary, and on leaving any unoccupied land upon which he has so entered shall leave it as effectually secured against trespassers as he found it.

(1C) Every warrant issued under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.".

Control of foxes.

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

(*a*) the district council shall, subject to the provisions of this section, have power to take any steps for the purpose of abating or mitigating any nuisance, annoyance or damage caused in urban areas by foxes;

(*b*) without prejudice to the generality of paragraph (*a*) above, if in the case of any land it appears to the district council that steps should be taken in respect of foxes on or resorting to the land they may, after giving not less than seven days' notice to the occupier of their intention to do so, take such steps as appear to them to be necessary for the purpose mentioned in paragraph (*a*) above specifying the steps proposed to be taken.

(2) A district council acting under this section shall ensure that the exercise of the foregoing powers of this section is carried out humanely.

Control of brown tail moth.

23.—(1) In this section " the moth " means the brown tail moth (Euproctis chrysorrhoea L.) and includes the eggs, caterpillars and webs or nests thereof.

(2) If it appears to a district council that steps should be taken for the destruction of the moth on any land in their district they may serve on the occupier of the land a notice requiring him to take such reasonable steps for the destruction of the moth as may be specified in the notice.

(3) In addition to, or instead of, serving a notice under subsection (2) above, the district council may themselves take steps for the destruction of the moth, or pay, or contribute towards, the expenses of the occupier in taking the steps required by the notice.

(4) Subsections (2), (3) (except paragraphs (*e*) and (*f*)), (4), (6) and (7) of section 290 of the Act of 1936 (appeals against, and the enforcement of, certain notices under that Act) shall apply to any notice served under subsection (2) above as they

PART V —*cont.*

apply in relation to the notices mentioned in subsection (1) of that section and as if—

(*a*) the execution of works included the taking of any steps for the destruction of the moth; and

(*b*) the following paragraphs were inserted at the end of subsection (3):—

"(*g*) that the taking of the steps required by the notice would be ineffective for the purposes of destruction of the moth in the area in which the land in question is situated;

(*h*) that the authority have unreasonably refused to exercise the powers conferred on them themselves to take steps for the destruction of the moth or to pay or to contribute towards the expenses thereof.".

Self-operated laundries and dry-cleaning establishments.

24.—(1) For the purposes of this section premises shall be deemed to be used as a self-operated laundry where facilities are provided to the public on those premises on payment for washing or dry-cleaning clothes or other articles by machines operated wholly or partly by the customer.

(2) As from the appointed day in any district the occupier of premises in that district which are used either partly or wholly as a self-operated laundry shall cause the plant and machinery and the associated equipment installed in the premises for the purpose of the business to be inspected at least once in every 14 months after the appointed day by a competent engineer appointed or approved by an insurance company (within the meaning of the Insurance Companies Act 1974) or approved by the district council in whose area the premises are situated and the occupier of the premises shall send to the proper officer a certificate (hereinafter called "a certificate of inspection") by such an insurance company or engineer certifying the result of the inspection.

1974 c. 49.

(3) If before the expiration of 14 months and 14 days from—

(*a*) the appointed day; or

(*b*) in the case of premises which are not used as a self-operated laundry before the appointed day, the date on which the premises are first used as a self-operated laundry after that date; or

(*c*) (except in the case of the first certificate of inspection to be made in respect of premises) the date on which the last certificate of inspection was sent by the occupier of the premises to the proper officer;

the occupier of the premises fails to send a certificate of inspection to the proper officer, the occupier of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

PART V —*cont.*

(4) (*a*) Where, on and after the appointed day, any substance which in the opinion of the proper officer may be dangerous to the public is used in connection with any dry-cleaning process in any premises used as a self-operated laundry, the occupier of those premises shall, if so required by the proper officer, display on the premises such notices as in the opinion of the district council after consultation with such bodies as appear to them to represent the trade or business of self-operated laundries, may be reasonably required for the purpose of safeguarding the public.

(*b*) Any person who without reasonable excuse contravenes this subsection shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5.

Registration of hawkers of food and their premises.

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

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

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

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

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

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

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

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

(5) This section shall not apply to—

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

PART V —*cont.*

1955 c. 16 (4 & 5 Eliz. 2).

(*b*) the sale or offer or exposure for sale of food by a dairyman registered under regulations in force under Part II of the Food and Drugs Act 1955, or having effect by virtue of section 136 (2) of and Schedule 12 to that Act as if they had been made under the said Part II, or to any dairy so registered;

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

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

(6) Nothing in this section shall apply to the sale of food within three-quarters of a mile of the land on which it is produced, provided the sale is made by or on behalf of the occupier of the land.

(7) In this section—

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

" food " means food intended for sale, or sold, for human consumption and includes drink, chewing-gum and other products of a like nature and use, and articles and substances used as ingredients in the preparation of food or drink or of such products, but does not include any substance contained in containers of such materials and so closed as to exclude all risk of contamination;

" occupier " in relation to any stall means the person for the time being in charge of the same;

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

Trees, etc., in highway.

26. The power in section 96 of the Act of 1980 to plant trees and shrubs in the highway shall in the county include power to provide trees or shrubs planted in tubs or other containers; and any such tub or container may be attached to a post or standard with the consent of the owner thereof.

PART V —*cont.*

Acupuncturists, tattooists, ear-piercers and electrolysists.

27.—(1) (*a*) As from the appointed day in any district a person shall not in that district carry on in relation to another person the practice of acupuncture or the business of tattooing, ear-piercing or electrolysis unless he is registered by the district council in respect of that practice or business under this section; and he shall not carry on any such practice or business on premises occupied by him unless the premises are so registered.

(*b*) Different appointed days may be fixed for the different kinds of practice or business to which this section applies.

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

(3) The district council may make byelaws for the purpose of securing—

(*a*) the cleanliness of premises required to be registered under this section and of the instruments, towels, materials and equipment used therein; and

(*b*) the cleanliness of persons employed in such premises in regard to both themselves and their clothing;

and different provisions may be made by such byelaws as respects the different kinds of practice or business to which this section applies.

(4) Nothing in this section shall extend to the practice of acupuncture or the business of tattooing, ear-piercing or electrolysis by or under the supervision of a person who is a registered medical practitioner or to the practice of acupuncture by a dentist registered under the Dentists Act 1957 or to premises on which the practice of acupuncture is carried on by or under the supervision of any such person or, as the case may be, on which the business of tattooing, ear-piercing or electrolysis is carried on by or under the supervision of a registered medical practitioner. 1957 c. 28.

(5) Any person who without reasonable excuse contravenes subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(6) Any person who contravenes any byelaws made under subsection (3) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and, if he is registered under this section, the court by which he is convicted may, instead of, or in addition to, imposing a fine, order the suspension or cancellation of his registration and of the registration of the premises in which the offence was committed if they are occupied by him.

PART V —*cont.*

(7) A court ordering the suspension or cancellation of registration under subsection (6) above may suspend the operation of the order until the expiration of the period prescribed under section 14 of the Courts Act 1971 for giving notice of appeal to the Crown Court:

1971 c. 23.

Provided that if notice of appeal is given within the said period an order made under this subsection shall be suspended until the appeal is finally determined or abandoned.

(8) Where the registration of any person is cancelled by order of a court under subsection (6) above—

(*a*) he shall within seven days deliver up to the district council the cancelled certificate of registration and, if without reasonable excuse he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5; and

(*b*) he shall not again be registered by the district council under this section in respect of the practice or business in question except in pursuance of a further order of a magistrates' court made on his application.

(9) The occupier of premises registered under this section shall keep a copy of any byelaw made relating to his practice of acupuncture or business of tattooing, ear-piercing or electrolysis, as the case may be, and of the certificate of registration of the premises issued under this section displayed in the premises; and if without reasonable excuse he fails to do so he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5.

PART VI

PUBLIC ORDER AND PUBLIC SAFETY

Extension of section 21 of Town Police Clauses Act 1847.

1847 c. 89.

28.—(1) The power to make orders under section 21 of the Town Police Clauses Act 1847 (prevention of obstruction in streets during public processions, etc.) shall in the county include power to make orders—

(*a*) directing particular routes to be taken by particular classes of traffic; or

(*b*) directing or prohibiting the passage or stopping of vehicles along or in particular streets.

1967 c. 76.

(2) Section 57 of the Road Traffic Regulation Act 1967 (traffic signs for giving effect to local traffic regulations) shall apply to orders made under the said section 21 as having effect in the county as if the reference in that section to traffic signs included reference to bollards or other obstructions.

PART VI —*cont.*

Notice of street processions.

29.—(1) (*a*) No person shall organise or conduct a procession through any street in the county unless there has been served on the chief officer of police at any police station in the county a notice stating the route by which and the date and time on and at which it is intended that the procession should pass.

(*b*) Notice under paragraph (*a*) above shall be served at a time not less than 48 hours before the procession starts to pass through any street or as soon as reasonably practicable after that time.

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

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

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

(*a*) commonly or customarily held; or

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

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

(5) In this section " procession " includes a circus procession or procession of wild animals.

Byelaws as to boxing or wrestling entertainments.

30.—(1) A district council may make byelaws—

(*a*) for regulating the hours during which any place which is used for any boxing or wrestling entertainment may be open to the public;

(*b*) for securing safe and adequate means of ingress to and egress from any such place; and

(*c*) for preserving proper sanitary conditions, cleanliness, order and public safety at any such place.

(2) In this section " boxing or wrestling entertainment " means any public display of boxing or wrestling or other entertainment of the like kind except such as may be provided or given—

(*a*) at pleasure fairs within the meaning of section 75 of the Public Health Act 1961;

1961 c. 64.

PART VI —*cont.*

(*b*) in premises licensed under the Theatres Act 1968 if and so long as the conditions attached to the licence under the said Act are complied with as though such contest or display were a stage play;

1968 c. 54.

(*c*) at any school; or

(*d*) by a club, organisation or body which is registered as a charity under section 4 of the Charities Act 1960 or excepted from registration by virtue of subsection (4) of that section.

1960 c. 58.

(3) Before making any byelaws under this section a district council shall give to any national organisation appearing to them to represent the interests of amusement caterers not less than one month's notice of the intention of the council to make such byelaws and such notice shall be accompanied by a copy of the draft byelaws; and the council shall consult any such association before they submit the byelaws to the Secretary of State for confirmation.

Byelaws as to camping grounds.

31.—(1) A district council may make byelaws with respect to any camping ground within their district for all or any of the following purposes:—

(*a*) securing the good and orderly conduct of persons resorting to any camping ground and of the occupiers of the movable dwellings situate thereon;

(*b*) preventing annoyance to residents in, or visitors to, any area by the conduct of the occupiers of, or visitors to, movable dwellings situate on any camping ground.

(2) (*a*) A copy of any byelaws made by a district council under this section shall be appended to any statutory licence granted by them in respect of any camping ground to which such byelaws relate.

(*b*) On the grant of any licence under Part I of the Caravan Sites and Control of Development Act 1960 (licensing of caravan sites) the district council shall not attach to such licence any condition which is inconsistent with any byelaw made by them under this section.

1960 c. 62.

(3) Byelaws made under subsection (1) above shall not apply to—

(*a*) any caravan site which is managed by a district council under section 24 of the said Act of 1960 (provision of caravan sites); or

(*b*) any camping ground in respect of which a district council have power to make byelaws under section 15 of the Open Spaces Act 1906 (byelaws for open spaces),

1906 c. 25.

section 90 of the National Parks and Access to the Countryside Act 1949 (byelaws for National Parks, etc.) or section 41 of the Countryside Act 1968 (byelaws for country parks, etc.); or

PART VI —*cont.*

1949 c. 97.
1968 c. 41.

(*c*) any camping ground which is for the time being used or provided by or which belongs to any club, organisation or body which is—

(i) the holder of a certificate of exemption under section 269 of the Act of 1936 or paragraph 12 of the First Schedule to the said Act of 1960; or

(ii) registered as a charity under section 4 of the Charities Act 1960 or excepted from registration by virtue of subsection (4) of that section; or

1960 c. 58.

(*d*) any camping ground used exclusively for the accommodation of caravans occupied under a licence or contract to which Part I of the Caravan Sites Act 1968 applies.

1968 c. 52.

Touting, hawking, photographing, etc.

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

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

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

(*c*) the seashore:

Provided that the district council shall not designate—

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

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

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

(*a*) gives reasonable cause for annoyance to any person by touting for a hotel, lodging house, restaurant or other place of refreshment, for a shop, for a pier, garden, theatre or other place of amusement or recreation, for a hackney carriage, public service vehicle or other conveyance, or for a ship or boat; or

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

PART VI —*cont.*

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

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

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

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

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

(4) A person aggrieved by—

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

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

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

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

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

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

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

PART VI —*cont.*

(7) This section shall not prohibit—

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

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

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

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

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

Grass verges, etc.

33.—(1) This section applies to—

(*a*) any grass verge in any street being a verge vested in a local authority and mown or otherwise maintained in an ornamental condition;

(*b*) any garden, lawn or green vested in a local authority in any street and mown or maintained as aforesaid;

(*c*) land accessible from a highway and vested in a person other than a local authority being land laid out as a public garden or used for the purpose of public recreation and in either case mown or maintained in an ornamental condition by a local authority.

(2) A local authority may by notice prohibit, either entirely or at such times or on such days as may be specified in the notice, any of the following things:—

(*a*) allowing horses or cattle to enter such land;

(*b*) driving or riding a vehicle on such land;

(*c*) using any equipment provided on such land.

(3) In the case of any prohibition by virtue of paragraph (*c*) of subsection (2) above the local authority may exempt a child

PART VI —*cont.*

under such age as may be specified in the notice in respect of that paragraph and may similarly exempt any other person who is in charge of such a child while the child is on the land.

(4) A prohibition under subsection (2) (*b*) or (*c*) above shall not extend to driving or riding a vehicle or using any equipment—

(*a*) in the course of building operations; or

(*b*) by statutory undertakers or the British Railways Board where reasonably necessary for the exercise of their statutory powers:

Provided that the exemption afforded by paragraph (*a*) above shall be conditional upon means being taken to the satisfaction of the local authority to minimise injury to the land and to protect persons on the land.

(5) (*a*) For the purposes of this section notice shall be given by displaying it in a conspicuous position on or near the land to which it relates.

(*b*) Notice of a prohibition contained in subsection (2) (*b*) or (*c*) above if it relates to a grass verge forming part of or adjoining a highway used by motor vehicles (as defined in section 99 of the Road Traffic Regulation Act 1967) shall be indicated by a traffic sign, and section 55 (1) of the said Act of 1967 shall have effect as respects the placing of traffic signs under this section whether or not the local authority are the highway authority for the highway.

1967 c. 76.

(6) A person who without reasonable excuse contravenes a notice posted under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(7) Notice shall not be given in respect of such land as is mentioned in subsection (1) (*c*) above except with the consent of the person concerned or his representatives.

(8) Where land to which a prohibition contained in subsection (2) (*a*) or (*b*) above applies forms part of a highway, the rights of the public over the highway, except rights of grazing cattle and horses, shall be subject to the prohibition; but, subject as aforesaid, nothing in this section shall—

(*a*) limit any right of way, public or private, over land;

(*b*) restrict the exercise by any person of any statutory right to enter upon land;

(*c*) derogate from or diminish the obligation of any person under section 4 of the Chronically Sick and Disabled Persons Act 1970 (access to, and facilities at, premises open to the public);

1970 c. 44.

(*d*) restrict the entry by horses or cattle on any grass or other margin provided by a highway authority in pursuance of section 71 of the Act of 1980 (provision of margins for horses and livestock). PART VI —*cont.*

(9) In this section " local authority " includes a parish council.

PART VII

FIRE PRECAUTIONS

Firemen's switches for luminous tube signs.

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

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

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

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

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

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

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

(6) Where apparatus to which this section applies has been installed before the relevant day, the fire authority may serve

PART VII —*cont.*

on the owner or occupier of the premises where it is installed a notice—

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

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

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

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

(*a*) reference therein to a local authority included reference to the fire authority; and

(*b*) in subsection (6), for the words "five hundred pounds and to a further fine not exceeding five pounds" there were substituted the words "two hundred pounds and to a further fine not exceeding twenty pounds".

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

(10) The owner and the occupier of premises where apparatus to which this section applies is installed which does not comply with subsection (2) above shall each be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

PART VII —*cont.*

(11) Where notice is not given as required by subsection (3), (5) or (9) above, the owner and the occupier of the premises shall each be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(12) (*a*) In proceedings for an offence under this section where the owner and the occupier of the premises in question are both liable to be prosecuted, it shall be a defence for either of them to show that it would have been equitable for the prosecution to be brought only against the other.

(*b*) A person charged shall not be entitled to rely on the defence set out in paragraph (*a*) above unless within a period ending 7 clear days before the hearing he has served on the prosecutor notice in writing of his intention so to do.

(13) In this section " the relevant day " means the forty-second day after the appointed day.

Access for fire brigade.

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

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

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

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

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

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

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

Part VIII

Storage of flammable material

Interpretation of Part VIII.

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

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

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

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

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

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

(*a*) it is unobstructed; and

(*b*) it is 4 metres wide and 4 metres high, except at any gateway where the width may be reduced to 3·1 metres.

Stacks to which Part VIII applies.

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

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

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

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

(*a*) paper or cardboard;

(*b*) plastics;

(*c*) rags;

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

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

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

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

(i) 3 metres in height;

(ii) 50 cubic metres in capacity;

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

(i) 5 metres in height;

PART VIII —*cont.*

(ii) 450 cubic metres in capacity;

(iii) 20 metres in any horizontal dimension;

(iv) 235 square metres in any horizontal section;

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

(i) 5 metres in height;

(ii) 750 cubic metres in capacity;

(iii) 20 metres in any horizontal dimension;

(iv) 235 square metres in any horizontal section;

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

(i) 10 metres in height;

(ii) 1,370 cubic metres in capacity;

(iii) 20 metres in any horizontal dimension;

(iv) 235 square metres in any horizontal section.

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

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

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

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

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

(i) a furnace or incinerator;

(ii) a building;

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

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

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

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

PART VIII —*cont.*

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

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

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

Unlawful stacks.

38.—(1) Subject to subsection (2) of section 42 (Transitional provisions for Part VIII) of this Act, as from the appointed day in the county it is unlawful for a stack to which this Part applies to be on any premises in the county without the consent of the county council or in breach of any condition subject to which such consent is given.

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

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

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

(*a*) they may—

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

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

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

PART VIII —*cont.*

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

(*b*) they may at any time by notice to the owner of the materials, or the occupier of the premises on which a stack is situated, relax any conditions imposed under this section.

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

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

Part VIII appeals.

39. A person aggrieved by the county council's refusal of consent, or by any condition imposed on such a consent under section 38 (Unlawful stacks) of this Act, may, within 28 days after the refusal, or the imposition of conditions, has been notified as required by that section, appeal to the Secretary of State stating in writing the grounds of his appeal and giving information on any other matters that the Secretary of State may require; and the appellant shall at the same time serve on the county council a copy of that statement.

Powers of entry for Part VIII.

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

Offences under Part VIII.

41. Where a stack is on any premises in contravention of subsection (1) of section 38 (Unlawful stacks) of this Act the owner of the stack and the occupier of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

Transitional provisions for Part VIII.

42.—(1) Where under subsection (4) of section 38 (Unlawful stacks) of this Act the county council impose or vary conditions for a stack, the new conditions, or the conditions as varied, shall not have effect until the expiration of 42 days after the

PART VIII —*cont.*

imposition or variation has been notified to the person concerned by the county council or, if there is an appeal to the Secretary of State, until the expiration of 42 days after the Secretary of State has notified the appellant of his decision.

(2) Where the owner of a stack or the occupier of premises has represented to the county council that the appointed day fixed for the purposes of section 38 (Unlawful stacks) of this Act does not give him reasonable time to adjust his undertaking, trade or business to the requirements of this Part, the county council may postpone the appointed day in respect of those premises to such other day as they may think fit, and, on that other day being notified to the appellant, the appointed day in respect of those premises shall be that day.

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

PART IX

ENTERTAINMENT CLUBS

Interpretation of Part IX.

43. In this Part "entertainment club" means, subject to section 50 (Exemption of premises from Part IX) of this Act, any premises in the district which are used by the members of a club, organisation or body for the purpose of the provision of entertainment, for dancing or for the playing of games in pursuance of the objects of the club, organisation or body.

Prohibition of unregistered entertainment clubs.

44. As from the appointed day in any district, any person, being the owner or occupier or a person concerned in the conduct or management of premises in the district who—

(*a*) uses or permits the use of those premises as an entertainment club when they are not registered under this Part; or

(*b*) contravenes, or permits the contravention of, a condition imposed on registration of the premises under this Part;

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

Offences in connection with entertainment clubs.

45. If an entertainment club is habitually used for an unlawful purpose, or as a resort of criminals or prostitutes, any person concerned in the conduct or management of the entertainment club, who knows that the premises are so used and does not take such steps as may be necessary to prevent that use shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

PART IX —*cont.*

Application for registration.

46.—(1) Application for registration or the renewal of registration of premises under this Part shall be made in writing to the district council by the owner or occupier of the premises, stating—

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

(*b*) the address or situation of the premises to which the application relates; and

(*c*) such other information regarding the premises, the persons concerned or intended to be concerned in the conduct or management thereof, and the manner in which the premises are to be used, as the district council may reasonably require;

and the applicant shall supply such plans of the premises as the district council may reasonably require.

(2) (*a*) With his application for registration or for the renewal of registration of premises under this Part the applicant shall pay such reasonable fee to cover the expense of the district council in dealing with such applications as the council may by resolution prescribe; and different fees may be prescribed for applications of different kinds.

(*b*) The district council may dispense with, or reduce, a fee chargeable under this subsection.

(3) An applicant for registration or for the renewal of registration of premises under this Part shall, upon making his application, give notice of the application to the fire authority and to the chief constable; and shall give public notice of the application, (identifying the premises) in such form as the district council may, by resolution, prescribe—

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

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

(4) An application for registration, or for the renewal of registration, of premises under this Part shall not be entertained by the district council unless they are satisfied that the applicant has complied with subsection (3) above in respect of the application.

Registration of entertainment clubs.

47.—(1) (*a*) The district council shall, on considering an application for the registration of premises under this Part, take into account the suitability of the premises for use as an entertainment club, having regard to the matters referred to in subsection (3) below and shall, on considering an application for the renewal of registration, take those matters into account

PART IX —*cont.*

if in their opinion there has, since the last registration or renewal, been a material change of circumstances affecting any of those matters.

(*b*) Before considering an application for the registration or the renewal of registration of premises under this Part, the district council shall consult the fire authority.

(2) On considering an application for the registration or the renewal of registration of premises under this Part the district council shall take into consideration any objection made against the application of which notice in writing has, not later than 21 days after the date of the application, been sent to the district council and to the applicant, stating in general terms the grounds of the objection.

(3) The district council may refuse to register or renew the registration of premises under this Part if they are satisfied that it is reasonable to do so, having regard to all the circumstances, on any of the following grounds:—

(*a*) the premises are not structurally suitable for the intended use, or are not provided with satisfactory means of lighting, sanitation and ventilation;

(*b*) the premises are not safe for such use, or the means of heating the premises are not safe;

(*c*) satisfactory means of ingress and egress, and suitable fire-fighting appliances, are not available on the premises;

(*d*) proper precautions against fire on the premises have not been taken;

(*e*) the intended use of the premises is likely to cause nuisance;

(*f*) the applicant has, within the period of five years immediately preceding the date of the application, been convicted of an offence under section 8 (*b*) of the Misuse of Drugs Act 1971 (supply of controlled drugs), under Part X (Night cafés and take-away cafés) or under this Part; and

1971 c. 38.

(*g*) any person concerned or intended to be concerned in the conduct or management of the premises is of such character that persons resorting to the premises are likely to be depraved or corrupted;

and the district council shall refuse to register or renew the registration of any premises under this Part if they are satisfied that a disqualification order is for the time being in force under section 100 of the Licensing Act 1964 or section 11 of the Late Night Refreshment Houses Act 1969 in respect of the premises or of any person concerned or intended to be concerned in the conduct or management thereof.

1964 c. 26.
1969 c. 53.

PART IX —*cont.*

(4) The district council may, on registering or renewing the registration of premises under this Part, impose such conditions as may be reasonable, having regard to all the circumstances, as to—

(*a*) the maintenance and safe condition of the premises and of means of heating the premises;

(*b*) the taking of proper precautions against fire, and the maintenance in proper order of all means of ingress and egress, fire-fighting appliances and means of lighting, sanitation and ventilation;

(*c*) the maintenance of good order;

(*d*) the number of persons who may be allowed to be on the premises at any time;

(*e*) the hours of opening and closing the premises for use as an entertainment club.

(5) The district council may at any time revoke a registration under this Part on any ground upon which, by subsection (3) above, they are authorised or required to refuse to register or renew the registration of the premises, or if they are satisfied that a condition imposed under subsection (4) above has not been complied with.

(6) Before refusing to register or renew the registration of premises under this Part, revoking a registration, or imposing any condition on a registration or renewal of a registration, the district council shall give to the person applying for registration or renewal of registration, or, in the case of a revocation, the person in whose name the premises are registered, an opportunity of appearing before and of being heard by a committee or sub-committee of the council and, if so required by him, the council shall within seven days after their decision give him notice thereof containing a statement of the grounds upon which it was based.

(7) Registration under this section shall, unless revoked, remain in force for such period, not exceeding 13 months, as may be fixed by the district council on the grant of the registration or renewal thereof.

Part IX appeals.

48.—(1) A person aggrieved by a refusal to register or to renew a registration of premises under this Part, or by the revocation thereof, or any condition imposed thereon, may, not later than 21 days after the day on which notice is given to him under subsection (6) of section 47 (Registration of entertainment clubs) of this Act, appeal to a magistrates' court.

PART IX —*cont.*

(2) On any such appeal the court may by order—

(*a*) confirm or set aside such refusal or revocation and, on setting aside a refusal or revocation, impose any condition which the district council would have been entitled to impose; or

(*b*) confirm, vary or set aside any condition imposed on the registration;

and make directions for giving effect to its decision:

Provided that, where conditions have been imposed on a registration by the district council, the court shall not vary any such condition, or impose any new condition, so as to make the conditions more onerous than those imposed by the district council.

Part IX powers of entry, inspection and examination.

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

(*a*) whether there is, or has been, in or in connection with the premises, a contravention of the provisions of this Part or of any condition imposed on registration under this Part; or

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

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

Exemption of premises from Part IX.

1964 c. 26.

50.—(1) Nothing in this Part shall apply to—

(*a*) premises in respect of which there is in force for the time being a justices' on licence as defined in section 1 (2) of the Licensing Act 1964 or a Part IV licence as defined in section 93 of that Act;

(*b*) premises while in use wholly or mainly for any purpose authorised by a licence under section 51 of the Public Health Acts Amendment Act 1890 or the Private Places of Entertainment (Licensing) Act 1967, or a licence for the public performance of stage plays or a cinematograph exhibition;

1890 c. 59.
1967 c. 19.

(*c*) premises used by a club which is registered or licensed under the Licensing Act 1964 or is managed or controlled by a local authority; or

PART IX —*cont.*

1964 c. 26.

(*d*) premises used as an entertainment club for the purposes of a club, organisation or body which is registered as a charity under section 4 of the Charities Act 1960 or excepted from registration by virtue of subsection (4) of that section.

1960 c. 58.

(2) Notwithstanding the provisions of this Part, it shall be lawful for any person who—

(*a*) immediately before the appointed day was using any premises as an entertainment club and had before that day duly applied for the registration of those premises for that purpose; or

(*b*) was using any premises as an entertainment club immediately before the date specified in a resolution under subsection (3) (*a*) (ii) below for the removal of an exemption affecting those premises and had before that date duly applied for registration of those premises for that purpose; or

(*c*) before the expiration of the period of registration of any premises for use as an entertainment club, had duly applied for the renewal of that registration;

to continue to use the premises as an entertainment club until he is informed of the decision with regard to his application; and, in the case of an applicant for the renewal of registration mentioned in paragraph (*b*) above, the registration shall be deemed to remain in force notwithstanding the expiration of the period of registration until he is so informed.

(3) (*a*) A district council may by resolution—

(i) exempt from this Part premises of a class or description specified in the resolution, from a date so specified; and

(ii) remove that exemption, in whole or as respects premises of a particular class or description so specified.

(*b*) Subsections (2) and (3) of section 3 (Appointed day) of this Act shall, with any necessary modifications, apply in respect of a resolution made under this subsection and any date specified by the resolution.

Part X

Night cafés and take-away cafés

Interpretation of Part X.

51. In this Part—

"the borough" means the borough of Brighton or, as the case may be, the borough of Hove;

"the borough council" means the Brighton Borough Council or, as the case may be, the Hove Borough Council;

"night café" means, subject to section 59 (Exemption of premises from Part X) of this Act, any premises in the borough which are kept open or used for the supply to the public of refreshments at any time between the hours of 11.00 p.m. and 5.00 a.m. for consumption on the premises;

"take-away café" means, subject to the said section 59, any premises in the borough which are kept open or used for the supply to the public of refreshments at any time between the hours of 1.00 a.m. and 5.00 a.m. for consumption exclusively off the premises.

Prohibition of unregistered night cafés and take-away cafés.

52. As from the appointed day in the borough any person, being the owner or occupier, or a person concerned in the conduct or management of premises in the borough, who—

(*a*) uses or permits the use of those premises as a night café when they are not registered under this Part;

(*b*) uses or permits the use of those premises as a take-away café when they are not registered under this Part; or

(*c*) contravenes, or permits the contravention of, a condition imposed on registration of the premises under this Part;

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

Offences in connection with night cafés and take-away cafés.

53. If a night café or take-away café is habitually used for an unlawful purpose, or as a resort of criminals or prostitutes, any person concerned in the conduct or management of the night café or, as the case may be, take-away café, who knows that the premises are so used and does not take such steps as may be necessary to prevent that use shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

Application for registration.

54.—(1) Application for registration or the renewal of registration of premises under this Part shall be made in writing to the borough council by the owner or occupier of the premises, stating—

PART X —*cont.*

(*a*) the name and address of the applicant, and, in the case of application for registration of premises for use as a night café, his trade or calling during the six months preceding the application;

(*b*) the address or situation of the premises to which the application relates; and

(*c*) such other information regarding the premises, the persons concerned or intended to be concerned in the conduct or management thereof, and the manner in which the premises are to be used, as the borough council may reasonably require;

and, in the case of a night café, the applicant shall supply such plans of the premises as the borough council may reasonably require.

(2) (*a*) With his application for registration or for the renewal of registration of premises under this Part the applicant shall pay such reasonable fee to cover the expense of the borough council in dealing with such applications as the council may by resolution prescribe; and different fees may be prescribed for applications of different kinds.

(*b*) The borough council may dispense with, or reduce, a fee chargeable under this subsection.

(3) An applicant for registration or for the renewal of registration of premises for use as a night café under this Part shall, upon making his application, give notice of the application to the fire authority and to the chief constable, and shall give public notice of the application, (identifying the premises) in such form as the borough council may, by resolution, prescribe—

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

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

(4) An application for registration, or for the renewal of registration, of premises for use as a night café under this Part shall not be entertained by the borough council unless they are satisfied that the applicant has complied with subsection (3) above in respect of the application.

Registration of night cafés.

55.—(1) (*a*) The borough council shall, on considering an application for the registration of premises for use as a night café under this Part, take into account the suitability of the premises for use as a night café having regard to the matters referred to in

PART X —*cont.*

subsection (3) below and shall, on considering an application for the renewal of registration, take those matters into account if in their opinion there has, since the last registration or renewal, been a material change of circumstances affecting any of those matters.

(*b*) Before considering an application for the registration or the renewal of registration of premises for use as a night café under this Part, the borough council shall consult the fire authority.

(2) On considering an application for the registration or the renewal of registration of premises for use as a night café under this Part the borough council shall take into consideration any objection made against the application of which notice in writing has, not later than 21 days after the date of the application, been sent to the borough council and to the applicant, stating in general terms the grounds of the objection.

(3) The borough council may refuse to register or renew the registration of premises for use as a night café under this Part if they are satisfied that it is reasonable to do so, having regard to all the circumstances, on any of the following grounds:—

(*a*) the premises are not structurally suitable for the intended use, or are not provided with satisfactory means of lighting, sanitation and ventilation;

(*b*) the premises are not safe for such use, or the means of heating the premises are not safe;

(*c*) satisfactory means of ingress and egress, and suitable fire-fighting appliances, are not available on the premises;

(*d*) proper precautions against fire on the premises have not been taken;

(*e*) the intended use of the premises is likely to cause nuisance;

(*f*) the applicant has, within the period of five years immediately preceding the date of the application, been convicted of an offence under section 8 (*b*) of the Misuse of Drugs Act 1971 (supply of controlled drugs), under Part IX (Entertainment clubs) or under this Part; and

1971 c. 38.

(*g*) any person concerned or intended to be concerned in the conduct or management of the premises is of such character that persons resorting to the premises are likely to be depraved or corrupted;

and the borough council shall refuse to register or renew the registration of any premises for use as a night café under this Part if they are satisfied that a disqualification order is for the time being in force under section 100 of the Licensing Act 1964 or section 11 of the Late Night Refreshment Houses Act 1969

1964 c. 26.
1969 c. 53.

PART X —*cont.*

in respect of the premises or of any person concerned or intended to be concerned in the conduct or management thereof.

(4) The borough council may, on registering or renewing the registration of premises for use as a night café under this Part, impose such conditions as may be reasonable, having regard to all the circumstances, as to—

(*a*) the maintenance and safe condition of the premises and of means of heating the premises;

(*b*) the taking of proper precautions against fire, and the maintenance in proper order of all means of ingress and egress, fire-fighting appliances and means of lighting, sanitation and ventilation;

(*c*) the maintenance of good order;

(*d*) the number of persons who may be allowed to be on the premises at any time;

(*e*) the hours of opening and closing the premises for such use.

(5) The borough council may at any time revoke a registration for use as a night café under this Part on any ground upon which, by subsection (3) above, they are authorised or required to refuse to register or renew the registration of the premises, or if they are satisfied that a condition imposed under subsection (4) above has not been complied with.

(6) Before refusing to register or renew the registration of premises for use as a night café under this Part, revoking a registration, or imposing any condition on a registration or renewal of a registration, the borough council shall give to the person applying for registration or renewal of registration, or, in the case of a revocation, the person in whose name the premises are registered, an opportunity of appearing before and of being heard by a committee or sub-committee of the council and, if so required by him, the council shall within seven days after their decision give him notice thereof containing a statement of the grounds upon which it was based.

(7) Registration under this section shall, unless revoked, remain in force for such period, not exceeding 13 months, as may be fixed by the borough council on the grant of the registration or renewal thereof.

Registration of take-away cafés.

56.—(1) On application for the registration or the renewal of registration of premises for use as a take-away café under this Part the borough council shall register or renew the registration of the premises unless they are satisfied that a disqualification order is for the time being in force under section 100 of the Licensing

PART X —*cont.*

1964 c. 26.
1969 c. 53.

Act 1964 or under section 11 of the Late Night Refreshment Houses Act 1969 in respect of the premises or of any person concerned or intended to be concerned in the conduct or management thereof.

(2) The borough council, if satisfied that it is desirable to do so in order to avoid unreasonable disturbance to residents of the neighbourhood, may, on registering or renewing the registration of premises for use as a take-away café under this Part, impose conditions as to the hours of opening and closing the premises for such use.

(3) The borough council may at any time revoke a registration for use as a take-away café under this Part on any ground upon which, by subsection (1) above, they are authorised or required to refuse to register or renew the registration of the premises, or if they are satisfied that a condition imposed under subsection (2) above has not been complied with.

(4) Before refusing to register or renew the registration of premises for use as a take-away café under this Part, revoking a registration, or imposing any condition on a registration or renewal of a registration, the borough council shall give to the person applying for registration or renewal of registration, or, in the case of a revocation, the person in whose name the premises are registered, an opportunity of appearing before and of being heard by a committee or sub-committee of the council and, if so required by him, the council shall within seven days after their decision give him notice thereof containing a statement of the grounds upon which it was based.

(5) Registration under this section shall, unless revoked, remain in force for such period, not exceeding 13 months, as may be fixed by the borough council on the grant of the registration or renewal thereof.

Part X appeals.

57.—(1) A person aggrieved by a refusal to register or to renew a registration of premises under this Part, or by the revocation thereof, or any condition imposed thereon, may, not later than 21 days after the day on which notice is given to him under subsection (6) of section 55 (Registration of night cafés) or subsection (4) of section 56 (Registration of take-away cafés) of this Act, appeal to a magistrates' court.

(2) On any such appeal the court may by order—

(*a*) confirm or set aside such refusal or revocation and, on setting aside a refusal or revocation, impose any condition which the borough council would have been entitled to impose; or

PART X —cont.

(*b*) confirm, vary or set aside any condition imposed on the registration;

and make directions for giving effect to its decision:

Provided that, where conditions have been imposed on a registration by the borough council, the court shall not vary any such condition, or impose any new condition, so as to make the conditions more onerous than those imposed by the borough council.

Part X powers of entry, inspection and examination.

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

(*a*) whether there is, or has been, in or in connection with the premises, a contravention of the provisions of this Part or of any condition imposed on registration under this Part; or

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

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

Exemption of premises from Part X.

59.—(1) Nothing in this Part shall apply to—

(*a*) premises in respect of which there is in force for the time being a justices' on licence as defined in section 1 (2) of the Licensing Act 1964, not being a Part IV licence as defined in section 93 of that Act; 1964 c. 26.

(*b*) premises in respect of which there is in force for the time being a Part IV licence as so defined if they are not kept open for public refreshment at any time between the expiration of 30 minutes immediately following the end of the permitted hours in those premises or 11.00 p.m., whichever is the later, and 5.00 a.m.;

(*c*) premises while in use wholly or mainly for any purpose authorised by a licence under section 51 of the Public Health Acts Amendment Act 1890 or the Private Places of Entertainment (Licensing) Act 1967, or a licence for the public performance of stage plays or a cinematograph exhibition; 1890 c. 59. 1967 c. 19.

PART X —*cont.*

(*d*) premises used by a club which is registered or licensed under the Licensing Act 1964 or is managed or controlled by a local authority; or

1964 c. 26.

(*e*) premises used as a night café or take-away café which are—

(i) kept open wholly or mainly in the course of carrying on the business of an hotel or boarding house keeper providing sleeping accommodation for members of the public as guests; or

(ii) used exclusively as a canteen forming part of a factory or office which is subject to any of the relevant statutory provisions as defined in Part I of the Health and Safety at Work etc. Act 1974.

1974 c. 37.

(2) Notwithstanding the provisions of this Part, it shall be lawful for any person who—

(*a*) immediately before the appointed day was using any premises as a night café and had before that day duly applied for the registration of those premises for that purpose; or

(*b*) was using any premises as a night café or take-away café immediately before the date specified in a resolution under subsection (3) (*a*) (ii) below for the removal of an exemption affecting those premises and had before that date duly applied for registration of those premises for that purpose; or

(*c*) before the expiration of the period of registration of any premises for use as a night café or take-away café, had duly applied for the renewal of that registration;

to continue to use the premises as a night café or, as the case may be, take-away café until he is informed of the decision with regard to his application; and, in the case of an applicant for the renewal of registration mentioned in paragraph (*b*) above, the registration shall be deemed to remain in force notwithstanding the expiration of the period of registration until he is so informed.

(3) (*a*) The borough council may by resolution—

(i) exempt from this Part premises of a class or description specified in the resolution, from a date so specified; and

(ii) remove that exemption, in whole or as respects premises of a particular class or description so specified.

(*b*) Subsections (2) and (3) of section 3 (Appointed day) of this Act shall, with any necessary modifications, apply in respect of a resolution made under this subsection and any date specified by the resolution.

PART X —*cont.*

60. On the appointed day fixed for the purposes of section 52 (Prohibition of unregistered night cafés and take-away cafés) of this Act in the borough, the Late Night Refreshment Houses Act 1969 shall cease to apply to premises in the borough and any premises in the borough registered under the said Act of 1969 shall be deemed to be registered for use as a night café under this Part.

Late Night Refreshment Houses Act 1969.
1969 c. 53.

PART XI

PROVISIONS APPLICABLE ONLY TO PART OF EAST SUSSEX

Brighton

A. Enclosed places

61. In this Head of this Part—

Definitions for Head A of Part XI.

" enclosed places " means the enclosures and gardens in the borough of Brighton forming part of the squares and places named in column (1) of Schedule 1 to this Act and shall also include any gardens or enclosed grounds which may after the commencement of this Act be the subject of an order of the Secretary of State made under section 63 (Extension to other places and houses) of this Act;

" enclosure committee " means, in relation to each enclosed place, the committee appointed for that place in accordance with section 65 (Committee for managing enclosed places) of this Act;

" the mayor " means the mayor of Brighton;

" privileged houses " means the houses and parts of houses described in column (2) of Schedule 1 to this Act and shall also include any houses which may after the commencement of this Act be the subject of an order of the Secretary of State made under the said section 63;

" owner " and " occupier " when used in relation to any request or consent required by this Head of this Part to be made or given by any owners or occupiers of privileged houses, or in relation to the right of voting at any election of any committee of any enclosed place, shall have the following meanings:—

" owner " shall mean any person for the time being receiving, whether on his own account or as agent or

PART XI —*cont.*

trustee for any other person or as mortgagee or other incumbrancer in possession, the rack-rent of any privileged house or any part thereof, or who would be entitled so to receive the rack-rent if such house or part thereof were let at a rack-rent;

" occupier " shall mean any person in the actual occupation of any such house, or any part thereof occupied as a separate tenement, who has been assessed to the general rate in respect of such house or part thereof for not less than one year immediately preceding the day of the making or giving by him of any such request or consent or the tendering of his vote at any such election, and has also before that day paid all rates due from him under this Head of this Part, except rates which have so become due within the six months immediately preceding that day.

Enclosed places to continue vested in Brighton Borough Council.

62. The enclosed places shall (subject to all rights of the owners and occupiers of the privileged houses in relation to such places respectively to use the same respectively as pleasure grounds or gardens) continue vested in the Brighton Borough Council as trustees for the purposes and subject to the provisions of this Head of this Part; and the Brighton Borough Council shall, subject to the provisions of this Head of this Part, continue to be entitled to the benefit of the covenants originally entered into with the owner of each enclosed place by the first purchasers of the several sites of privileged houses entitled to the user thereof.

Extension to other places and houses.

63.—(1) This section applies to any garden or enclosed ground which has been set apart (otherwise than by the revocable permission of the owner thereof) in any public square, crescent, circus, street or other public place for the use or enjoyment of the inhabitants of the houses abutting upon or in the immediate vicinity of the same, subject to any condition or reservation for keeping such garden or enclosed ground as a garden or pleasure ground or unbuilt upon.

(2) (*a*) The Brighton Borough Council, if requested by not less than three-fourths in number of the owners and occupiers of houses abutting upon or in the immediate vicinity of any garden or enclosed ground to which this section applies, may order that such garden or enclosed ground shall, together with the benefit of the covenants originally entered into with the owner of the garden or enclosed ground by the first purchasers of the several sites of privileged houses entitled to the user thereof, vest in them as trustees for the purposes and subject to the provisions of this Head of this Part.

PART XI —*cont.*

(*b*) An order made under paragraph (*a*) above shall take effect immediately after the publication of notice of the order in the London Gazette, and thereupon the provisions of this Head of this Part shall (subject to subsection (3) below) extend to the garden or enclosed ground and the privileged houses to which the order applies.

(*c*) The production of a copy of the London Gazette containing any such notice as aforesaid shall be conclusive evidence of the due making of an order under this section and that the provisions of this Head of this Part are in force in relation to the garden or ground and the houses specified in the order.

(3) Notwithstanding anything in section 65 (Committee for managing enclosed places) of this Act, the day for the first election of the enclosure committee for a garden or enclosed ground in respect of which an order has been made under this section shall be a day specified in the order.

Enclosed places.

64. Each of the enclosed places shall be kept free from all buildings and as a pleasure ground or garden for the use and enjoyment of the owners and occupiers of the privileged houses and their respective families, visitors and friends (subject to the provisions of this Act as to the maintenance, management and improvement of the same), and may from time to time be used and enjoyed respectively as a pleasure ground or garden by the owners and occupiers of the privileged houses and by any of their respective families, visitors and friends and by no other persons subject to the provisions of this Head of this Part:

Provided that—

(i) nothing in this section shall prevent the provision of gardeners' sheds or other similar structures which may be required for the purpose of facilitating the management of any enclosed place; and

(ii) no visitors or friends of any such owner or occupier shall be entitled to use any enclosed place unless accompanied by such owner or occupier or by some member of his family resident in his house.

Committee for managing enclosed places.

65.—(1) For the purpose of providing for the maintenance, management and improvement of the enclosed places and of the grass, trees, shrubs, plants, flowers, rails, fences, seats and other things therein and the walks thereon and the enclosure railings, walls or fences thereof, there shall for each enclosed place be a committee who shall, to the exclusion of any other person or authority, be charged with the duty of such maintenance, management and improvement, and such committee shall be known as the enclosure committee for the enclosed place in respect of which they have been constituted.

PART XI —*cont.*

(2) Each enclosure committee shall (subject to subsection (3) below) consist of six persons of whom one shall be the mayor or some member of the Brighton Borough Council nominated in writing by the mayor and the remainder shall be owners or occupiers of the privileged houses to be elected annually at the times in the manner and subject to the conditions prescribed by the regulations contained in Schedule 2 to this Act.

(3) An enclosure committee may from time to time within 10 months after the last election of members by resolution increase or decrease the number of members of the committee as they may think fit, but such resolution shall only take effect at the annual election of members next after the passing of the resolution, and the number of the members constituting the committee shall not at any time be more than eight nor less than five of whom the mayor, or such nominees of the mayor as aforesaid, shall always be one.

(4) An enclosure committee shall for the purposes aforesaid have all such rights, powers and authorities and be entitled to do all such acts, matters and things and to cause to be executed all such works and to employ and remunerate all such superintendents, gardeners and workmen as they may think necessary.

(5) Each enclosure committee shall hold meetings at such time and place as they may from time to time think necessary.

(6) At every meeting of an enclosure committee the chairman of the meeting shall be the mayor or such nominee of the mayor as aforesaid, if present, and if he be absent some other member to be chosen by the committee.

(7) At any meeting of an enclosure committee all powers vested in the committee under this Act may be exercised by any three or more members present at the meeting and no business shall be transacted unless three members be present; and all questions shall be decided by a majority of those present and voting and in case of equality of votes the chairman of the meeting shall have a second or casting vote.

Power to make rates to defray expenses.

66.—(1) An enclosure committee may, for the purpose of defraying any expenses incurred by them in the execution of this Head of this Part, once or more often in every year make, assess and collect a rate or rates upon and from the occupier of every privileged house or any part of a privileged house occupied as a separate tenement according to the rateable value of such house or part thereof respectively according to the valuation list for the time being in force:

Provided that such rate or rates shall not in any one year exceed 25 pence in the pound on the rateable value of such house or part thereof respectively.

PART XI —*cont.*

(2) If any rate authorised by this section shall be in arrear for one month after a notice in writing demanding payment thereof has been served on the occupier of a privileged house or any part of a privileged house occupied as a separate tenement, the rate may be recovered by and in the name of the Brighton Borough Council on behalf of the enclosure committee in the county court as a simple contract debt, and in any proceedings it shall not be necessary to prove the appointment of the enclosure committee or any member thereof.

(3) Any three or more occupiers of separate privileged houses or separate parts of a privileged house may appeal against any such rate within 14 days after the demand for the rate to a magistrates' court on the ground of irregularity in making the rate or of the amount thereof being larger than is necessary, but no such appeal shall be heard unless ten clear days' notice in writing be given to the Brighton Borough Council on behalf of the enclosure committee stating the objection to the rate; and the court shall have power in case of irregularity in making the said rate to quash the rate, or, if in their judgment the amount thereof is larger than necessary, to vary the rate accordingly and to make such order as to costs as they may think just.

(4) The provisions of section 18 of the General Rate Act 1967 shall extend and apply with respect to any rate to be made by the enclosure committee under this section as though such rate were a general rate under that Act and the committee were the rating authority, and the provisions of subsections (1) and (2) of section 109 of the said Act of 1967 shall apply to any notice demanding payment of a rate under this section. 1967 c. 9.

(5) An enclosure committee may, for the purpose of making, assessing and collecting any rate or rates which they are by this section authorised to make, appoint a fit person to assist them in making and assessing such rate or rates and to collect the same and may pay him such remuneration as they may think fit.

Power to bring action and take proceedings.

67. An enclosure committee may in the name of the Brighton Borough Council on behalf of the committee—

(*a*) bring any action of ejectment or trespass or other action for recovering or defending the possession of the enclosed place for the purposes of this Act, or for obtaining the payment of damages or any mandamus or injunction in respect of or against any actual or contemplated injury or damage to such enclosed place or any part or parts thereof, or the fences, walks, lawns and property in or about the same; and

(*b*) take proceedings for the recovery of the fines prescribed by the byelaws relating to such enclosed place from persons committing offences against the byelaws.

PART XI —*cont.*

Brighton Borough Council not liable in respect of legal proceedings instituted under section 67.

68.—(1) Nothing in this Head of this Part shall render the Brighton Borough Council liable in respect of any legal proceedings instituted by an enclosure committee in the name of the borough council under section 67 (Power to bring action and take proceedings) of this Act.

(2) All damages, costs, charges and expenses which may become payable by the Brighton Borough Council in respect of any legal proceedings instituted by an enclosure committee under the said section 67 shall be paid by that committee, and the committee shall be entitled to indemnify themselves for such payment out of moneys applicable or which may be raised by them for defraying the expenses incurred in the exercise of their functions.

Proceedings of enclosure committee not to be invalidated for want of form.

69. Proceedings instituted by an enclosure committee under this Act shall not be invalidated or be illegal in consequence of there being any vacancy in the number of the committee at the time of such proceedings, and all proceedings of such committee or of any person acting on their behalf shall, notwithstanding the subsequent discovery that there was some defect in the appointment or election of any of the members of the committee, or that they or any of them were disqualified, be as valid as if every member of the committee had been duly appointed or elected and was qualified to be a member of the committee.

Appropriation of enclosed places.

70.—(1) Notwithstanding anything in this Head of this Part, the Brighton Borough Council may with the consent of any enclosure committee testified by resolution and with the consent of two-thirds of the owners of the privileged houses in relation to the enclosed place concerned, take over and maintain as a public park or pleasure ground the whole or any part of such enclosed place, and as from the date of the last of such consents the provisions of this Head of this Part shall cease to apply to the enclosed place or part of an enclosed place so taken over by the Brighton Borough Council.

(2) A copy of any such resolution certified by the chairman of the meeting at which the same was passed to be true, shall be conclusive evidence of the meeting having been duly convened and held and of the resolution having been duly passed.

(3) This section shall not apply to Royal Crescent.

B. Miscellaneous

Powers in relation to Royal Pavilion Estate.

71.—(1) The Brighton Borough Council may on or in connection with the Royal Pavilion Estate—

(*a*) maintain, repair, alter, enlarge or improve any existing buildings and any further buildings to be erected under the powers of this section;

PART XI —*cont.*

(*b*) demolish any existing buildings and erect such further buildings as they may think necessary or convenient or for the benefit of the inhabitants of, and visitors to, the borough of Brighton;

(*c*) maintain the existing lawns and gardens, and alter and improve them, and lay out roads, paths and walks thereon;

(*d*) continue, erect, maintain and remove such lodges, gates, entrances, summer-houses, seats, railings, fences and conveniences as they may think fit;

(*e*) make byelaws for the regulation and use of the Royal Pavilion Estate;

(*f*) let the whole or any part or parts of the Royal Pavilion Estate to such person, for such period and purposes and on such terms and conditions as they may think fit, and in particular (without prejudice to the generality of the foregoing provisions of this section) grant or permit the use free of charge of any room or rooms forming part of the Royal Pavilion Estate for any charitable, religious or scientific purposes or for public or private meetings or for public lectures or for other like objects or purposes;

(*g*) allow the lawns and pleasure grounds forming part of the Royal Pavilion Estate, or any part or parts of the said lawns and grounds, to be used for purposes of flower shows, fruit shows, exhibitions of natural or artificial products or of works of art or industry, games of skill and other like purposes, but subject nevertheless to such byelaws as to the user thereof as may from time to time be in force; and when the said lawns and pleasure grounds or any part or parts thereof are so used, demand and take, or permit to be demanded and taken, such reasonable sums as they from time to time think fit and direct for the admission of persons, vehicles and things thereto and exclude therefrom all persons, vehicles and things by whom or in respect of which the sums so directed to be demanded and taken shall not have been paid.

(2) The council shall not exercise the powers of paragraph (*b*) of subsection (1) above without the consent of the Secretary of State nor so as to contravene any restriction against building existing at the commencement of this Act, nor shall they sell the whole or any part of the Royal Pavilion Estate without the like consent.

The Old Steine and the Level.

72.—(1) The Old Steine and the Level as they exist at the commencement of this Act shall be held, used and enjoyed by the Brighton Borough Council upon the trusts declared by the

PART XI —*cont.*

indentures described in Part I of Schedule 3 to this Act for the inhabitants of and visitors to the borough of Brighton.

(2) All the rights, powers, privileges and authorities given by any of the said indentures to the managing trustees for the time being, with respect to the making of rules, orders and regulations and otherwise so far as they relate to the Old Steine or the Level, shall remain vested in and may be exercised by the Brighton Borough Council without the consent of the vicar of Brighton or the lords of the manors of Brighton and Atlingworth or any of them.

(3) Nothing in this section shall limit any right which the Brighton Borough Council may have under any enactment to use the Old Steine or any part thereof for any of their statutory purposes.

The Racecourse.

73.—(1) All the rights, powers, privileges and authorities of the managing trustees referred to in, and the benefit of all covenants to which those trustees were formerly entitled under, any of the indentures described in Parts I and II of Schedule 3 to this Act with respect to the Racecourse and the appurtenances thereto shall continue vested in the Brighton Borough Council and may be exercised and enjoyed by them without the consent of the vicar of Brighton or the lords of the manors of Brighton and Atlingworth or any of them.

(2) The Racecourse shall be held (so far as is consistent with the use thereof) in the manner and for the purposes mentioned in the indentures described in Parts I, II, III and IV of Schedule 3 to this Act, and those purposes shall be deemed to include—

(*a*) the erection, maintenance, furnishing and equipment of such temporary or permanent buildings on any part or parts of the Racecourse as stables for horses as the stewards of the Jockey Club may certify to be necessary for the purpose of the use of the Racecourse for horse races;

(*b*) the erection by the Horserace Totalisator Board with the consent of the Brighton Borough Council on any part or parts of the Racecourse of such buildings and apparatus as may be necessary or desirable for the purpose of providing facilities for pool betting under the Betting, Gaming and Lotteries Act 1963;

1963 c. 2.

(*c*) the letting or leasing to the said board for such period at such rent and subject to such covenants and conditions as the Brighton Borough Council think fit of such portion or portions of the Racecourse as the said board may certify to be required for the purposes of any such facilities as aforesaid;

PART XI —*cont.*

(*d*) the enclosure of and exclusion of the public (either temporarily or permanently) from any part or parts of the Racecourse which may have been leased to the said board or upon which stables may have been erected and the exclusion by the Brighton Borough Council or any person authorised in writing by them of any unauthorised person from admission to any such part or parts of the Racecourse;

(*e*) the letting or leasing from time to time for such periods, at such rents and subject to such covenants and conditions as the Brighton Borough Council think fit for the use of all or any part of the Racecourse for recreational, sporting or other purposes of a like kind tending to promote the amusement or enjoyment of the inhabitants of or visitors to the borough of Brighton:

Provided that—

(i) nothing in this paragraph shall restrict the powers conferred on the Brighton Borough Council by paragraph (*c*) above; and

(ii) any money received by the Brighton Borough Council by way of rent under any such letting or lease or under any lease current at the commencement of this Act shall be applied in the maintenance and improvement of the Racecourse and subject thereto shall be carried to the credit of the general rate fund.

Volk's Electric Railway.

74.—(1) The Brighton Borough Council may maintain the railway in the borough of Brighton known as "Volk's Electric Railway" (in this section called "the railway").

(2) The Brighton Borough Council may place and run cars on the railway and may work the railway by electrical power and may demand and take tolls and charges in respect of the railway and in respect of the use of such cars, and may provide, lay down, place, erect, set up, maintain, use, renew and repair all such electric mains, plates, channels, tubes, grooves, rails, batteries, dynamos, transformers, engines, machinery, apparatus, works and appliances as may be requisite or expedient for the convenient working or user of the railway by electrical power.

Trust moneys of William Edmund Davies. 1883 c. vi.

75. The trust fund held by the Brighton Borough Council under the codicil to the will of William Edmund Davies referred to in the Preamble of the Preston Park Act 1883 and under the deed of

PART XI —*cont.*

arrangement and compromise dated the twenty-fourth day of June eighteen hundred and eighty and the deed annexed thereto dated the thirteenth day of June eighteen hundred and eighty-one referred to in the said Preamble, and the income of that fund, shall be deemed and taken to be a fund at the disposal of the Brighton Borough Council applicable to the following purposes in addition to the purposes to which the fund was applicable immediately before the passing of the Preston Park Act 1883:— 1883 c. vi.

(*a*) the payment of the cost of purchasing, managing, laying out and improving such portion of the lands which under any enactment were known as, or deemed to be part of, the East Brighton Estate as may be or may have been laid out or appropriated for the purpose of a public park, pleasure ground or recreation ground or public walk;

(*b*) any payment to any sinking fund or the payment of any instalments of any loan in respect of moneys borrowed or to be borrowed by the Brighton Borough Council for the purposes of the purchase of such portion of the said lands;

(*c*) the payment of the cost of purchasing, enclosing, laying out and improving Preston Park and of executing work for the preservation of that park; and

(*d*) the payment off of any moneys borrowed by the Brighton Borough Council for the purchase and laying out of Preston Park as a public recreation ground, whether by instalments of principal or of principal and interest or by means of a sinking fund.

Upper Gardner Street Market.

76.—(1) Upper Gardner Street in the borough of Brighton shall be deemed to be designated under section 32 (Touting, hawking, photographing, etc.) of this Act for the purposes of subsection (2) (*b*) of that section, and the provisions of that section shall have effect accordingly.

(2) The Brighton Borough Council may charge any persons to whom consents are given under subsection (2) (*b*) of the said section 32 as having effect in accordance with subsection (1) above such sums to cover the expenses of the borough council in collecting refuse, street cleansing and providing other services for the administration of trading in Upper Gardner Street as the borough council may by resolution prescribe; and such charges may—

(*a*) be incorporated in the fee payable under subsection (3) of the said section 32; or

(*b*) be recoverable from those persons separately under this section.

PART XI —*cont.*

Power to close promenades for certain purposes.

77.—(1) In this section "the promenades" means Madeira Drive, Madeira Terraces and Dukes Mound in the borough of Brighton.

(2) The Brighton Borough Council may from time to time use or permit the use of the whole or any part of the promenades for the purposes of processions, carnivals, sports, motor races, cycle races or any other special purposes tending to promote the amusement or enjoyment of the inhabitants of, or visitors to, the borough.

(3) For the purposes mentioned in subsection (2) above the Brighton Borough Council may close to the public the whole or any part of the promenades and demand and take, or permit to be demanded or taken, such reasonable sums for the exclusive occupation of the promenades, or any portion thereof, or for the admission of persons, vehicles, goods and things to the promenades or any portion thereof as they may think fit and may exclude therefrom all persons, vehicles, goods and things unless payment be made of the reasonable sums demanded.

(4) The powers of subsection (2) above shall not be exercised in respect of any of the promenades on more than 28 days in any year; and the powers of subsection (3) above shall not be exercised so as to deprive any person bona fide going to or from any house or premises abutting on any of the promenades of reasonable access to, or egress from, such house or premises, except so far as may be necessary in the interests of safety, or so as to demand any sum for the admission of such person to any of the promenades.

(5) Subject to subsection (4) above the Brighton Borough Council may, in connection with the use of the promenades in accordance with subsection (2) above, by order under this subsection—

(*a*) direct the passage and stopping of vehicles along or in particular streets;

(*b*) direct particular routes to be taken for all or particular descriptions of traffic or pedestrians;

(*c*) prohibit the passage or stopping of particular vehicles or pedestrians through or in certain streets at certain hours; and

(*d*) erect and maintain for so long as the borough council may require barricades across any street or streets.

(6) The powers of subsections (2), (3) or (5) above shall not be exercised in respect of any highway except with the consent of the highway authority, which consent shall not be unreasonably withheld.

PART XI —*cont.*

Hastings

Hastings Castle.

1979 c. 46.

78.—(1) The Hastings Borough Council shall, subject to the provisions of the Ancient Monuments and Archaeological Areas Act 1979, continue to hold and preserve Hastings Castle as a place of public attraction and historic interest and may carry out such works of maintenance and repair as may be necessary for that purpose.

(2) The Hastings Borough Council may enclose the Castle or any part thereof and make such reasonable charges for admission as they shall think fit.

Various properties.

79. The properties in the borough of Hastings referred to in column (1) of Schedule 4 to this Act shall remain vested in the Hastings Borough Council for the purposes specified in column (2) of that Schedule.

Hastings Harbour Arm.

80.—(1) In this section " the Hastings Harbour Arm " means the land (together with the structure thereon) shown numbered 2 on the deposited plan and described in the deposited book of reference.

(2) On the commencement of this Act—

(*a*) the Hastings Harbour Arm shall be vested in the Hastings Borough Council; and

(*b*) any private rights of navigation over the Hastings Harbour Arm shall be extinguished.

(3) (*a*) If the deposited plan or the deposited book of reference are inaccurate in their description of any land, or in their statement or description of the ownership or occupation of any land, the Hastings Borough Council, after giving not less than ten days' notice to the owner, lessee and occupier of the land in question, may apply to two justices having jurisdiction in the county for the correction thereof.

(*b*) If on any such application it appears to the justices that the misstatement or wrong description arose from a mistake, they shall certify accordingly and shall in their certificate state in what respect any matter is misstated or wrongly described.

(*c*) The certificate shall be deposited in the office of the Clerk of the Parliaments, and a copy thereof in the Private Bill Office, House of Commons, and with the proper officer of the county council and with the proper officer of the local authority with whom a copy of the deposited plan, or of so much thereof as includes the land to which the certificate relates, has been deposited in accordance with the Standing Orders of the Houses of Parliament, or who has the custody of any such copy so deposited; and thereupon the deposited plan and the deposited book of reference shall be deemed to be corrected according to the certificate.

PART XI —*cont.*

(*d*) A person with whom a copy of a certificate is deposited under this section shall keep it with the other documents to which it relates.

(4) Sections 29 and 30 of the Hastings Harbour Act 1890 (which relate to the keeping of lights and the provision of other works for preventing danger to navigation) shall have effect as if references therein to Commissioners appointed under that Act were references to the Hastings Borough Council. 1890 c. cxliii.

East and West Hill lifts.

81. The Hastings Borough Council may reconstruct, equip, re-equip, maintain and repair lifts serving the East and West Hills in the borough of Hastings for the purpose of conveying passengers on, to and from such hills and may provide all necessary buildings and apparatus therefor, and may let such lifts or either of them on lease for such term at such rent and subject to such covenants and conditions as the Hastings Borough Council may think fit, or may operate such lift or lifts and charge reasonable sums for the use thereof; and the borough council may make byelaws for regulating such use and charges, for preventing injury or damage to such lifts and for regulating the conduct of persons using the same.

Power to construct and maintain groynes, jetties, etc.

82.—(1) The Hastings Borough Council may within the borough of Hastings construct and maintain groynes, walls, jetties, piers and other works for facilitating approach to the sea or the passage along the beach, stade or foreshore or for the landing of vessels on the beach, stade or foreshore.

(2) The powers conferred by this section to construct works shall not be exercisable without the consent of the water authority, which consent shall not be unreasonably withheld and any question whether such consent has been unreasonably withheld shall be determined by a single arbitrator to be agreed upon between the parties or, failing agreement, appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

Hastings Pier incorporated with borough of Hastings.

83. It is hereby declared that for all purposes of local government the Hastings Pier is incorporated with the borough of Hastings.

Hove

Interpretation of sections 85 to 87.

84. In sections 85 to 87 of this Act—

" the Act of 1966 " means the Hove Corporation Act 1966; 1966 c. xxxviii.

" the benefice " means the benefice of the parish;

PART XI —*cont.*

" the bishop " means the Lord Bishop of Chichester for the time being, and during a vacancy in the see of Chichester includes the guardian of the spiritualities thereof;

" the borough " means the borough of Hove;

" the borough council " means the council of the borough;

" the church " means the parish church of Saint Andrew in the borough;

" the churchyard " means the churchyard surrounding the church;

" the deposited plans " means the plans deposited in respect of the Bill for the Act of 1966;

" the diocesan authority " means The Chichester Diocesan Fund and Board of Finance (Incorporated);

" the incumbent " means the incumbent for the time being of the benefice or, during any period when the benefice is vacant, the bishop;

" the parish " means the parish of Saint Andrew in the borough as from time to time constituted;

" the parochial church council " means the parochial church council of the parish;

" the registrar " means the registrar of the consistory court of the diocese of Chichester;

" the specified lands " means so much of the churchyard as is shown coloured green, grey and pink on the deposited plans and thereon numbered 23 and 24.

Power to convey land to diocesan authority.

85.—(1) The incumbent, the incumbent of All Saints or the Church Commissioners for England or any or all of them as the case may require may convey to the diocesan authority their estate and interest (if any) in so much of the specified lands as is shown coloured pink on the deposited plans or such other part or parts of the specified lands as may be agreed between the county council, the borough council and the incumbent for the provision of a building or buildings to be used for charitable purposes in connection with the work of the Church of England or any charitable purpose intended to further the work of the Church of England in the spiritual, moral and physical education and training of the inhabitants of the parish.

(2) In this section " the incumbent of All Saints " means the incumbent for the time being of the benefice of All Saints in the borough as from time to time constituted or, during any period when that benefice is vacant, the bishop.

Application of proceeds of sale of specified lands.

86. All moneys received by the parochial church council under section 9 (Power to sell specified lands and application of proceeds

PART XI —*cont.*

of sale) of the Act of 1966 shall be applied by them for such of the following purposes as the incumbent with the approval of the parochial church council may from time to time determine, namely:—

(*a*) the erection on the specified lands of a parish hall or other building or buildings to be used for purposes mentioned in subsection (1) of section 85 (Power to convey land to diocesan authority) of this Act;

(*b*) the removal by the parochial church council of human remains pursuant to section 87 (Removal of human remains) of this Act;

(*c*) the preservation and maintenance of the fabric of the church and of so much of the churchyard as does not form part of the specified lands;

(*d*) the improvement of the benefice income of the benefice which may be by way of payment to the diocesan authority to be held by them pursuant to section 14 of the Endowments and Glebe Measure 1976; 1976 No. 4.

(*e*) the purchase, development, improvement and maintenance of lands and buildings held or used or to be held or used for charitable purposes in connection with the parish; and

(*f*) any other charitable ecclesiastical purposes connected with the parish.

Removal of human remains.

87.—(1) (*a*) No part of the specified lands shall be used for the purpose likely to involve the disturbance of the remains of any deceased person interred therein until those remains have been removed and re-interred or cremated in accordance with the following provisions of this section.

(*b*) Before any such remains are removed from any part of the specified lands the owner shall give notice in accordance with subsection (3) below of the intended removal of the remains from that part of the lands.

(2) No part of the specified lands shall be used for the purpose of carrying out any work which does not involve the disturbance of the remains of any deceased person interred therein until the owner has given notice in accordance with subsection (3) below that the work is to be carried out.

(3) Notice under subsection (1) or (2) above shall describe the part of the lands and, in the case of notice under subsection (2), the nature of the work and state the general effect of the following provisions of this section, and shall be given by:—

(*a*) publishing it once in each of two successive weeks in a newspaper circulating in the borough with an interval between publications of not less than six days;

PART XI —*cont.*

(*b*) displaying it in a conspicuous place on that part of the specified lands.

(4) (*a*) At any time within two months after the first publication of a notice under subsection (1) or (2) above, any person who is a personal representative or relative of any deceased person whose remains are interred in the part of the lands may give notice in writing to the owner—

(i) in the case of a notice given under subsection (1) above, of his intention to undertake the removal of such remains;

(ii) in the case of a notice given under subsection (2) above, requiring such remains to be removed.

(*b*) On the giving of any notice under paragraph (*a*) above, if the remains can be identified the person giving the notice may, in the case of notice under paragraph (*a*) (i), and the owner shall, in the case of notice under paragraph (*a*) (ii), without any faculty for the purpose cause such remains to be removed and interred in any burial ground or cemetery in which burials may legally take place, or to be removed to and cremated in any crematorium.

(5) If any person giving such notice as aforesaid fails to satisfy the owner that he is such personal representative or relative as he claims to be or that the remains in question can be identified, the question shall be determined on the application of either party by the registrar who shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(6) The owner shall defray the reasonable expenses of the removal and re-interment or cremation of such remains.

(7) If—

(*a*) within the said period of two months no notice under subsection (4) above has been given to the owner in respect of the remains in any grave or vault; or

(*b*) notice is given under subsection (4) (*a*) (i) above and no application is made under subsection (5) above within two months after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of two months thereafter; or

(*c*) within two months after any order is made by the registrar under the said subsection (5) any person, other than the owner specified in the order, fails to remove the remains; or

(*d*) it is determined that the remains to which any such notice relates cannot be identified;

PART XI —*cont*

the owner, without any faculty for the purpose, shall be at liberty—

(i) in the case where notice of intended removal of the remains was given under subsection (1) above, to remove the remains and cause them either to be re-interred in such burial ground or cemetery in which burials may legally take place as the owner thinks suitable for the purpose, or, after consultation with any personal representative or relative by whom notice under subsection (4) above has been given in respect of the remains, to be removed to and cremated in such crematorium as the owner thinks suitable for the purpose;

(ii) in the case where notice of intended works was given under subsection (2) above, to carry out that work.

(8) Upon any removal of remains from the specified lands and their re-interment or cremation a certificate of removal and re-interment or cremation shall be sent to the Registrar General by the owner giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated, showing the particulars of each removal separately.

(9) (*a*) Subject as hereinafter provided, any monument or tombstone relating to the remains of any deceased person removed and re-interred under this section shall be removed to and re-erected at the place of re-interment of such remains or at such other place as the registrar may direct on the application either of such personal representative or relative as aforesaid or of the owner.

(*b*) Subject as aforesaid, any monument or tombstone relating to the remains of any deceased person removed and cremated under this section shall, at the request of such personal representative or relative as aforesaid or, if no such request is made, at the discretion of the owner, be removed to and re-erected at such place as may be agreed between such personal representative or relative and the owner or, in default of such agreement, at such place as the registrar may direct on the application either of such personal representative or relative or of the owner.

(*c*) In the case of a monument or tombstone in respect of which no application is made by a personal representative or relative under paragraph (*a*) or (*b*) above, it shall not be necessary to re-erect the monument or tombstone if the owner considers that, by reason of its ruinous condition, it is unsuitable for re-erection.

(*d*) Any monument or tombstone not re-erected in accordance with paragraph (*a*) or (*b*) above shall be broken and defaced before being disposed of in such manner as the owner thinks fit.

PART XI —*cont.*

(*e*) The reasonable expense of removing and re-erecting or disposing of any monument or tombstone under this subsection shall be defrayed by the owner.

(*f*) The owner shall cause a record to be made of each monument and tombstone taken from the specified lands under this section containing—

(i) a copy of the inscription thereon; and

(ii) if it is intended to preserve the monument or tombstone, a statement naming the place, if any, where it has been re-erected;

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

(*g*) In this subsection references to re-erection include placing a monument or tombstone in any position in which any words inscribed thereon are visible.

(10) The owner shall cause a record to be made of every grave or vault rendered inaccessible by any such work as is referred to in subsection (2) above containing a copy of any legible inscription on any monument or tombstone on, or forming part of, the grave or vault.

(11) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions that may be given by the Secretary of State.

(12) (*a*) In this section " the owner " means—

(i) in relation to any part of the specified lands used or required for educational purposes or highway purposes, the county council;

(ii) in relation to any part of the specified lands used or required for use for the provision of a building or buildings to be used for purposes mentioned in subsection (1) of section 85 (Power to convey land to diocesan authority) of this Act, the parochial church council:

Provided that any authority, body or person in whom any part of the specified lands is vested or who has the management or control of any part of the specified lands may enter into agreement with any other authority, body or person in whom any other part of the specified lands is vested or who has the management or control thereof whereby either of the parties to the agreement shall be responsible for removing from the specified lands, or the part thereof to which the agreement relates, the remains of deceased persons interred therein in accordance with the provisions of this section, and the party so responsible under any such

agreement shall be deemed to be " the owner " for the purposes of this section. PART XI —*cont.*

(*b*) Any agreement entered into in pursuance of the proviso to the foregoing paragraph shall contain such provisions as may be necessary—

(i) for ensuring that the provisions of this section are complied with; and

(ii) for securing that the expenses incurred shall be borne by the parties in such proportions as may be agreed or as in default of agreement may be settled by a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed by the President of the Law Society.

Lewes

Regulation and control of houseboats.

88.—(1) As from the appointed day in the district of Lewes it shall not be lawful—

(*a*) without the written consent of the district council; or

(*b*) where that consent has been given, in contravention of any terms or conditions attached to it;

to keep upon or in any protected lands any houseboat whether or not the same shall have been so kept before the passing of this Act.

(2) The district council shall not refuse consent under subsection (1) above except on the ground—

(*a*) that their consent has already been given in respect of a sufficient number of houseboats;

(*b*) that it is likely that if consent is given an obstruction will be caused to users of houseboats or other vessels upon or in any protected lands;

(*c*) that there will not be a supply of water sufficient for the domestic purposes of the occupiers of the houseboat;

(*d*) that facilities for the disposal of waste and sewage effluent from the houseboat are inadequate; or

(*e*) that adequate means of access and egress to and from the houseboat cannot be made available.

(3) (*a*) If any houseboat shall be kept contrary to the provisions of paragraph (*a*) of subsection (1) above the district council may by notice in writing to be given in the manner hereinafter provided require the person having control of the houseboat within such period, not being less than 21 days, as may be specified in the notice to remove it from the protected lands or,

PART XI —*cont.*

if he so elects, to demolish it and remove to the satisfaction of the district council any rubbish or other material resulting from the demolition.

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

(4) (*a*) If any person fails without reasonable excuse to comply with any notice given by the district council under the provisions of subsection (3) above or the terms or conditions of any consent he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and in the case of a failure to comply with any such notice the district council may at any time after the expiration of the period specified in such notice either remove the houseboat referred to in the notice from the protected lands or demolish it and remove from the protected lands any rubbish or other material resulting from the demolition.

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

(5) For the purposes of subsections (3) and (4) above the owner of any houseboat shall, until the contrary shall be proved, be deemed to be the person having the control thereof.

(6) (*a*) Where any houseboat shall have been removed or demolished by the district council as aforesaid the district council may retain the houseboat or the materials thereof and may and shall, if so required by the owner, sell or dispose of the same or of such materials and subject as hereinafter provided retain the proceeds of such sale or disposal.

(*b*) For the purpose of ascertaining the amount recoverable by the district council under paragraph (*b*) of subsection (4) above in respect of the costs and expenses incurred by them in or in connection with the removal or demolition of any such houseboat credit shall be given for the net amount (if any) of the proceeds of the sale received by the district council (after deduction of any costs and expenses incurred by the district council in effecting the same) of such houseboat or the materials thereof; and if the net amount shall exceed the amount of the costs and expenses incurred by the district council in or in connection with such removal or demolition as aforesaid they shall pay the amount of such excess to the owner of such houseboat which shall have been removed or demolished.

PART XI —*cont.*

(7) (*a*) A person aggrieved by a refusal of consent under this section or by any terms or conditions subject to which consent is granted may appeal to a magistrates' court.

(*b*) On any such appeal the court may by order—

(i) confirm or set aside such refusal and, on setting aside a refusal, impose any term or condition which the district council would have been entitled to impose; or

(ii) confirm, vary or set aside a term or condition subject to which consent was granted;

and make directions for giving effect to its decisions:

Provided that, where the district council have granted consent subject to any term or condition, the court shall not vary any such term or condition, or impose any new term or condition, so as to make the terms or conditions of consent more onerous than those imposed by the district council.

(8) Nothing in this section shall apply to a houseboat kept—

(*a*) in accordance with a planning permission granted or deemed to be granted under Part III of the Act of 1971; or

(*b*) at any mooring laid in accordance with a planning permission granted or deemed to be granted as aforesaid.

(9) In this section—

" houseboat " includes any vessel which is used or intended for use as a place of habitation but does not include any ship registered under the Merchant Shipping Act 1894 or any vessel bona fide used for navigation; 1894 c. 60.

" protected lands " means any foreshore and any rivers, creeks or watercourses within the district of Lewes.

Ashdown Forest

Conservators of Ashdown Forest: voting at meetings of commoners. 1974 c. xxi.

89.—(1) In this section " the Act of 1974 " means the Ashdown Forest Act 1974.

(2) As from the appointed day in the county the Act of 1974 shall have effect as if—

(*a*) for subsection (7) of section 7 (Elected Conservators) thereof there were substituted—

" (7) The provisions of the award relating to the following matters, that is to say:—

the eligibility for re-election of an outgoing Conservator; and

the resignation of a Conservator;

PART XI —*cont.*

shall with all necessary modifications and subject to the provisions of this Act extend and apply to and in relation to the elected Conservators but shall not apply to or in relation to the appointed Conservators.";

(*b*) after the said section 7 there were inserted—

"Notice of meeting and procedure.

7A.—(1) At least twenty-eight days before the time for election in each year, the clerk of the Conservators shall by notice on the church door of each of the parishes or ecclesiastical districts into which the forest extends and on such other places as the Conservators shall consider necessary to ensure full notice and by advertisement in two newspapers circulated in the neighbourhood convene a meeting of the commoners interested in the forest for the purpose of electing Conservators in the place of those elected Conservators going out of office. The said notice shall invite nominations for elected Conservators to be submitted to the clerk of the Conservators so as to be received by him not later than fourteen days after the date of the said notice. At the end of the said fourteen days the clerk of the Conservators shall publish a further notice in the manner aforesaid showing the names of the persons duly nominated for election as elected Conservators.

(2) The majority of the commoners exercising their right to vote at a meeting held in pursuance of subsection (1) of this section shall elect the elected Conservators and every such election shall be forthwith intimated in writing by the chairman of the meeting to the clerk of the Conservators.

(3) In the event of any vacancy in the number of elected Conservators by death, resignation or otherwise between the times fixed for nomination as aforesaid the commoners may at any meeting convened in the same manner as a meeting held in pursuance of subsection (1) of this section elect some other person to fill such vacancy but the person so elected shall retain office only so long as the vacating Conservator would have retained the same if no such vacancy had occurred and any election made at such meeting shall be intimated to the clerk of the Conservators as if it were an election at a meeting held in pursuance of the said subsection (1).";

(*c*) in Schedule 1 thereto, for paragraphs 2 and 3 there were substituted—

"2. (*a*) At meetings of the commoners votes may be given either personally or by post

PART XI —*cont.*

(*b*) A commoner desiring to vote by post must give notice in writing to the clerk of the Conservators so as to be received not less than 14 days before the day appointed for the holding of the meeting at which the vote is to be given.

(*c*) Not more than five days after the closing of nominations for the election of Conservators the clerk of the Conservators shall furnish to each commoner who has given notice under sub-paragraph (*b*) of this paragraph a ballot paper on which shall be shown the names of the persons duly nominated for election as Conservators.

(*d*) A vote given by post in accordance with this paragraph shall not be counted unless the ballot paper shall have been received by the clerk of the Conservators not less than 24 hours before the day appointed for the holding of the meeting at which the vote is to be given.

3. Where property to which rights of common upon the forest attach is owned by more than one person only one of those persons shall be entitled to vote at meetings of the commoners and such person may vote either personally or by post in accordance with the provisions of this Schedule.".

(3) The provisions of the award relating to the notices of meetings of the commoners for the election of Conservators and the filling up of casual vacancies shall be and are hereby annulled and Schedule 3 to the Act of 1974 shall be read as if the paragraphs of the award headed respectively " Notice of meeting and procedure " and " Filling up casual vacancies " were omitted.

PART XII

MISCELLANEOUS

Local land charges register.

90.—(1) In this section " the Act of 1975 " means the Local Land Charges Act 1975.

1975 c. 76.

(2) The duties imposed on a district council by sections 3 and 5 of the Act of 1975 to keep a local land charges register and to register local land charges in it shall be discharged if the district council record all information which is registrable under that Act by means of a device or combination of devices serving the purpose of a register, and, subject to subsections (3) and (4) below, the Act of 1975 shall have effect accordingly.

(3) If the duty to keep a local land charges register is discharged as aforesaid, the entitlement of any person under section 8 (1) of the Act of 1975 to search in the register shall be satisfied if

PART XII —*cont.*

the district council on payment of the prescribed fee make available to him for inspection in legible form a photographic or other image of any information so recorded in respect of any land which he may wish to examine or an indication that no such information is so recorded and the reference in section 8 (2) of the Act of 1975 to photographic or other images or copies of any portion of the register shall be construed as a reference to any photographic or other image or indication as aforesaid.

(4) If the duty to keep a local land charges register is discharged as aforesaid, a copy of any information so recorded which is furnished by that device or combination of devices and is authenticated by the proper officer of the district council shall be deemed for all the purposes of the Act of 1975 to be an office copy of an entry in a local land charges register containing that information.

(5) The power to make rules under section 14 of the Act of 1975 shall include power to make rules for carrying into effect the provisions of this section.

Enforcement of byelaws.

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

Provision of weighing equipment.

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

(2) The district council may make reasonable charges for the use of any such weighing machine.

(3) The district council shall not allow the use of any such weighing machine or of any offices used or provided in connection therewith so as to obstruct the access to or exit from any station or depot of the British Railways Board or of any passenger road transport undertaker.

PART XIII

GENERAL

Disputes about compensation.

93.—(1) Any dispute arising on a claim for compensation under this Act, being a dispute for the determination of which no other provision is made by or under this or any other Act, shall be determined, if the parties so agree, by arbitration, or, in default of agreement, by a county court.

PART XIII —*cont.*

(2) A county court shall have jurisdiction to deal with any dispute which by virtue of subsection (1) above is to be determined by such a court notwithstanding that, by reason of the amount of the claim or otherwise, the case would not, but for this provision, be within the jurisdiction of a county court.

(3) Nothing in this section shall prejudice the operation of section 115 of the County Courts Act 1959 (removal into the High Court of proceedings commenced in a county court). 1959 c. 22.

Saving for conduct of business or practice or use of premises.

94. Where under any provision of this Act the carrying on of a specified business or practice or the use of premises for a specified purpose is subject to a requirement for registration with, or the giving of consent by, a local authority, it shall be lawful for any person who—

(*a*) immediately before the day on which the requirement comes into operation was carrying on any such business or practice, or using premises for any such purpose; and

(*b*) had before that day duly applied for the registration or consent required by that provision;

to continue to carry on that business or practice or, as the case may be, to use those premises for that purpose, pending the issue of a certificate of registration or until he is notified of the decision with regard to his application and, if the decision is one against which the applicant may appeal, during such further time as is provided under section 98 (Suspension of proceedings pending appeal) of this Act.

Local inquiries.

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

Appeals to magistrates' court.

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

Appeals to Secretary of State.

97.—(1) On an appeal to the Secretary of State under any provision of this Act mentioned in subsection (2) below, the Secretary of State may at his discretion afford to the appellant and the local authority an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(2) The provisions referred to in subsection (1) above are the following:—

Section 39 (Part VIII appeals);

In section 42 (Transitional provisions for Part VIII), subsection (3).

PART XIII —*cont.*

(3) On determining any such appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination and, in the case of an appeal under the said section 39, may give directions for the granting of a consent unconditionally or subject to such conditions as the county council would have been entitled to impose under section 38 (Unlawful stacks) of this Act.

(4) Where the Secretary of State gives a decision in proceedings on any such appeal the appellant or the local authority may appeal to the High Court against the decision on a point of law.

(5) At any stage of the proceedings on any such appeal the Secretary of State may state any question of law arising in the course of proceedings in the form of a special case for the decision of the High Court; and a decision of the High Court on a case stated by virtue of this subsection shall be deemed to be a judgment of the Court within the meaning of section 27 of the Supreme Court of Judicature (Consolidation) Act 1925 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).

1925 c. 49.

(6) In this section "decision" includes a direction, and references to the giving of a decision shall be construed accordingly.

Suspension of proceedings pending appeal.

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

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

(*b*) makes it unlawful for a person to carry on any undertaking, trade or business which he was lawfully carrying on immediately before the requirement, refusal or decision was made or, but for this section, came into effect, or to use premises for any purpose for which they were lawfully then used;

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

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

(ii) the person may continue to carry on the undertaking, trade or business, or to use the premises for that purpose.

Restriction on right to prosecute.

99. The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by or under this Act by any person other than a party aggrieved, a local authority or a police constable.

PART XIII —*cont.*

Liability of directors, etc.

100.—(1) Where an offence under this Act, or against any byelaw made under this Act, committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members the foregoing subsection shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Penalty for obstruction.

101. Any person who intentionally obstructs any officer of a local authority acting in execution of this Act, or of any byelaws made thereunder, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Defence of due diligence.

102.—(1) In proceedings for an offence under any provision of this Act mentioned in subsection (2) below, or any byelaw made under any such provision, it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) The provisions referred to in subsection (1) above are the following:—

Section 17 (Dust, etc., from building operations);

Section 25 (Registration of hawkers of food and their premises);

Section 27 (Acupuncturists, tattooists, ear-piercers and electrolysists);

Section 29 (Notice of street processions);

Section 32 (Touting, hawking, photographing, etc.);

Section 34 (Firemen's switches for luminous tube signs);

Section 41 (Offences under Part VIII);

Section 44 (Prohibition of unregistered entertainment clubs);

Section 45 (Offences in connection with entertainment clubs);

Section 52 (Prohibition of unregistered night cafés and take-away cafés).

(3) If in any case the defence provided under subsection (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying, or assisting in the identification of, that other person.

PART XIII —*cont.*

Application of general provisions of Act of 1936.

103.—(1) The sections of the Act of 1936 mentioned in Schedule 5 to this Act shall have effect as if references therein to that Act included references to this Act.

(2) Section 287 of the Act of 1936 (powers of entry) shall have effect as if references therein to that Act included a reference to the following provisions of this Act:—

Section 17 (Dust, etc., from building operations);
Section 18 (Power to order alteration of chimneys);
Section 19 (Urgent repairs to supply pipes and water fittings);
Section 22 (Control of foxes);
Section 23 (Control of brown tail moth);
Section 24 (Self-operated laundries and dry-cleaning establishments);
Section 27 (Acupuncturists, tattooists, ear-piercers and electrolysists);
Part VII (Fire precautions);
Part VIII (Storage of flammable material):

Provided that, before entry on any operational railway of the British Railways Board in pursuance of those provisions of this Act and of the said section 287 as it has effect by virtue of this section, not less than 24 hours' notice of intended entry shall, except in case of emergency, be given to that board and any person entering on any such railway in pursuance of that notice or in any such emergency shall comply with the reasonable requirements of that board for the protection of their undertaking.

For protection of statutory undertakers.

104. The exercise of the powers of section 13 (Power to enclose esplanades during certain hours) or section 77 (Power to close promenades for certain purposes) of this Act shall not prevent any statutory undertakers from obtaining access to any apparatus belonging to or maintained or used by them nor prejudice or affect the right of such undertakers to do all such works and things as may be necessary for laying, placing, inspecting, repairing, maintaining, removing or renewing any such apparatus.

Saving for Health and Safety at Work etc. Act 1974. 1974 c. 37.

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

(*a*) subsection (5) of section 62 (repeal or modification of certain enactments by building regulations) shall apply to any enactment in this Act and to any provision of a byelaw (or other instrument of a legislative character) made under it as that subsection applies to any enactment mentioned therein;

PART XIII —*cont.*

(*b*) subsection (1) of section 80 (repeal or modification of certain provisions by regulations) shall apply to any provision of this Act and to any regulation and byelaw made under it as that subsection applies to any provision mentioned in subsection (2) of the said section 80.

(2) Nothing in the following sections of this Act shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the said Act of 1974:—

Section 17 (Dust, etc., from building operations);

Section 18 (Power to order alteration of chimneys);

Section 24 (Self-operated laundries and dry-cleaning establishments).

Saving for Fire Precautions Act 1971.

106. Subsection (2) of section 30 of the Fire Precautions Act 1971 (avoidance of duplication by local Act provisions) shall apply to this Act as if passed before the coming into operation of that subsection.

1971 c. 40.

Saving for Crown rights.

107.—(1) Subject to section 80 (Hastings Harbour Arm) of this Act, nothing in this Act affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular and without prejudice to the generality of the foregoing, nothing in this Act authorises a local authority to take, use, enter upon, or in any manner interfere with, any land or hereditaments or any rights of whatsoever description (including any portion of the shore or bed of the sea or of any river, channel, creek, bay or estuary)—

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

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

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

(3) Nothing in this section shall prejudice or affect any statutory powers of a local authority to carry out code-regulated works within the meaning of the Public Utilities Street Works Act 1950 in any highway vested in, or maintained by, the Secretary of State.

1950 c. 39.

Repeals, transitional provisions and savings.

108.—(1) The statutory provisions specified in Schedule 6 to this Act are hereby repealed to the extent specified in that schedule.

PART XIII —*cont.*

(2) The repeal by subsection (1) above of a statutory provision shall not affect the operation of any byelaw or other instrument made or issued or of any notice displayed or given under a statutory provision so repealed if the byelaw or instrument is one which could be made or issued or the notice is one which could be displayed or given under any provision of this Act, and any such byelaw, instrument or notice shall have effect as if made or issued or displayed or given under this Act.

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

(4) Where an instrument or document refers, either expressly or by implication, to a statutory provision in force in any area which is repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to any provision of this Act relating to the same matter in the same area.

(5) (*a*) Anything begun under a statutory provision repealed by this Act may be continued under any provision of this Act relating to the same matter as if begun under that last-mentioned provision.

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

(6) Any reference in this Act (whether express or implied) to a thing done or required or authorised to be done, or omitted to be done, or to an event which has occurred, under or for the purposes of, or by reference to any provision of this Act includes, except where the context otherwise requires, a reference to the corresponding thing done or required or authorised to be done, or omitted, or to the corresponding event which occurred, as the case may be, under or for the purposes of or by reference to the corresponding enactment repealed by this Act.

(7) For the purpose of any provision of this Act specifying penalties for a second or subsequent offence, a previous conviction under a statutory provision repealed by this Act creating the like offence shall be taken as an offence under that provision of this Act.

(8) Where an Act or Order is repealed by this Act subject to exceptions and a provision included in the repeal is material for the

PART XIII —*cont.*

interpretation of a provision excepted from the repeal, the repeal shall not affect the interpretation of the excepted provision.

(9) The repeal by subsection (1) above or section 262 of the Act of 1972 of section 118 (Power to grant gratuities in certain cases) of the Eastbourne Corporation Act 1926 shall not affect the power of the Eastbourne Borough Council to grant a gratuity to or in respect of any person in the employment of that council at or before the commencement of this Act. 1926 c. xcv.

(10) Byelaws made under section 396 (Byelaws as to refuse) of the Brighton Corporation Act 1931 shall be deemed for all purposes to have been made under section 9 of the Agriculture (Miscellaneous Provisions) Act 1954 (collection of kitchen waste, etc., for animal feeding stuffs) and shall have effect and may be enforced accordingly. 1931 c. cix. 1954 c. 39.

(11) Notwithstanding the repeal by subsection (1) above of section 114 (Power to run public service vehicles) of the Brighton Corporation Act 1931 and section 14 (Power to provide and run motor omnibuses) of the Eastbourne Corporation Act 1902, the Brighton Borough Council and the Eastbourne Borough Council shall each continue to be a local authority authorised to run public service vehicles under Part V of the Road Traffic Act 1930 (which authorises the running of public service vehicles by local authorities). 1902 c. ccxlv. 1930 c. 43.

(12) Nothing in this section shall affect the operation of sections 15 to 17 of the Interpretation Act 1978 or of section 254 of the Act of 1972. 1978 c. 30.

Continuance of certain provisions.

109.—(1) The statutory provisions specified in Schedule 7 to this Act shall continue to have effect to the extent specified in that schedule and to that extent section 262 (9) of the Act of 1972 shall not apply to those provisions.

(2) The byelaws made in respect of disused burial grounds by the Brighton Borough Council in accordance with the provisions of section 215 of the Brighton Corporation Act 1931 shall remain in force until the end of 1984.

SCHEDULES

Section 61.

SCHEDULE 1

LIST OF ENCLOSED PLACES AND PRIVILEGED HOUSES

(1) Name of the squares and places of which the enclosed places form part	(2) Description of the privileged houses
Hanover Crescent	Houses Nos. 1 to 24 inclusive and the two houses known respectively as North Lodge and South Lodge in Hanover Crescent.
Royal Crescent	Houses Nos. 1 to 14 inclusive in Royal Crescent.
Marine Square	Houses Nos. 4 to 12 inclusive on the west side of Marine Square. Houses Nos. 12A to 19 inclusive on the north side of Marine Square. Houses Nos. 20 to 28 inclusive on the east side of Marine Square. Houses Nos. 124 to 128 inclusive on Marine Parade.

Section 65 (2).

SCHEDULE 2

REGULATIONS AS TO ELECTION OF MEMBERS OF ENCLOSURE COMMITTEES

1. A meeting for the election of members of each enclosure committee shall be held on such day in the month in which such meetings were held prior to the commencement of this Act at such convenient place in the district and at such time as may from time to time be appointed by the mayor.

2. The mayor shall cause a notice of every such intended meeting and of the time and place of holding it and of the number of members to be elected to be sent by letter to each of the owners and occupiers of the privileged houses or any part thereof known to the mayor addressed to their last known residence three clear days at least before the day of election.

3. The mayor shall be entitled to be present and when present shall preside at every such meeting and shall be the returning officer and in the case of his absence the persons present at such meeting shall appoint one of themselves to preside at such meeting and such chairman shall then be the returning officer.

4. The members of an enclosure committee elected at any such meeting as aforesaid shall continue in office for one year from the date of their election or until a new committee is appointed.

5. Every member of an enclosure committee going out of office as aforesaid or otherwise ceasing to be a member of the committee may be re-elected.

SCH. 2 —*cont.*

6. Every person who is the owner or occupier of any privileged house or any part thereof shall be qualified to attend and be an elector at any meeting for the election of members to serve on the enclosure committee for the enclosed place in respect of which the privileged house is privileged, and shall have one vote for each member then to be elected; and the electors present at the meeting shall proceed to elect persons being electors to be members of the committee together with the mayor.

7. Where two or more persons shall be joint owners or joint occupiers of any privileged house or any part thereof each of those persons shall be entitled to one vote for each member to be elected.

8. Any person who is owner and also bona fide occupier of the same privileged house shall be entitled to vote both in respect of such ownership and of such occupation.

9. At any such meeting as aforesaid any elector may if he consents thereto be nominated by any other elector as a member of the committee.

10. If at the expiration of one-quarter of an hour after the time fixed for the holding of any such meeting no more candidates be nominated than there are vacancies to be filled, the returning officer shall forthwith declare the candidates who may be nominated to be elected; but if at the expiration of one-quarter of an hour more candidates be nominated than there are vacancies to be filled the returning officer shall proceed to take the votes of all electors present.

11. Every such election shall be determined by the majority of the votes of the electors present and voting at such election and in case of an equality of votes the returning officer shall have a casting vote.

12. Any member of the committee who after his election ceases to be qualified to be an elector or becomes bankrupt or submits his affairs to liquidation by arrangement or compounds with his creditors shall be disqualified to be and shall cease to be a member of the committee.

13. If any member of the committee die or resign or be disqualified or cease to be a member of the committee from any other cause than that of going out of office the remaining members of the committee if they think fit may as soon as may be after the happening of such vacancy elect another elector to serve on the committee in his place and every member so elected shall continue in office only so long as the person in whose place he is elected would have been entitled to continue in office.

14. If from any cause whatever any election under this Schedule does not take place on the day appointed for such election then such election shall stand adjourned until the fourteenth day following and the mayor shall give notice thereof within three clear days after the day on which such election should have taken place in manner hereinbefore prescribed with respect to the giving of notices of elections.

15. If the mayor fails to give notice of any adjourned election any two owners or occupiers of privileged houses or any part thereof may give such notice instead of the mayor.

SCH. 2 —*cont.*

16. If from any cause whatever on the occurrence of any election the number of candidates nominated be less than the number to be elected the persons so nominated shall be deemed to be elected and the remaining places shall be filled up by an equal number of the retiring members or failing them of electors and the persons to fill up such vacancies shall be settled at the first meeting of the committee after such election by the members then present.

17. In this Schedule "owner" and "occupier" have the same respective meanings as in section 61 (Definitions for Head A of Part XI) of this Act.

Sections 72 and 73.

SCHEDULE 3

INDENTURES RELATING TO THE OLD STEINE, THE LEVEL AND THE RACECOURSE

PART I

Indenture dated 17th April 1822 and made between Thomas Read Kemp and Frances Kemp his wife (1) Charles Scrase Dickins Elizabeth Dickins his wife and Charles Scrase Dickins the younger (2) John Whichelo (3) Nathaniel Kemp (4) Philip Mighell (5) Thomas Attree (6) Isaac Tree Rich and Mary Rich his wife (7) and George Hoper (8).

A fine in pursuance of a covenant in the above indenture was levied by the parties thereto of the first seven parts to George Hoper in or as of Hilary term 1822 and the indenture was enrolled in Chancery on or about 7th May 1822.

Indenture dated 22nd April 1822 and made between George Hoper (1) Charles Scrase Dickins the elder and Charles Scrase Dickins the younger (2) John Whichelo (3) Nathaniel Kemp (4) Philip Mighell (5) Thomas Attree (6) Isaac Rich (7) Thomas Read Kemp (8) and the said George Hoper (9).

Indenture dated 22nd April 1822 and made between George Hoper (1) Thomas Read Kemp Charles Scrase Dickins the elder Charles Scrase Dickins the younger John Whichelo Nathaniel Kemp Philip Mighell Thomas Attree and Isaac Tree Rich (2) and Thomas Read Kemp (3).

PART II

Indenture dated 29th May 1849 and made between Charles Scrase Dickins and Thomas Attree (1) and William Furner the Reverend James Stuart Murray Anderson Bright Smith Eardley Nicholas Hall and William Catt the younger (2).

Indenture dated 19th April 1850 and made between Frederick William Marquis of Bristol (1) Charles Scrase Dickins the younger Thomas Attree William Furner James Stewart Murray Anderson Bright Smith Eardley Nicholas Hall and William Catt (2).

Indenture dated 17th August 1877 and made between William Furner and Eardley Nicholas Hall (1) and Charles Spencer Scrase Dickins Richard Alexander Bevan William Percival Boxall and Charles Lamb (2).

SCH. 3 —*cont.*

PART III

Indenture dated 4th May 1895 and made between the Reverend Arthur Douglas Wagner Henry Wagner and Henry Thomas West (1) Henry Thomas West and Thomas Faulconer Wisden (2) Thomas Faulconer Wisden (3) Sarah Ann Jones (4) Steyning Beard (5) Henry Abbey John Leonhardt Brigden and William Seymour Burrows (6) and Brighton Corporation (7).

PART IV

Indenture dated 1st October 1888 and made between the Reverend Augustus George Legge and Walter Douglas Legge (1) Frederick William John Marquis of Bristol (2) and Brighton Corporation (3).

SCHEDULE 4

Section 79.

PROPERTIES VESTED IN HASTINGS BOROUGH COUNCIL

(1) Name and description of property	(2) Purposes for which property held
Amherst Gardens—	
Tennis courts and pavilion	Section 19 of the Act of 1976.
The remainder	Section 164 of the Public Health Act 1875. **1875 c. 55.**
East and West Hills—	
The Country Park	Section 7 of the Countryside Act 1968. **1968 c. 41.**
The remainder (except the East Hill lift, the West Hill lift and the portion below the cliff of the East Hill)	Section 164 of the Public Health Act 1875.
The portion below the cliff of the East Hill	Section 120 of the Act of 1972.
East Hill lift and West Hill lift ...	Section 81 of this Act.
Pilot Field	Section 19 of the Act of 1976.

SCHEDULE 5

Section 103 (1).

SECTIONS OF ACT OF 1936 APPLIED TO THIS ACT

Section	Marginal note
283 (1)	Notices to be in writing; forms of notices, &c.
285	Service of notices, &c.
291	Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.
341	Power to apply provisions of Act to Crown property.

Section 108.

SCHEDULE 6

ENACTMENTS REPEALED

Chapter or S.I. number	Title or short title	Extent of repeal
46 Geo. 3 c. xliii	An Act for paving, lighting, cleansing, watching, repairing and improving the Roads, Streets, Lanes, and other public Passages and Places, within the Borough of Lewes in the County of Sussex; and for removing and preventing Nuisances and Encroachments therein	The whole Act.
48 Geo. 3 c. cvii.	An Act for enabling the Justices of the Peace for the Eastern Division of the County of Sussex, to take down the present Shire Hall or Sessions House in the Town of Lewes, and for enabling them to build another Shire Hall or Sessions House in a more convenient situation within the said Town	The whole Act.
9 Geo. 4 c. xxv.	An Act for paving, lighting, watching, cleansing, regulating, and improving the Vill and Parish of the Cliffe, near Lewes, in the County of Sussex	The whole Act.
2 & 3 Will. 4 c. xci.	Hastings Paving Act	The whole Act.
14 & 15 Vict. c. 98.	Public Health Supplemental Act 1851, No. 2	Section II and the Hastings Order.
23 & 24 Vict. c. 118.	Local Government Supplemental Act 1860 (No. 2)	The Hastings Order.
28 & 29 Vict. c. 110.	Local Government Supplemental Act 1865 (No. 4)	The Hastings Order.
29 & 30 Vict. c. 106.	Local Government Supplemental Act 1866 (No. 3)	The St. Leonards and West Hove Orders.
34 & 35 Vict. c. clxxxvii.	Local Government Supplemental Act 1871 (No. 4)	The St. Leonards Order.
36 & 37 Vict. c. xcv.	Hove Commissioners Act 1873 ...	The whole Act except sections 73 and 74.
38 & 39 Vict. c. ccxi.	Local Government Board's Provisional Orders Confirmation (Abingdon, Barnsley, &c.) Act 1875	The Hastings Order.
40 & 41 Vict. c. cxxv.	Local Government Board's Provisional Orders Confirmation (Bridlington, &c.) Act 1877	The Hastings Order.
40 & 41 Vict. c. clxviii.	Hove Commissioners Act 1877 ...	The whole Act.
42 & 43 Vict. c. xcvii.	Eastbourne Improvement Act 1879 ...	The whole Act except section 19.
43 & 44 Vict. c. xxxvi.	Local Government Board's Provisional Orders Confirmation (Abingdon, &c.) Act 1880	The Hove Order.
43 & 44 Vict. c. cxxxii.	Local Government Board's Provisional Orders Confirmation (Eastbourne, &c.) Act 1880	So much of section 2 as relates to Eastbourne and the Eastbourne Order.

SCH. 6 —*cont.*

Chapter or S.I. number	Title or short title	Extent of repeal
45 & 46 Vict. c. xxxiii.	Local Government Board's Provisional Orders Confirmation Act 1882	The Hastings Order.
45 & 46 Vict. c. lxiii.	Local Government Board's Provisional Orders Confirmation (No. 6) Act 1882	The Lewes Order.
46 & 47 Vict. c. cxxxvi.	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1883	The Hove Order.
48 & 49 Vict. c. cv.	Local Government Board's Provisional Order Confirmation (Municipal Corporation) Act 1885	The Seaford Order.
48 & 49 Vict. c. clxv.	Eastbourne Improvement Act 1885 ...	The whole Act except sections 110 to 115, 184, 185 and Schedules 2 and 3.
48 & 49 Vict. c. cxcvi.	Hastings Improvement Act 1885 ...	The whole Act except sections 143 to 147, 159, 195, 198, 203, 206, 257 and 318.
54 & 55 Vict. c. cvii.	Local Government Board's Provisional Orders Confirmation (No. 11) Act 1891	The Hastings Order.
55 & 56 Vict. c. cxciii.	Eastbourne Improvement Act 1885 Amendment Act 1892	The whole Act.
56 & 57 Vict. c. cxxvii.	Local Government Board's Provisional Orders Confirmation (No. 6) Act 1893	The Hastings Order.
58 & 59 Vict. c. xl.	Local Government Board's Provisional Orders Confirmation (No. 1) Act 1895	The Battle Order.
59 Vict. c. xii.	Local Government Board's Provisional Orders Confirmation (No. 18) Act 1895 Session 2	The Eastbourne Order except Articles II and IX.
60 & 61 Vict. c. cxliv.	Local Government Board's Provisional Orders Confirmation (No. 17) Act 1897	The whole Act.
61 & 62 Vict. c. xxxii.	Local Government Board's Provisional Orders Confirmation (No. 2) Act 1898	The Eastbourne Order.
61 & 62 Vict. c. lxxix.	Local Government Board's Provisional Orders Confirmation (No. 6) Act 1898	The Eastbourne Order.
62 & 63 Vict. c. cix.	Local Government Board's Provisional Orders Confirmation (No. 3) Act 1899	The Eastbourne Order.
63 & 64 Vict. c. clxxv.	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1900	The Hove Order.
63 & 64 Vict. c. cclxvi.	Hastings Corporation Act 1900 ...	The whole Act except sections 6, 9, 38 to 41, 67 and 71.
1 Edw. 7 c. cl.	Local Government Board's Provisional Orders Confirmation (No. 9) Act 1901	So much of section 1 as applies to Hailsham and the Hailsham Order.
2 Edw. 7 c. ccxlv.	Eastbourne Corporation Act 1902 ...	The whole Act except sections 3 (4), 7, 16 and the schedule.
6 Edw. 7 c. c.	Local Government Board's Provisional Orders Confirmation (No. 1) Act 1906	The Hove Order (No. 1) and the Hove Order (No. 2).

SCH. 6 —*cont.*

Chapter or S.I. number	Title or short title	Extent of repeal
10 Edw. 7 & 1 Geo. 5 c. cxxiii.	Eastbourne Corporation Act 1910 ...	The whole Act.
2 & 3 Geo. 5 c. lx.	Hove Corporation Act 1912 ...	The whole Act except section 54.
3 & 4 Geo. 5 c. liii.	Hove Corporation Act 1913	The whole Act except sections 12 to 32, 69 and the schedules.
7 & 8 Geo. 5 c. xxxv.	Local Government Board's Provisional Orders Confirmation (No. 1) Act 1917	The Eastbourne Order.
14 & 15 Geo. 5 c. lxxxviii.	Hastings Corporation Act 1924 ...	The whole Act except sections 1 to 31, 56 to 65, 88 to 90, 94, 121, 124, 131 (6) (A), 134 (2), 158, 217 and 218.
15 & 16 Geo. 5 c. xxxvii.	Ministry of Health Provisional Orders Confirmation (No. 2) Act 1925	The Eastbourne Order.
15 & 16 Geo. 5 c. lxxxi.	Ministry of Health Provisional Orders Confirmation (No. 5) Act 1925	The Hastings Order.
15 & 16 Geo. 5 c. cxxiv.	Bexhill Corporation Act 1925 ...	The whole Act except sections 11 to 83, 205 to 217 and 269.
16 & 17 Geo. 5 c. xcv.	Eastbourne Corporation Act 1926 ...	The whole Act except sections 11, 12, 19 to 35 and Schedule 1.
17 & 18 Geo. 5 c. xlix.	Ministry of Health Provisional Order Confirmation (Hove Extension) Act 1927	The whole Act except Articles 15 and 36 of the Hove Order and Schedule 3 thereto.
18 & 19 Geo. 5 c. xxvii.	Hastings Corporation Act 1928 ...	The whole Act except sections 1 to 16, 21, 23, 24, 38 and 48.
21 & 22 Geo. 5 c. cix.	Brighton Corporation Act 1931 ...	The whole Act except sections 5, 16 to 78, 128 to 188, 198, 209, 210, 217, 243, 244 (3) and (4), 287, 435, 537, 573, 578 to 584 and 585 and Schedules 3 and 13.
25 & 26 Geo. 5 c. lxiii.	Ministry of Health Provisional Order Confirmation (Eastbourne) Act 1935	The whole Act.
26 Geo. 5 & 1 Edw. 8 c. lxvii.	Brighton Corporation Act 1936 ...	The whole Act except sections 4 and 5.
1 Edw. 8 & 1 Geo. 6 c. lxiv.	Hastings Extension Act 1937	The whole Act.
1 Edw. 8 & 1 Geo. 6 c. lxxvi.	Eastbourne Extension Act 1937 ...	The whole Act.
1 Edw. 8 & 1 Geo. 6 c. lxxviii.	Hastings Corporation (General Powers) Act 1937	The whole Act except sections 1 to 76, 87 to 90 and 157.
1 & 2 Geo. 6 c. lxxxix.	Brighton Corporation (Transport) Act 1938	The whole Act except section 32 (1), (3) to (9) and (11).
2 & 3 Geo. 6 c. ix.	Ministry of Health Provisional Order Confirmation (Hastings) Act 1939	The whole Act.

SCH. 6 —*cont.*

Chapter or S.I. number	Title or short title	Extent of repeal
10 & 11 Geo. 6 c. xxv.	Brighton Corporation (Trolley Vehicles) Order Confirmation Act 1947	The whole Act.
10 & 11 Geo. 6 c. xxx.	Hove Corporation Act 1947	The whole Act.
S.R. & O. 1947/2843.	The Brighton Corporation Act 1931 Modification Order 1947	The whole Order.
11 & 12 Geo. 6 c. xxxviii.	Brighton Corporation Act 1948 ...	The whole Act except sections 22 to 26 (4), 26 (6) to 29 and 76.
14 & 15 Geo. 6 c. xxix.	Brighton Extension Act 1951	The whole Act except sections 23, 45 and 59.
S.I. 1951/1808.	The Brighton Corporation Trolley Vehicles (Increase of Charges) Order 1951	The whole Order.
15 & 16 Geo. 6 & 1 Eliz. 2 c. xxi.	Brighton Corporation (Trolley Vehicles) Order Confirmation Act 1952	The whole Act.
2 & 3 Eliz. 2 c. liii.	Brighton Corporation Act 1954 ...	The whole Act except sections 12 (2) and 13.
8 & 9 Eliz. 2 c. xxv.	Brighton Corporation Act 1960 ...	The whole Act.
1966 c. xxxvii.	Brighton Corporation Act 1966 ...	The whole Act.
1966 c. xxxviii.	Hove Corporation Act 1966 ...	The whole Act.
1972 c. ix.	Saint Andrew's, Hove, Churchyard Act 1972	The whole Act.

SCHEDULE 7

Section 109.

ENACTMENTS CONTINUED GENERALLY

Chapter	Short title	Extent continued
14 & 15 Vict. c. cxl.	Hove Improvement Act 1851	Section XXVI.
3 & 4 Geo. 5 c. liii.	Hove Corporation Act 1913	Section 69.
21 & 22 Geo. 5 c. cix.	Brighton Corporation Act 1931 ...	Sections 210, 243 and 244 (3) and (4).
1970 c. xi.	Brighton Corporation Act 1970 ...	The whole Act.
1966 c. lii.	East Sussex County Council (Newhaven Bridge) Act 1971	The whole Act.

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CHAPTER xxv

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

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

PART II

HIGHWAYS

4. Highway amenities.
5. Power to provide kiosks, etc.
6. Buildings under highways.
7. Damage to footways, etc., during building operations.

PART III

OPEN SPACES AND MUNICIPAL PROPERTY

Section
8. Power to close parks, etc., on certain days.
9. Byelaws as to entertainments, leisure centres, etc.

PART IV

SEAFRONT AMENITIES

10. Byelaws as to boats.
11. Obstruction of highway by boats.
12. Removal of boats from seashore.
13. Power to enclose esplanades during certain hours.
14. Power to limit numbers of pleasure boats.

PART V

PUBLIC HEALTH

15. Extension of summary power to remedy stopped-up drains.
16. Definition of " inhabitant " in Act of 1936.
17. Dust, etc., from building operations.
18. Power to order alteration of chimneys.
19. Urgent repairs to supply pipes and water fittings.
20. Control of rats and mice.
21. Powers of entry for Prevention of Damage by Pests Act 1949.
22. Control of foxes.
23. Control of brown tail moth.
24. Self-operated laundries and dry-cleaning establishments.
25. Registration of hawkers of food and their premises.
26. Trees, etc., in highway.
27. Acupuncturists, tattooists, ear-piercers and electrolysists.

PART VI

PUBLIC ORDER AND PUBLIC SAFETY

28. Extension of section 21 of Town Police Clauses Act 1847.
29. Notice of street processions.
30. Byelaws as to boxing or wrestling entertainments.
31. Byelaws as to camping grounds.
32. Touting, hawking, photographing, etc.
33. Grass verges, etc.

PART VII

FIRE PRECAUTIONS

Section
34. Firemen's switches for luminous tube signs.
35. Access for fire brigade.

PART VIII

STORAGE OF FLAMMABLE MATERIAL

36. Interpretation of Part VIII.
37. Stacks to which Part VIII applies.
38. Unlawful stacks.
39. Part VIII appeals.
40. Powers of entry for Part VIII.
41. Offences under Part VIII.
42. Transitional provisions for Part VIII.

PART IX

ENTERTAINMENT CLUBS

43. Interpretation of Part IX.
44. Prohibition of unregistered entertainment clubs.
45. Offences in connection with entertainment clubs.
46. Application for registration.
47. Registration of entertainment clubs.
48. Part IX appeals.
49. Part IX powers of entry, inspection and examination.
50. Exemption of premises from Part IX.

PART X

NIGHT CAFÉS AND TAKE-AWAY CAFÉS

51. Interpretation of Part X.
52. Prohibition of unregistered night cafés and take-away cafés.
53. Offences in connection with night cafés and take-away cafés.
54. Application for registration.
55. Registration of night cafés.
56. Registration of take-away cafés.
57. Part X appeals.
58. Part X powers of entry, inspection and examination.
59. Exemption of premises from Part X.
60. Late Night Refreshment Houses Act 1969.

PART XI

PROVISIONS APPLICABLE ONLY TO PART OF EAST SUSSEX

Brighton

A. Enclosed places

Section

61. Definitions for Head A of Part XI.
62. Enclosed places to continue vested in Brighton Borough Council.
63. Extension to other places and houses.
64. Enclosed places.
65. Committee for managing enclosed places.
66. Power to make rates to defray expenses.
67. Power to bring action and take proceedings.
68. Brighton Borough Council not liable in respect of legal proceedings instituted under section 67.
69. Proceedings of enclosure committee not to be invalidated for want of form.
70. Appropriation of enclosed places.

B. Miscellaneous

71. Powers in relation to Royal Pavilion Estate.
72. The Old Steine and the Level.
73. The Racecourse.
74. Volk's Electric Railway.
75. Trust moneys of William Edmund Davies.
76. Upper Gardner Street Market.
77. Power to close promenades for certain purposes.

Hastings

78. Hastings Castle.
79. Various properties.
80. Hastings Harbour Arm.
81. East and West Hill lifts.
82. Power to construct and maintain groynes, jetties, etc.
83. Hastings Pier incorporated with borough of Hastings.

Hove

84. Interpretation of sections 85 to 87.
85. Power to convey land to diocesan authority.
86. Application of proceeds of sale of specified lands.
87. Removal of human remains.

Lewes

88. Regulation and control of houseboats.

Ashdown Forest

89. Conservators of Ashdown Forest: voting at meetings of commoners.

Part XII

Miscellaneous

Section
90. Local land charges register.
91. Enforcement of byelaws.
92. Provision of weighing equipment.

Part XIII

General

93. Disputes about compensation.
94. Saving for conduct of business or practice or use of premises.
95. Local inquiries.
96. Appeals to magistrates' court.
97. Appeals to Secretary of State.
98. Suspension of proceedings pending appeal.
99. Restriction on right to prosecute.
100. Liability of directors, etc.
101. Penalty for obstruction.
102. Defence of due diligence.
103. Application of general provisions of Act of 1936.
104. For protection of statutory undertakers.
105. Saving for Health and Safety at Work etc. Act 1974.
106. Saving for Fire Precautions Act 1971.
107. Saving for Crown rights.
108. Repeals, transitional provisions and savings.
109. Continuance of certain provisions.

Schedules:
Schedule 1—List of enclosed places and privileged houses.
Schedule 2—Regulations as to election of members of enclosure committees.
Schedule 3—Indentures relating to the Old Steine, the Level and the Racecourse.
Schedule 4—Properties vested in Hastings Borough Council.
Schedule 5—Sections of Act of 1936 applied to this Act.
Schedule 6—Enactments repealed.
Schedule 7—Enactments continued generally.