Fareham Urban District Council Act, 1952

15 & 16 GEO. 6 & 1 ELIZ. 2 **Ch. xxxvi**

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CHAPTER xxxvi

An Act to confer further powers on the urban district council of Fareham in regard to lands and to make further and better provision for the health local government finance and improvement of their district and for other purposes. [1st August 1952.]

WHEREAS the urban district of Fareham (in this Act referred to as " the district ") is under the government of the urban district council of Fareham (in this Act referred to as " the Council "):

And whereas it is expedient that further and better provision should be made with reference to lands streets sanitation and buildings and for the local government and improvement of the district and that the powers of the Council in relation thereto should be enlarged and extended:

And whereas it is expedient to make further provision with regard to the finances of the district as by this Act provided:

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

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas in relation to the promotion of the Bill for this Act the requirements of the Local Government Act 1933 have been observed:

May it therefore please Your Majesty that it may be enacted and be it enacted by the Queen's most excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal

and Commons in this present Parliament assembled and by the authority of the same as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Fareham Urban District Council Act 1952.

Division of Act into Parts.

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

Part I.—Preliminary.
Part II.—Lands.
Part III.—Streets.
Part IV.—Sanitation and buildings.
Part V.—Nuisances.
Part VI.—Infectious diseases.
Part VII.—Parks cemeteries and other municipal property.
Part VIII.—Public order and public safety.
Part IX.—Boxing and wrestling.
Part X.—Financial provisions.
Part XI.—Miscellaneous.
Part XII.—General.

Incorporation of Lands Clauses Acts.

3. The Lands Clauses Acts except sections 127 to 132 (which relate to the sale of superfluous lands) of the Lands Clauses Consolidation Act 1845 and except the provisions with respect to the purchase and taking of lands otherwise than by agreement (so far as the same are applicable for the purposes and are not inconsistent with the provisions of this Act) are hereby incorporated with and form part of this Act.

Interpretation.

4.—(1) In this Act the several words and expressions to which meanings are assigned by sections 90 and 343 of the Public Health Act 1936 have the same respective meanings unless there be something in the subject or context repugnant to such construction And in this Act unless the subject or context otherwise requires—

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

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

"clerk" "treasurer" "medical officer" "surveyor" and "sanitary inspector" mean respectively the clerk the treasurer the medical officer of health the surveyor and

PART I —*cont.*

any sanitary inspector of the Council and include any person duly appointed by the Council to discharge temporarily the duties of any of those officers ;

" contravention " in relation to any enactment byelaw order rule term condition restriction or notice includes a failure to comply with that enactment byelaw order rule term condition restriction or notice and " contravene " shall be construed accordingly ;

" Council " means the urban district council of Fareham ;

" daily penalty " means a penalty for each day on which any offence is continued after conviction ;

" district " means the urban district of Fareham ;

" electricity board " means the Southern Electricity Board ;

" enactment " includes an enactment in this Act or in any general or local Act and any order byelaw or regulation for the time being in force within the district ;

" gas board " means the Southern Gas Board ;

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

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

" operational land " in relation to the gas board has the meaning ascribed to that expression by the Town and Country Planning Act 1947 and includes the lands described in the schedule to the Fareham Gas Act 1902 ;

" statutory borrowing power " includes a power of borrowing money conferred on the Council by or under any enactment except paragraph (*a*) of subsection (1) of section 215 of the Local Government Act 1933 ;

" statutory securities " means any securities in which trustees are for the time being authorised by law to invest trust money and any mortgages bonds debentures debenture stock stock or other securities created by a local authority as defined by section 34 of the Local Loans Act 1875 but does not include annuities rentcharges or securities transferable by delivery or any securities of the Council ;

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

" undertakings of the Council " means the undertakings of the Council from time to time existing from which revenue is derived ;

PART I —*cont.*

"water company" means the Gosport Waterworks Company;

"water undertaking" means the water undertaking of the Council.

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

PART II

LANDS

Extension of power to acquire land by agreement.

5.—(1) The Council may by agreement acquire (whether by purchase lease or exchange) and hold any land which in their opinion it is desirable that they should acquire for or in connection with the purposes of any of their undertakings powers or duties or for the benefit improvement or development of the district notwithstanding that the land may not be immediately required.

(2) Any land acquired under this section may be appropriated by the Council subject to and in accordance with the provisions of section 163 of the Local Government Act 1933 as if it were not required for the purposes for which it was acquired.

(3) Pending such appropriation as aforesaid all expenses incurred by the Council under this section shall be payable out of the general rate fund.

Development of land.

6.—(1) The Council may (with the consent of the Minister) lay out and develop any land for the time being belonging to them and not required for the purpose for which it was acquired and may on any such land erect and maintain houses shops offices warehouses and any other buildings and construct sewer drain pave channel and kerb streets roads and highways:

Provided that nothing in this section shall apply to land acquired by the Council under section 38 or section 40 of the Town and Country Planning Act 1947 or to land appropriated by them for the purposes for which land can be acquired under those sections.

(2) The Council may use or dispose of the building or other materials of any houses or structures on any land acquired or appropriated by them which they deem it necessary or desirable to pull down.

Undertakings and agreements binding successive owners.

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

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

(*b*) expressed to be given or made in pursuance of this section ; PART II —*cont.*

shall be binding not only upon the Council and any owner joining in the undertaking or agreement but also upon the successors in title of any owner so joining and any person claiming through or under them.

(2) Any such undertaking or agreement shall be treated as a local land charge for the purposes of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926.

(3) Any person upon whom any such undertaking or agreement is binding shall be entitled to require from the Council a copy thereof.

PART III

STREETS

Interpretation of Part III.

8.—(1) In this Part of this Act the following expressions have the meanings hereby respectively assigned to them:—

"classified road" has the same meaning as in the Local Government Act 1929 ;

"street byelaws" means any byelaws for the time being in force in the district with respect to the construction and laying out of new streets ;

"structure" means a wall fence hoarding or similar erection but for the purpose of this definition the expression "wall" does not include a wall forming part of a permanent building.

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

Prohibition of building until street defined.

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

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

PART III —*cont.*

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

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

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

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

Prohibition of building until street formed and sewered.

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

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

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

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

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

(4) The execution of any works under the provisions of this section shall not relieve any person from any liability under the Private Street Works Act 1892.

Termination of new streets.

11.—(1) Where a plan and sections of a new street deposited with the Council in pursuance of street byelaws are approved by them they may for the purpose of securing adequate means of communication between the new street and any other street (whether existing or intended) by notice prohibit the erection or

PART III —*cont.*

retention of any structure at either end of the new street on land belonging at the time of the deposit to the owner of the land upon which the new street is proposed to be constructed or laid out:

Provided that no such notice shall affect any structure existing at the time of the deposit until both the new street and that other street have become highways repairable by the inhabitants at large.

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

(3) If any person contravenes any notice under this section he shall be liable to a penalty not exceeding twenty pounds and the Council may remove the structure and recover the expenses of so doing from that person:

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

Trees grass verges and gardens.

12.—(1) Subject to the provisions of this section the Council shall have power—

(*a*) to plant trees or shrubs in any street in the district or in tubs placed by them for the purpose in any such street;

(*b*) to lay out grass verges or gardens in any such street;

(*c*) to erect and maintain guards or fences and otherwise do anything expedient for the maintenance or protection of such trees shrubs tubs grass verges or gardens;

(*d*) to cut down any such tree or shrub to remove any such tub and to abolish any such grass verge or garden or enlarge or diminish the area thereof;

(*e*) by notice to prohibit persons from entering upon or causing or permitting horses cattle or vehicles to enter upon any such grass verge which is maintained in an ornamental condition or mown or any such garden:

Provided that nothing contained in paragraph (*e*) of this subsection shall affect the rights of any statutory undertakers with respect to any such verge or garden as is referred to in that paragraph.

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

PART III —*cont.*

any person contravenes a notice so posted he shall be liable to a penalty not exceeding twenty shillings.

(3) Subject to the provisions of this subsection the powers conferred by this section shall not be exercisable except in a street maintainable by and vested in the Council or upon land so vested which forms part of a street:

Provided that when carrying out in any street or any part thereof any works under the Private Street Works Act 1892 the Council may exercise any such power in the street or that part thereof with the consent of the majority in number and rateable value of the owners of land abutting on the street or that part thereof and treat any expenses incurred in so doing as part of the expenses of carrying out the said works.

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

(5) Section 1 of the Roads Improvement Act 1925 shall cease to apply to the Council and anything done by the Council under that section before the passing of this Act shall be deemed to have been done under this section.

(6) Nothing in this section shall affect the duty of the Council to provide footpaths or grass or other margins under section 58 of the Road Traffic Act 1930.

Variation of width of carriageways and footways.

13.—(1) Subject to the provisions of this section the Council may vary the relative widths of the carriageway and footway or footways in any street in the district being a highway repairable by the inhabitants at large.

(2) The Council shall not exercise the powers of this section in relation to a trunk road without the consent of the Minister of Transport.

(3) At least twenty-one days before commencing any work under this section which will materially reduce the width of the carriageway or any footway of a classified road the Council shall send notice of the proposed work to the Minister of Transport.

(4) The Council shall not exercise the powers of this section in relation to so much of any street as is situate upon a bridge over any railway or upon the approaches to any such bridge without the consent in writing of the railway undertakers concerned:

Provided that such consent shall not be unreasonably withheld and any question whether or not it is unreasonably withheld shall be determined by the Minister of Transport.

PART III —*cont.*

Adjustment of boundaries of streets.

14.—(1) Subject to the provisions of this section the Council may enter into and carry into effect agreements with persons having a legal interest in land adjoining any street in the district not being a trunk road for the adjustment of the boundary of the street.

(2) For the purposes of this section the Council—

(*a*) may exchange land including land forming the site of the street for other land and pay or receive money for equality of exchange; and

(*b*) shall be deemed to be the owners of the land forming the site of the street and shall be entitled to convey any such land in accordance with the agreement.

(3) No such agreement shall be entered into until the expiration of one month from the date on which notice giving particulars of the proposed agreement has been published in some local newspaper circulating in the district.

(4) During the said period of one month any four ratepayers of the district may appeal to a court of summary jurisdiction against the proposal to enter into the agreement.

(5) Where the street is a county road (whether the Council have claimed to exercise the functions of maintenance and repair of the street or not) the county council of the administrative county of Southampton shall have the same right of appeal as any four ratepayers of the district have under the last foregoing subsection.

(6) Nothing in this section shall be taken to dispense with the consent of any government department to any appropriation exchange or other disposition of any land of the Council in any case in which the consent of that department would have been required if this Act had not been passed.

(7) In this section the expression "ratepayers" has the same meaning as in the Rating and Valuation Act 1925.

Guard rails in private streets.

15.—(1) So much of section 149 of the Public Health Act 1875 as relates to fences and posts for the safety of foot-passengers in streets repairable by the inhabitants at large shall extend to streets in the district which are not so repairable.

(2) The Council shall not without the consent of the undertakers concerned exercise the powers of this section—

(*a*) in any street belonging to or repairable by any transport undertakers and forming the approach to any station or depot of those undertakers; or

(*b*) so as to obstruct or interfere with the access to or exit from any station or depot of any transport undertakers:

PART III —*cont.*

Provided that such consent shall not be unreasonably withheld and any question whether or not it is unreasonably withheld shall be determined by the Minister of Transport.

(3) In this section the expression "transport undertakers" means any railway or passenger road transport undertakers.

Direction signs.

16.—(1) The Council may on a conspicuous part of any building structure or land in the district at or near the corner of any street cause to be put up or painted signs indicating the classified road number of the street and the direction and distance to towns railway stations public buildings and other places of a public character.

(2) At least one month before exercising their powers under this section the Council shall give to the owner of the building structure or land notice of their decision so to do together with particulars of the size design and position of the sign proposed and any person aggrieved by the decision of the Council may appeal to a court of summary jurisdiction.

(3) If any person wilfully and without the consent of the Council removes obliterates alters defaces or obscures any such sign otherwise than in the course of demolishing or altering the building or structure or executing work on the land he shall be liable to a penalty not exceeding forty shillings and the Council may recover from him the expenses of replacing or making good the sign.

(4) The exercise of the powers conferred by this section shall be subject to the provisions of the Road Traffic Acts 1930 to 1947 and to any regulations made or any general or other directions given by the Minister of Transport in pursuance of the said provisions.

Attachment of street lamps brackets etc.

17.—(1) Subject to the provisions of this section the Council may affix to any building in the district such lamps brackets pipes electric lines and apparatus (in this section called "attachments") as may be required for the purposes of street lighting.

(2) The Council shall not affix attachments to a building under this section without the consent of the owner of the building:

Provided that where in the opinion of the Council any consent required under this subsection is unreasonably withheld they may apply to the appropriate authority who may either allow the attachments subject to such conditions (if any) as to rent or otherwise as the authority thinks fit or disallow the attachments.

(3) Where any attachments have been affixed to a building under this section and the person who gave the consent or who was the owner of the building when the attachments were allowed by the appropriate authority ceases to be the owner thereof the subsequent owner may give to the Council notice

PART III —*cont.*

requiring them to remove the attachments and subject to the provisions of this subsection the Council shall comply with the requirement within three months after the service of the notice:

Provided that where in the opinion of the Council any such requirement is unreasonable they may apply to the appropriate authority who may either annul the notice subject to such conditions (if any) as to rent or otherwise as the authority thinks fit or confirm the notice subject to such extension (if any) of the said three months as the authority thinks fit.

(4) Where any attachments have been affixed to a building under this section the owner of the building may require the Council at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building.

(5) If the owner of any building suffers damage by or in consequence of the affixing to the building of any attachments under the powers of this section he shall be entitled to be paid by the Council compensation to be determined in case of dispute in accordance with the Acquisition of Land (Assessment of Compensation) Act 1919 as amended by the Lands Tribunal Act 1949.

(6) In this section the following expressions have the meanings hereby assigned to them:—

"appropriate authority" means a court of summary jurisdiction except that in relation to a building mentioned in the first column of the following table it means the Minister specified in relation thereto in the second column of that table:—

Building forming part of an aerodrome licensed pursuant to an order made under the Civil Aviation Act 1949 or any enactment repealed by that Act.	The Minister of Civil Aviation.
Building which— (i) is subject to a building preservation order made under section 29 of the Town and Country Planning Act 1947; or (ii) is included in a list of buildings of special architectural or historic interest compiled or approved by the Minister under section 30 of the last-mentioned Act; or (iii) is alleged by the owner thereof to be a building of special architectural or historic interest; or (iv) is owned by statutory water undertakers.	The Minister.
Building owned by a highway authority or railway undertakers.	The Minister of Transport.
Building owned by electricity or gas undertakers.	The Minister of Fuel and Power.

PART III —*cont.*

"building" includes a structure and a bridge or aqueduct over a street;

"owner" means—

(*a*) in relation to a building occupied under a tenancy for a term of years whereof five years or more remain unexpired and not forming part of such an aerodrome as aforesaid the occupier of the building;

(*b*) in relation to a building forming part of such an aerodrome as aforesaid the person having control of the aerodrome;

(*c*) in relation to any other building the person who is receiving the rack rent or who would receive the rack rent if the building were let at a rack rent;

and the expression "owned" shall be construed accordingly.

Shelters etc. for passengers on public service vehicles.

18.—(1) In any street in the district or on land belonging to the Council and abutting on any such street the Council may subject to the provisions of this section erect and maintain at stopping places on the routes of public service vehicles—

(*a*) shelters and other accommodation for persons intending to travel by such vehicles; and

(*b*) barriers for the regulation of queues of such persons.

(2) The Council shall not exercise the powers of this section—

(*a*) without the consent of the Minister of Transport in any street being a trunk road or on land abutting on any such street; or

(*b*) without the consent of the undertakers concerned—

(i) in or upon any bridge carrying a street over any railway or the approaches thereto or under a bridge carrying a railway over any street; or

(ii) in any street belonging to and repairable by any transport undertakers and forming the approach to any station or depot of such undertakers; or

(iii) so as to obstruct or interfere with the access to or exit from any station or depot of any transport undertakers; or

(*c*) in any street or on land abutting on any street in such manner so as to obstruct an existing access to any land or premises abutting on such street without the consent of the owner of the land or premises concerned.

(3) Any consent required by this section shall not be unreasonably withheld but may be given subject to any reasonable conditions including a condition that the Council shall remove

PART III —*cont.*

any shelter or other accommodation or barriers either at any time or at or after the expiration of a period if reasonably required so to do by the person giving the consent.

(4) Any question arising as to whether any consent required by this section has been unreasonably withheld or has been given subject to unreasonable conditions or whether the removal of any shelter or other accommodation or barriers has been unreasonably required shall—

(*a*) in the case of a consent of the Minister of Transport be referred to and determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers;

(*b*) in the case of any other consent be referred to and determined by the Minister of Transport.

(5) The Council may enter into and carry into effect agreements with any person authorised to run public service vehicles within the district in relation to the erection maintenance and use of any such shelter or other accommodation or barriers and as to the contributions to be made by any such person towards the cost of the provision and maintenance thereof.

(6) In this section the expression "public service vehicle" has the same meaning as in the Road Traffic Acts 1930 to 1947 and the expression "transport undertakers" means any railway or passenger road transport undertakers.

Crossings over footways.

19.—(1) Where the owner or occupier of any premises in the district which abut on any street repairable by the inhabitants at large habitually uses or permits to be used any grass verge or kerbed or paved footway in the street as a crossing for any horse or horse-drawn or mechanically propelled vehicle (other than a motor-cycle) in passing to and from those premises the Council may by notice to the owner or occupier as the case may be either—

(*a*) require the construction across the grass verge or footway of a carriage-crossing constructed of such materials and in such manner as may be specified in the notice; or

(*b*) in the case of a footway require it to be strengthened or adapted in such manner as may be so specified; or

(*c*) impose such other reasonable conditions on the use of the grass verge or footway as a crossing as aforesaid as may be so specified:

Provided that—

(i) the Council shall not exercise the powers of this subsection in relation to the grass verge or footway of a trunk road without the consent of the Minister

PART III —*cont.*

of Transport or otherwise than in accordance with any conditions attached by him to his consent; and

(ii) this subsection shall not apply to any premises used exclusively for agricultural purposes within the meaning of the Town and Country Planning Act 1947.

(2) Any person aggrieved by a requirement of or a condition imposed by the Council under the preceding subsection may appeal to a court of summary jurisdiction.

(3) If the Council make any requirement under paragraph (*a*) or paragraph (*b*) of subsection (1) of this section they may but no other person shall execute such works as may be necessary to secure compliance with that requirement and may recover the expenses of so doing from the owner or occupier.

(4) If the Council impose any condition under paragraph (*c*) of subsection (1) of this section any person who knowingly uses the grass verge or footway as a crossing as aforesaid or permits it to be so used in contravention of that condition shall be liable to a penalty not exceeding five pounds.

(5) Nothing in this section shall impose on the owner or occupier any obligation to maintain any crossing constructed or footway strengthened or adapted in pursuance of a requirement made under this section.

(6) Section 18 of the Public Health Acts Amendment Act 1907 shall cease to be in force in the district and the following provisions of this subsection shall have effect in lieu thereof as respects streets in the district which are repairable by the inhabitants at large:—

(*a*) Any person desiring to form a carriage-crossing across a grass verge or footway in any such street or to strengthen or adapt a part of any such footway as a carriage-crossing shall apply in writing to the Council giving particulars of the work proposed;

(*b*) The Council may approve the work proposed either with or without modifications or propose alternative work or reject the application:

Provided that the Council shall not exercise the powers conferred by this paragraph as respects the grass verge or footway of a trunk road without the consent of the Minister of Transport;

(*c*) The Council shall give the applicant notice of their decision under the foregoing paragraph and if they approve the work proposed or propose alternative work shall furnish him with an estimate of the cost of the work as approved or proposed by them;

(*d*) The applicant may deposit with the Council the amount of the said estimate and require them to execute the

work as approved or proposed by them but shall not himself execute any such work ;

(*e*) As soon as practicable after such a deposit has been made the Council shall execute the work as approved or proposed by them and any difference between the sum deposited and the actual cost of the work shall be paid to or by the Council by or to the applicant as the case may require ;

(*f*) References in this subsection to an estimate of the cost of the work shall include an estimate of the cost of moving the apparatus of any statutory undertakers and any reference to works approved or proposed by the Council shall include the moving of any such apparatus.

(7) (i) The Council shall before making a requirement under paragraph (*a*) or paragraph (*b*) of subsection (1) of this section or within seven days of the receipt of an application under subsection (6) of this section give to any statutory undertakers having mains pipes electric lines or other apparatus in or under the site of the proposed means of communication and to the Postmaster-General notice thereof stating where and during what hours the plan and specification thereof may be inspected and the Council shall not make a requirement under paragraph (*a*) or paragraph (*b*) of subsection (1) of this section or give their approval of the work to be executed before the expiration of fourteen days from the service of such notice on the statutory undertakers and the Postmaster-General.

(ii) Any statutory undertakers having any mains pipes or other apparatus in or under the site of the proposed means of communication and the Postmaster-General may within fourteen days of the receipt of a notice under paragraph (i) of this subsection make representations to the Council with respect to the plan and specification so submitted to the Council and of any alteration in the proposed position gradient or mode of construction of the proposed means of communication desired by the statutory undertakers or the Postmaster-General as the case may be and the Council shall consider any such representations which may be so made to them.

(8) The expenses incurred or payable by the Council in moving the apparatus of any statutory undertakers shall be deemed to be part of the expenses payable under subsection (3) of this section and part of the cost of the work for the purposes of subsection (6) of this section.

Retaining walls.

20.—(1) In this section the expression " retaining wall " means a wall which—

(*a*) serves or is intended to serve as a support for earth or other material on one side only ; and

PART III —*cont.*

(*b*) does not form part of a permanent building ;

and this section applies to any length of a retaining wall being a length—

(i) any cross-section whereof is wholly or partly within twelve feet of a street in the district ; and

(ii) which is at any point of a greater height than six feet above the level of the ground at the boundary of the street nearest that point.

(2) After the passing of this Act no length of a retaining wall to which this section applies shall be erected otherwise than in accordance with plans sections and specifications approved by the Council and if any person erects any such length of a wall in contravention of this subsection he shall be liable to a penalty not exceeding five pounds.

(3) Any person aggrieved by the refusal of the Council to approve any plans sections and specifications submitted to them in pursuance of the last foregoing subsection may appeal to a court of summary jurisdiction.

(4) If any length of a retaining wall to which this section applies—

(*a*) is in such disrepair as to be liable to endanger persons using the street ; or

(*b*) having been erected before the passing of this Act or erected in contravention of subsection (2) of this section is so constructed as to be liable as aforesaid ;

the Council may by notice to the owner or occupier require him to execute such work as may be necessary to prevent it being liable as aforesaid and the provisions of section 290 of the Public Health Act 1936 shall apply in relation to such a notice as they apply in relation to the notices mentioned in subsection (1) of that section.

(5) The provisions of this section shall not apply to a length of a wall erected on land belonging to any railway undertakers so long as that land is used by those undertakers primarily for the purpose of their railway undertaking.

(6) The provisions of this section shall not apply to a retaining wall erected by the Minister of Transport on a trunk road.

Fencing of forecourts.

21.—(1) Where the forecourt of any premises abutting on a street in the district or any steps or projection or goods (whether for sale or not) placed in any such forecourt is or are a source of danger obstruction or inconvenience to the public the Council may by notice require the owner or occupier of the premises to fence the forecourt from the street.

PART III —*cont.*

(2) The provisions of section 290 of the Public Health Act 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

Forecourts injurious to amenities of street.

22.—(1) If the Council by resolution determine that any stall or other erection on any forecourt in the district is by reason of its character injurious to the amenities of the street on which the forecourt abuts the Council may by notice require the owner or occupier of the forecourt either to make such alterations in the stall or erection as may be necessary to prevent it from being injurious to the amenities of the street or if he so elects to remove it.

(2) The provisions of section 290 of the Public Health Act 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

(3) In this section the expression " erection " does not include an advertisement to which regulations made under section 31 of the Town and Country Planning Act 1947 for the time being apply.

Awnings over footways.

23.—(1) No part of any awning over the footway of a street in the district being a highway repairable by the inhabitants at large shall project over any part of the footway which is less than one foot six inches from the outer edge of the footway.

(2) If any person places or causes or permits to be placed over any such footway an awning which contravenes the foregoing subsection he shall be liable to a penalty not exceeding forty shillings.

(3) If an awning over any such footway is so constructed or maintained as to be prejudicial to the safety or convenience of the public the Council may by notice require the owner or occupier of the premises to which the awning is appurtenant to carry out such work as may be necessary to prevent the awning being so prejudicial.

(4) The provisions of section 290 of the Public Health Act 1936 shall apply in relation to notices given under the last foregoing subsection as they apply in relation to the notices mentioned in subsection (1) of that section.

(5) In this section the expression " awning " includes a blind shade or other covering.

Urgent repairs of private streets.

24.—(1) In any street in the district not being a highway repairable by the inhabitants at large the Council may execute such repairs as are in their opinion urgently required to prevent

PART III —*cont.*

or remove danger to persons or vehicles in the street and may themselves pay the cost of the repairs out of the general rate fund:

Provided that the cost of the repairs executed in any street in any year under this section shall not exceed twelve pounds ten shillings for each one hundred yards of the length of the street.

(2) The exercise by the Council of their powers under this section shall not prejudice their powers under any statutory provision for the time being in force in the district relating to private street works or private street improvement expenses or under section 19 of the Public Health Acts Amendment Act 1907.

Evasion by owners of private street works expenses.

25.—(1) If—

(*a*) any owner of land fronting adjoining or abutting on a private street in the district transfers the part or any portion of the part of that land which fronts adjoins or abuts on that street; and

(*b*) any expenses of private street works in or in relation to that street are apportioned on that part or portion of that land; and

(*c*) the Council are unable to recover those expenses in whole or in part from the person to whom that part or portion of the land was transferred or by the sale thereof; and

(*d*) a court of summary jurisdiction is satisfied that the transfer was intended for the purpose of evading the payment of any expenses of private street works;

then the expenses so apportioned or so much thereof as has not been recovered by the Council may to such extent as the court may determine be recovered from the owner in the same manner as expenses of private street works may be recovered as though he had not made the transfer.

(2) In this section the following expressions have the following meanings:—

"private street" means a street within the meaning of the Private Street Works Act 1892 or land which is deemed to be a private street by virtue of subsection (2) of section 48 of the Town and Country Planning Act 1947;

"private street works" means works executed under the Private Street Works Act 1892 or in relation to land which is deemed to be a private street as aforesaid

works executed under that Act as applied by sub-section (3) of the said section 48; PART III —*cont.*

" transfer " includes any disposal of land whether by way of sale lease exchange gift or otherwise and " transfers " shall be construed accordingly.

Stopping up and diversion of highways.

26.—(1) Subject to the provisions of this section a court of summary jurisdiction—

(*a*) if satisfied on the application of the Council that a highway within the district is unnecessary may by order authorise the stopping up thereof; and

(*b*) if so satisfied that such a highway can be diverted so as to make it nearer or more commodious to the public may by order authorise it to be so diverted.

(2) An application or order under this section—

(*a*) may provide for the stopping up or diversion of a highway for the purposes of all traffic or subject to the reservation of a bridleway or footway;

(*b*) may be made with respect to any length of a highway;

(*c*) may be made with respect to two or more highways or lengths of highways which are connected with each other;

and in relation to any application or order in respect of a length of a highway or two or more highways or lengths of highways any reference in the subsequent provisions of this section to a highway shall be construed as a reference to that length or those highways or lengths of highways as the case may be.

(3) No application or order shall be made under this section with respect to a trunk road or a public path within the meaning of Part IV of the National Parks and Access to the Countryside Act 1949.

(4) No order shall be made under this section unless the court is satisfied that notice of the intention to apply for the order specifying the time and place at which the application is to be made and the terms of the order applied for (embodying a plan showing the effect of the order)—

(*a*) has at least twenty-eight days before the date on which the application is made been served on the local planning authority and on the owners or reputed owners and the occupiers of all land abutting on the highway and also when the application relates to a classified road on the Minister of Transport; and

(*b*) has during at least twenty-eight days been exhibited in such manner and in such positions on or near the

PART III —*cont.*

highway as may be reasonably sufficient for notifying persons using the highway of the application;

and that a similar notice (except that there may be substituted for the plan a statement of the place where the plan can be inspected at all reasonable hours without payment) has been inserted once at least in each of four successive weeks in a local newspaper circulating in the district.

(5) No order under this section authorising the diversion of a highway—

(*a*) shall be made unless the written consent of the local planning authority and of every person having a legal interest in the land over which the highway is to be diverted is produced to and deposited with the court;

(*b*) shall authorise the stopping up of any part of the highway until the new part to be substituted for the part stopped up has been completed to the satisfaction of two justices of the peace and a certificate to that effect signed by them has been transmitted by their clerk to the clerk of the peace.

(6) On the hearing of the application the Council the local planning authority and any person who is interested in land abutting on or served by the highway or uses the highway or is otherwise aggrieved shall have a right to be heard.

(7) An appeal against a decision of a court of summary jurisdiction under this section may be brought to quarter sessions by any person (including the Council and the local planning authority) who was entitled under the last foregoing subsection to be and was or claimed to be heard on the application and for the purposes of the provisions of the Summary Jurisdiction Act 1879 as amended by the Summary Jurisdiction (Appeals) Act 1933 with respect to appeals to quarter sessions—

(*a*) a refusal by a court of summary jurisdiction to make an order under this section shall be deemed to be an order;

(*b*) where more than two persons were heard or claimed to be heard in opposition to the application it shall be sufficient if a notice of appeal against a refusal to make an order upon that application is served upon any two of those persons in addition to the clerk of the court but without prejudice to the right of any of those persons to appear as respondents to the appeal;

(*c*) any appeal under this section whether against an order or against a refusal to make an order shall be in the nature of a rehearing.

PART III —*cont.*

(8) Where by reason of the diversion of a highway under this section any person is relieved from liability to repair the highway he shall be liable to pay to the Council such sum as may be agreed between him and the Council or in default of agreement as may be determined by arbitration to represent the value to him of the relief and any such sum shall be payable either—

(*a*) as a lump sum; or

(*b*) by annual payments of such amount and continuing for such number of years as may be agreed or determined as aforesaid.

(9) Every order made under this section—

(*a*) shall have annexed thereto a plan signed by the chairman of the court; and

(*b*) shall be transmitted by the clerk of the court to the clerk of the peace together with any written consents produced to the court under subsection (5) of this section;

and the clerk of the peace shall enrol any documents so transmitted to him and any certificates transmitted to him under subsection (5) of this section among the records of quarter sessions.

(10) Every order made under this section shall be binding on all persons whatsoever.

(11) The provisions of this section shall be in addition to and not in derogation of any other provisions relating to the stopping up and diversion of highways.

Temporary stoppage of streets.

27. For the purpose of—

(*a*) making any new street for the purpose of which premises have been purchased under section 154 of the Public Health Act 1875; or

(*b*) providing a parking place for vehicles under section 68 of the Public Health Act 1925;

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

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

(i) as respects any trunk road without the consent of the Minister of Transport; or

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

PART III —*cont.*

(iii) so as to obstruct or interfere with the access to or exit from any station or depot of any railway or passenger road transport undertakers or any operational land or depot of the gas board.

Pavement lights and ventilators.

28.—(1) The owner or occupier of any premises situated under or abutting on a pavement forming part of a street in the district may with the consent of the Council provide means for the admission of light or air to the premises through the pavement.

(2) (*a*) In giving their consent under this section the Council may attach thereto such terms and conditions as they think fit and such terms and conditions shall be binding on successive owners and occupiers.

(*b*) Any such terms and conditions shall be treated as a local land charge for the purposes of the Land Charges Act 1925.

(3) Anything done before the passing of this Act which would have been lawfully done under this section if done after the passing thereof is hereby ratified.

Decorations in streets.

29.—(1) The Council may on the occasion of any public festivity cause flag-poles and pylons to be erected in any street in the district for the purpose of displaying decorations and may for that purpose provide sockets or slots in or under the surface of any such street.

(2) If any person wilfully removes or damages any flag-pole or pylon erected under this section he shall be liable to a penalty not exceeding five pounds.

(3) The Council shall not exercise the powers of this section in a trunk road without the consent of the Minister of Transport.

PART IV

SANITATION AND BUILDINGS

Sewers drains and sanitary conveniences

Recovery of expenses of sewering public highway.

30.—(1) Where the Council—

(*a*) resolve to construct a sewer in a street or part of a street in the district being a street or part which is repairable by the inhabitants at large and has not been previously sewered; and

(*b*) include in the resolution a declaration that the construction of the sewer will in the opinion of the Council increase the value of premises fronting adjoining or abutting on the street or that part thereof;

PART IV —*cont.*

then the provisions of the First Schedule to this Act shall have effect as respects the apportionment and recovery by the Council of the expenses incurred in constructing the sewer;

Provided that all liabilities under the said schedule in respect of the sewer shall cease at the expiration of two years from the date when the resolution becomes operative if the construction of the sewer is not then complete.

(2) Notice of any such resolution shall be published by the Council in a local newspaper circulating in the district and the resolution shall become operative for the purposes of this section and the said schedule on the date of such publication.

(3) A copy of—

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

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

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

Recovery of expenses of sewering prospective street.

31. Where land in the district in which a length of sewer has been constructed after the passing of this Act at the expense of the Council becomes a street (whether repairable by the inhabitants at large or not) then the provisions of the First Schedule to this Act shall have effect as respects the apportionment and recovery by the Council of the expenses incurred in constructing the length of sewer:

Provided that where compensation due to the owner of any land in respect of damage sustained by reason of the construction therein of the length of sewer has been diminished by setting off any sum on account of the enhancement in value of the land by reason aforesaid this section shall not apply to so much of the length of sewer as has been constructed in that land.

Prevention of evasion of liabilities under last two preceding sections.

32.—(1) If on a complaint by the Council to a court of summary jurisdiction it is proved to the satisfaction of the court—

(*a*) that by reason of any transfer of land any part of any premises (hereafter in this section referred to as "the severed part")—

(i) has ceased to be included in premises fronting adjoining or abutting on a street or part of a street to which the last but one preceding section of this Act applies; or

PART IV —*cont.*

(ii) has been excluded from premises which have subsequently become premises fronting adjoining or abutting on a street to which the last preceding section of this Act applies or has ceased to be included in premises fronting adjoining or abutting on such a street ; and

(*b*) that the transfer was intended for the purpose of evading liability under the First Schedule to this Act imposed by the last but one preceding or the last preceding section as the case may be ;

then the court may make such order under the following provisions of this section as it thinks just for the purpose of ensuring that the said liability is not evaded by reason of the transfer.

(2) Any such order may direct—

(*a*) that for the purposes of paragraph 2 of the said schedule the severed part shall be deemed to be premises fronting adjoining or abutting on the street or part of the street in question and shall be deemed to have had at the relevant date within the meaning of the said schedule such frontage on the street as may be specified in the order ;

(*b*) that for the purposes of sub-paragraph (*a*) of paragraph 6 of the said schedule the site of a new building erected on the severed part and the land occupied therewith shall be deemed to have such frontage on the street or part of the street as may be specified in the order ;

(*c*) that any such amendment shall be made of any entry in the register of local land charges as may be specified in the order including an amendment taking effect as from a past date.

(3) Any order made under paragraph (*a*) of subsection (2) of this section may also direct that any premises from which the severed part has been excluded or in which it has ceased to be included shall not be deemed to be premises fronting adjoining or abutting on the street or part of the street or shall be deemed to have such frontage as may be specified in the order.

(4) Orders under any provision of subsection (2) of this section may be made on separate complaints made by the Council at different times.

(5) For the purposes of this section the expression " transfer " includes any disposal of land whether by way of sale lease exchange gift or otherwise.

PART IV —*cont.*

Delegation of power to examine and test drains etc.

33.—(1) In lieu of section 48 of the Public Health Act 1936 the following provisions of this section shall if the Council by resolution so determine have effect in the district for such period as may be specified in the resolution either as respects the whole of the district or as respects such part or parts thereof as may be so specified.

(2) Where it appears to the medical officer or the sanitary inspector that there are reasonable grounds for believing—

(*a*) that a sanitary convenience drain private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance ; or

(*b*) that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water ;

he may examine its condition and for that purpose may apply any test other than a test by water under pressure and if he deems it necessary open the ground.

(3) If on examination the convenience drain sewer or cesspool is found to be in proper condition the Council shall as soon as possible reinstate any ground which has been opened by the medical officer or the sanitary inspector and make good any damage done by him.

Summary power to remedy stopped-up drains etc.

34.—(1) If it appears to the medical officer or the sanitary inspector that on any premises in the district a drain private sewer water-closet or soil pipe is stopped up he may by notice require the owner or occupier of the premises to remedy the defect within forty-eight hours from the service of the notice.

(2) If the notice is not complied with the Council may themselves carry out the work necessary to remedy the defect and may subject to the next following subsection recover the expenses of so doing from the person on whom the notice was served :

Provided that where the said expenses do not exceed two pounds the Council may if they think fit remit the payment thereof.

(3) In any proceedings under this section the court may inquire—

(*a*) whether any requirement contained in a notice served under this section or any work done by the Council was reasonable ; and

(*b*) whether the expenses incurred by the Council in doing the work or any part thereof ought to be borne wholly

PART IV —*cont.*

or partly by the person on whom the notice was served;

and the court may make such order concerning the expenses or their apportionment as appears to the court to be just in the circumstances of the case:

Provided that the court shall not order the expenses or any part thereof to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

Power to repair drains and private sewers.

35.—(1) If any drain or private sewer in the district—

(*a*) is not sufficiently maintained and kept in good repair to the satisfaction of the Council; and

(*b*) can in the opinion of the Council be sufficiently repaired at a cost not exceeding fifty pounds;

the Council may after giving not less than seven days' notice to the owner or owners cause the drain or sewer to be repaired and subject to the next following subsection recover the expenses of so doing so far as they do not exceed fifty pounds from the owner or owners of the drain or sewer in such proportions (if there is more than one owner) as the surveyor may determine:

Provided that where the said expenses do not exceed two pounds the Council may if they think fit remit the payment thereof.

(2) In any proceedings under this section the court may inquire—

(*a*) whether the drain or sewer in question required repair and whether the work done by the Council was reasonable; and

(*b*) whether any apportionment made by the surveyor was fair;

and the court may make such an order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not revise any apportionment unless it is satisfied that all persons affected thereby have had due notice of the proceedings and an opportunity of being heard.

Penalty for improper construction or repair of water-closet etc.

36.—(1) If a water-closet drain or soil pipe in the district is so constructed or repaired as to be prejudicial to health or a nuisance the person who undertook or executed the construction or repair thereof shall unless he shows that the prejudice to health or nuisance could not have been avoided by the exercise of reasonable care be liable to a penalty not exceeding twenty pounds.

PART IV —*cont.*

(2) A person charged with an offence under this section (hereafter in this section referred to as " the original defendant ") shall upon information duly laid by him and on giving to the prosecutor not less than three clear days' notice of his intention be entitled to have any other person being his agent servant or workman to whose act or default he alleges the offence was due brought before the court at the time appointed for the hearing of the charge and—

(*a*) if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person that other person may be convicted of the offence ; and

(*b*) if the original defendant further proves that he used all due diligence to secure that the water-closet drain or soil pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance he shall be acquitted of the offence.

(3) Where the original defendant seeks to avail himself of the provisions of subsection (2) of this section—

(*a*) the prosecutor as well as the person whom the original defendant charges with the offence shall have the right to cross-examine the original defendant if he gives evidence and any witness called by him in support of his pleas and to call rebutting evidence ; and

(*b*) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

Closet accommodation for separate dwellings.

37. For the purposes of section 44 of the Public Health Act 1936 any part of a building in the district being a part occupied as a dwelling shall be treated as a separate building and where two or more parts of such a building are occupied as dwellings by separate families each such part shall be treated as a separate building :

Provided that where any part of a building has been let for occupation as a separate dwelling without the written consent of the owner of the building the person so letting that part of the building shall be deemed to be the owner.

Sanitary conveniences for persons employed on construction work.

38.—(1) The Council may by notice require a contractor engaged in or upon any building operations or the construction or reconstruction of any works in the district within such time as may be specified in the notice—

(*a*) to provide in connection therewith sufficient and satisfactory accommodation in the way of sanitary conveniences for the accommodation of the workpeople employed thereon ; and

PART IV —*cont.*

(*b*) where persons of both sexes are employed in or in connection with the operations or works to provide separate accommodation as aforesaid for persons of each sex;

if it is reasonably practicable so to do:

Provided that this section shall not apply to building operations or works to which section 107 or section 108 of the Factories Act 1937 applies.

(2) The provisions of section 290 of the Public Health Act 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

Buildings and structures

Ruinous and dilapidated buildings and neglected sites.

39.—(1) Paragraphs (*b*) and (ii) of subsection (1) of section 58 of the Public Health Act 1936 and so much of subsection (2) of that section as relates to those paragraphs shall cease to have effect in the district and the following provisions of this section shall have effect in lieu thereof.

(2) Where a building or part of a building in the district is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood the Council may by notice require the owner thereof within a reasonable time specified in the notice—

(*a*) to execute such works of repair or restoration; or

(*b*) if he so elects to take such steps for demolishing the building or any part thereof and removing any rubbish or other material resulting from or exposed by the demolition;

as may be necessary for remedying the cause of complaint.

(3) Where rubbish or other material resulting from or exposed by the demolition or collapse of a building or part of a building in the district is lying on the site of the building or that part thereof or on any land occupied with the building and by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood the Council may by notice require the owner of the site or land within a reasonable time specified in the notice to take such steps for removing the rubbish or material as may be necessary for remedying the cause of complaint.

(4) The provisions of section 290 of the Public Health Act 1936 shall apply in relation to notices given under this section as they apply in relation to the notices mentioned in subsection (1) of that section.

PART IV —*cont.*

(5) Notwithstanding anything in subsection (3) of section 276 of the Public Health Act 1936 as applied by this Act that section shall apply to all rubbish or other material removed by the Council under this section.

(6) In this section the expression "building" includes any structure.

New building overreaching adjoining chimneys.

40.—(1) Where after the passing of this Act—

(*a*) any person erects or raises a building in the district (in this section referred to as the "taller building") to a greater height than an adjoining building; and

(*b*) any chimneys or flues of the adjoining building are in the party wall or in an external wall of the adjoining building;

the Council may by notice—

(i) require that person within such time as may be specified in the notice to build up those chimneys and flues (if it is reasonably practicable so to do) so that the top thereof will be of the same height as the top of the chimneys of the taller building or the top of the taller building whichever is the higher; and

(ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him.

(2) Any person aggrieved by a requirement of the Council under this section may appeal to a court of summary jurisdiction.

(3) If any person fails to comply with a notice under this section he shall be liable to a penalty not exceeding twenty pounds and in the case of a notice served under paragraph (i) of subsection (1) of this section the Council may themselves execute such work as may be necessary to comply with the notice and recover the expenses of so doing from the person on whom the notice was served.

Height of new chimneys.

41.—(1) Where plans for the extension or erection of a building used or to be used for manufacturing or other purposes are in accordance with building byelaws deposited with the Council and the plans show that it is proposed to construct a chimney for carrying smoke or steam or noisome or deleterious gases or effluvia from the building the Council shall reject the plans unless they are satisfied that the height of the chimney as

PART IV —*cont.*

shown on the plans will be sufficient to prevent it being prejudicial to health or a nuisance having regard to—

(*a*) the purpose of the chimney ;

(*b*) the position and description of buildings near thereto ;

(*c*) the levels of the neighbouring ground ; and

(*d*) any other matters requiring consideration in the circumstances.

(2) If the Council reject the plans under the authority of this section the notice given in pursuance of subsection (2) of section 64 of the Public Health Act 1936 shall specify that the plans have been so rejected.

(3) This section shall not apply to a chimney of a generating station consent to the construction of which has been given in accordance with the provisions of the Electricity (Supply) Acts 1882 to 1936 by the Minister of Fuel and Power.

Power to order alteration of domestic chimneys.

42.—(1) If a court of summary jurisdiction is satisfied upon a complaint by the Council that any smoke gas or vapour from any chimney flue or pipe of a building or structure forming part of or within the curtilage of a house in the district is prejudicial to the health of any of the inhabitants of the district or a nuisance the court may make an order requiring the owner of the chimney flue or pipe 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:

Provided that 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 will not involve an expenditure exceeding fifty pounds.

(2) If any person fails to comply with an order made under this section he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

Extension of powers under section 9 of Housing Act 1936.

43.—(1) A house in the district which is occupied or is of a type suitable for occupation by persons of the working classes shall be deemed for the purposes of section 9 of the Housing Act 1936 to be not in all respects fit for human habitation—

(*a*) if it is not kept repaired and painted sufficiently to prevent the dilapidation thereof and to secure reasonable amenities for the occupiers thereof ; or

(*b*) if the interior surface of the walls thereof is not papered or painted with oil-bound water paint or distempered with washable distemper sufficiently as aforesaid.

PART IV —*cont.*

(2) On an appeal to the county court under section 15 of the said Act by a person aggrieved by a notice requiring the execution of works to remedy the defects referred to in the preceding subsection the court shall take into consideration—

(*a*) in the case where the person aggrieved is a lessee or agent for a lessee the length of the unexpired period of the lease;

(*b*) the period for which the house is likely to continue occupied;

(*c*) the expenditure incurred on the house during the preceding three years by the person having control of the house or the owner thereof;

(*d*) in the case of any house the rent of which is subject to control in pursuance of the Rent and Mortgage Interest (Restrictions) Acts 1920 to 1939 the financial return accruing to the owner in respect of his ownership of the house; and

(*e*) whether the condition of the house is or is not due to the wilful default or neglect of the occupier.

(3) In this section the expressions "house" "owner" and "person having the control of the house" have the same meanings as in the Housing Act 1936.

Filthy or verminous premises or articles

Cleansing of filthy or verminous premises.

44. Section 83 of the Public Health Act 1936 shall in its application to the district have effect as if the following were substituted for subsection (1) thereof:—

"(1) Where the local authority upon consideration of a report from any of their officers or other information in their possession are satisfied that any premises other than a factory within the meaning of the Factories Act 1937—

(*a*) are in such a filthy or unwholesome condition as to be prejudicial to health; or

(*b*) are verminous;

the authority shall give notice to the owner or occupier of the premises requiring him to take such steps as may be specified in the notice to remedy the condition of the premises by cleansing and disinfecting them and by either—

(i) distempering or whitewashing the interior surface thereof; or

(ii) in the case of premises used for human habitation or as shops or offices papering or painting the said interior surface;

and the notice may require among other things the removal of wallpaper or other covering of the walls or in the case of verminous premises the taking of such steps as may be necessary for removing or destroying vermin."

PART IV —*cont.*

Prohibition of sale of verminous articles.

45.—(1) No dealer shall in the district—

(*a*) prepare for sale ;

(*b*) sell or offer or expose for sale ; or

(*c*) deposit for sale or preparation for sale ;

any household article if it is to his knowledge verminous or if by taking reasonable precautions he could have known it to be verminous.

(2) If any household article which is verminous is on any premises in the district—

(*a*) being prepared or offered by a dealer for sale ; or

(*b*) exposed by a dealer for sale or deposited by a dealer for sale or preparation for sale ;

the medical officer or the sanitary inspector may cause the article to be disinfested or destroyed as the case may require and if necessary for that purpose to be removed from the premises and the Council may recover from the dealer the expenses incurred by the medical officer or the sanitary inspector in taking any action under this subsection.

(3) If any person contravenes the provisions of subsection (1) of this section he shall be liable to a penalty not exceeding twenty pounds.

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

(5) For the purposes of this section—

(*a*) the expression "dealer" means a person who trades or deals in any household article ;

(*b*) the expression "household article" means an article of furniture bedding or clothing or any similar article ;

(*c*) the expression "preparation for sale" shall not include disinfestation.

PART V

NUISANCES

Smoke from industrial furnaces.

46.—(1) As from the appointed day no person shall instal in any building in the district any furnace for steam raising or for any manufacturing or trade purpose unless the furnace is so far as practicable capable of being operated continuously without emitting smoke.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding ten pounds and if after conviction of the contravention he uses the

PART V —*cont.*

furnace he shall be liable to a daily penalty not exceeding five pounds for each day on which he uses it unless and until it is altered so that it is so far as practicable capable of being operated as aforesaid.

(3) If a person before installing in a building a furnace to which this section applies submits to the Council a plan and specification of the proposed furnace and furnishes them with such other information in regard thereto as they may reasonably require the Council may within six weeks from the receipt of the plan specification and information serve notice upon him stating whether or not they are satisfied that the furnace is so far as practicable capable of being operated as aforesaid and—

(*a*) if the notice states that they are so satisfied ; or

(*b*) if they do not serve any notice under this subsection before the expiration of the said six weeks ;

no proceedings shall be taken against that person under this section in respect of the installation of the furnace in accordance with the plan specification and information so submitted and furnished.

(4) Before serving a notice under this section stating that they are not satisfied that a furnace is so far as practicable capable of being operated as aforesaid the Council shall consult the Minister of Fuel and Power.

(5) In determining for the purposes of this section whether a furnace is so far as practicable capable of being operated as aforesaid—

(*a*) a court in any proceedings under this section ; and

(*b*) the Council on considering a plan specification and other information received under subsection (3) of this section ;

shall have regard to cost and to local conditions and circumstances.

Discharge of steam and waste gas.

47.—(1) No person shall cause or permit to be discharged in the district so as to be prejudicial to health or a nuisance—

(*a*) any steam or waste gas ejected from any stationary engine or the boilers or condensers thereof ; or

(*b*) any condensing water above a temperature of one hundred and ten degrees Fahrenheit so ejected ; or

(*c*) any spent or ejected steam arising or produced in the course of any trade or business.

(2) If any person contravenes the provisions of the foregoing subsection he shall be liable to a penalty not exceeding twenty pounds and to a daily penalty not exceeding forty shillings.

(3) Nothing in this section shall apply to steam gas or water discharged from a railway locomotive.

PART V —*cont.*

Silencers for internal combustion engines.

48.—(1) A stationary internal combustion engine shall not be used in the district unless an effectual silencer is provided and used on the exhaust of the engine.

(2) If any person uses any such engine in contravention of the foregoing subsection or causes or permits any such engine to be so used the Council may give him notice that the engine is being or has been so used and if after the lapse of such time from the service of the notice as may be reasonably sufficient for remedying the cause of complaint he uses the engine as aforesaid or causes or permits it to be so used he shall be liable to a penalty not exceeding ten pounds and to a daily penalty not exceeding forty shillings.

(3) An authorised officer of the Council shall on producing if so required some duly authenticated document showing his authority have the right —

(*a*) to enter at all reasonable hours any premises on which there is reason to believe that any such engine is being or has been used in contravention of subsection (1) of this section ; and

(*b*) to inspect and test any silencer on the exhaust of any such engine found on the premises and for that purpose to require such silencer to be taken off and removed ;

and any expenses incurred under this subsection by any such officer may be recovered by the Council from the occupier of the premises if there is found on the premises any such engine which is not provided with an effectual silencer on the exhaust thereof :

Provided that this subsection shall not apply to any premises belonging to railway undertakers and used by them for the purpose of their railway undertaking.

Noise nuisance.

49.—(1) Any excessive or unreasonable or unnecessary noise which is prejudicial to health or a nuisance shall be a statutory nuisance for the purposes of Part III of the Public Health Act 1936 :

Provided that—

(*a*) in any proceedings brought by virtue of this section under the said Part III in respect of a noise occasioned in the course of any trade or business it shall be a defence for the defendant to prove that he has used the best practicable means for preventing or mitigating the noise having regard to the cost and to other relevant circumstances ;

(*b*) a justice shall not entertain a complaint under section 99 of the said Act with respect to a noise unless it is made by not less than three occupiers of premises within hearing of the noise.

PART V —*cont.*

(2) Nothing in this section shall apply to a noise occasioned by the exercise by railway undertakers of statutory powers conferred in relation to their railway undertaking.

(3) Nothing in this section shall affect the power of the county council of the administrative county of Southampton to make byelaws under section 249 of the Local Government Act 1933.

PART VI

INFECTIOUS DISEASES

Definition of notifiable disease.

50. In this Part of this Act the expression "notifiable disease" means—

(*a*) any notifiable disease as defined by section 343 of the Public Health Act 1936; and

(*b*) any infectious disease to which section 144 of that Act for the time being applies in the district by virtue of regulations made under section 143 thereof.

Information to be furnished by occupier in case of notifiable disease.

51.—(1) On the application of the medical officer the occupier of any building in the district which is used for human habitation and in which there is or has been any person suffering from a notifiable disease shall furnish such information within his knowledge as the medical officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease.

(2) If any person required to furnish information under this section fails to furnish it or knowingly furnishes false information he shall be liable to a penalty not exceeding forty shillings.

(3) In this section the expression "occupier" includes—

(*a*) a person having the charge management or control of the building or of the part of the building in which the person suffering from a notifiable disease is or has been; and

(*b*) in the case of a building the whole of which is ordinarily let out in separate tenements or in the case of a lodging-house the whole of which is ordinarily let to lodgers the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person.

Exclusion of children from entertainments.

52.—(1) With a view to preventing the spread of a notifiable disease the Council on the advice of the medical officer may by notice published in such manner as they think best for bringing it to the notice of persons concerned prohibit the admission of persons under the prescribed age to places of entertainment or assembly in the district for a time specified in the notice.

PART VI —*cont.*

(2) If the person responsible for the management of any place of entertainment or assembly having been served by the Council with a copy of a notice published under the preceding subsection admits any person under the prescribed age to that place in contravention of the notice he shall be liable to a penalty not exceeding five pounds:

Provided that in any proceedings under this subsection it shall be a defence to prove that there were reasonable grounds for believing that the person admitted had attained the prescribed age.

(3) In this section the expression " prescribed age " in relation to any notice means such age not exceeding sixteen as may be prescribed by the notice.

PART VII

PARKS CEMETERIES AND OTHER MUNICIPAL PROPERTY

Power to let parks etc. for games.

53. When any part of a park or pleasure ground provided by or under the management and control of the Council is set apart by them under paragraph (*b*) of subsection (1) of section 76 of the Public Health Acts Amendment Act 1907 for the purpose of cricket football or any other game or recreation the Council may permit the exclusive use by any club or other body of persons of—

(*a*) any portion of the part set apart as aforesaid ; and

(*b*) the whole or any part of any pavilion convenience refreshment room or other building provided under that section ;

subject to such charges and conditions as the Council think fit:

Provided that nothing in this section shall empower the Council to permit at one and the same time the exclusive use of—

(i) more than one-third of the area of any park or pleasure ground ; or

(ii) more than one-quarter of the total area of all the parks and pleasure grounds provided by them or under their management and control.

Parking places in parks etc.

54.—(1) For the purpose of providing a parking place under section 68 of the Public Health Act 1925 as amended by section 16 of the Restriction of Ribbon Development Act 1935 the Council may with the consent of the Minister utilise any part of a park pleasure ground or open space provided by them or under their management and control:

Provided that the part of any park pleasure ground or open space utilised under this section shall not exceed one-eighth of the total area thereof or one acre whichever is the less.

(2) In this section the expression " open space " has the same meaning as in the Open Spaces Act 1906.

PART VII —*cont.*

Boating pools.

55.—(1) The Council may in any park pleasure ground or open space provided by them or under their management and control provide a boating pool.

(2) The Council may provide such buildings and execute such works as may be necessary or expedient in connection with the provision of any boating pool under this section and references in the following provisions of this section to a boating pool so provided shall include references to any buildings provided or works executed under this subsection and to anything with which any such building or boating pool is equipped by virtue of section 271 of the Public Health Act 1936 as applied by this Act.

(3) The Council may either—

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

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

(4) The powers of the Council under subsection (2) of section 44 of the Public Health Acts Amendment Act 1890 with respect to a piece of water in a park or pleasure ground provided by them shall be extended so as to be exercisable with respect to any boating pool provided under this section.

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

Golf courses.

56.—(1) The Council may provide a golf course and for that purpose may by agreement acquire whether by way of purchase lease or exchange land whether situated within or without the district.

(2) The Council may provide such buildings and execute such works as may be necessary or expedient in connection with the provision of any golf course under this section and references in the following provisions of this section to a golf course so provided shall include references to any buildings provided or works executed under this subsection and to anything with which such golf course or building is equipped by virtue of section 271 of the Public Health Act 1936 as applied by this Act.

(3) The Council may either—

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

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

PART VII —*cont.*

(4) The Council may—

(*a*) at any such golf course provide and sell refreshments of all kinds subject to the provisions of all enactments relating thereto;

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

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

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

(5) The Council may make byelaws for regulating the use of golf courses provided under this section whether within or without the district and the conduct of persons using them or resorting thereto.

Saving for trusts etc.

57. No power conferred upon the Council by the preceding sections of this Part of this Act shall be exercised in such a manner—

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

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

Extension of power to maintain burial grounds.

58.—(1) The powers of the Council in relation to a burial ground provided by them or a closed or disused burial ground maintainable by them shall include power to put and keep in order any grave or tombstone therein subject to the following provisions:—

(*a*) Before exercising the powers of this section the Council shall give notice of their intention so to do—

(i) by publishing the notice once in each of two successive weeks in a local newspaper circulating in the district with an interval between each publication of not less than six clear days; and

(ii) by displaying the notice in a conspicuous position in the burial ground ; PART VII —*cont.*

(*b*) Any such notice shall—

(i) contain a description of the works intended to be executed ; and

(ii) specify the date on which it is intended that those works will be commenced which shall not be earlier than the fourteenth day after the last publication of the notice in a newspaper as aforesaid or the twenty-first day after the notice is first displayed in the burial ground as aforesaid ; and

(iii) state the effect of paragraph (*c*) of this subsection ;

(*c*) If notice of objection to the execution of any such works and of the ground thereof is given to the Council before the date so specified and is not withdrawn before the expiration of fourteen days from that date the works to which the objection relates shall not be executed without the consent of the Minister.

(2) In this section—

the expression " burial ground " includes a cemetery ;

the expression " grave " includes a grave space ;

the expression " tombstone " includes a monument or other memorial of a deceased person.

PART VIII

PUBLIC ORDER AND PUBLIC SAFETY

Barriers in streets.

59.—(1) For the purpose of securing public order or public safety or preventing congestion of traffic the Council may in any case of emergency or on any occasion on which it is likely by reason of some special attraction that any street in the district will be thronged or obstructed cause barriers to be erected in any street in the district and kept in position for so long as may be necessary for that purpose :

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

(*a*) as respects any trunk road without the consent of the Minister of Transport ; or

(*b*) as respects any street belonging to or repairable by any railway or passenger road transport undertakers and forming the approach to any station or depot of those undertakers or so as to obstruct or interfere with the access to or exit from any such station or depot without the consent of those undertakers ;

PART VIII —*cont.*

(*c*) so as to deprive foot-passengers bona fide going to or from any building or land abutting on the street of reasonable access to the building or land;

(*d*) so as to deprive the gas board their officers or servants of reasonable facilities for obtaining with or without vehicles carts and equipment ingress to or egress from any operational land or depot of the gas board abutting on the street.

(2) The consent of any undertakers under proviso (*b*) to the preceding subsection shall not be unreasonably withheld and any question whether or not it is unreasonably withheld shall be determined by the Minister of Transport.

(3) For the purpose of erecting barriers in a street under this section the Council may provide slots or sockets in or under the surface of the street.

(4) If any person wilfully removes or damages any barrier erected under this section he shall be liable to a penalty not exceeding five pounds.

Notice of street processions.

60.—(1) No procession shall pass through the streets of the district unless written notice stating the route by which and the time at which it will so pass has been delivered at the office of the clerk and the principal police station in the district at least thirty-six hours (exclusive of Sundays) before the time so stated.

(2) If any procession passes through the streets of the district in contravention of the preceding subsection or by a route or at a time other than that stated in the notice delivered with respect thereto under that subsection any person organising or conducting the procession shall be liable to a penalty not exceeding five pounds.

(3) In this section the expression "procession" means any public or ceremonial procession or any circus procession or procession of wild animals:

Provided that nothing in this section shall apply to any public or ceremonial procession habitually held.

Safety of stands.

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

PART VIII —*cont.*

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

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

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

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

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

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

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

(6) If any person—

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

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

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

PART VIII —*cont.*

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

he shall be liable to a penalty not exceeding fifty pounds and in the case of any such failure to a daily penalty not exceeding forty shillings:

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

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

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

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

Byelaws as to pleasure fairs and roller-skating rinks.

62.—(1) The Council may make byelaws—

(*a*) for regulating the hours during which pleasure fairs and roller-skating rinks may be open to the public;

(*b*) for securing safe and adequate means of ingress to and egress from any pleasure fair or roller-skating rink;

(*c*) for the prevention and suppression of nuisances and preserving sanitary conditions cleanliness order and public safety at any pleasure fair or roller-skating rink.

(2) In this section—

(*a*) the expression "pleasure fair" means any place—

(i) which is for the time being used wholly or mainly for providing (whether or not in combination with any other entertainment) any entertainment to which this section applies; and

(ii) for admission to which or for the use of the contrivances in which a charge is made;

(*b*) the expression "roller-skating rink" means any place which is for the time being used wholly or mainly for roller skating and for admission to which a charge is made.

PART VIII —*cont.*

(3) Subject to the provisions of the next following subsection the entertainments to which this section applies are the following:—

(*a*) circuses;

(*b*) exhibitions of human beings or of performing animals;

(*c*) merry-go-rounds roundabouts swings switchback railways;

(*d*) cocoanut shies hoop-las shooting galleries;

(*e*) dodgems or other mechanical riding or driving contrivances;

(*f*) automatic or other machines intended for entertainment or amusement;

(*g*) anything similar to any of the foregoing.

(4) Nothing in this section or the byelaws made thereunder shall apply to—

(*a*) any fair held by statute royal charter royal licence letters patent or ancient custom; or

(*b*) any entertainment which is not run for profit and is not carried on for more than seven consecutive days; or

(*c*) any entertainment the profits whereof are devoted to a religious or charitable purpose.

(5) The Council shall—

(*a*) not less than one month before making byelaws under this section furnish the Amusement Caterers' Association the Association of Amusement Park Proprietors of Great Britain and the Showmen's Guild of Great Britain with a draft of the proposed byelaws; and

(*b*) on submitting the byelaws to the Secretary of State for confirmation furnish him with a copy of any representations made to the Council in writing by any of the said bodies and a statement showing the effect if any given to any such representation.

(6) Different byelaws may be made under this section for pleasure fairs and roller-skating rinks and for different kinds of pleasure fairs.

Unauthorised structures on seashore.

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

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

PART VIII —*cont.*

(2) Any person aggrieved by the refusal of the Council to give their consent under the preceding subsection may appeal to a court of summary jurisdiction.

(3) If any person erects provides or places any structure or chair in contravention of subsection (1) of this section he shall be liable to a penalty not exceeding forty shillings and if after conviction thereof the structure or chair remains on any such part of the seashore he shall be liable to a penalty not exceeding twenty shillings for each day on which it so remains.

(4) If any person uses any structure in contravention of subsection (1) of this section he shall be liable to a penalty not exceeding forty shillings and to a daily penalty not exceeding twenty shillings.

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

Further powers to make byelaws as to boats.

64.—(1) For the prevention of noise or of danger obstruction or annoyance to persons boating or bathing or using the seashore the Council may make byelaws—

(*a*) requiring the fitting of effectual silencers on boats propelled by internal combustion engines ;

(*b*) prohibiting regulating or controlling the keeping or landing of boats on such parts of the seashore as may be specified in the byelaws.

(2) The said byelaws may also provide for charging such fee as may be prescribed by the byelaws for any licence or permission to keep a boat on any part of the seashore owned by or let to the Council.

(3) Byelaws made under this section may contain different provisions for different classes or descriptions of boats.

(4) No byelaw made under this section shall—

(*a*) affect any right or privilege of owners of boats engaged in the fishing industry which may exist at the time of the making of the byelaw ; or

(*b*) prevent the owner of any part of the seashore or any person with his consent exercising any rights which he could have exercised if the byelaw had not been made ; or

(*c*) in the case of a byelaw made under paragraph (*a*) of subsection (1) of this section apply to any boat which is ordinarily kept outside the district and is not required to be licensed by the Council.

PART VIII —*cont.*

Local extent of byelaws as to boats.

65.—(1) The power of the Council to make byelaws as to boats whether under this Act or under any other enactment shall include power to provide that any such byelaw shall operate not only within the district but also within a distance seaward from the district of three miles from low-water mark of ordinary spring tides.

(2) Any offence committed within the said distance against any byelaw so operating may be inquired into and dealt with as if it had been committed within the district.

Licensing of boatmen and pleasure boats.

66. As from the appointed day section 94 of the Public Health Acts Amendment Act 1907 shall in its application to the district have effect as if the following subsection were substituted for subsection (3) thereof:—

" (3) No person shall—

(*a*) let for hire any pleasure boat or pleasure vessel not so licensed or at any time during the suspension of the licence for the boat or vessel; or

(*b*) carry or permit to be carried passengers for hire in any pleasure boat or pleasure vessel unless the boat or vessel and the boatman in charge thereof and the navigator are so licensed or at any time during the suspension of the licence for the boat or vessel or the boatman or navigator:

Provided that this subsection shall not be taken to require a person to be licensed as a boatman who takes on hire a pleasure boat or pleasure vessel for purposes other than for profit."

PART IX

BOXING AND WRESTLING

Boxing and wrestling entertainments.

67.—(1) As from the appointed day the provisions of Part IV of the Public Health Acts Amendment Act 1890 shall in their application to the district extend to any place ordinarily used for any boxing or wrestling entertainment as though any such entertainment were of the like kind with public dancing and music:

Provided that the said provisions shall not extend to any premises licensed under the Theatres Act 1843 if and so long as the conditions attached to the licence under that Act are complied with as though a boxing or wrestling entertainment were a stage play.

(2) For the purposes of this section the expression " boxing or wrestling entertainment " means any public contest or display

PART IX —*cont.*

of boxing or wrestling except such as may be provided or given—

(*a*) by travelling showmen at pleasure fairs;

(*b*) by bona fide organisations associations clubs or societies whether for juveniles or adults and whether corporate or unincorporate which are not carried on for profit; or

(*c*) by any university university college college of a university training college establishment of further education or school.

PART X

FINANCIAL PROVISIONS

Power to borrow.

68.—(1) The Council shall have power in addition and without prejudice to their powers of borrowing under the Local Government Act 1933 to borrow without the consent of any sanctioning authority the sum requisite for the payment of the costs charges and expenses of this Act and they shall repay any sum so borrowed within such period as they may determine not exceeding five years from the passing of this Act.

(2) The provisions of Part IX of the Local Government Act 1933 so far as they are not inconsistent with this Part of this Act shall extend and apply to money borrowed under this section as if it were borrowed under the said Part IX and the period fixed by the Council under this section for the repayment of any money borrowed under this section shall as respects that money be the fixed period for the purposes of the said Part IX.

As to exercise of borrowing powers.

69. It shall not be lawful to exercise the powers of borrowing conferred by this Act otherwise than in compliance with the provisions of the Local Authorities Loans Act 1945.

Power to borrow by issue of bonds.

70.—(1) In addition to any other form of borrowing the Council may exercise any statutory borrowing power by the issue of bonds to be called "Fareham Urban District Council bonds" (in this Act referred to as "bonds") in accordance with the provisions of this Act.

(2) Where the Council raise money by the issue of bonds sections 209 to 214 of the Local Government Act 1933 shall apply as if the money had been raised by borrowing by mortgage under that Act and bonds were mortgages within the meaning of that Act.

(3) The provisions set out in the Second Schedule to this Act shall have effect with regard to bonds.

(4) Bonds shall be deemed to be loan capital or funded debt within the meaning of section 8 of the Finance Act 1899 as amended by section 10 of the Finance Act 1907.

(5) The provisions of section 115 of the Stamp Act 1891 (which relates to the composition for stamp duty) shall with the necessary adaptation apply in the case of bonds as if those bonds were stock or funded debt within the meaning of that section.

Dividend warrants by post.

71.—(1) The Council may give notice to any person being registered as a holder of any authorised security (other than stock) that they intend to send interest or dividend warrants to him by post if he does not object and if such person does not within fourteen days from the receipt of such notice give notice to the Council of such objection the Council may from time to time send orders for the payment of interest or dividend warrants by post to the address of such person appearing in the register:

Provided that if such person gives notice to the Council that he desires such orders or warrants to be sent to another person at a given address the Council may from time to time send the same by post to such other person at such address.

(2) Where more persons than one are registered as joint holders of any authorised security any one of them may for the purpose of this section be regarded as the holder of the security unless contrary notice has been given to the Council by any other of them.

(3) The posting by the Council of an order for the payment of interest or a dividend warrant in pursuance of this section shall as respects the liability of the Council be equivalent to the delivery of the order or warrant to the registered holder of the authorised security.

(4) Every order or warrant so sent by post shall be deemed to be a cheque and the Council shall in relation thereto be deemed a banker within the meaning of the Bills of Exchange Act 1882.

Consolidated loans fund.

72.—(1) Notwithstanding anything contained in any enactment the Council (if they think fit) may on or after the thirty-first day of March one thousand nine hundred and fifty-three establish a fund to be called " the consolidated loans fund " to which shall be paid—

(*a*) all moneys borrowed by the Council by the issue of any authorised securities together with all moneys borrowed under any enactment without or pending the issue of an authorised security in connection with the exercise of any statutory borrowing power;

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(*b*) all moneys of a capital nature received by the Council whether from the sale of capital assets or otherwise except such as are to be applied by the Council with due authority to another capital purpose ; and

(*c*) the appropriate sums provided in each financial year out of other funds of the Council to comply with the terms and conditions as to repayment attaching to their several borrowing powers or otherwise provided for the repayment of debt :

And there shall also be carried to the credit of the consolidated loans fund the unapplied balances of all moneys so borrowed or received and of all sums provided by the Council as aforesaid before the date on which the consolidated loans fund is established.

(2) The moneys of the consolidated loans fund shall be used or applied by the Council—

(*a*) in the redemption of authorised securities the purchase of bonds or stock for extinction or the repayment of any moneys borrowed by the Council ; and

(*b*) in the exercise of any statutory borrowing power by the transfer of the required amount to the appropriate fund and account of the Council :

And the moneys of the consolidated loans fund not used or applied in these ways or intended to be so used or applied within a reasonable period shall be invested in statutory securities and the sums realised by the sale of such securities shall be repaid on receipt to the consolidated loans fund and the moneys of the consolidated loans fund shall not except with the consent of the Minister be used or applied otherwise than as provided by this section.

(3) There shall also be transferred to the consolidated loans fund such sums as are necessary to meet the interest charges and the financing and other revenue expenses connected with the management of that fund and separate accounts shall be kept of these sums and their application.

(4) The Council may pay into the consolidated loans fund any moneys forming part of any reserve capital renewal and repairs insurance depreciation contingency superannuation or other similar fund (in this section respectively referred to as " the lending fund ") and not for the time being required for the purposes for which the lending fund was established and such moneys shall be deemed to be moneys borrowed by the Council within the meaning of subsection (1) of this section and shall be used accordingly subject to the following conditions :—

(*a*) The moneys so used shall be repaid to the lending fund as and when required for meeting the obligations for which the lending fund was established ; and

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(*b*) There shall be paid out of the consolidated loans fund to the general rate fund an amount equal to the interest on any moneys so used and for the time being not repaid to the lending fund at such rate per centum per annum as may be determined by the Council to be equal as nearly as may be to the average rate of interest payable by the Council on their current borrowings and in the accounts of the general rate fund an amount equal to the interest as aforesaid shall (subject to any prescribed limit on the amount of the lending fund) be credited to the lending fund.

(5) Save as in this section expressly provided all the obligations of the Council to the holders of authorised securities shall continue in force.

(6) The powers conferred by this section shall not be exercised by the Council except in accordance with a scheme to be made by the Council and approved by the Minister and such scheme may make provision for any matters incidental to the establishment and administration of the consolidated loans fund.

(7) Any scheme approved by the Minister under this section may from time to time be altered extended amended or revoked by a scheme made and approved in like manner as the original scheme.

Capital fund.

73.—(1) The Council may (if they think fit) establish a fund to be called " the capital fund " to which they may pay—

(*a*) any sums derived from the sale of any property of the Council (other than property forming part of the water undertaking) ;

(*b*) the surplus of the revenue income over the revenue expenditure of the general rate fund (not required by law to be applied to or carried forward for any other purpose) on the thirty-first day of March in any year or any part of such surplus ; and

(*c*) such other sums from the revenue of the general rate fund (in addition to a sum equal to the interest earned on the capital fund and any income arising from the application of the fund to the purposes authorised) as the Council may by resolution direct (not being moneys directed by law to be applied to any other purpose) :

Provided that—

(i) the aggregate amount paid to the capital fund under paragraphs (*b*) and (*c*) of this subsection (exclusive of the sum equal to the interest earned on the capital fund and any income arising from the application of that fund to the purposes authorised) shall not except

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with the consent of and to such extent as may be approved by the Minister exceed in any year the equivalent of twice the product of a penny rate as ascertained or estimated for the purpose of section 9 of the Rating and Valuation Act 1925;

(ii) payments into the capital fund shall not be made whenever that fund amounts to the sum of thirty thousand pounds or such greater sum as may from time to time be approved by the Minister.

(2) The Council may apply the moneys in the capital fund in defraying any expenditure to which capital is properly applicable (other than expenditure in connection with the water undertaking) or in providing money for the repayment of loans (but not in making the annual payment required to be made therefor):

Provided that the amount to be expended under this subsection shall not exceed the sum of five thousand pounds in any one transaction unless a greater sum shall in any case be allowed by the Minister.

(3) (*a*) Pending the application of the moneys in the capital fund to the purposes authorised by the last preceding subsection the moneys in the fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(*b*) Any income arising from the investment of the moneys in the capital fund in the manner provided by the foregoing paragraph of this subsection and any income arising from the application of the fund to the purposes authorised shall be carried to and form part of the general rate fund and (subject to the limitation imposed by proviso (ii) to subsection (1) of this section) an amount equivalent to such income shall be credited to the capital fund out of the general rate fund.

(4) All moneys derived from the sale of any land of the Council which are applied from the capital fund under the provisions of this section shall and all other moneys which are applied from the capital fund may if the Council think fit be repaid from the account to which such moneys were advanced by such annual instalments with or without interest and within such period as may be determined by the Council.

Renewal and repairs fund.

74.—(1) The Council may (if they think fit) establish a fund to be called " the renewal and repairs fund " for the purpose of defraying the expenditure to be incurred from time to time in repairing maintaining and renewing any buildings works plant tools machinery appliances horses carts vehicles boilers and equipment and apparatus in connection therewith office machinery furniture fittings and appliances or things and in maintaining and repairing paths and apparatus in public walks and

PART X —*cont.*

pleasure grounds and may from time to time apply any fund so established or any part thereof in defraying such expenditure but this section shall not apply to any buildings works plant appliances or things for the purposes of any of the Council undertakings in respect of which they are authorised to provide a reserve fund or to any building in respect of which they are required by the Acts relating to housing to keep a housing repairs account.

(2) The Council may from time to time pay into the renewal and repairs fund such sums as they think fit from the revenue of the general rate fund (including a sum equal to the interest earned on the renewal and repairs fund and any income arising from the application of that fund to the purposes authorised) but the maximum standing to the credit of the renewal and repairs fund shall not except with the approval of the Minister at any time exceed the sum of twenty-five thousand pounds.

(3) (*a*) Pending the application of moneys forming part of the renewal and repairs fund to the purposes authorised by this section such moneys shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities.

(*b*) Any income arising from the investment of the moneys in the renewal and repairs fund in manner provided by this subsection shall be carried to and form part of the general rate fund and (subject to the limitation imposed by subsection (2) of this section) an amount equivalent to such income shall be credited to the renewal and repairs fund.

Insurance fund.

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

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

(3) In each year after the establishment of the insurance fund the Council shall pay into that fund either—

(*a*) such a sum as shall in their opinion be not less than the aggregate amount of the premiums which would be payable if the Council fully insured in some insurance office of good repute against the specified risks ; or

(*b*) if the Council insure in some insurance office against the whole or any part of all or any of the specified risks such sums as will together with the premiums paid for the last-mentioned insurance be not less than the aggregate amount aforesaid.

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(4) When the insurance fund shall amount to the prescribed amount (as hereinafter defined) the Council may if they think fit discontinue the yearly payments to the fund but if the fund is at any time reduced below the prescribed amount the Council shall recommence and continue the yearly payments to that fund in accordance with subsection (3) of this section until the fund be restored to the prescribed amount.

(5) The Council shall provide the yearly payments aforesaid by contributions from the revenue of the general rate fund and (if they think fit) from the housing revenue account and shall show the same in their accounts under the separate heading or division in respect of the particular undertaking department or service of the Council which if the specified risks were insured against in an insurance office would be properly chargeable with the payment of the premium of such insurance:

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

(6) (*a*) Except so far as the insurance fund and the proceeds of sale of securities in which that fund is invested may be necessary to meet losses damages costs and expenses in consequence of the specified risks or any of them all moneys for the time being standing to the credit of the insurance fund shall (unless applied in any other manner authorised by any enactment) be invested in statutory securities and the interest and other annual proceeds received by the Council in respect of such investments shall be carried to and form part of the general rate fund.

(*b*) In addition to the sum required to be paid into the insurance fund by subsection (3) of this section the Council shall in every year so long as the insurance fund is less than the prescribed amount carry to the credit of that fund out of the general rate fund an amount equal to the interest and other annual proceeds carried to the general rate fund in pursuance of the last preceding paragraph.

(*c*) If and so long as the insurance fund amounts to the prescribed amount the interest and other annual proceeds received by the Council in respect of or on investments forming part of the insurance fund and carried to the general rate fund may be apportioned in the accounts of the Council between the several undertakings departments or services liable to contribute to the insurance fund in such shares or proportions as may be equitable.

(7) (*a*) The insurance fund shall be applied to meet any losses damages costs or expenses sustained by the Council in consequence of the whole or any part of all or any of the specified

PART X —*cont.*

risks in the order of the dates on which such losses damages costs or expenses become ascertained and if at any time and from time to time the insurance fund shall be insufficient to make good any such losses damages costs or expenses the Council may with the sanction of the Minister borrow at interest under and subject to the provisions of Part IX of the Local Government Act 1933 such sums of money as will be necessary to make up the deficiency.

(*b*) The amounts of the annual charges in respect of interest on and repayment of principal of any sums borrowed in pursuance of this subsection and the amounts of any such deficiencies as aforesaid not made up by borrowing shall be paid out of the general rate fund and charged in the accounts of the Council under the separate headings or divisions in respect of such undertakings departments or services of the Council and in such proportions as the Council may determine having regard to the risks through which such deficiencies arise.

(8) In this section "the prescribed amount" means such sum as may from time to time be prescribed by resolution of the Council.

Application of general rate fund for certain purposes.

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

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

(*b*) in the renewal construction extension or improvement of any works and conveniences for the purposes of the undertaking or in payment of any expenses in respect of the undertaking which might otherwise have been defrayed out of capital moneys;

(*c*) in providing a reserve fund in respect of the undertaking by setting aside such an amount as the Council may from time to time think reasonable and (unless the amount so set aside is applied in any other manner authorised by any enactment) investing the same in statutory securities until the reserve fund so provided amounts to the maximum reserve fund for the time being prescribed by the Council in respect of that undertaking.

PART X —*cont.*

(2) Any reserve fund which has been provided in respect of any of the Council's undertakings and which is in existence on the first day of April one thousand nine hundred and fifty-three shall be carried to and form part of any reserve fund provided under this section in respect of such undertaking.

(3) Any reserve fund provided under this section may be applied—

(*a*) in making good to the general rate fund any deficiency at any time happening in the income of the Council from the undertaking in connection with which it is formed; or

(*b*) in meeting any extraordinary claim or demand at any time arising against the Council in respect of that undertaking; or

(*c*) in or towards the payment of the cost of acquiring land for or renewing improving or extending any works forming part of the undertaking or otherwise for the benefit thereof;

and so that if that fund be at any time reduced it may thereafter be again restored to the prescribed maximum and so from time to time as often as such reduction happens.

Payments due to deceased employees.

77.—(1) If on the death of an employee (which expression in this section includes a former employee or pensioner of the Council or other person) to whom or to whose personal representative a sum not exceeding one hundred pounds is due from the Council on account of salary wages gratuity or grant a grant of probate of the will of the employee or of letters of administration to his estate is not produced to the Council within such time (not being less than one month after his death) as the Council may think reasonable then at the expiration of that time the Council may pay such sum to the person or persons entitled to the residuary estate of the employee by virtue of the provisions of paragraphs (i) to (vi) inclusive of subsection (1) of section 46 of the Administration of Estates Act 1925 and section 9 of the Legitimacy Act 1926 to the intent that such sum shall be applied in due course of administration:

Provided that—

(*a*) the Council may (notwithstanding the receipt of a notice under proviso (*b*) of this subsection) if they think fit pay out of such sum the funeral expenses of the deceased employee or so much thereof as the Council consider reasonable having regard to any death grant which has been or is to be paid under section 22 of the National Insurance Act 1946;

(*b*) if the Council receive notice in writing of any claim against the estate of the deceased employee at any

PART X —*cont.*

time before they shall have paid the whole of such sum in accordance with the provisions of this subsection they shall not (except in any case in which the provisions of section 46 (1) (vi) of the Administration of Estates Act 1925 are applicable) pay such sum or the balance thereof in their hands to any person other than the personal representative of the deceased employee unless and until such claim has been satisfied disproved or withdrawn.

(2) Before paying any sum in accordance with the provisions of the preceding subsection (except under proviso (*a*) thereof) to any person other than the personal representative of the deceased employee the Council shall require either—

(*a*) a statutory declaration (or when payment is made to the Crown or to the Duchy of Lancaster or to the Duchy of Cornwall a statement) by the person or one of the persons to whom the Council may pay or propose to pay such sum or any part thereof to the effect that the total estate of the deceased employee (including such sum but after deduction of debts and funeral expenses) does not exceed four hundred pounds; or

(*b*) the production of a certificate from the Commissioners of Inland Revenue to the effect either that any death duties payable in respect of such sum have been paid or that no such duties are payable.

(3) The Council shall be discharged from all liability in respect of any payment or application of money effected by them in exercising their powers under this section.

Expenses of public ceremonies etc.

78. The Council may pay—

(*a*) reasonable expenses of the Council in providing public entertainments on the occasion of or otherwise in connection with public ceremony or rejoicing and in the reception and entertainment of distinguished persons residing in or visiting the district; and

(*b*) reasonable expenses in connection with official and courtesy visits by or on behalf of the Council and payments for travelling expenses and for expenses reasonably incurred by or on behalf of any member or officer of the Council in connection therewith.

Recovery of rate etc. from persons removing.

79. If a justice is satisfied on complaint by any rate collector or other authorised officer of the Council that any person is quitting or about to quit any premises in the district and has failed to pay on demand any general rate or any water rate or charge which may be due from him to the Council and intends to evade payment of the same by departing from the

PART X —*cont.*

said premises the justice may in addition to issuing a summons for non-payment of the same issue a warrant under his hand authorising the person named therein forthwith to enter the premises and to seize sufficient goods and chattels of the person in default to meet the claim of the Council and to detain them until the complaint is determined upon the return of the summons.

Recovery of rates from certain owners.

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

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

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

(3) This section shall not apply to any hereditament to which subsection (1) of section 11 (Rating of and collection of rates by owners) of the Rating and Valuation Act 1925 applies by virtue of a resolution of the Council.

As to recovery of rates from tenants and lodgers.

81. For the purposes of section 15 of the Rating and Valuation Act 1925 the rates due from the person rated for any hereditament within the district shall be deemed to be in arrear if such rates are not paid within two months after lawful demand in writing has been made for the same.

Service of demand notes.

82. The provisions of section 59 (Service of notices &c.) of the Rating and Valuation Act 1925 relating to the sending or service of demand notes shall apply to demand notes for any charges made in connection with any undertaking department or service of the Council.

PART XI

MISCELLANEOUS

Hairdressers and barbers.

83.—(1) As from the appointed day no person shall carry on the business of a hairdresser or barber on any premises in the district unless he and those premises are registered by the Council.

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(2) Subject to the provisions of this section any person who makes an application in that behalf and furnishes the Council with particulars of his name and residence and of the premises in respect of which he desires to be registered shall be registered in respect of those premises by the Council in a book kept for the purpose and on so registering any person the Council shall issue to him a certificate of registration.

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

(*a*) the cleanliness of premises 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.

(4) If any person carries on business in contravention of subsection (1) of this section or contravenes or fails to comply with any byelaw made under subsection (3) of this section he shall be liable—

(*a*) in the case of a contravention of subsection (1) to a penalty not exceeding twenty pounds and a daily penalty not exceeding five pounds ; and

(*b*) in the case of a contravention of or failure to comply with a byelaw to a penalty not exceeding five pounds ;

and in either case the court by which he is convicted may (in lieu of or in addition to imposing a penalty) order the suspension or the cancellation of his registration.

(5) Where the registration of any person is cancelled by order of a court under the last preceding subsection—

(*a*) he shall within seven days deliver up to the Council his certificate of registration and if he fails to do so he shall be liable to a penalty not exceeding twenty shillings and to a daily penalty not exceeding ten shillings ; and

(*b*) he shall not again be registered by the Council under this section except in pursuance of a further order of a court of summary jurisdiction made on his application.

(6) A person registered under this section shall keep a copy of the said byelaws and of his certificate of registration displayed in the premises in respect of which he is registered and if he fails to do so he shall be liable to a penalty not exceeding twenty shillings and a daily penalty not exceeding ten shillings.

(7) Where an offence under this section has been committed by a body corporate every person who at the time of the commission of the offence was a director general manager or other

PART XI —*cont.*

similar officer of the body corporate or was purporting to act in any such capacity shall be deemed to be guilty of that offence unless he proves—

(*a*) that the offence was committed without his consent or connivance; and

(*b*) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

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

Prizes for garden competitions.

84. The Council may expend on the provision of prizes in connection with any competition they may hold relating to their tenants' gardens such sum as they may think fit not exceeding in any one year the sum of fifty pounds.

Summary recovery of damages for negligence.

85. Any compensation recoverable by the Council for damage caused by negligence to any lamp or lamp-post belonging to them or any apparatus or equipment provided by them in any street or public place shall if the amount thereof does not exceed twenty pounds be recoverable summarily as a civil debt.

PART XII

GENERAL

Powers to use ladders etc. for entry or inspection.

86.—(1) Any power conferred on an officer of the Council by any enactment to enter upon and inspect any building or works in course of construction shall include a power to use free of expense for the purpose of the entry or inspection any ladders scaffolding and plant in or about the building or works.

(2) If the builder of or contractor for any such building or works or any person employed by him in or about the building or works—

(*a*) refuses to give to such an officer all reasonable assistance in the exercise of the powers conferred by this section; or

(*b*) otherwise obstructs such an officer in the exercise of those powers;

he shall be liable to a penalty not exceeding five pounds.

In executing works for owner Council liable for negligence only.

87.—(1) Where under any enactment the Council or any of their officers execute any work or do any act or thing in default or at the request of any person required by the Council to execute such work or do such act or thing the Council shall not

PART XII —*cont.*

as between themselves and such person in the absence of any negligence on the part of the Council any such officer or any contractor employed by them or him be liable to pay any damages for or in respect of or consequent upon the executing of the work or the doing of the act or thing and any such damages paid by the Council in the absence of negligence as aforesaid shall be deemed to be part of the expenses payable by such person and shall be recoverable accordingly.

(2) In this section the expression "damages" includes penalties costs and charges.

Apportionment of expenses in case of joint owners.

88. Where under the provisions of this Act or any local Act in force in the district the Council shall execute any works of common benefit to two or more buildings belonging to different owners the expenses which under those Acts or any of them are recoverable by the Council from the owners shall be paid by the owners of such buildings in such proportions as shall be determined by the Council or in case of dispute by a court of summary jurisdiction.

Damages and charges to be settled by court.

89. Where any damages expenses or charges are directed or authorised to be paid or recovered in addition to any penalty for any offence in this Act mentioned the amount of such damages expenses or charges in case of dispute respecting the same may be settled and determined by the court before whom any offender is convicted.

Breach of conditions of consent of Council.

90. Where in pursuance of any enactment for the time being in force in the district the Council give their consent to the execution of any work or the doing of any act or thing subject to any terms or conditions which they are authorised to impose any breach of any such terms or conditions shall be deemed as regards liability to a penalty and other consequences equivalent to the execution of the work or the doing of the act or thing without the required consent.

Compensation how to be determined.

91. When any compensation costs damages or expenses is or are by any enactment for the time being in force in the district directed to be paid and the method for determining the amount thereof is not otherwise provided for such amount shall in case of dispute be ascertained in the manner provided by subsection (2) of section 278 of the Public Health Act 1936.

Application of section 265 of Public Health Act 1875.

92. Section 265 of the Public Health Act 1875 shall extend and apply to the purposes of any enactment for the time being in force applying to the Council as if the same were re-enacted therein.

PART XII —*cont.*

Application of Arbitration Act 1950.

93. Where under this Act any dispute or difference is to be referred to arbitration then unless other provision is made the reference shall be to a single arbitrator to be agreed upon between the parties to the dispute or difference or in default of such agreement to be appointed on the application of either party (after notice in writing to the other of them) by the President of the Institution of Civil Engineers and subject as aforesaid the provisions of the Arbitration Act 1950 shall apply to such arbitration.

Inquiries.

94. The Minister the Minister of Transport and the Secretary of State may hold such inquiries as they respectively may consider necessary in regard to the exercise of any powers conferred upon them or the giving of consents under this Act and section 290 (Power of government departments to direct inquiries) of the Local Government Act 1933 shall apply accordingly.

Application of provisions of Public Health Act 1936.

95. The sections of the Public Health Act 1936 hereinafter mentioned shall have effect as if they were re-enacted in this Act and in terms made applicable thereto (that is to say):—

Section 271 (Interpretation of " provide ");

Section 275 (Power of local authority to execute certain work on behalf of owners or occupiers);

Section 276 (Power of local authority to sell certain materials);

Section 277 (Power of councils to require information as to ownership of premises);

Section 283 (Notices to be in writing; forms of notices &c.):

Section 284 (Authentication of documents);

Section 285 (Service of notices &c.);

Section 286 (Proof of resolutions &c.);

Section 287 (Power to enter premises);

Section 288 (Penalty for obstructing execution of Act);

Section 289 (Power to require occupier to permit works to be executed by owner);

Section 291 (Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments);

Section 292 (Power to make a charge in respect of establishment expenses);

Section 293 (Recovery of expenses &c.);

Section 294 (Limitation of liability of certain owners);

Section 295 (Power of local authority to grant charging orders);

PART XII —*cont.*

Section 296 (Summary proceedings for offences);

Section 297 (Continuing offences and penalties);

Section 299 (Inclusion of several sums in one complaint &c.);

Section 304 (Judges and justices not to be disqualified by liability to rates);

Section 328 (Powers of Act to be cumulative);

Section 329 (Saving for certain provisions of the Land Charges Act 1925):

Provided that the said sections 277 287 288 289 291 292 294 295 and 329 shall only apply to the provisions contained in Part III (Streets) Part IV (Sanitation and buildings) Part V (Nuisances) and Part VI (Infectious diseases) of this Act.

Confirming authority for byelaws.

96. As respects byelaws made under this Act the confirming authority for the purpose of section 250 of the Local Government Act 1933 shall be the Minister except that in the case of byelaws made under the sections mentioned in the first column of the following table the confirming authority shall be the authority respectively mentioned in the second column of that table:—

1	2
55 (Boating pools)	Secretary of State.
56 (Golf courses)	Secretary of State.
62 (Byelaws as to pleasure fairs and roller-skating rinks)	Secretary of State.
64 (Further powers to make byelaws as to boats) ...	Secretary of State.

Appointed day.

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

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

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

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

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

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

PART XII —*cont.*

(4) Either—

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

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

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

(5) Where any provision of this Act coming into operation on a day fixed by resolution under this section requires the licensing or registration of a person carrying on any business or of premises used for any purpose it shall be lawful for any person who—

(*a*) immediately before that day was carrying on that business or using any premises for that purpose ; and

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

to continue to carry on that business and to use those premises for that purpose until he is informed of the decision with regard to his application and if the decision is adverse during such further time as is provided under subsection (2) of section 99 (Appeals) of this Act.

Restriction on right to prosecute.

98. Proceedings in respect of an offence created by or under this Act shall not without the written consent of the Attorney-General be taken by any person other than a party aggrieved or the Council.

Appeals.

99.—(1) Section 300 of the Public Health Act 1936 shall apply with respect to appeals to a court of summary jurisdiction under any enactment in this Act as it applies with respect to such appeals under any enactment in that Act and sections 301 and 302 of that Act shall apply accordingly.

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

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

(*b*) makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of the requirement refusal or decision or to use any

premises for any purpose for which they were lawfully used up to that time ; PART XII —*cont.*

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

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

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

For protection of certain undertakers.

100. For the protection of the electricity board the gas board and the water company (each of whom is hereinafter referred to as " the undertakers ") the following provisions shall unless otherwise agreed in writing between the Council and the undertakers apply and have effect :—

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

" apparatus " means—

(*a*) in relation to the electricity board electric lines and works (as respectively defined in the Electric Lighting Act 1882) belonging to such board ; and

(*b*) in relation to the gas board or the water company mains pipes or other apparatus belonging to such board or company ;

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

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

" position " includes depth :

(2) For the purposes of section 9 (Prohibition of building until street defined) of this Act land shall not be deemed to be occupied in connection with a building by reason only of the existence of apparatus in such land :

(3) Nothing in section 10 (Prohibition of building until street formed and sewered) of this Act shall prevent—

(*a*) the electricity board from beginning to erect or proceeding with the erection of an electricity sub-station feeder pillar or transformer kiosk ; or

(*b*) the gas board from beginning to erect or proceeding with the erection of a pressure governor or meter house ; or

PART XII —*cont.*

(*c*) the water company from beginning to erect or proceeding with the erection of a meter house;

for the purposes of their undertaking abutting on any new street before such new street is constructed or sewered in accordance with street byelaws:

(4) Notwithstanding the giving up under the powers of section 14 (Adjustment of boundaries of streets) of this Act of land forming part of a street or the stopping up or diversion under an order made pursuant to section 26 (Stopping up and diversion of highways) of this Act of any highway or length of highway in which any apparatus is situate the undertakers shall (unless the apparatus is diverted or removed) continue to have the same powers and rights in respect of such apparatus as if the land in which the apparatus is situate had continued to be part of the street or highway but nothing contained in Part I of the Act of 1950 shall have effect in relation to those powers or rights in any case in which the said Part I would not have effect if this subsection had not been enacted:

(5) Not less than twenty-eight days before the Council—

(*a*) in the exercise of the powers of section 14 (Adjustment of boundaries of streets) of this Act give up land forming part of a street (and such giving up of part of the street does not involve the execution of any works mentioned in paragraph (*a*) of subsection (1) of section 21 of the Act of 1950); or

(*b*) pursuant to section 19 (Crossings over footways) of this Act require or approve (with or without modifications) the construction or formation of a carriage-crossing across a grass verge or footway or require or approve (with or without modifications) the strengthening or adapting of any footway or propose alternative work in relation to a carriage-crossing across any verge or footway or allow subject to conditions the use of any verge or footway as a crossing for any horse-drawn or mechanically-propelled vehicle (other than a motor-cycle); or

(*c*) in the exercise of the powers under an order made pursuant to section 26 (Stopping up and diversion of highways) of this Act stop up or divert any highway or length of highway;

in which any apparatus is situate the Council shall give notice to the undertakers accompanied by plans or particulars and if it shall be agreed between the Council and the undertakers or (in case of difference) determined by arbitration that it shall be reasonably

necessary to alter the position of or divert or remove and relay or replace any apparatus or lay or place new apparatus in lieu of existing apparatus or that works (hereinafter referred to as " protective works ") for the protection of any apparatus should be executed the undertakers may and if reasonably so required by the Council shall alter the position of or divert or remove and relay or replace the apparatus or lay or place new apparatus in lieu of existing apparatus or execute protective works in respect thereof in such manner as may be agreed or determined by arbitration:

(6) (*a*) Within twenty-nine days after the receipt of a notice from the Council under the preceding subsection the undertakers if they intend to alter the position of or divert or remove and relay or replace any apparatus or lay or place new apparatus or execute protective works (otherwise than on the requirement of the Council) shall give notice of their intention to the Council accompanied by a plan section and particulars of the works proposed by the undertakers and (in the case of any proposed alteration diversion removal relaying or replacement of apparatus or laying or placing of new apparatus or execution of protective works by the undertakers (whether required by the Council or proposed by the undertakers) in connection with any work mentioned in paragraph (*b*) of the last preceding subsection) an estimate of the cost of such proposed alteration diversion removal relaying or replacement of apparatus or of the provision and laying or placing of new apparatus or of such protective works;

(*b*) If the proposals contained in any notice given to the Council by the undertakers under this section and any plan section and particulars delivered to the Council with such notice are not disapproved by the Council within twenty-nine days after the receipt thereof the said proposals shall be deemed for the purposes of the preceding subsection to be reasonably necessary and the Council shall be deemed to have approved such plan section and particulars:

(7) Subject as provided in the two next succeeding subsections the Council shall repay to the undertakers the reasonable expenses incurred by the undertakers in or in connection with the alteration of the position of any apparatus or the diversion or removal and relaying or replacing of any apparatus and the provision and laying or placing of any new apparatus or

PART XII —*cont.*

the execution of any protective works under the provisions of subsection (5) of this section and the reasonable costs of and incidental to (i) the cutting off of any apparatus from any other apparatus and (ii) any other work or thing rendered reasonably necessary in consequence of any such operations as are referred to in this subsection:

(8) Subsections (3) and (4) of section 23 of the Act of 1950 which imposes limitations on undertakers' rights to payments shall so far as applicable extend and apply to any payment to be made by the Council under the preceding subsection as if the works therein mentioned were such undertakers' works as are referred to in the said subsection (3) and as if in the said subsection (3) for the words " specified as so necessary in a specification of the works settled under Part I of the Fourth Schedule to this Act or agreed so to be by the promoting authority " there were substituted the words " agreed or settled by arbitration under subsections (5) and (15) of section 100 (For protection of certain undertakers) of the Fareham Urban District Council Act 1952 ":

(9) (*a*) The undertakers shall not be entitled to any payment by virtue of subsection (7) of this section if the apparatus was laid or placed within two years immediately preceding the giving by the Council of the relevant notice required by subsection (5) of this section and if notice in writing of their intention to exercise the powers of the said section 14 or the said section 19 or the said section 26 (as the case may be) was given by the Council to the undertakers within eight days from the relevant date and within twenty-nine days from the relevant date a plan and section of the proposals of the Council were furnished by them to the undertakers and the proposals of the Council were carried out in accordance with the said plan and section or without any departure therefrom materially affecting the undertakers:

Provided that nothing in this subsection shall apply to any apparatus laid or placed as emergency works within the meaning of the Act of 1950;

(*b*) For the purposes of this subsection " the relevant date " means the date on which the intention to lay or place the apparatus was signified to the Council by the submission of a plan and section if the laying or placing of the apparatus was a work to which section 3 of the Act of 1950 applied or by notice under

section 6 of that Act if such laying or placing was not such a work:

(10) Subsection (7) of section 19 (Crossings over footways) of this Act shall not apply to the Council or the undertakers in respect of any apparatus:

(11) Notwithstanding the stopping up temporarily of any street under the powers of section 27 (Temporary stoppage of streets) of this Act the undertakers their engineers and workmen and others in their employ and their contractors and agents shall at all times have such rights of access to all or any apparatus situate in any such street as they had immediately before such stopping up and shall be at liberty to execute and do all such works and things in upon or under such street as may be necessary for inspecting repairing maintaining renewing extending or removing such apparatus:

(12) The Council shall so exercise the powers of the following sections of this Act as not (so far as reasonably practicable) to obstruct or render less convenient the access to any apparatus:—

Section 12 (Trees grass verges and gardens);

Section 15 (Guard rails in private streets);

Section 18 (Shelters etc. for passengers on public service vehicles);

Section 29 (Decorations in streets);

Section 59 (Barriers in streets):

(13) Nothing in section 35 (Power to repair drains and private sewers) of this Act shall authorise the Council without the consent of the gas board to execute any works in or under any operational land of the gas board but such consent shall not be unreasonably withheld and any question whether such consent is unreasonably withheld shall be determined by arbitration:

(14) Nothing in section 47 (Discharge of steam and waste gas) of this Act shall extend to the necessary discharge of steam or waste gas on any lands used by the gas board for or in connection with their statutory powers and duties to manufacture and distribute gas:

(15) (*a*) Any difference or dispute which may arise between the Council and the undertakers under this section (other than a difference as to the meaning or construction thereof which does not arise in the course of the arbitration) shall be referred to arbitration;

PART XII —*cont.*

(*b*) In settling any difference under this section the arbitrator may if he thinks fit require the Council to execute any temporary or other works so as to avoid so far as may be reasonably possible interference with any purpose for which the apparatus is used.

For protection of Postmaster-General.

101.—(1) Where pursuant to section 14 (Adjustment of boundaries of streets) of this Act the Council enters into an agreement with a person having a legal interest in land adjoining any street for the conveyance to that person of the site of any part of the street and immediately before the date on which the site ceases to be part of the street there was under in upon over along or across such site any telegraphic line belonging to or used by the Postmaster-General the Postmaster-General shall continue to have the same powers in respect of that line as if such site had remained part of the street but nothing in Part I of the Act of 1950 shall have effect in relation to those powers:

Provided that if any person in whom such site is vested desires that such telegraphic line should be altered paragraphs (1) to (8) of section 7 of the Telegraph Act 1878 shall apply to the alteration and accordingly shall have effect subject to any necessary modifications as if references therein to undertakers included references to the said person desiring the alteration.

(2) As between the Council and the Postmaster-General nothing in the foregoing subsection shall affect the operation of Part II of the Act of 1950 or the rights of the Postmaster-General and the Council thereunder.

(3) Where any highway or length of a highway is stopped up in pursuance of an order made under section 26 (Stopping up and diversion of highways) of this Act the following provisions shall unless otherwise agreed in writing between the Council and the Postmaster-General have effect in relation to any telegraphic line belonging to or used by the Postmaster-General which is under in upon over along or across such highway or length of a highway at the time of such stopping-up:—

(*a*) The power of the Postmaster-General to remove the line shall be exercisable notwithstanding the stopping up of the highway or length of the highway so however that the said power shall not be exercisable as respects the whole or any part of the line after the expiration of a period of three months from the date mentioned in subsection (4) of this section unless before the expiration of that period the Postmaster-General has given notice to the Council of his intention to remove the line or that part thereof as the case may be;

(*b*) The Postmaster-General may by notice to the Council in that behalf abandon the said line or part thereof and shall be deemed as respects the line or any part thereof

PART XII —*cont.*

to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it;

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

(*d*) Where under paragraph (*b*) of this subsection the Postmaster-General abandons the whole or any part of a telegraphic line it shall vest in the Council and the provisions of the Telegraph Acts 1863 to 1951 shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

(4) As soon as the whole or any length of any highway has been stopped up the Council shall send by post to the Postmaster-General a notice informing him of such stopping up and the period of three months mentioned in subsection (3) of this section shall commence to run from the date on which such notice is sent.

(5) In this section the expressions "alter" and "alteration" have the same meanings as in the Telegraph Act 1878.

Saving for town and country planning.

102. This Act shall be deemed to be an enactment passed before and in force at the passing of the Town and Country Planning Act 1947 for the purposes of subsection (4) of section 13 and subsection (1) of section 118 of that Act.

Costs of Act.

103. The costs charges and expenses preliminary to and of and incidental to the preparing applying for obtaining and passing of this Act as taxed by the taxing officer of the House of Lords or of the House of Commons shall be paid by the Council out of the general rate fund and general rate or out of moneys to be borrowed under the authority of this Act for that purpose.

SCHEDULES

FIRST SCHEDULE

APPORTIONMENT AND RECOVERY OF EXPENSES OF CONSTRUCTING SEWERS

1. The sum apportionable shall not exceed the sum certified by the surveyor to be at the relevant date five-sixths of the average cost per lineal yard of providing a public sewer having an internal diameter of nine inches in a private street in the district multiplied by the extent in lineal yards (as so certified) of the sewer or length of sewer in question.

2. The expenses incurred by the Council not exceeding the sum so apportionable shall be apportioned by the Council on the premises fronting adjoining or abutting on the street or part of the street in question according to the frontages of the respective premises as existing at the relevant date:

Provided that no sum shall be apportioned on any premises in contravention of any agreement between the Council and the owner of the premises and any sum which but for this proviso would have been apportioned on any premises shall be deducted from the aggregate sum to be apportioned under this paragraph.

3. As soon as the apportionment has been made the Council shall serve on the owners of the several premises affected notice of the sums respectively apportioned to them and the notice shall state the right of appeal conferred by the next following paragraph.

4. Any person aggrieved by an apportionment under this schedule may appeal to a court of summary jurisdiction and may on the appeal dispute the correctness of the surveyor's certificate as well as any other matter affecting the validity or correctness of the apportionment.

5. If the court finds on any such appeal that the aggregate sum apportioned is excessive or that the apportionment thereof is erroneous the court—

(*a*) shall order the Council to revise not only the sum apportioned to the appellant but also the sums apportioned to the owners of the other premises affected and to submit the revised apportionment to the court for approval; and

(*b*) may if satisfied that the owners of all premises affected have had due notice of the proceedings and an opportunity of being heard approve any such revised apportionment either without amendment or with such amendments as they think just.

6. Whenever a new building requiring foul water drainage is erected after the relevant date on any premises on which a sum has been or is thereafter apportioned under this schedule that sum shall be

1ST SCH. —*cont.*

recoverable by the Council subject to and in accordance with the following provisions:—

(*a*) The said sum shall be recoverable to an extent proportionate to the frontage on the street or part of the street of the site of the new building and the land occupied therewith:

Provided that where a sum has become payable under sub-paragraph (*c*) of this paragraph in respect of the frontage of the site of a new building and land occupied therewith no further sum shall be recoverable in respect of the same length of frontage or any part thereof by reason of the erection of another new building on that site or that land;

(*b*) At any time after whichever of the following events last occurs (that is to say):—

(i) the erection of the new building; or

(ii) the expiration of the time for appealing against the apportionment or if an appeal is brought within that time the final determination of the appeal;

the Council may serve on the owner for the time being of the new building a demand for payment of the amount recoverable together with interest thereon from the date of the demand:

Provided that where the drains of the new building are at the time of its erection made to communicate with a sewer other than the sewer the expenses of the construction of which are apportioned no such demand shall be served in respect of the building unless and until the drains thereof are made to communicate with the last-mentioned sewer;

(*c*) As from the date of the service of the said demand the amount recoverable together with interest thereon from the date until payment thereof shall be payable by the owner on whom the demand is served and shall be charged on the new building and the land occupied therewith and on all estates and interests therein;

(*d*) The rate of interest chargeable under this paragraph shall be such rate as the Council may determine not exceeding the maximum rate fixed by the Minister for the purpose of section 291 of the Public Health Act 1936 at the time when the said demand is served or if different maximum rates are then so fixed the highest of those rates.

7.—(1) If any person from whom any sum becomes recoverable under the last preceding paragraph proves that by reason of the length of frontage of the land occupied with the building in respect of which the sum is so recoverable the amount of that sum is disproportionate to the benefit accruing to the premises the Council may remit such part of that sum as they may think just but in that event if another new building is subsequently erected on the said land the said paragraph shall apply to that other building as if the first-mentioned building had not been erected:

Provided that the amount recoverable in respect of that other building shall not exceed the amount remitted.

1ST SCH. —*cont.*

(2) Any person aggrieved by a decision of the Council with respect to any such remission may appeal to a court of summary jurisdiction.

8.—(1) The sum apportioned on any premises under this schedule shall for the purposes of section 15 of the Land Charges Act 1925 as amended by the Law of Property (Amendment) Act 1926 be deemed to be a charge on the premises notwithstanding that it is not immediately recoverable.

(2) Where the whole or part of the sum so deemed to be a charge (hereafter in this sub-paragraph referred to as "the provisional charge") becomes actually charged on the whole or part of the premises under the foregoing provisions of this schedule—

(*a*) within fourteen days the registration of the provisional charge under the said section 15 shall be cancelled and the actual charge shall be registered under that section as from the date on which the provisional charge was registered;

(*b*) where a part only of the said sum has become actually charged on a part of the premises the remainder of that sum shall be deemed to be a charge on the remainder of the premises notwithstanding that it is not immediately recoverable and shall be registered accordingly within the said fourteen days under the said section as from the said date and the foregoing provisions of this sub-paragraph shall apply thereto accordingly.

9. For the purposes of this schedule—

(*a*) a building shall be deemed to be a new building erected after the relevant date unless its erection was completed before that date;

(*b*) the following alterations and extensions shall be deemed to be the erection of a new building (that is to say):—

(i) the re-erection wholly or partially of any building of which an outer wall is pulled down (otherwise than in consequence of fire or other accident) either completely or to such a distance that the part of that wall remaining is less than half the previous height of the building (the height being measured from ground level to the highest point of the building);

(ii) the conversion into a house of any building not originally constructed for human habitation;

(iii) the conversion of any premises into a factory shop or place of public resort;

(iv) any extension by reason whereof the area occupied by the site of the building will (with any previous extension made since the relevant date) be increased by an area of more than one-eighth or in the case of a building constructed for agricultural purposes one-quarter of that occupied by the site of the building before that date;

(*c*) the expression "the relevant date" means—

(i) in relation to an apportionment under section 30 (Recovery of expenses of sewering public highway) of

this Act in pursuance of a resolution of the Council the date when the resolution became operative ; and

1ST SCH. —*cont.*

(ii) in relation to an apportionment under section 31 (Recovery of expenses of sewering prospective street) of this Act in respect of land becoming a street the date on which the street was laid out.

SECOND SCHEDULE

PROVISIONS AS TO COUNCIL BONDS

1. Bonds shall be issued in such amounts in denominations of five pounds and multiples of five pounds and for such periods not being less than five years as the Council may determine.

2. (*a*) Bonds may be issued at such price and at such rates of interest as the Council may from time to time determine :

Provided that bonds shall not be issued at a lower price than par except with the consent of the Minister.

(*b*) The nominal amount of bonds issued shall not exceed in the aggregate according to the price of issue such amounts as will together produce the actual amount of money for the time being authorised to be borrowed by the Council.

(*c*) Where a bond has been issued at a price lower than par so much of the issue as represents the difference between the price of the bond as issued and its nominal value shall be treated as a loan authorised by a statutory borrowing power and repayable out of the revenue of the Council on or before the date for repayment specified in the certificate issued in respect of the bond.

3. Bonds (unless the same shall have been previously cancelled by purchase in the open market or by agreement with the bondholder) shall be repayable at par at the office of the treasurer on the dates specified in the certificates issued in respect of the bonds and no interest shall be payable thereon in respect of any period after the date upon which the bond is repayable.

4.—(1) The treasurer shall keep a register of all persons who are holders for the time being of bonds.

(2) The register shall contain the following particulars :—

(*a*) the name address and description of each holder a statement of the denomination of the bonds held by him the price at which and the periods for which they are issued and the numbers and dates of the certificates issued to him as hereinafter provided ;

(*b*) the date of registration of each holder and the date on which he ceased to be so registered.

(3) The register shall be prima facie evidence of any matter entered therein in accordance with the provisions of this Act and of the title of the persons entered therein as holders of bonds.

5.—(1) The Council shall issue to each holder of a bond a certificate in respect thereof duly numbered and dated and specifying the denomination of the bond and the period for which it is issued.

2ND SCH. —*cont.*

(2) If a certificate is worn out or damaged the Council on the production thereof may cancel it and issue a new certificate in lieu thereof.

(3) If a certificate is lost or destroyed the Council on proof thereof to their satisfaction and if they so require on receiving an indemnity against any claims in respect thereof may issue a new certificate in lieu of the certificate lost or destroyed.

(4) An entry of the issue of a substituted certificate shall be made in the register.

(5) A certificate shall be in the following form or in a form substantially to the like effect:—

No.

Date

URBAN DISTRICT OF FAREHAM

FAREHAM URBAN DISTRICT COUNCIL BONDS

per centum Fareham Urban District Council bond repayable at par on the 19 at the

This is to certify that of is the registered holder of a Council bond for pounds (£) issued by the urban district council of Fareham under the Fareham Urban District Council Act 1952 at

The common seal of the urban district council of Fareham was hereunto affixed in the presence of }

6. The certificate shall be prima facie evidence of the title of the person therein named his executors administrators or assigns to the bond therein specified but the want of a certificate if accounted for to the satisfaction of the Council shall not prevent the holder of the bond from disposing of and transferring the bond.

7.—(1) The transfer of a bond shall be by deed in the following form or in a form substantially to the like effect:—

FORM OF DEED OF TRANSFER

FAREHAM URBAN DISTRICT COUNCIL BONDS

I in consideration of the sum of paid by (hereinafter called "the transferee") do hereby assign and transfer to the transferee To hold unto the transferee his executors administrators and assigns subject to the several conditions on which I held the same immediately before the execution hereof and I the transferee do hereby agree to accept and take the said subject to the conditions aforesaid.

As witness our hands and seals this day of nineteen hundred and

2ND SCH. —*cont.*

(2) A bond may be transferred in whole or in part so however that any part transferred shall not be for an amount other than an amount for which a bond may be issued by the Council.

(3) The deed of transfer shall be delivered to and retained by the Council and the Council shall enter a note thereof in a book to be called the "Register of Transfers of Fareham Urban District Council Bonds" (hereinafter called "the register") and shall endorse on the deed of transfer a notice of that entry.

(4) The Council shall upon receipt of the deed of transfer duly executed and properly stamped together with the certificate issued in respect of the bond enter the name of the transferee in the register and shall issue a new certificate or certificates to the transferee or to the transferor and transferee as the case may require.

(5) Until the deed of transfer and the certificate have been delivered to the Council as aforesaid the Council shall not be affected by the transfer and the transferee shall not be entitled to receive any payment of interest on the bond.

(6) The Council before registering a transfer of a bond may if they think fit require evidence by statutory declaration or otherwise of the title of any person claiming to make the transfer.

8. The Council may close the register for a period not exceeding thirty days immediately before the thirty-first day of March and the thirtieth day of September respectively in any year and notwithstanding the receipt by the Council during those periods of any deed of transfer the half-yearly payment of interest next falling due may be made to the persons registered as holders of bonds on the date of the closing of the register.

9.—(1) Any person becoming entitled to a bond by reason of the death or bankruptcy of a holder or by any lawful means other than a transfer may by the production of such evidence of title as the Council may require either be registered as holder of the bond or instead of being himself registered may make such transfer of the bond as the holder could have made and the Council shall issue a certificate accordingly.

(2) Until such evidence as aforesaid has been furnished to the Council the Council shall not be affected by the transmission of the bond and no person claiming by virtue thereof shall be entitled to receive any payment of interest thereon.

(3) Where two or more persons are registered as holders of a bond they shall be deemed to be joint holders with right of survivorship between them.

10.—(1) Unless the holder of a bond otherwise requests the Council may pay the interest thereon by posting a warrant to the holder at his address as shown in the register.

(2) The posting by the Council of a letter containing an interest warrant addressed to a holder as aforesaid shall as respects the liability of the Council be equivalent to the delivery of the warrant to the holder himself.

2ND SCH. —*cont.*

11. The Council before paying any interest on any bonds may if they think fit require evidence by statutory declaration or otherwise of the title of any person claiming a right to receive the interest.

12. The production to the Council of any document which is by law sufficient evidence of probate of the will or letters of administration of the estate or confirmation as executor of a deceased person having been granted to some person shall notwithstanding anything in this schedule be accepted by the Council as sufficient evidence of the grant.

Table of Statutes referred to in this Act

Short title	Session and chapter
Theatres Act 1843	6 & 7 Vict. c. 68.
Lands Clauses Consolidation Act 1845	8 & 9 Vict. c. 18.
Public Health Act 1875	38 & 39 Vict. c. 55.
Local Loans Act 1875	38 & 39 Vict. c. 83.
Telegraph Act 1878	41 & 42 Vict. c. 76.
Summary Jurisdiction Act 1879	42 & 43 Vict. c. 49.
Electric Lighting Act 1882...	45 & 46 Vict. c. 56.
Bills of Exchange Act 1882	45 & 46 Vict. c. 61.
Public Health Acts Amendment Act 1890 ...	53 & 54 Vict. c. 59.
Stamp Act 1891	54 & 55 Vict. c. 39.
Private Street Works Act 1892	55 & 56 Vict. c. 57.
Finance Act 1899	62 & 63 Vict. c. 9.
Fareham Gas Act 1902	2 Edw. 7. c. xxv.
Open Spaces Act 1906	6 Edw. 7. c. 25.
Finance Act 1907	7 Edw. 7. c. 13.
Public Health Acts Amendment Act 1907 ...	7 Edw. 7. c. 53.
Acquisition of Land (Assessment of Compensation) Act 1919	9 & 10 Geo. 5. c. 57.
Land Charges Act 1925	15 & 16 Geo. 5. c. 22.
Administration of Estates Act 1925	15 & 16 Geo. 5. c. 23.
Roads Improvement Act 1925	15 & 16 Geo. 5. c. 68.
Public Health Act 1925	15 & 16 Geo. 5. c. 71.
Rating and Valuation Act 1925	15 & 16 Geo. 5. c. 90.
Law of Property (Amendment) Act 1926 ...	16 & 17 Geo. 5. c. 11.
Legitimacy Act 1926	16 & 17 Geo. 5. c. 60.
Local Government Act 1929	18 & 19 Geo. 5. c. 17.
Road Traffic Act 1930	20 & 21 Geo. 5. c. 43.
Summary Jurisdiction (Appeals) Act 1933 ...	23 & 24 Geo. 5. c. 38.
Local Government Act 1933	23 & 24 Geo. 5. c. 51.
Restriction of Ribbon Development Act 1935 ...	25 & 26 Geo. 5. c. 47.
Public Health Act 1936	26 Geo. 5. & 1 Edw. 8. c. 49.
Housing Act 1936	26 Geo. 5. & 1 Edw. 8. c. 51.
Factories Act 1937	1 Edw. 8. & 1 Geo. 6. c. 67.
Local Authorities Loans Act 1945	8 & 9 Geo. 6. c. 18.
National Insurance Act 1946	9 & 10 Geo. 6. c. 67.
Town and Country Planning Act 1947	10 & 11 Geo. 6. c. 51.
Lands Tribunal Act 1949	12 & 13 Geo. 6. c. 52.
Civil Aviation Act 1949	12 & 13 Geo. 6. c. 67.
National Parks and Access to the Countryside Act 1949	12 13 & 14 Geo. 6. c. 97.
Arbitration Act 1950	14 Geo. 6. c. 27.
Public Utilities Street Works Act 1950	14 Geo. 6. c. 39.

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