


# South Yorkshire Act 1980

CHAPTER xxxvii

*LONDON*
HER MAJESTY'S STATIONERY OFFICE

# SOUTH YORKSHIRE ACT 1980
# (LOCAL ACT 1980 c. xxxvii)

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CORRECTION

Insert as page V the following



SCHEDULES:

Schedule 1—

Part I—Section 29 of Public Health Act 1961 as having effect in accordance with section 30 (Control of demolitions) of this Act.

Part II—Section 3 of the Dogs Act 1906 as having effect in accordance with section 33 (Control of stray dogs) of this Act.

Schedule 2—Sections of Act of 1936 applied to this Act.

Schedule 3—Enactments repealed.

Schedule 4—Saving provisions.

Schedule 5—Enactments continued.

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# South Yorkshire Act 1980

CHAPTER xxxvii

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**ELIZABETH II**




**1980 CHAPTER xxxvii**

An Act to re-enact with amendments and to extend certain local enactments in force within the county of South Yorkshire; to confer further powers on the South Yorkshire County Council and local authorities in the county; to make further provision with regard to the environment, local government and improvement of the county; and for other purposes. [8th August 1980]

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

The county borough of Barnsley—

In the administrative county of Yorkshire, West Riding—

the urban districts of Cudworth, Darfield, Darton, Dearne, Dodworth, Hoyland Nether, Penistone, Royston, Wombwell and Worsbrough;

the rural district of Penistone;

in the rural district of Hemsworth, the parishes of Billingley, Brierley, Great Houghton, Little Houghton and Shafton;

in the rural district of Wortley, the parishes of Tankersley and Wortley:

The county borough of Doncaster—

In the administrative county of Yorkshire, West Riding—

the urban districts of Adwick le Street, Bentley with Arksey, Conisbrough, Mexborough and Tickhill;

the rural districts of Doncaster and Thorne;

In the administrative county of Nottinghamshire—

in the rural district of East Retford, the parish of Finningley;

in the rural district of Worksop, in the parish of Harworth, the North ward, so much of the East ward as lies east and north of Ordnance Survey parcels 4800, 4749, 5136 and 8630, and the detached part of the West ward which includes the hamlet of Hesley:

The county borough of Rotherham—

In the administrative county of Yorkshire, West Riding—

the urban districts of Maltby, Rawmarsh, Swinton and Wath upon Dearne;

the rural districts of Kiveton Park and Rotherham:

The county borough of Sheffield—

In the administrative county of Yorkshire, West Riding—

the urban district of Stocksbridge; in the rural district of Wortley, the parishes of Bradfield and Ecclesfield:

And whereas numerous local enactments were in force in parts of the said area and by section 262 of the Act of 1972 it was provided that, subject to certain modifications, certain local statutory provisions should continue to apply to the area, things or persons to which or to whom they applied before 1st April 1974:

And whereas it was further provided by the said section 262 that certain local statutory provisions should cease to have effect at the end of 1979:

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

And whereas it is expedient at the same time to extend and enlarge in various respects the powers of the South Yorkshire County Council, the Barnsley Borough Council, the Doncaster Borough Council, the Rotherham Borough Council and the Sheffield City Council and of parish councils in the county:

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

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

And whereas in relation to the promotion of the Bill for this Act the requirements of section 239 of the Act of 1972 have been observed:

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

## PART I

### PRELIMINARY

Citation and commencement.

**1.**—(1) This Act may be cited as the South Yorkshire Act 1980.

(2) Section 12 (Power to provide kiosks, etc.), section 88 (Power to charge for admission to Sheffield Show on Sundays) and section 2 (Interpretation) of this Act, so far as material for the purposes of those sections, shall come into operation upon its passing; and the remainder of this Act shall come into operation on 1st January 1981.

Interpretation.

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

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

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

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

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

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

" the Act of 1980 " means the Highways Act 1980;

" apparatus " includes any works constructed for the lodging therein of apparatus and means, as respects the Post Office, any telegraphic line as defined in the Telegraph Act 1878 belonging to or used by the Post Office; 1878 c. 76.

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

PART I —*cont.*

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

" the county " means the county of South Yorkshire;

" the county council " means the South Yorkshire County Council;

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

" district " means a district in the county;

" district council " means the council of a district;

" the electricity board " means the East Midlands Electricity Board, the Yorkshire Electricity Board, or either of them as the case may be;

" the executive " means the South Yorkshire Passenger Transport Executive;

" functions " includes powers and duties;

" the gas corporation " means the British Gas Corporation;

" the generating board " means the Central Electricity Generating Board;

" house " means a dwelling-house, whether a private dwelling-house or not;

" industrial " shall be construed in accordance with the Industry Act 1975; 1975 c. 68.

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

" officer " includes servant;

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

" owner " has the meaning given by section 343 of the Act of 1936 and ownership shall be construed accordingly;

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

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

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

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

" street " has the meaning given by section 331 of the Act of 1980;

PART I —*cont.*

" traffic sign " has the meaning given in section 54 of the Road Traffic Regulation Act 1967; 1967 c. 76.

" water authority " means the North West Water Authority, the Yorkshire Water Authority and the Severn-Trent Water Authority, or any of them as the case may be.

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

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

Appointed day.

**3.**—(1) In this Act " the appointed day ", in relation to any provision, means such day (not earlier than 1st January 1981) as may be fixed for the purposes of that provision in accordance with subsection (2) below by resolution of the county council or, as the case may be, a district council.

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

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

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

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

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

## PART II

### LANDS, OPEN SPACES AND MUNICIPAL PROPERTY

### *A. General*

Byelaws as to leisure centres.

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

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

PART II —*cont.*

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

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

1960 c. 16.

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

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

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

Closing of parks in Sheffield.

1890 c. 59.

**5.**—(1) Section 44 (1) of the Public Health Acts Amendment Act 1890 (which authorises district councils to close parks and pleasure grounds) shall, in the city of Sheffield have effect as if for the proviso (which prohibits closure on Sundays) there were substituted the words " Provided that no such park or pleasure ground shall be closed on more than three Sundays in a year ".

(2) In this section " designated park " means Hillsborough Park or Weston Park or such other park in the city of Sheffield as the council of the city may from time to time by resolution designate instead of either or both of those parks.

(3) In its application to a designated park the said section 44 (1) shall have effect as if—

(*a*) for " twelve " (being the number of days in a year on which closure is permitted) there were substituted " eighteen "; and

(*b*) after " nor six " (being the number of consecutive days on which closure is permitted) there were inserted " or, in the case of Hillsborough Park, nine ".

(4) If a resolution such as is referred to in subsection (2) above expressly substitutes a park for Hillsborough Park or for a park previously substituted for that park, subsection (3) (*b*) above shall, as from the date of the resolution, have effect as if the reference to Hillsborough Park were a reference to the park substituted by the resolution.

(5) In the city of Sheffield there shall cease to have effect so much of section 53 (3) of the Act of 1961 as requires that, in computing

PART II —*cont.*

the number of consecutive days on which closure is permitted, a Saturday and the following Monday shall be regarded as consecutive days.

(6) Before closing a park or pleasure ground under section 44 (1) of the Public Health Acts Amendment Act 1890, so far as it has effect by virtue of this section, the Sheffield City Council shall give reasonable notice thereof by advertisement in one or more local newspapers circulating in the city and shall affix a copy or copies of the notice in some conspicuous place or places in the park or pleasure ground concerned. 1890 c. 59.

(7) Where the city council propose to pass a resolution under subsection (2) above, they shall publish notice of their proposal containing a draft of the resolution—

(*a*) by advertisement in a newspaper circulating in the district; and

(*b*) by posting it in a conspicuous position at the park referred to in the draft to which it is proposed that subsection (1) above shall apply.

(8) The notice shall state that objections to the proposed resolution may be made in writing to the city council before such day, not earlier than 28 days after the city council have complied with subsection (7) above, as may be specified in the notice.

(9) The city council shall, after taking into consideration objections made as provided in subsection (8) above, either—

(*a*) pass a resolution in terms of the draft; or

(*b*) proceed no further on the draft resolution.

(10) Where the city council have passed a resolution under subsection (9) above they shall publish notice of it in manner required by subsection (7) above for notice of the draft.

Provision of parking places in parks, etc.

**6.**—(1) In the interests of persons resorting to any park, pleasure ground or open space under their management and control a local authority may set apart an area (not exceeding the prescribed area) of the park, pleasure ground or open space for use for the parking of vehicles and provide parking places and facilities in connection therewith.

(2) Subsection (1) above shall not affect any trust, covenant or other restriction to which the park, pleasure ground or open space is subject.

(3) A local authority shall have power to make reasonable charges for the use of any facilities provided by them under this section, and may make arrangements for any such facilities to be provided by some other person, including arrangements authorising that person to make reasonable charges.

PART II —*cont.*

(4) In this section " the prescribed area " means—

(*a*) where the total area of the park, pleasure ground or open space does not exceed four hectares, one-eighth of that area;

(*b*) where such area exceeds four hectares but does not exceed six hectares, one-half hectare;

(*c*) in any other case, one-twelfth of such area.

Locke Park.

**7.**—(1) Nothing in the two indentures of 1874 shall preclude the Barnsley Borough Council from providing such entrances and exits to Locke Park as that council think fit.

(2) In subsection (1) above—

" the two indentures of 1874 " means the two indentures made respectively 9th October 1874, and 24th November 1874, between Sarah McCreery of the one part and the mayor, aldermen and burgesses of the borough of Barnsley of the other part;

" Locke Park " means the lands in the district of Barnsley of that name containing 18·717 hectares or thereabouts and forming the greater part of the area encompassed to the south by Racecommon Lane, to the west by Keresforth Hall Road, to the north by Park Road and to the east by West View Road extended along an imaginary line in a southerly direction to Racecommon Lane.

*B. Doncaster Common and Racecourse*

Interpretation, etc., of Head B of Part II of Act.

**8.** In this Head of this Part—

" authorised meeting " means any race meeting on the racecourse which is authorised by the stewards of the Jockey Club or of the National Hunt Committee;

" Doncaster Common " means the area in the district of Doncaster shown edged pink on the map marked " Doncaster Common Map " of which three copies were signed by the Right Honourable the Earl of Drogheda, the chairman of the committee of the House of Lords to which the Bill for the Doncaster Corporation Act 1950 was referred, and deposited respectively at—

1950 c. xl.

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

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

(*c*) the office of the proper officer of the Doncaster Borough Council;

" racecourse " means the area in the district of Doncaster shown edged blue on the map marked " Racecourse

PART II —*cont.*

Map " of which three copies were signed by the Right Honourable the Earl of Drogheda, the chairman of the committee of the House of Lords to which the Bill for the Doncaster Corporation Act 1950 was referred, and deposited respectively at— 1950 c. xl.

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

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

(*c*) the office of the proper officer of the Doncaster Borough Council;

" racing period " means the days on which horse racing takes place on the racecourse during any authorised meeting.

Byelaws as to Doncaster Common.

**9.** The Doncaster Borough Council may make byelaws for the regulation and protection of Doncaster Common for the following purposes:—

(*a*) for prohibiting any enclosure of any part of Doncaster Common, the erection of any building, shed, tent or other structure thereon, the construction of any roads or parking places, or the use of any part of Doncaster Common as a parking place;

(*b*) for prohibiting or regulating the placing of any photographic stall, or of any show, exhibition, swing, roundabout or other like thing;

(*c*) for regulating the assemblage of persons on Doncaster Common;

(*d*) for prohibiting any person from turning out, or permitting to remain on Doncaster Common without lawful authority, any horses, cattle, sheep, pigs, goats or other animals;

(*e*) for prohibiting or regulating the driving or placing of carriages, caravans, carts, motor cars or any other vehicles on or upon any part of Doncaster Common;

(*f*) for prohibiting or regulating camping or sleeping on Doncaster Common, or the lighting of fires thereon;

(*g*) for preventing removal of seats, fences, banners or other things put up and maintained by the Doncaster Borough Council on Doncaster Common;

(*h*) for preventing nuisances and preserving order on Doncaster Common;

(*i*) for authorising any officer or servant of the Doncaster Borough Council after due warning, to remove or exclude from Doncaster Common any person who within his view commits any offence against the byelaws made under this section;

PART II —*cont.*

(*j*) for authorising the Doncaster Borough Council to take down or remove any unauthorised enclosure, building, shed, tent or other structure, any unauthorised photographic stall, show, exhibition, swing, roundabout or other like thing, or to remove any horses, cattle, sheep, pigs, goats or other animals unlawfully on Doncaster Common.

Setting apart of portions of Doncaster Common for bookmakers.

**10.** The Doncaster Borough Council may continue to provide or permit the provision of horse racing at authorised meetings on Doncaster Common and the racecourse, and may—

(1) during the three days preceding any authorised meeting and during the racing period, and so long as the racecourse is an approved horse racecourse within the meaning of the Betting, Gaming and Lotteries Act 1963—

1963 c. 2.

(*a*) set apart or permit the setting apart of such portion or portions of Doncaster Common as they may think fit in reasonably convenient positions as places where bookmakers may carry on their business on any day during the racing period;

(*b*) prohibit the carrying on by any bookmaker of his business on any portion of Doncaster Common other than on a place so set apart;

(2) without prejudice to section 13 (2) of the said Act of 1963 (restraints on charges to bookmakers and their assistants), on any day during the racing period, so long as the racecourse is such an approved horse racecourse, make or permit to be made such charges to bookmakers and their assistants for admission for the purpose of carrying on their business to a place or places so set apart as the Doncaster Borough Council may think fit.

## PART III

## HIGHWAYS

Highway amenities.

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

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

(*b*) subways constructed under section 69 of that Act;

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

(*d*) roads the use of which by vehicular traffic is prohibited by a traffic regulation order or experimental traffic order made under section 1 or 9 of the Road Traffic Regulation Act 1967;

1967 c. 76.

PART III —*cont.*

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

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

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

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

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

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

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

(4) In section 213 (2) of the Act of 1971 as it has effect in the county the power to provide facilities for recreation or refreshment includes power, subject to subsections (6) and (7) below, to permit their provision by any person on such conditions as the competent authority think fit:

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

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

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

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

PART III —*cont.*

(6) Where a competent authority propose—

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

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

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

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

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

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

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

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

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

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

PART III
*—cont.*

Power to provide kiosks, etc.

**12.**—(1) The appropriate authority may provide in any street in the county kiosks, show cases or other similar structures for the sale of articles, the display of articles for sale or the display of posters and may let any such structure on such terms and conditions as they think fit.

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

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

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

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

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

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

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

(4) (*a*) Subsection (5) of section 11 (Highway amenities) of this Act shall apply to this section.

(*b*) Subsections (6) to (8) of the said section 11 shall apply to any proposal of the appropriate authority to exercise the powers of subsection (1) or (3) above for the provision of any structure in a street as if that structure were provided in exercise of the powers of section 213 of the Act of 1971 as having effect in accordance with the said section 11.

(5) Nothing contained in this section shall authorise the appropriate authority themselves to undertake or engage in the business of newspaper vendors or, by virtue of this section, any other business at, or in connection with, any structures provided under this section.

(6) The appropriate authority for the purposes of this section means, in relation to a street in a district, the county council or the district council, but neither council shall exercise the powers conferred by this section except after consultation with the other and the said powers shall not be exercised—

(*a*) by the district council in relation to a street which is a highway, without the consent of the highway authority; or

PART III —*cont.*

(*b*) by the county council in relation to a street which is a highway for which they are not the highway authority, without the consent of the Secretary of State.

(7) The appropriate authority shall not exercise the powers of this section in relation to any street belonging to or repairable by the British Railways Board or any part of a street which is carried over a railway of that board by means of a bridge or which abuts on any retaining wall or cutting slope forming part of any such railway or which is directly beneath the arch or span of a bridge carrying any such railway over that street, except with the consent of that board, which consent shall not be unreasonably withheld, and any question whether consent is unreasonably withheld shall be determined by arbitration.

Buildings under highways.

**13.**—(1) Section 181 of the Act of 1980 (control of construction of cellars, etc., under street) shall have effect in the county as if—

(*a*) in subsection (1) for the words—

" a vault, arch or cellar under—

(*a*) any street in Greater London, or

(*b*) the carriageway of any street outside Greater London,"

there were substituted the words " under a highway any part of a building on land adjoining the highway or a vault, arch or cellar " and the words after " specified in the notice " were omitted;

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

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

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

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

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

1950 c. 39.

(2) Section 182 of the Act of 1980 (control of openings into cellars, etc., under streets, and pavement lights and ventilators) shall have effect in the county as if, in substitution for the words " For the purposes of this section the appropriate authority is the same as for the purposes of section 181 above " in subsection (1) there were inserted—

PART III —*cont.*

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

Recovery of street works charges where owner unknown.

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

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

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

(2) Where the county court makes an order under subsection (1) above, the Lands Tribunal shall, for the purpose of determining the value of the said premises, nominate one of their members selected in accordance with section 1 (6) of the Lands Tribunal Act 1949, and the member nominated shall determine the same accordingly and shall annex to his valuation a declaration in writing subscribed by him of the correctness thereof. 1949 c. 42.

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

(*a*) the amount due as aforesaid;

(*b*) interest on that amount for a period of six years at the rate chargeable in respect of the said amount; and

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

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

PART III —*cont.*

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

Street numbers.

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

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

1847 c. 34.

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

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

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

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

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

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

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

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

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

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

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

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

(*c*) section 65.

(8) In the city of Sheffield this section shall not have effect until the appointed day. PART III —*cont.*

Interference with property of local authorities, etc.

**16.**—(1) No person shall without lawful authority or reasonable excuse remove or otherwise interfere with any property vested in a local authority, a parish council or the executive in any street or public place within the county.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(3) No proceedings shall be instituted for an offence under this section if the removal or interference with property constitutes an offence under section 133 (2) of the Act of 1980, the Theft Act 1968 or the Criminal Damage Act 1971. 1968 c. 60. 1971 c. 48.

Control of floodlighting.

**17.**—(1) If it appears to the highway authority that flood-lighting by apparatus provided on any premises in the county constitutes a danger to the traffic on any street in the county, the highway authority may by notice require the owner or occupier of the premises—

(*a*) within such reasonable time, not being less than 7 days as may be specified in the notice, to comply with such terms, conditions or restrictions in relation to the apparatus as may be so specified and, pending such compliance, to cease using the apparatus; or

(*b*) if he so elects, forthwith to cease using the apparatus and not to begin again to use the apparatus otherwise than with the consent of the highway authority and in accordance with such terms, conditions or restrictions as may be attached to the consent.

(2) The provisions of section 290 of the Act of 1936 shall apply to notices given under this section as they apply to notices mentioned in subsection (1) of that section; and that section as so applied shall have effect as if references to the local authority were references to the highway authority.

Prohibition of parking of goods vehicles in residential streets.

**18.**—(1) In this section—

" goods vehicle " means a vehicle, whether mechanically propelled or not, constructed or adapted for the carriage of goods not being a vehicle falling within paragraph (*a*) of the definition of small goods vehicle in section 60 (4) of the Transport Act 1968 or a dual purpose vehicle as defined in paragraph 14 of Schedule 5 to the Road Traffic Regulation Act 1967; 1968 c. 73. 1967 c. 76.

PART III —*cont.*

" prescribed hours " means the hours between 9.0 p.m. and 8.0 a.m.;

" residential street " means a street most of the buildings fronting which are either—

(*a*) residential or mainly residential buildings; or

(*b*) school buildings.

(2) (*a*) If, after the appointed day in any district, it appears to the county council in consequence of a representation made to them in accordance with paragraph (*b*) below that the amenities of any part of the district are prejudicially affected by the use during the prescribed hours of any residential street in the district as a parking place for one or more goods vehicles, the county council may, by an order made in accordance with this section, prohibit the use as a parking place for goods vehicles during the prescribed hours of the residential street to which the representation relates.

(*b*) A representation under paragraph (*a*) above shall be made in writing and signed by local government electors residing in not less than five dwelling-houses, being dwelling-houses in the residential street concerned, or dwelling-houses in any other such street which are within 100 metres thereof.

(3) (*a*) If the county council propose to make an order under this section, they shall—

(i) publish a notice stating the effect of the proposal in a newspaper circulating in the district; and

(ii) post copies of the notice in a conspicuous position at each end of the residential street to which the proposal relates; and

(iii) serve a copy of the notice and a statement of the nature of the representation made under subsection (2) above on the owner or occupier of every dwelling-house in the street to which the draft order relates.

(*b*) The notice under paragraph (*a*) above shall state where the draft order can be inspected and copies purchased and that objections to the order may be made in writing to the county council before such day, not earlier than 28 days after the county council have complied with paragraph (*a*) above, as shall be specified in the notice.

(*c*) Before making the order the county council shall—

(i) consider all objections made as provided in paragraph (*b*) above;

(ii) consult the district council concerned and the chief officer of police; and

PART III —*cont.*

(iii) afford to the owner or occupier of every dwelling-house in the street to which the draft order relates, being a person who has made objection, an opportunity of being heard by a committee or sub-committee of the county council.

(4) If, after considering objections made under subsection (3) above, the county council determine to make the order, they may make the order in the terms of the draft, or in those terms as modified to meet in whole or in part all or any of the objections, but if the county council consider that any person may be adversely affected by any such modification they shall, before making the order, take such steps as appear to them to be appropriate for informing the persons likely to be so affected of the modification, for giving those persons an opportunity to make representations and for ensuring that any such representations are duly considered by the county council.

(5) When an order has been made by the county council under this section they shall publish notice of it, and of the right of appeal under subsection (7) below, in the manner required by subsection (3) (*a*) above for notice of a proposal.

(6) (*a*) Any order made under this section shall come into operation at the expiration of the period of 28 days after the publication of the notice of the making of the order pursuant to subsection (5) above or, if an appeal is lodged under subsection (7) below, when the appeal is disposed of or withdrawn or fails for want of prosecution.

(*b*) Any such order shall have effect for such period, not exceeding five years, as the county council may determine, but this paragraph does not prejudice the power of the county council to make a further order in the same manner as the previous order.

(7) (*a*) A person who is aggrieved by an order under this section may within 28 days after the first publication of the notice of the making of the order under subsection (5) above, appeal to the county court.

(*b*) On an appeal to the county court under this subsection the judge may make such order, either confirming or quashing or varying the order as he thinks fit, but shall not so vary the order that it is more onerous than the order made by the county council.

(8) Nothing in any order made under this section shall prevent the waiting of a goods vehicle during the prescribed hours on any residential street for any period not exceeding one hour or for such period as is reasonably necessary for dealing with a breakdown or other emergency.

PART III —*cont.*

(9) Nothing in any order made under this section shall prevent the waiting of a goods vehicle in a residential street for so long as may be necessary to enable the vehicle, if it cannot reasonably be used for such purpose without waiting in that street, to be used in connection with the erection, laying, placing, maintenance, testing, alteration, repair, renewal or removal of—

(*a*) any structure, works or apparatus in, on, under or over the street;

(*b*) any structure, works or apparatus of the electricity board or the generating board in land adjoining the street, in any case where it is reasonably necessary to carry out those operations on that land during the prescribed hours in order to minimise any disruption of electricity supplies to consumers in the locality arising in connection with the operations;

(*c*) any structure, works or apparatus of the British Railways Board in land adjacent to the street, in any case where it is reasonably necessary to carry out those operations on that land during the prescribed hours in order to minimise any disruption of railway services arising in connection with the operations.

(10) If any person parks a goods vehicle in contravention of an order under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(11) Notice of the effect of any order made under this section shall be given by traffic signs displayed in conspicuous positions in the street to which it relates.

## PART IV

## PUBLIC HEALTH

Hairdressers and barbers.

**19.**—(1) As from the appointed day in any district a person shall not in that district carry on the business of a hairdresser or barber unless he is registered by the district council under this section and except as provided in subsection (2) below he shall not carry on that business on premises occupied by him unless the premises are so registered.

(2) A departmental store is not required to be registered under this section by reason only that part of the premises is occupied by a hairdresser for the purpose of attending to persons employed at the premises.

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

PART IV —*cont.*

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

(5) The occupier of premises registered under this section shall keep a copy of the certificate of registration of the premises and of any byelaws made by the district council under section 77 of the Act of 1961 displayed in the premises, and, if without reasonable excuse he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5.

Registration of hawkers of food and their premises.

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

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

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

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

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

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

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

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

(5) This section shall not apply to—

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

PART IV —*cont.*

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

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

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

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

(*e*) the sale or offer or exposure for sale of food contained in containers of such materials and so closed as to exclude all risk of contamination.

(6) In this section—

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

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

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

Medicated, sauna and other baths.

**21.**—(1) The power of a district council under sections 221 and 222 of the Act of 1936 (power to provide and charge for use of baths, etc.) to provide, and charge for the use of, public baths extends to medicated, sauna and other baths including baths the efficient properties of which are due to agencies other than water.

(2) A district council may make byelaws for the purpose of securing—

(*a*) the cleanliness of premises at which medicated, sauna and other baths are provided by any person other than a district council for use by members of the public or of any club, organisation or body and of the towels, materials and equipment used therein; and

(*b*) the cleanliness of persons employed in such premises in regard to both themselves and their clothing. PART IV —*cont.*

Acupuncturists, tattooists, ear-piercers, electrolysists, etc.

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

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

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

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

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

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

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

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

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

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

PART IV —*cont.*

suspension or cancellation of his registration and of the registration of the premises in which the offence was committed if they are occupied by him.

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

1971 c. 23.

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

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

(*a*) he shall within 7 days deliver up to the district council the cancelled certificate of registration, and if without reasonable excuse he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5; and

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

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

(10) In this section " premises " includes a stall.

Definition of " inhabitant " in Act of 1936.

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

1956 c. 52.

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

1974 c. 37.

PART IV —*cont.*

Dust, etc., from building operations.

**24.**—(1) This section applies to any building operation, including any work of demolition or the cleansing of any building or structure, which is either carried out in the open air or carried out in such circumstances that dust from the operation is emitted into the open air except that, in any district in which section 29 of the Act of 1961 has effect in accordance with section 30 (Control of demolitions) of this Act, this section does not apply to any demolition to which subsection (1) of the said section 29 applies.

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

(3) In considering what steps are reasonably practicable for the purposes of subsection (2) above, the district council shall have regard, amongst other matters, to the requirements of safety and safe working conditions, any relevant provisions of any code of practice approved under section 16 of the Health and Safety at Work etc. Act 1974 and to the financial implications. 1974 c. 37.

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

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

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

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

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

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

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

PART IV —*cont.*

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

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

(*c*) If the district council do not, within 21 days from the receipt of an application under this subsection, give to the applicant a consent, with or without conditions, which is acceptable to the applicant, he may appeal to the county court.

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

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

Carrying or storage of waste food.

**25.**—(1) No person shall in any street or public place in a district carry waste food by way of trade otherwise than in a covered container suitable for the purpose.

(2) No person shall deliver by way of trade to any premises in a district for the purpose of use for the storage of waste food a sack, bin or container which is not clean or is in an offensive condition.

(3) Any person who contravenes a provision of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(4) In this section " waste food " means a substance not intended for human consumption which has been, or has been part of, food used or intended for human consumption, and includes waste food which is mixed with other refuse.

Power to order alteration of chimneys.

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

(*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.

PART IV —*cont.*

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

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

(*b*) in any other case, £500;

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

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

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

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

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

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

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

Control of rats and mice.

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

(2) Expressions used in subsection (1) above and in the Prevention of Damage by Pests Act 1949 have the same meanings as in that Act. 1949 c. 55.

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

PART IV —*cont.*

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

1949 c. 55.

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

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

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

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

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

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

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

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

Defective electrical installations in houses.

**29.**—(1) In this section " electrical installation " means any electrical wiring or fittings installed in a house for use by a consumer of electricity but does not include tenants' fittings nor electrical wiring or fittings belonging to the electricity board.

(2) Where it appears to the proper officer of a district council that, by reason of any defect in any electrical installation in any occupied house which is let for human habitation, or in any part of a building so let and occupied as a separate dwelling in a district, that house or, as the case may be, that part of the building is in such a state as to be dangerous or the means of lighting provided by the installation are inadequate for the safe use of the house or

PART IV —*cont.*

building, the district council may, by notice, require the owner of the house or building to carry out such work as shall be necessary to remedy the defect or inadequacy.

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

(4) Among the grounds upon which an appeal may be brought under subsection (3) of the said section 290 against a notice under this section shall be that it is not reasonably practicable to comply with the notice, or that, having regard to the period during which the house or part of the building is likely to continue to be used for human habitation, it is unreasonable to require the execution of the work.

(5) This section shall not apply to a house which has been declared to be unfit for human habitation.

Control of demolitions.

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

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

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

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

and

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

and a person contravening this subsection shall be liable to a fine not exceeding five hundred pounds.";

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

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

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

PART IV —*cont.*

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

" (*d*) to disconnect and seal at such points as the local authority may reasonably require any sewer, drain or water or gas pipe in or under the building to be demolished;

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

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

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

(*h*) to render any electric line or apparatus in or under the building to be demolished, or the part to be demolished, electrically dead and, as respects any such line or apparatus which belongs to the electricity board to make arrangements in that behalf with that board;

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

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

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

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

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

" or

(*b*) any obligations with respect to the disconnection, removal or other alteration of a gas pipe under

PART IV —*cont.*

any regulations having effect under section 31 of the Gas Act 1972, 1972 c. 60.

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

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

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

(*i*) in subsection (9) at the beginning there were inserted the words " Subject to subsection (9A) of this section " and after that subsection there were inserted the following subsection:—

" (9A) In relation to a notice under subsection (1) of this section requiring deferment as provided in subsection (5A) of this section, section 290 of the said Act shall have effect as if subsection (2), paragraphs (*c*) to (*f*) of subsection (3) and subsection (5) were omitted and, in subsection (6) for the words from " execute works " to " that power " there were substituted the words " defer the demolition fails to do so ".";

and

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

(2) Section 29 of the Act of 1961 (except subsection (12) thereof which is spent) is set out in Part I of Schedule 1 to this Act as that section has effect in accordance with subsection (1) above.

Protection of damaged buildings.

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

PART IV —*cont.*

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

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

Securing unoccupied buildings.

**32.**—(1) If it appears to a district council that any unoccupied building in the district is derelict and is not effectively secured against unauthorised entry and, by reason thereof, is a cause of annoyance to the inhabitants of any part of the district, the district council may, after giving to each person who is an owner of the building not less than 48 hours' notice that they propose to do so, do such works in connection with the building as may be reasonably necessary for the purpose of preventing unauthorised entry to the building.

(2) This section does not apply to a building in respect of which there is in force such an undertaking or closing order as is mentioned in section 8 of the Act of 1976.

(3) (*a*) Where the district council do any works in connection with any building under subsection (1) above, they may recover the expenses reasonably incurred in so doing from any person on whom notice of the proposal to do those works was served under that subsection.

(*b*) In proceedings to recover expenses under this subsection the court may inquire whether those expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings and, subject as provided in paragraph (*c*) below, the court may make such order concerning the expenses or their apportionment as appears to the court to be just.

(*c*) The court shall not order the expenses or any part of them to be borne—

(i) 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; or

(ii) by any person for whom the district council are, by any statutory provision, required to provide housing accommodation.

(4) (*a*) When a district council give notice under subsection (1) of this section they shall at the same time send to the electricity board a copy of the notice;

PART IV —*cont.*

(*b*) Nothing in this section shall prejudice the rights of statutory undertakers to enter upon a building in exercise of their statutory powers in that behalf but, without prejudice to any other obligation or liability arising in respect of any entry in exercise of statutory powers, any such undertakers, in exercising their powers of entry in respect of any unoccupied building, shall ensure that it is not left less secure against unauthorised entry by reason of the exercise of those powers.

Control of stray dogs. 1906 c. 32.

**33.**—(1) A duly authorised officer of a district council may exercise the powers in section 3 of the Dogs Act 1906 with respect to seizure, detention and disposal of stray dogs in their district and for the purposes of that section, as it applies to a district, a dog shall be treated as a stray if it appears not to be in the charge of any person.

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

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

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

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

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

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

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

(4) This section shall not apply in the city of Sheffield or the borough of Rotherham.

Retaining walls.

**34.**—(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

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other material on one side only so that the top level of that earth or material is at any point not less than 1·5 metres above the level of the ground adjoining the other side; and

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

(2) After the passing of this Act no retaining wall shall be erected otherwise than in accordance with plans, sections and specifications approved by the district council; and if any person erects such a wall in contravention of this subsection he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(3) (*a*) Any person aggrieved by the refusal of the district council to approve any plans, sections and specifications submitted to them in pursuance of subsection (2) above may appeal to a magistrates' court.

(*b*) As from the coming into operation of paragraph 1 (*a*) of Part I of Schedule 6 to the Health and Safety at Work etc. Act 1974 (appeals as to rejection of building plans), an appeal under paragraph (*a*) above shall be to the Secretary of State.

1974 c. 37.

(4) If any retaining wall—

(*a*) is in such disrepair as to be dangerous; or

(*b*) being a wall erected before the passing of this Act or erected in contravention of subsection (2) above, is so constructed as to be dangerous;

the district council may by notice to the owner or occupier require him to execute such work as may be necessary to obviate the danger and the provisions of section 290 of the Act of 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to 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*) any length of a retaining wall to which section 169 of the Act of 1980 (retaining walls near streets) applies or for the maintenance of which the highway authority are responsible;

(*b*) a retaining wall erected on land belonging to any transport undertakers within the meaning given by section 331 of the Act of 1980, so long as that land is used by those undertakers primarily for the purpose of their railway, dock, canal or inland navigation undertaking;

PART IV —*cont.*

(*c*) a retaining wall erected on operational land, as defined in section 222 of the Act of 1971, of the water authority, the generating board or the electricity board.

Paving of yards and passages.

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

Cellars and rooms liable to flood.

**36.** Section 30 (1) of the Act of 1961 (cellars and rooms below subsoil water level) shall have effect in any district as if—

(1) after the word " office " where it first occurs there were inserted " (*a*) ";

(2) at the end there were inserted the following:—

" or

(*b*) if upon deposit with the local authority of plans of the cellar or room in accordance with building regulations, the local authority give notice to the person by whom the plans were deposited that the site of the cellar or room is liable to be flooded.".

Power of inspector inspecting building work.

**37.**—(1) If the proper officer of a district council, on inspecting any work to which building regulations for the enforcement of which they are responsible are applicable, finds that the work is so far advanced that he cannot ascertain whether any provision of building regulations has been contravened by, or by anything done in connection with that work, the officer may, within 24 hours of such inspection, give to the owner of the work notice requiring him within a reasonable time not less than 48 hours after the giving of the notice to cut into or lay open so much of the work as prevents the officer from ascertaining whether any of the building regulations has been contravened.

(2) Where the proper officer has power to serve a notice under subsection (1) above on the owner of any work, he may in addition or instead give such a notice to one or more of the following persons, namely the occupier and any builder or other person appearing to the officer to have control over the work.

(3) If a person to whom a notice has been given under subsection (1) or (2) above fails without reasonable excuse to comply with the notice before the expiration of the time specified in the notice or such longer time as a court of summary jurisdiction may on his application allow, the district council may cut into or lay open so much of the work in question as is necessary for compliance with the notice and execute such additional work as they deem

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necessary, and, subject to subsection (5) below, may recover from him the expenses reasonably incurred by them in so doing:

Provided that where a notice under subsection (1) above is given to two or more persons in pursuance of subsection (2) above, then—

(*a*) if they are given the notices on different dates, the time for compliance specified in the notices shall for each of them run from the later or latest of those dates; and

(*b*) if the notice is not complied with before the expiration of the said time or such longer time as a court of summary jurisdiction may on the application of any of them allow, any expenses recoverable as aforesaid may be recovered from any of them.

(4) Any person who fails to comply with a notice under subsection (1) or (2) above shall be guilty of an offence as if he had failed to comply with a provision contained in building regulations; and section 4 (6) of the Act of 1961 (as to contravention of building regulations) shall apply accordingly.

(5) If it shall appear—

(*a*) on any inspection carried out under the powers of subsection (1) above that there has not been any contravention of any building regulations;

(*b*) that after giving notice under subsection (1) or (2) above, the proper officer has failed or omitted, within three days after the cutting into or laying open of the work or part thereof in compliance with the notice, to inspect the work to ascertain whether any of the building regulations has been contravened; or

(*c*) that the occasion of giving such notice was the failure or omission of the proper officer to inspect the work after opportunity therefor had been given in accordance with building regulations;

the reasonable expense incurred by any person in such cutting into or laying open and of reinstating the work, together with reasonable compensation for the unnecessary delay occasioned by the notice in the carrying out of the work, may be recovered by that person from the district council.

Approval of plan to be void after certain interval.

**38.**—(1) In this section " plans " includes sections, specifications and written particulars and the operations to which this section applies are—

(*a*) the erection of any building; or

(*b*) the making of any structural alteration of, or extension to a building; or

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(*c*) the execution of any works or the installation of any fitting in connection with a building; or

(*d*) the making of any material change of use of a building.

(2) Any notice given to, or plans deposited with, the district council in accordance with building regulations in relation to an operation to which this section applies shall be null and void if the carrying out of the operation specified in such notice or plans be not commenced within three years from the date of such notice or deposit; and at the expiration of that period fresh notice and deposit shall unless the district council otherwise determine be requisite.

(3) The district council shall attach notice of the provisions of this section to every approval of plans relating to an operation to which this section applies given subsequent to the coming into operation of this section.

Separate drains for foul water and surface water.

**39.**—(1) In this section the expression " separate system of drainage " means a separate system of drains for the conveyance of—

(*a*) soil water and waste water; and

(*b*) rainwater;

respectively.

(2) (*a*) Where plans—

(i) of a building; or

(ii) of an extension of a building; or

(iii) of an alteration of a building which show that it is intended to provide in the building five or more additional water closets;

are in accordance with building regulations deposited with the district council, the district council may, notwithstanding anything in section 64 of the Act of 1936, reject the plans unless they show that the building or the extension or the part of the building to be altered (as the case may be) will be provided with a separate system of drainage; and where plans of an alteration of a building already provided with a separate system of drainage are so deposited, the district council may reject the plans unless they show that such a system will continue to be provided.

(*b*) If the district council reject the plans under the authority of this section, the notice to be given under section 64 (2) of the Act of 1936 shall specify this section as that under which the plans have been so rejected.

(*c*) Section 64 (2) and section 65 (2) to (5) of the Act of 1936 shall have effect as if this section were a section of that Act.

(*d*) (i) Any question arising under this section between the district council and any person by whom or on whose behalf the

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plans are deposited as to whether the plans show that the building or the extensions or the part of the building to be altered (as the case may be) will be provided with a separate system of drainage or, in the case of the alteration of a building already provided with a separate system of drainage, that such a system will continue to be provided, may on the application of that person be determined by a magistrates' court.

(ii) As from the coming into operation of paragraph 1 (*a*) of Part I of Schedule 6 to the Health and Safety at Work etc. Act 1974 (appeals as to rejection of building plans), a question so arising under this section shall be determined by the Secretary of State.

1974 c. 37.

Amendment of section 18 of Act of 1961.

**40.** In its application to a district section 18 of the Act of 1961 (repair of drains and sewers) shall have effect as if in subsection (1)—

(1) for the words " fifty pounds " in both places where they occur there were substituted the words " two hundred and fifty pounds ";

(2) for the words " two pounds " there were substituted the words " twenty-five pounds ".

Amendment of section 12 of Caravan Sites Act 1968.

1968 c. 52.

**41.** Section 12 of the Caravan Sites Act 1968 (which provides that the Secretary of State may by order made on the application of a county council, among other authorities, designate the area of that authority as an area to which section 10 of that Act applies) shall have effect in the county as if—

(*a*) in subsection (1) after the words " that authority " there were inserted the words " or of any district in that area to which the application relates ";

(*b*) at the end of the section there were added the following subsection:—

" (6) In subsection (1) above the expression ' district in that area to which the application relates ' means—

(*a*) where the application relates to a county, any district in the county;

(*b*) where the application relates to one or more, but not all, of the districts in the county, any of the districts to which the application relates.";

(*c*) the power of revocation conferred on the Secretary of State by subsection (3) included power to restrict the application of section 10 of the Caravan Sites Act 1968 by taking one or more districts out of the area to which that section previously applied.

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Byelaws as to stables.

**42.** A district council may make byelaws for securing the proper ventilation and lighting of, and for the prevention of insanitary conditions in or about or arising out of, any stable within the district.

Contraventions of section 1 of Clean Air Act 1968.

1968 c. 62.

**43.**—(1) Section 1 of the Clean Air Act 1968 (prohibition of dark smoke from industrial or trade premises) shall have effect in the county as if, in subsection (1)—

(*a*) after the words " occupier of the premises " there were inserted the words " and any person who causes or permits the matter to be burnt which gives rise to the emission of dark smoke "; and

(*b*) at the end for " £400 " there were substituted " £1,000 ".

(2) Subject to subsection (4) below, where on an information by a district council a person is convicted of an offence under section 1 of the Clean Air Act 1968 in respect of the emission of dark smoke from any industrial or trade premises and it is shown to the satisfaction of the court that there have been not less than two similar convictions of that person as to such emissions from the same premises during the period of five years ending with the date on which that person is so convicted, the court may on the application of the district council, whether or not it makes any other order, by order (hereinafter referred to as " a closure order ") prohibit the use of those premises for such industrial or trade purposes as may be specified in the closure order either absolutely or until such steps have been taken to prevent a repetition of the offence as may be specified in the order.

(3) A closure order shall have effect during such period from the making of the order, not exceeding six months, as may be specified in the order; and the court shall revoke the order on being satisfied that such steps, if any, have been taken as are specified in the order under subsection (2) above.

(4) A closure order shall not be made unless the district council have, not less than 14 days before the trial of the information, given—

(*a*) the person against whom the information was laid; and

(*b*) if in either case he is not that person, the owner and the occupier of the premises (unless the local authority are unable after reasonable inquiry to ascertain the identity of such owner and occupier, or either of them as the case may be);

notice of their intention to apply for the order; and the court shall not make a closure order if the occupier proves that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence which otherwise under subsection (2) above entitles the court to make such an order.

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(5) A person who contravenes a closure order shall be liable on summary conviction to a fine not exceeding £1,000.

1968 c. 62.

(6) A copy of this section shall accompany every information laid by a district council under section 1 of the Clean Air Act 1968 and every summons served pursuant to such an information.

(7) Nothing in this section shall apply to any work respecting which an order has been made under section 11(3) of the Clean Air Act 1968 and is for the time being in force.

## PART V

### PUBLIC ORDER AND PUBLIC SAFETY

Enforcement of byelaws.

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

Safety of Stands.

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

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

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

(2) As from the appointed day in any district no person shall in the district make available or permit the use of, a stand to which this section applies for the accommodation of 20 or more persons unless it has been erected in accordance with particulars approved by the district council under the following provisions of this section.

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

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

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

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

(5) The particulars required under subsection (3) (*b*) above shall not include a plan and section of the intended stand but,

not more than 7 days after the submission of such particulars, the district council may give to the person who gave the notice counter-notice requiring him to submit such a plan and section.

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

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

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

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

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

(8) Any person aggrieved by the withholding of approval of the erection of a stand or a requirement of the district council under this section may appeal to a magistrates' court, which may dismiss or allow the appeal, or may vary any requirement of the district council, and may make directions for giving effect to its decisions.

(9) If any person—

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

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

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

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

PART V —*cont.*

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

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

(*c*) to dismantle the stand;

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

Byelaws with regard to certain temporary structures.

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

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

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

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

(*d*) the stability of the structure; and

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

(2) This section applies to any tent, marquee or other similar structure which is erected in a district and to which the public are admitted, whether with or without any charge for admission, for the purposes of or in connection with any fair, show, exhibition, game, sport or athletic or other contest or public entertainment or any political, religious or other public meeting:

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

Touting, hawking, photographing, etc.

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

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

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

Provided that the district council shall not designate—

(i) for the purpose of subsection (2) (*b*) below any street

which is a licensed traders' street or a prohibited street under Part VIII (Street trading) of this Act or any highway specified in a control order under section 7 of the Act of 1976; or

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

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

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

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

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

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

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

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

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

(4) A person aggrieved by—

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

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

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

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

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

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

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

(7) This section shall not prohibit—

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

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

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

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

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

PART V —*cont.*

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

Licensing of boxing and wrestling entertainments. 1890 c. 59.

**48.**—(1) As from the appointed day in a district section 51 of the Public Health Acts Amendment Act 1890 (licensing of music and dancing) shall apply and extend to any premises kept or used for public boxing or wrestling or other entertainment of the like kind (hereafter in this section called a " boxing or wrestling entertainment "), as if such entertainment were of the like kind with public dancing or music.

(2) A licence for a boxing or wrestling entertainment is not required in respect of such an entertainment carried on at a pleasure fair within the meaning of section 75 of the Act of 1961.

As to offences in crematoria.

**49.**—(1) In this section " burial " includes the interment of cremated human remains, " crematorium " means a crematorium belonging to a burial authority, and " vault " means a chamber provided for the reception of human remains, together with the access thereto.

(2) No person shall in a crematorium—

(*a*) wilfully create any disturbance;

(*b*) commit any nuisance;

(*c*) wilfully interfere with any burial taking place;

(*d*) wilfully interfere with any vault, kerb or memorial or any flower or plant; or

(*e*) play at any game or sport.

(3) No person not being an officer or servant of the burial authority, or another person so authorised by or on behalf of the burial authority, shall enter or remain in a crematorium at any hour when it is closed to the public.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

Seizure of horses.

**50.**—(1) A local authority may seize and impound any horse trespassing on land of which they are the occupier or on any other land in the district with the consent of the owner and occupier of such land.

(2) A local authority shall, within 24 hours after impounding any horse under this section, give notice of the impounding to the officer in charge of a police station and also to the owner of the horse if his identity be known to them.

PART V —*cont.*

(3) A local authority shall keep one or more registers of all horses seized by them under this section. The register shall contain a brief description of the horses, the date of seizure and particulars as to the manner in which such horses are disposed of and every such register shall be open to public inspection at all reasonable times.

(4) If after 7 clear days from the date of impounding the owner has not claimed a horse and paid all expenses incurred in seizing and impounding it, the local authority may sell or otherwise dispose of the horse otherwise than by destruction, and if after 14 clear days from the said date the owner has not claimed the horse and paid all such expenses the local authority may destroy the horse in a manner to cause as little pain as possible.

(5) Whilst any horse is impounded by a local authority under this section the local authority shall cause it to be properly fed and maintained.

(6) Where the local authority dispose of any horse otherwise than by destruction under subsection (4) above, they shall be accountable to the owner of the horse for any money arising from the disposal after deducting all expenses incurred by reason of its seizure, impounding, sale or destruction.

(7) In this section " horse " includes a pony, mule or ass.

Names on stands of hawkers.

**51.** Every dealer in any article vending his wares from any cart, barrow or other vehicle, or from any stand, shall have his name and address legibly painted or inscribed on such cart, barrow, vehicle or stand and any person who without reasonable excuse contravenes this section shall be liable on summary conviction to a fine not exceeding £50.

Dealers in second-hand goods.

**52.**—(1) As from the appointed day, a person shall not in the county carry on the business of a dealer in second-hand goods unless he is registered by the county council under this section or exempted from registration by, or by virtue of, subsection (9) below and, when he is not so exempted, he shall not carry on such a business in premises occupied by him when the premises are not so registered.

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

(3) (*a*) Every person registered under this section shall, as respects every transaction under which he acquires any articles in the course of his business, enter, in a book kept by him for that purpose, the date of the transaction, the quantity and

PART V —*cont.*

description of the articles and the name and address of the person from whom the articles were acquired.

(*b*) Any book kept by a person in pursuance of paragraph (*a*) above shall be retained by him until the end of the period of one year beginning with the day on which the last entry was made in the book.

(4) Registration under this section shall remain in force for three years from the date thereof.

(5) If any person contravenes subsection (1) or (3) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

(6) The occupier of any premises used by a person registered under this section for the purposes of the business in respect of which he is so registered shall keep a copy of the certificate of registration displayed in the premises, and, if without reasonable excuse he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and to a daily fine not exceeding £5.

(7) A police constable may at all reasonable times enter upon, inspect and examine any premises which he has reasonable cause to believe are used for or in connection with the business of a dealer in second-hand goods and any book kept in accordance with subsection (3) (*a*) above, and may do all such things as are reasonably necessary for the purpose of ascertaining whether there is, or has been, in or in connection with the premises, a contravention of the provisions of this section.

(8) (*a*) If a person registered under this section acquires any second-hand goods from a person whom he knows to be under the age of 16 years, whether those goods are offered by that person on his own behalf or on behalf of another person, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(*b*) Any person who, on selling second-hand goods to a person registered under this section, gives that person a false name or false address shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.

(9) This section shall not apply to—

(*a*) any person engaged in a business carried on by a group, organisation or body which is registered as a charity under section 4 of the Charities Act 1960 or excepted from registration by virtue of subsection (4) of that section; or 1960 c. 58.

PART V —*cont.*

(*b*) a person in respect of whom particulars are registered under the Scrap Metal Dealers Act 1964 in respect of his business as a scrap metal dealer; or

1964 c. 69.

(*c*) a person engaged in business as a dealer in waste paper, cardboard, textiles or plastics in bulk in respect of his business as such; or

(*d*) the holder of a licence issued under section 22 of the Consumer Credit Act 1974, in respect of activities covered by the licence or a person who does not need such a licence by virtue of section 21 of that Act; or

1974 c. 39.

(*e*) a person engaged in the business either of financing the acquisition of goods by means of hire purchase agreements, conditional sale agreements or credit sale agreements (as defined in section 189(1) of the said Act of 1974) or of financing the use of goods by means of bailment agreements, in respect of any such business or any transaction incidental thereto; or

(*f*) a person engaged in a business of which the primary purpose is the supply of new unused goods and to which the supply of second-hand or used goods is merely incidental;

and for the purposes of this section a person is not to be treated as carrying on the business of a dealer in second-hand goods merely because occasionally he enters into transactions belonging to a business of that sort.

## PART VI

### FIRE PRECAUTIONS

Parking places: safety requirements.

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

(*a*) parking space for more than three motor vehicles, being a space of which any part of the floor is situated more than 1·2 metres below the surface of the ground adjoining any wall of the building; or

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

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

(2) Where—

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

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

PART VI —*cont.*

the district council shall reject the plans unless they are satisfied, after consultation with the fire authority and, in a case where a licence under the Petroleum (Consolidation) Act 1928 will be required in respect of the building, after consultation with the licensing authority under that Act (if not the fire authority) that they may properly consent to the construction, extension or alteration of the building, either unconditionally, or subject to compliance with any conditions, specified in their consent, with respect to the matters mentioned in subsection (3) below for preventing or reducing danger from fire or other danger to life. 1928 c. 32.

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

(*a*) construction of the vehicular approaches;

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

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

(*d*) means of ventilation;

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

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

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

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

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

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

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

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

PART VI —*cont.*

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

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

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

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

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

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

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

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

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

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

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

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

(11) Any person on whom notice is served under subsection (8) above in respect of any parking place owned or occupied by him,

who contravenes any requirement specified in the notice, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200. PART VI —*cont.*

(12) For the purposes of section 287 (1) (*a*) of the Act of 1936 as applied by this Act, the provisions of this section shall be provisions which it is the duty of the fire authority as well as the district council to enforce.

(13) (*a*) In the case of a building in respect of which a licence, under section 2 or 3 of the Petroleum (Consolidation) Act 1928 is in force, or in respect of which application for such a licence has been made before deposit of such plans as are referred to in subsection (2) above, no conditions shall be specified under this section in respect of any matter which may be regulated by such a licence. 1928 c. 32.

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

(14) In the district of Rotherham this section shall not have effect until the appointed day.

Firemen's switches.

**54.**—(1) This section applies to—

(*a*) apparatus consisting of luminous tube signs designed to work at a voltage normally exceeding 650 volts, or other equipment so designed;

(*b*) apparatus consisting of any electrically operated ventilation system in premises with an area exceeding 930 square metres, other than any local ventilation system for a particular process or room;

and references in this section to a cut-off switch in respect of apparatus referred to in paragraph (*a*) above are, in the case where a transformer is provided to raise the voltage to operate the apparatus, references to a cut-off switch on the low-voltage side of the transformer.

(2) Apparatus to which this section applies shall not be installed on or in any premises in the county unless it is provided with a cut-off switch and the switch shall be so placed, and coloured or marked, as to satisfy such reasonable requirements as the fire authority may impose to secure that it shall be readily recognisable by and accessible to firemen.

(3) Not less than six weeks before work is begun to install apparatus to which this section applies, the owner or the occupier

PART VI —*cont.*

of the premises where the apparatus is to be installed shall give notice to the fire authority showing where the cut-off switch is to be placed and how it is to be coloured or marked.

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

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

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

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

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

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

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

PART VI —*cont.*

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

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

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

Access for fire brigade.

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

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

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

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

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

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

PART VI —*cont.*

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

(6) In the district of Rotherham this section shall not have effect until the appointed day.

Prescription of signs to be used on certain buildings.

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

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

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

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

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

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

Further precautions against fire in high buildings.

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

PART VI —*cont.*

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

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

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

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

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

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

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

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

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

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

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

(9) This section shall not apply to any building of a description specified in regulations made under the Health and Safety at Work etc. Act 1974 and providing for the issue of fire certificates by the Health and Safety Executive. 1974 c. 37.

PART VI —*cont.*

(10) Nothing in this section shall apply to—

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

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

(11) In the district of Rotherham this section shall not have effect until the appointed day.

Fire and safety precautions in public and other buildings.

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

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

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

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

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

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

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

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

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

1890 c. 59.
1968 c. 54.

PART VI —*cont.*

**59.**—(1) In this section—

Oil-burning equipment.

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

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

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

1957 c. 48.

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

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

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

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

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

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

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

(*d*) Before making byelaws under this subsection the county council shall consult the Confederation of British Industry.

(*e*) If the Secretary of State, on considering byelaws submitted under section 236 of the Act of 1972 as having effect in accordance

PART VI —*cont.*

with paragraph (*c*) above proposes to make a modification which appears to him to be substantial he shall inform the county council and require them to take any steps he thinks necessary for informing persons likely to be concerned with that modification and shall not confirm the byelaws until there has elapsed such period as he thinks reasonable for consideration of, and comment upon, the proposed modification by the county council and by other persons who have been informed of it.

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

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

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

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

(*b*) If the district council do not, within 8 weeks after the making of an application under this subsection, or such longer period as the applicant may in writing allow, notify him of their approval of the application, they shall be deemed to have disapproved it.

(6) (*a*) Any person aggrieved by—

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

PART VI —*cont.*

(ii) by the disapproval by the district council of an application made under subsection (5) above;

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

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

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

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

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

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

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

## PART VII

### STORAGE OF FLAMMABLE MATERIAL

Interpretation of Part VII.

**60.**—(1) For the purposes of this Part—

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

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

PART VII —*cont.*

(i) the space between them does not allow free passage between them or is at any point less than 1 metre wide; or

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

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

(*a*) it is unobstructed; and

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

Stacks to which this Part applies.

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

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

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

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

(*a*) paper or cardboard;

(*b*) plastics;

(*c*) rags;

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

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

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

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

(i) 3 metres in height;

(ii) 50 cubic metres in capacity;

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

(i) 5 metres in height;

(ii) 450 cubic metres in capacity;

(iii) 20 metres in any horizontal dimension;

(iv) 235 square metres in any horizontal section;

PART VII —*cont.*

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

(i) 5 metres in height;

(ii) 750 cubic metres in capacity;

(iii) 20 metres in any horizontal dimension;

(iv) 235 square metres in any horizontal section;

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

(i) 10 metres in height;

(ii) 1,370 cubic metres in capacity;

(iii) 20 metres in any horizontal dimension;

(iv) 235 square metres in any horizontal section.

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

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

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

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

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

(i) a furnace or incinerator;

(ii) a building;

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

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

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

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

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

PART VII —*cont.*

Unlawful stacks.

**62.**—(1) Subject to subsection (2) of section 66 (Transitional provisions for Part VII) of this Act, as from the appointed day in the county it is unlawful for a stack to which this Part applies to be on any premises in the county without the consent of the county council or in breach of any condition subject to which such consent is given.

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

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

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

(*a*) they may—

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

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

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

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

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

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

PART VII —*cont.*

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

Part VII appeals.

**63.** A person aggrieved by the county council's refusal of consent, or by any condition imposed on such a consent, under section 62 (Unlawful stacks) of this Act may, within 28 days after the refusal, or the imposition of conditions, has been notified as required by that section, appeal to the Secretary of State stating in writing the grounds of his appeal and giving information on any other matters that the Secretary of State may require; and the appellant shall at the same time serve on the county council a copy of that statement.

Powers of entry for Part VII.

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

Offences under Part VII.

**65.** Where a stack is on any premises in contravention of subsection (1) of section 62 (Unlawful stacks) of this Act the owner of the stack and the occupier of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

Transitional provisions for Part VII.

**66.**—(1) Where under subsection (4) of section 62 (Unlawful stacks) of this Act the county council impose or vary conditions, the new conditions, or the conditions as varied, shall not have effect until the expiration of 42 days after the imposition or variation has been notified to the person concerned by the county council or, if there is an appeal to the Secretary of State, until the expiration of 42 days after the Secretary of State has notified the appellant of his decision.

(2) Where the owner of a stack or the occupier of premises has represented to the county council that the appointed day fixed for the purposes of section 62 (Unlawful stacks) of this Act does not give him reasonable time to adjust his undertaking, trade or business to the requirements of this Part, the county council may postpone the appointed day in respect of those premises to such other day as they may think fit, and, on that other day being notified to the appellant, the appointed day in respect of those premises shall be that day.

(3) A person aggrieved by a decision under subsection (2) above may appeal to the Secretary of State and section 63 (Part VII appeals) of this Act shall apply to such an appeal with the necessary modifications.

## PART VIII

### STREET TRADING

Application, designation of streets and interpretation of Part VIII.

**67.**—(1) This Part shall apply in any district as from the appointed day.

(2) For the purpose of controlling street trading in the district the district council may, by resolution passed in accordance with this Part, designate any street in the district—

(*a*) as a prohibited street, that is to say, a street in which street trading is unlawful; or

(*b*) as a licensed traders' street, that is to say, a street in which street trading is unlawful except by a person holding a street traders' licence granted to him under this Part.

(3) A designation made under subsection (2) above may be varied or rescinded by resolution and the provisions of this Part shall apply to any such resolution to vary or rescind the designation of a prohibited street or licensed traders' street as they apply to the resolution for the original designation.

(4) In this Part—

" container " includes any thing other than a stall used for the display of any thing;

" licensee " means the holder of a street trader's licence;

" street trading " means selling or offering or exposing for sale any thing in a street;

" stall " includes a barrow or other vehicle.

(5) References in this Part to application for, or grant of, a street trader's licence include references to application for, or grant of, the renewal of a street trader's licence.

Resolution to prohibit or control street trading.

**68.**—(1) Where the district council propose to pass a resolution under this section to designate any street in the district as a prohibited street or licensed traders' street, they shall publish notice of their proposal containing a draft of the resolution—

(*a*) by sending it to the highway authority and the chief officer of police;

(*b*) by advertisement in a newspaper circulating in the district; and

(*c*) by posting it in a conspicuous position at each end of every street referred to in the draft.

(2) The notice shall state that objections to the proposed resolution may be made in writing to the district council before such day, not earlier than 28 days after the district council have complied with subsection (1) above, as may be specified in the notice.

PART VIII —*cont.*

(3) The district council shall, after taking into consideration objections made as provided in subsection (2) above—

(*a*) pass a resolution in terms of the draft; or

(*b*) pass a resolution in terms of the draft with modifications, but not so as to add any street to those referred to in the draft nor so as to designate as a prohibited street any street which in the draft was to be designated as a licensed traders' street; or

(*c*) proceed no further on the draft resolution:

Provided that—

(i) they shall not include in the resolution any street belonging to, or maintainable by, the British Railways Board without the consent of that board; and

(ii) they shall not designate any street as a licensed traders' street without the consent of the highway authority.

(4) Where the district council have passed a resolution under subsection (3) above they shall publish notice of it in the manner required by subsection (1) above for notice of the draft.

(5) A notice published as required by subsection (4) above shall state the day, not less than 28 days after the district council have complied with that subsection, on which the designations made by the resolution are to take effect; and different days may be stated for different streets.

Application for licence.

**69.**—(1) The applicant for a street trader's licence shall—

(*a*) state his name and address, the place or places in which, the days on which and the times at which, he applies to trade and what he applies to sell;

(*b*) describe the stall or container that he proposes to use in his trade; and

(*c*) give the district council such other information as they may reasonably require; and

(*d*) except on application for the grant of the renewal of a street trader's licence, supply two identical photographs of the applicant.

(2) (*a*) The applicant shall with his application pay such reasonable fee to cover the expense of the district council in dealing with such applications as the district council may by resolution prescribe.

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

(3) The district council may grant the application, or refuse it, or grant it with modifications relating to the place, the days on and times at which he may trade, the nature of the trade or the use of a stall or a container.

PART VIII —*cont.*

(4) The grounds upon which the district council may refuse the application or grant it with modifications are that—

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

(*b*) there is not enough space for street trading as specified in the application without undue inconvenience to persons using the street; or

(*c*) in the case of renewal, the applicant has failed to avail himself, or avail himself to a reasonable extent, of the rights conferred by the licence that he holds.

(5) Before exercising the powers conferred by subsection (3) above to refuse the application or grant it with modifications, the district council shall serve on the applicant not less than 14 days' notice of their proposal to exercise them and of their grounds for doing so; and if they propose to exercise those powers on the ground specified in subsection (4) (*a*) above, the notice shall include particulars of the misconduct or incapacity alleged.

(6) If the applicant, within 7 days of service on him of a notice under subsection (5) above, requires the district council to give him an opportunity to be heard in support of his application, the district council shall, before exercising the power conferred by subsection (3) above to refuse the application or grant it with modifications, give him an opportunity to be heard by a committee or sub-committee of the district council.

(7) Unless, within 8 weeks after an application has been duly made under this section, the district council have served notice under subsection (5) above, they shall be deemed to have granted the application.

(8) The district council shall notify the applicant of their decision on his application as soon as may be after the proceedings required by subsections (5) and (6) above have been concluded; and, without prejudice to section 99 (Appeals to a magistrates' court) of this Act, until such notification the applicant, in the case of renewal, may continue to trade in accordance with his former licence, notwithstanding that it may have expired.

(9) If the district council refuse the application, or grant it with modifications, they shall in the notice under subsection (8) above state the grounds upon which they have done so.

Contents of street trader's licence.

**70.** A street trader's licence shall specify—

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

(*b*) the place on which the trading may take place;

(*c*) what the licensee may sell and the days on which and the times at which he may trade;

PART VIII —*cont.*

(*d*) the limitation, if any, of the size and number of any stalls or containers that he may use for trading and any other limitation of the design of such stalls or containers;

(*e*) what obligations, if any, are imposed on the licensee to keep the place at which he trades and its vicinity free of litter and refuse;

(*f*) the charges, if any, that are leviable under section 76 (Charge for street cleansing) of this Act; and

(*g*) any other reasonable requirements of the district council, including a requirement that the stalls or containers allowed by the licence shall display the licensee's name or the number of his licence or both.

Duration, revocation and variation of licences.

**71.**—(1) Subject to subsection (2) below, a street trader's licence shall be for such period, not exceeding 12 months, specified in the licence as the district council may determine.

(2) The district council may—

(*a*) revoke a licence during its currency on the ground that—

(i) the licensee has become unsuitable by reason of misconduct or incapacity; or

(ii) the licensee has failed to avail himself, or to avail himself to a reasonable extent, of his licence; or

(*b*) modify a licence during its currency, so that it is valid for a place, day or time, or for trade of a nature, or for the use of a stall or container, other than that specified in the licence.

(3) Subsections (5), (6), (8) and (9) of section 69 (Application for licence) of this Act shall apply to the exercise of powers conferred by subsection (2) above as they apply to the power to refuse an application for a street trader's licence or to grant it with modifications; and for that purpose shall have effect as if—

(*a*) for references to the applicant and the refusal of his application, or the grant of his application with modifications, there were substituted references to the licensee and the revocation of his licence, or the modification of his licence;

(*b*) for the references to subsection (3) of the said section 69, there were substituted references to subsection (2) above;

(*c*) for the reference to subsection (4) (*a*) of that section there were substituted a reference to subsection (2) (*a*) (i) above;

(*d*) in subsection (6) of that section the words " in support of his application " were omitted;

PART VIII —*cont.*

(*e*) in subsection (8) of that section the words " on his application " and the words from " and, without prejudice " to the end were omitted.

Part VIII appeals.

**72.** A person—

(*a*) who has applied for a street trader's licence and whose application has been refused or has been granted with modifications; or

(*b*) whose street trader's licence has been revoked or has been modified;

may appeal to a magistrates' court; and on any such appeal the court may order directions for giving effect to its decision but shall not direct the granting of a licence with modifications, or the restoring of it with modifications more onerous than the modifications appealed against.

Disqualification of young persons.

**73.** A street trader's licence granted by the district council to a person who has not attained the age of 17 shall be of no effect.

Employment of assistants. 1975 c. 72.

**74.** Subject to any enactment relating to the employment of children as defined in section 107 (1) of the Children Act 1975, a licensee may employ, to assist him at the stall or container used for street trading, any assistant or any other licensee.

Consultation with traders, organisations, etc.

**75.** A district council shall take such steps as they think necessary for affording to any recognised organisation representative of street traders (and to any street trader or other interested party who is not a member of any such organisation) an opportunity to make representations with regard to the nature of the limitations and obligations or other provisions of street trading licences and to related matters.

Charge for street cleansing.

**76.** The district council may charge a licensee such sums to cover the expenses of the district council in collecting refuse, street cleansing and providing other services for the administration of street trading under this Part, as the district council may by resolution prescribe; and such charges may—

(*a*) be incorporated in the fee payable under subsection (2) of section 69 (Application for licence) of this Act; or

(*b*) be recoverable from the licensee as a simple contract debt.

Offences under Part VIII.

**77.** A person who—

(*a*) engages in street trading in a prohibited street;

(*b*) without a street trader's licence, or contrary to the provisions of such a licence, engages in street trading in a licensed traders' street;

PART VIII —*cont.*

(*c*) on land within 6 metres of a prohibited street or a licensed traders' street, sells or offers or exposes for sale any thing;

(*d*) in support of, or in opposition to, an application for a street trader's licence, or in opposition to, or in support of, a proposal to revoke or modify such a licence, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular; or

(*e*) engages in street trading and, being requested by a proper officer of the district council producing his authority or a constable to give his name and address, fails to do so;

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

Savings for Part VIII.

**78.**—(1) Nothing in this Part shall—

(*a*) prohibit a person from acting as a pedlar under the authority of a pedlar's certificate granted under the Pedlars Act 1871; 1871 c. 96.

(*b*) prohibit the doing of anything authorised by regulations made under section 5 of the Police, Factories, etc. (Miscellaneous Provisions) Act 1916 (street collections); 1916 c. 31.

(*c*) prohibit the doing of anything on land by the owner or occupier of the land or by any person with the consent of the owner or occupier;

(*d*) prohibit the doing of anything on land forming part of a highway by the owner or occupier of land fronting that part;

(*e*) prohibit the selling, or the offering or exposing for sale, of any thing to persons on premises fronting on, or adjacent to, a street, whether the trading takes place on those premises or in that part of the street on which the premises front or to which they are adjacent;

(*f*) prohibit the provision of facilities for recreation or refreshment under section 213 (2) of the Act of 1971 as amended by section 11 (Highway amenities) of this Act; or

(*g*) in the case of a highway in respect of which a control order is in force under section 7 of the Act of 1976, regulate the sale of any thing as respects which the control order provides that the order is not to apply to it.

(2) Nothing in this Part shall prohibit the sale, or the offering or exposure for sale, of newspapers or periodicals in a street if the following conditions are satisfied:—

PART VIII —*cont.*

(*a*) that nothing except newspapers and periodicals is sold or offered or exposed for sale;

(*b*) that no stall or container is used which—

(i) stands on any part of the carriageway of the street; or

(ii) exceeds 1 metre in its vertical, or any horizontal, dimension or a quarter of a square metre in area.

(3) Nothing in this Part shall prohibit the sale or offering or exposure for sale of any thing in a market or fair held in pursuance of any statute, royal licence, royal charter or letters patent, or as of right from time immemorial.

## PART IX
## FINANCE

Recovery of rates from certain owners. 1967 c. 9.

**79.**—(1) This section applies in the case of any hereditament in a district where—

(*a*) section 55 of the General Rate Act 1967 (rating of owners instead of occupiers) does not apply by virtue of a resolution of the district council, and there is no agreement in force between the owner of the hereditament and the district council pursuant to section 56 of that Act (agreement for payment or collection of rates by owner); and

(*b*) the owner of the hereditament has agreed with the occupier of all or any part of the hereditament that the owner shall pay the general rate charged on the hereditament; and

(*c*) in pursuance of such an agreement a payment equal to all or any part of that general rate, whether expressed as a payment of rent or rates, has been made by the occupier to the owner (in this section referred to as " the specified payment ").

(2) Without prejudice to any other remedy available to them for the recovery of the general rate, the district council may recover a sum not exceeding the specified payment from the owner of the hereditament in like manner and subject to the like conditions as rates payable by the occupier of a hereditament (not being an occupier by whom a notice under section 50 (1) of the General Rate Act 1967 has been given and is for the time being in force) are recoverable from the occupier.

(3) Any sum recovered under subsection (2) above shall be set off against any general rate outstanding in respect of the hereditament at the date when the specified payment was made by the occupier to the owner.

PART IX —*cont.*

(4) In this section "owner" has the same meaning as in section 55 of the General Rate Act 1967.

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

**80.** For the purposes of section 61 of the General Rate Act 1967 (recovery of rates from tenants and lodgers) the rates due from the person rated for any hereditament within a district shall be deemed to be in arrear if such rates are not paid within one month after lawful demand in writing has been made for the same.

Security for unpaid rates.

**81.** In its application to the county there shall be inserted at the beginning of Part VII of the General Rate Act 1967—

"Security for unpaid rates

**107**A. Where any sum is due by way of rates in respect of any hereditament from a person who has an interest in the hereditament, he and the rating authority may agree—

(*a*) that his interest shall be charged to secure payment of that sum together with interest on it from the date of the agreement at a rate specified in the agreement, and

(*b*) that the authority shall not exercise any powers conferred by this Act to recover that sum by distress or otherwise;

and on the making of such an agreement those powers shall cease to be exercisable in respect of that sum.".

Expenses of executing demolition orders, etc. 1957 c. 56.

**82.** Any expenses of demolition payable to a district council consequent upon the exercise of their powers under section 23 (1) of the Housing Act 1957 (demolition of premises) shall, until recovered, be a charge on all estates and interests in the land whereon the premises the subject of demolition were erected, being the premises in respect of which the expenses were incurred.

Insurance of certain voluntary assistants.

**83.**—(1) A local authority may enter into a contract with any authorised insurers whereby, in consideration of payments made by way of premium or otherwise by the local authority those insurers undertake to pay to the local authority such sums as may be provided in the contract in the event of any voluntary assistant meeting with a personal accident, whether fatal or not, while he is engaged as such, or suffering any disease or sickness, whether fatal or not, as a result of being so engaged.

(2) Any sum received by a local authority under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by the local authority to, or to the personal representatives of, the voluntary assistant who suffered the accident, disease or sickness in respect of which the sum is received or to such other person as the local authority consider appropriate having regard to the circumstances of the case.

PART IX —*cont.*

1774 c. 48.
1974 c. 49.

(3) The provisions of the Life Assurance Act 1774 shall not apply to any such contract, but any such contract shall be deemed for the purposes of the Insurance Companies Act 1974 to be a policy of insurance upon the happening of personal accidents, disease or sickness.

(4) In this section—

" authorised insurers " means a person who is permitted under the Insurance Companies Act 1974 or the corresponding provision for the time being in force in Northern Ireland to carry on in Great Britain or in Northern Ireland insurance business of a relevant class or who has corresponding permission under the law of another member state;

" local authority " includes a parish council;

" voluntary assistant " means a person who, at the request of the local authority or a proper officer of the local authority, performs any service or does anything, otherwise than for payment by the local authority (except by way of reimbursement of expenses), for the purposes of, or in connection with, the carrying out of any of the functions of the local authority.

Power to forego repayment of pension.

**84.** If a person in receipt of a pension paid by the county council—

(*a*) receives from the county council a payment of pension in whole or in part in respect of a future period on the assumption that he will be alive throughout that period; and

(*b*) dies before the expiration of that period;

the county council may forego the repayment of that part of the payment which relates to the period following his death, provided that the amount of the repayment foregone does not exceed £10 or such other amount as the county council may from time to time by resolution determine.

Power to grant gratuity in certain cases.

**85.**—(1) A local authority may, if they think fit, grant to any of their employees an injury allowance in connection with any injury suffered in the course of his employment or a gratuity following his retirement on grounds of age or ill health and, in the case of the death of such an employee in the local authority's service, may grant such an allowance or a gratuity to his widow or any member of his family.

(2) The amount of a grant made under subsection (1) above to or in respect of any employee—

PART IX —*cont.*

(*a*) if paid by way of a lump sum, shall not exceed twice the employee's annual emoluments; and

(*b*) if paid by periodic payments, shall not exceed in any period of 12 months one-half of the employee's annual emoluments;

and in this subsection "the employee's annual emoluments" means the annual amount of the salary or wages payable to the employee immediately before his retirement or disability, excluding salary or wages payable in respect of overtime which the employee is not under his contract of employment obliged to perform.

(3) No grant may be made under subsection (1) above to or in respect of any employee—

(*a*) by way of gratuity, in respect of any period of employment which on retirement renders the employee eligible for any superannuation benefit for such period, or, by way of injury allowance, if the employee is eligible for any such allowance under any superannuation scheme applicable to his employment; or

(*b*) by way of an injury allowance, following the bringing into operation of any regulations under section 7 of the Superannuation Act 1972 authorising the grant of injury allowances to local authorities' employees, either generally or of a class or description applicable to the employee; or 1972 c. 11.

(*c*) by way of a gratuity, following the bringing into operation of any regulations under that section authorising the grant of gratuities to local authorities' employees, either generally or of a class or description applicable to the employee;

but nothing in paragraph (*b*) or (*c*) above shall preclude the grant of an injury allowance or a gratuity to an employee whose employment by a local authority commenced before the bringing into operation of the regulations as to injury allowances or, as the case may be, gratuities referred to in those paragraphs.

In determining for the purposes of paragraph (*a*) above the whole period of an employee's employment by a local authority, any minimum period of employment by way of qualification for entry into a superannuation scheme shall be excluded.

(4) An allowance or gratuity granted under this section shall be charged on and paid out of the fund on or out of which the salary, wages or emoluments of the employee would have been charged or paid if he had continued in his office or service.

## PART X

### MISCELLANEOUS

Restriction on use of armorial bearings.

**86.**—(1) If any person uses, in connection with any trade, business, calling or profession, the armorial bearings of a local authority, or an emblem or device closely resembling those armorial bearings, in such a manner as to be calculated to lead to the belief that he is entitled to use those bearings as his own, he may at the suit of the local authority be restrained by injunction from continuing to use them.

(2) If any person without the consent of a local authority uses, in connection with any trade, business, calling or profession, any part of the armorial bearings of that authority, or any emblem or device closely resembling any such part, in a manner calculated to lead to the belief that he displays the part, emblem or device with the approval of that local authority, he may at the suit of the local authority be restrained by injunction from continuing to use that part, emblem or device.

(3) Nothing in this section shall affect any right of the proprietor to the continued use of any trade mark in existence at the commencement of this Act.

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

Power to charge for restoration of archives.

**87.** A local authority may enter into agreements with any other person for the carrying out by the authority, on such terms as to payment therefor as the parties consider appropriate, of work of restoration to archive material in the control of that person.

Power to charge for admission to Sheffield Show on Sundays.
1780 c. 49 (21 Geo. 3).

**88.** No person shall be guilty of an offence or subject to any penalty under the Sunday Observance Act 1780 by reason of his having managed, conducted, assisted at, or otherwise taken part in, or attended or advertised the Sheffield Show, or by reason of his being the keeper of any place opened and used on Sundays for the purpose of the Show.

Control of temporary markets.

**89.**—(1) As from the appointed day in any district any person intending to hold a temporary market and the occupier of any land intending to permit that land to be used as the site of a temporary market or, if it is land adjacent to the proposed site of a temporary market, for purposes of that market, shall each respectively give to the district council not less than one month before the holding of the market notice of his intention to hold it or to permit the land to be so used, as the case may be.

PART X —*cont.*

(2) Any notice given under subsection (1) above shall state the purpose and proposed date and times of commencement and termination of the temporary market, whether the market is to be held on other and if so what days, the limits of the site to be occupied and the maximum number of persons which the person giving the notice expects to attend the temporary market.

(3) If a district council have reason to believe that any temporary market is to be held in their district but no notice has been given to them thereof under subsection (1) above, by the person intending to hold the same or by the occupier, as the case may be, they may as soon as reasonably practicable after the intention to hold the same has come to their knowledge serve on the person intending to hold the temporary market and on the occupier of any land on which it appears the market is to be held a notice requiring that person to give to the district council the information required by subsection (2) above, which information shall be supplied by the person on whom the notice is served within 7 days after the service of such notice.

(4) (*a*) A person who holds a temporary market or who permits land occupied by him to be used as the site of a temporary market, in either case, without giving notice under subsection (1) above, or the information prescribed by subsection (2) above, shall be guilty of an offence.

(*b*) The occupier of land who permits that land to be used as mentioned in subsection (1) above without giving such a notice or information shall be guilty of an offence.

(*c*) A person who commits an offence under this section shall be liable on summary conviction to a fine not exceeding £500.

(5) (*a*) In this section "temporary market" means a concourse of buyers and sellers of articles held substantially in the open air and otherwise than in a street, and comprising not less than 15 stalls, stands, marquees, tents, vehicles (whether movable or not), sites or pitches from which commodities are sold during any period exceeding three hours consecutively; but shall not include—

(i) a market held by virtue of a grant from the Crown or of prescription or under statutory authority; or

(ii) a market wholly or mainly for the sale by auction of farm livestock or deadstock or the contents of a building; or

(iii) any use of land for which planning permission has on application been granted; or

(iv) any use of land promoted otherwise than for private gain.

(*b*) For the purposes of this section a person who holds a temporary market includes any person who—

(i) charges admission to the site of the temporary market; or

PART X —*cont.*

(ii) is entitled, as a person promoting the temporary market, or as the agent, licensee or assignee of a person promoting the market, to payment for goods sold or services rendered to persons attending the market or for the granting of rights to other persons to sell goods or services to persons attending the market.

Local land charges register.

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

1975 c. 76.

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

(3) If the duty to keep a local land charges register is discharged as aforesaid, the entitlement of any person under section 8 of the Act of 1975 to search in the register shall be satisfied if the district council on payment of the prescribed fee make available to him for inspection in legible form a photographic or other image of any information so recorded which he may wish to examine.

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

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

Disposal of lost and uncollected property.

**91.**—(1) If any lost or uncollected property within three months of coming into the custody of the local authority be not proved to the reasonable satisfaction of the local authority to belong to any claimant it shall thereupon vest in the local authority:

Provided that any lost or uncollected property which is of a perishable nature and any lost property the custody of which involves unreasonable expense or inconvenience may notwithstanding that it has not vested in the local authority under this section be destroyed or disposed of at such time and in such manner as the local authority may think fit and if it is sold the

PART X —*cont.*

proceeds of sale shall vest in the local authority at the expiration of three months from the date on which the property came into their custody.

(2) Where any lost property becomes vested in a local authority in pursuance of this section the local authority may if they think fit deliver to the person whether an employee of the local authority or not who placed the lost property in the custody of the local authority the whole or any part of such property or of the estimated value thereof in cash.

(3) This section shall in the case of uncollected property placed in the custody of the local authority on express terms inconsistent with the rights of the local authority under this section have effect subject to those terms.

(4) This section shall not apply to any uncollected property—

(*a*) deposited in any cloakroom, parcels store or market storeroom unless there is exhibited in the room or store a notice containing a statement to the effect of subsections (1) and (2) above; or

(*b*) which is subject to the Public Service Vehicles (Lost Property) Regulations 1978. S.I. 1978/1684.

(5) In this section—

" lost property " means any property, including money, coming into the custody of the local authority after being left on or in any premises occupied by the local authority to which the public have access in circumstances where the owner is not known; and

" uncollected property " means—

(*a*) any property deposited in any cloakroom or parcels store provided by the local authority for the use of the public; or

(*b*) any containers deposited in any market storeroom provided by the local authority.

Byelaws relating to executive's bus undertaking.

**92.**—(1) The county council may after consultation with the executive and with the operator of any bus service provided at premises to which byelaws under this section are to apply, make byelaws—

(*a*) regulating the use of premises belonging to or managed by the executive for, or in connection with, bus services within their area, including premises provided at stations for interchange between road and rail traffic, the maintenance of order on such premises and the conduct of all persons, including their officers and servants, while on such premises; and

PART X —*cont.*

(*b*) for the safe custody and redelivery or disposal of property found in premises belonging to or managed by the executive for, or in connection with such bus services and for fixing the charges which may be made in respect thereof;

and the executive shall enforce any such byelaws.

(2) Without prejudice to the generality of the foregoing subsection, byelaws under subsection (1) (*a*) above may contain provisions—

(*a*) with respect to interference with, or obstruction of, premises or facilities provided in connection with such bus services;

(*b*) with respect to the use of tobacco or other substances, the control of animals and the prevention of nuisances;

(*c*) with respect to the receipt and delivery of goods and the payment of charges with respect to the conveyance, custody or handling of goods; and

(*d*) for regulating the passage of bicycles and other vehicles on footways and other premises controlled by the executive and intended for the use of persons on foot.

(3) Any byelaws made under this section may provide that any person contravening them shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 for each offence.

(4) Without prejudice to the taking of proceedings under subsection (3) above, if the contravention of any byelaws having effect under this section is attended with danger or annoyance to the public, or hindrance to the executive, in the lawful conduct of bus services, it shall be lawful for the executive summarily to take action to obviate or remove the danger, annoyance or hindrance.

Registration of weighbridges.

**93.**—(1) Any person who shall keep a weighbridge which shall not have been registered with the county council shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200 and to a daily fine not exceeding £20.

(2) Subject to subsection (4) below, on application for registration under this section the county council shall register the weighbridge and shall issue to the applicant a certificate of registration.

(3) The county council shall keep a register of weighbridges registered under this section.

(4) Registration of a weighbridge under this section, other than a weighbridge existing at the passing of this Act, may be

PART X —*cont.*

made subject to compliance with such conditions as to the siting of the weighbridge as may be attached thereto by the county council, and the county council may—

(*a*) refuse to register any weighbridge unless they are satisfied that those conditions have been complied with;

(*b*) may revoke the registration of a weighbridge if they apprehend that any of those conditions has ceased to be complied with.

(5) Any person aggrieved by a refusal to register or by a revocation of registration of a weighbridge under this section may appeal to the Secretary of State.

(6) In this section "weighbridge" means equipment in use for trade within the meaning of section 9 of the Weights and Measures Act 1963 for measuring the weights of vehicles or their loads, whether the equipment is constructed to give an indication of weight or other information determined by reference to weight. 1963 c. 31.

(7) The foregoing provisions of this section shall cease to have effect upon the coming into operation of regulations made under section 14 (1) (*e*) of the Weights and Measures Act 1963 as to the manner of erection or use of weighing or measuring equipment used for trade and providing as to the siting of such equipment.

Control of fly-posting.

**94.** A district council may remove or obliterate any bill, placard or poster which has been posted in contravention of any regulations made or having effect as if made under sections 63 and 109 of the Act of 1971.

## PART XI
## GENERAL

Disputes about compensation.

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

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

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

Arbitration.

**96.** Where under this Act any difference is to be referred to or settled by arbitration, then, unless otherwise provided, such difference shall be referred to and settled by a single arbitrator to be

PART XI —*cont.*

appointed by agreement between the parties or, in default of agreement, to be appointed by the President of the Institution of Civil Engineers on the application of either party after notice in writing to the other.

Local inquiries.

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

Savings for conduct of business or use of premises.

**98.** Where under any provision of this Act the consent of a local authority to the carrying on of any business or to the use of premises for any purpose is required as from an appointed day, it shall be lawful for any person who—

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

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

to continue to carry on that business or, as the case may be, to use those premises for that purpose, until he is notified of the decision with regard to his application, and if the decision is adverse, during such further time as is provided under section 99 (Appeals to a magistrates' court) of this Act.

Appeals to a magistrates' court.

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

Appeals to Secretary of State.

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

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

In section 53 (Parking places: safety requirements), subsection (6);

Section 63 (Part VII appeals);

In section 66 (Transitional provisions for Part VII), subsection (3).

(3) On determining any such appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination and, in the case of an appeal under the said section 63 may give directions for the granting of a consent subject to such conditions as the county council may impose under section 62 (Unlawful stacks) of this Act.

PART XI —*cont.*

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

(5) At any stage of the proceedings on any such appeal the Secretary of State may state any question of law arising in the course of proceedings in the form of a special case for the decision of the High Court; and a decision of the High Court on a case stated by virtue of this subsection shall be deemed to be a judgment of the court within the meaning of section 27 of the Supreme Court of Judicature (Consolidation) Act 1925 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court). 1925 c. 49.

(6) In this section "decision" includes a direction, and references to the giving of a decision shall be construed accordingly.

Suspension of proceedings pending appeal.

**101.** Where a requirement, refusal or other decision of a local authority against which a right of appeal is conferred by this Act—

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

(*b*) makes it unlawful for a person to carry on any undertaking, trade or business which he was lawfully carrying on immediately before the requirement, refusal or decision was made or, but for this section, came into effect, or to use premises for any purpose for which they were lawfully then used;

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

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

(ii) the person may continue to carry on the undertaking, trade or business, or to use the premises for that purpose.

Restriction on right to prosecute.

**102.** The written consent of the Attorney-General is needed for the laying of an information of an offence created by or under this Act by any person other than a party aggrieved, a local authority, a parish council, the executive or a constable.

Liability of directors, etc.

**103.**—(1) Where an offence under this Act, or against any byelaw made under this Act, committed by a body corporate is proved to have been committed with the consent or connivance

PART XI —*cont.*

of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Penalty for obstruction.

**104.** Any person who intentionally obstructs any officer of a local authority, a parish council or the executive acting in execution of this Act, or of any byelaws made thereunder, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Defence of due diligence.

**105.**—(1) In proceedings for an offence under any provision of this Act mentioned in subsection (2) below it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

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

Section 20 (Registration of hawkers of food and their premises);

Section 22 (Acupuncturists, tattooists, ear-piercers, electrolysists, etc.);

Section 24 (Dust, etc., from building operations);

Section 25 (Carrying or storage of waste food);

Section 34 (Retaining walls);

Section 42 (Byelaws as to stables);

Section 43 (Contraventions of section 1 of Clean Air Act 1968);

Section 45 (Safety of stands);

Section 47 (Touting, hawking, photographing, etc.);

Section 52 (Dealers in second-hand goods);

Part VI (Fire precautions);

Section 65 (Offences under Part VII);

Paragraphs (*a*) to (*c*) of section 77 (Offences under Part VIII).

(3) If in any case the defence provided under subsection (1) above involves the allegation that the commission of the offence was due to the act or default of another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending 7 clear days before the

PART XI —*cont.*

hearing, he has served on the prosecutor a notice in writing giving such information as was then in his possession identifying, or assisting in the identification of, that other person.

Application of general provisions of Act of 1936.

**106.**—(1) The sections of the Act of 1936 mentioned in Schedule 2 to this Act shall have effect as if references therein to that Act included references to this Act.

(2) Section 287 of the Act of 1936 shall have effect as if references therein to that Act included a reference to the following provisions of this Act:—

Section 15 (Street numbers);
Section 17 (Control of floodlighting);
Section 19 (Hairdressers and barbers);
Section 20 (Registration of hawkers of food and their premises);
Section 21 (Medicated, sauna and other baths);
Section 22 (Acupuncturists, tattooists, ear-piercers, electrolysists, etc.);
Section 24 (Dust, etc., from building operations);
Section 25 (Carrying or storage of waste food);
Section 26 (Power to order alteration of chimneys);
Section 29 (Defective electrical installations in houses);
Section 31 (Protection of damaged buildings);
Section 32 (Securing unoccupied buildings);
Section 34 (Retaining walls);
Section 37 (Power of inspector inspecting building work);
Section 42 (Byelaws as to stables);
Section 45 (Safety of stands);
Section 46 (Byelaws with regard to certain temporary structures);
Section 52 (Dealers in second-hand goods);
Part VI (Fire precautions);
Part VII (Storage of flammable material);
Section 89 (Control of temporary markets);
Section 93 (Registration of weighbridges);
Section 94 (Control of fly-posting):

Provided that, before entry on any operational railway line of the British Railways Board in pursuance of any of those provisions of this Act and of the said section 287 as it has effect by virtue of this section, not less than 24 hours' notice of intended entry shall, except in case of emergency, be given to that board and any person entering on any such railway line in pursuance of

PART XI —*cont.*

that notice or in any such emergency shall comply with the reasonable requirements of the British Railways Board for the protection of their undertaking.

Saving for Health and Safety at Work etc. Act 1974. 1974 c. 37

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

(*a*) subsection (5) of section 62 (repeal or modification of certain enactments by building regulations) shall apply to any enactment in this Act and to any provision of a byelaw (or other instrument of a legislative character) made under it as that subsection applies to any enactment mentioned therein;

(*b*) subsection (1) of section 80 (repeal or modification of certain provisions by regulations) shall apply to any provision of this Act and to any regulation and byelaw made under it as that subsection applies to any provision mentioned in subsection (2) of the said section 80.

(2) Nothing in the following sections of this Act shall prejudice or affect the operation of any of the relevant statutory provisions as defined in Part I of the said Act of 1974:—

Section 24 (Dust, etc., from building operations);

Section 30 (Control of demolitions);

Section 58 (Fire and safety precautions in public and other buildings);

Section 59 (Oil-burning equipment).

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

**108.** Subsection (2) of section 30 of the Fire Precautions Act 1971 (avoidance of duplication by local Act provisions) shall apply to this Act as if passed before the coming into operation of that section.

Repeals, savings and enactments continued.

**109.**—(1) The enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in that Schedule.

(2) The saving provisions in Schedule 4 to this Act shall have effect in relation to repeals effected by this Act.

(3) The enactments specified in Schedule 5 to this Act shall continue to have effect to the extent specified in that Schedule and to that extent section 262 (9) of the Act of 1972 shall not apply to those enactments.

# SCHEDULES

## SCHEDULE 1

### PART I

SECTION 29 OF PUBLIC HEALTH ACT 1961 AS HAVING EFFECT IN ACCORDANCE WITH SECTION 30 (CONTROL OF DEMOLITIONS) OF THIS ACT Section 30. 1961 c. 64.

29.—(1) Subject to the provisions of this section, a local authority may serve a notice under this section on any person who undertakes the demolition of the whole or of part of a building.

(2) Subsection (1) of this section shall not apply to the demolition—

(*a*) of an internal part of a building where the building is occupied, and it is intended that it should continue to be occupied, or

(*b*) of a building which has a cubic content (as ascertained by external measurement) of not more than one thousand seven hundred and fifty cubic feet, or, where a greenhouse, conservatory, shed or prefabricated garage forms part of a larger building, of that greenhouse, conservatory, shed or prefabricated garage, or

(*c*) without prejudice to the last foregoing paragraph, of an agricultural building (as defined in section 2 of the Rating and Valuation (Apportionment) Act, 1928), unless it is contiguous to another building which is not itself of a kind mentioned in this or the last foregoing paragraph. 1928 c. 44.

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

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

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

and a person contravening this subsection shall be liable to a fine not exceeding five hundred pounds:

Provided that notice need not be given under this subsection of a demolition undertaken to comply with any requirement contained in—

(*a*) a notice, order or other instrument issued by, or on the application of, the local authority in pursuance of any power conferred by or under an Act of Parliament; or

(*b*) an injunction or other direction given in legal proceedings brought by the local authority;

except where compliance with the requirement is effected, at the election of the person complying with it, either by undertaking the demolition or by taking some other steps.

(3A) More than one notice may be served under subsection (1) of this section in respect of any demolition but a second or subsequent

SCH. 1 —*cont.*

notice shall not expressly or by implication contain a requirement incompatible with one contained in a previous notice.

(4) The time within which a notice may be served under subsection (1) of this section shall be—

(*a*) where a notice was given under subsection (3) of this section, within six weeks from the giving of that notice, or such longer period as the person undertaking the demolition may in writing allow, and

(*b*) in the case of a demolition undertaken to comply with a requirement contained in a demolition order under the Housing Act, 1957 at any time not more than seven days after serving on the person undertaking the demolition a copy of the demolition order in accordance with that Act, or within such longer period as the person undertaking the demolition may in writing allow, and

1957 c. 56.

(*c*) in any other case, within six weeks from the beginning of the demolition.

(5) A notice under subsection (1) of this section may require the person undertaking the demolition to take action under all or any of the following paragraphs, that is to say:—

(*a*) to shore up adjacent buildings,

(*b*) to weatherproof any surfaces of an adjacent building which are exposed by the demolition and to make good any damage to adjacent premises,

(*c*) to remove material or rubbish resulting from the demolition and clearance of the site,

(*d*) to disconnect and seal at such points as the local authority may reasonably require any sewer, drain or water or gas pipe in or under the building to be demolished,

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

(*f*) to make good to the satisfaction of the local authority the surface of the ground disturbed by anything done under paragraph (*d*) or paragraph (*e*) of this subsection,

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

(*h*) to render any electric line or apparatus in or under the building to be demolished, or the part to be demolished, electrically dead and, as respects any such line or apparatus which belongs to the electricity board to make arrangements in that behalf with that board,

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

(5A) A notice served under subsection (1) of this section within twenty-eight days after the giving of notice under paragraph (*a*) of subsection (3)

SCH. 1 —*cont.*

of this section may also require part of the demolition to be deferred, but not beyond the expiry of the period for serving notice specified in subsection (4) of this section.

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

(6) No one shall be required under paragraph (*b*), except so far as it relates to the weatherproofing of surfaces, or paragraph (*d*) or paragraph (*e*) of subsection (5) of this section to carry out any work in land outside the premises on which the works of demolition are being carried out if he has no right to carry out that work, but, subject to the provisions of Part XII of the Public Health Act, 1936 with respect to the breaking open of streets, the person undertaking the demolition, or the local authority acting in his default, may break open any street for the purpose of complying with any such requirement. 1936 c. 49.

(7) Nothing in subsection (5) of this section shall be construed as exempting any person from—

(*a*) the obligation to obtain any consent required under section sixty-eight of the Third Schedule to the Water Act, 1945 (which relates to alterations in supply pipes and other apparatus), or under any similar enactment, or 1945 c. 42.

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

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

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

(8) Before a person complies with any requirement under paragraph (*d*) or paragraph (*e*) of subsection (5) of this section he shall give at least forty-eight hours' notice to the local authority, and before he complies with paragraph (*f*) of that subsection, he shall give at least twenty-four hours' notice to the local authority; and a person who fails to comply with this subsection shall be liable to a fine not exceeding five pounds.

(9) The provisions of Part XII of the Public Health Act, 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under subsection (1) of this section.

(9A) In relation to a notice under subsection (1) of this section requiring deferment as provided in subsection (5A) of this section, section 290

SCH. 1 —*cont.*

of the said Act shall have effect as if subsection (2), paragraphs (*c*) to (*f*) of subsection (3) and subsection (5) were omitted and, in subsection (6) for the words from "execute works" to "that power" there were substituted the words "defer the demolition fails to do so".

(10) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the Public Health Act, 1936, against a notice under subsection (1) of this section shall be—

1936 c. 49.

(*a*) in the case of a notice requiring an adjacent building to be shored up, that the owner of the building is not entitled to the support of that building by the building which is being demolished, and ought to pay, or contribute towards, the expenses of shoring it up, and

(*b*) in the case of a notice requiring any surfaces of an adjacent building to be weatherproofed, or any damage to any adjacent premises to be made good, that the owner of the adjacent building ought to pay, or contribute towards, the expenses of weatherproofing those surfaces or of making good that damage.

(11) Where the grounds on which an appeal under the said section two hundred and ninety is brought include any ground specified in the last foregoing subsection, the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and on the hearing of the appeal the court may make such order as it thinks fit in respect of the payment of, or contribution towards, the cost of the works by any such person, or as to how any expenses which may be recoverable by the local authority are to be borne as between the appellant and any such other person.

## PART II

Section 33.

### SECTION 3 OF THE DOGS ACT 1906 AS HAVING EFFECT IN ACCORDANCE WITH SECTION 33 (CONTROL OF STRAY DOGS) OF THIS ACT

1906 c. 32.

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

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

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

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

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

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

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

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

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

(7) A dog seized under this section shall not be disposed of by transferring it to an establishment for the reception of stray dogs unless a register is kept for that establishment containing such particulars as to dogs received in the establishment as are above mentioned, and such register is open to inspection at all reasonable times by the public on payment of a fee not exceeding one shilling.

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

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

## SCHEDULE 2

Section 106.

SECTIONS OF ACT OF 1936 APPLIED TO THIS ACT

| Section | Marginal note |
|---|---|
| 275 | Power of local authority to execute certain work on behalf of owners or occupiers. |
| 276 | Powers of local authority to sell certain materials. |
| 283 (1) | Notices to be in writing; forms of notices, &c. |
| 285 | Service of notices, &c. |
| 291 | Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments. |
| 297 | Continuing offences and penalties. |
| 304 | Judges and justices not to be disqualified by liability to rates. |
| 328 | Powers of Act to be cumulative. |
| 341 | Power to apply provisions of Act to Crown property. |

Section 109.

## SCHEDULE 3

ENACTMENTS REPEALED

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 4 Edw. 7. c. ciii. | Doncaster Corporation Act 1904. | Section 56 (Approval of plan to be void after certain intervals). |
| 4 Edw. 7. c. ccxxxii. | Rotherham Corporation Act 1904. | Section 81 (Power to prohibit cellars in part of borough liable to flood). |
| 8 & 9 Geo. 5. c. lxi. | Sheffield Corporation (Consolidation) Act 1918. | Section 295 (Courts and passages to be paved drained &c);<br>Section 301 (Power to prohibit cellars in part of City liable to flood);<br>Section 314 (Approval of plans and sections);<br>Section 315 (Certificate required that houses fulfil certain requirements);<br>Section 317 (As to erection of retaining walls);<br>Section 321 (Power of inspector on inspecting);<br>Section 485 (Dancing music singing boxing and other public entertainments); and<br>Section 506 (Power to establish a golf course). |
| 10 & 11 Geo. 5. c. xcii. | Sheffield Corporation Act 1920. | Section 61 (Bye-laws as to hawking). |
| 13 & 14 Geo. 5. c. lxxxix. | Barnsley Corporation Act 1923. | Section 94 (Power to grant gratuities in certain cases). |
| 14 & 15 Geo. 5. c. lxix. | Rotherham Corporation Act 1924. | Section 85 (Notice of street processions to be given). |
| 18 & 19 Geo. 5. c. lxxxvii. | Sheffield Corporation Act 1928. | Section 144 (Restrictions on erection of temporary stands &c.);<br>Section 187 (As to street vendors);<br>Section 210 (Notice of processions to be given);<br>Section 220(Lost property);and<br>Section 252 (Power to grant gratuities in certain cases). |
| 20 & 21 Geo. 5. c. clxxvi. | Rotherham Corporation Act 1930. | Section 71 (Lost property). |

SCH. 3
*—cont.*

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 21 & 22 Geo. 5. c. lvii. | Doncaster Corporation Act 1931. | Section 119 (Notice of processions to be given); and Section 124 (Lost property). |
| 1 Edw. 8 & 1 Geo. 6. c. xxxi. | Sheffield Corporation Act 1937. | Section 44 (Power to stop up highways where unnecessary); Section 55 (Registration of hawkers of meat fish fruit and vegetables and premises); Section 59 (Places used for wrestling entertainments to be licensed); Section 61 (Amendment of section 215 of Act of 1928); and Section 72 (Amendment of section 252 of Act of 1928). |
| 1 Edw. 8 & 1 Geo. 6. c. lxxx. | Rotherham Corporation Act 1937. | Section 58 (Power to grant allowances or gratuities in certain cases); Section 76 (Places used for boxing or wrestling entertainments to be licensed); and Section 81 (Registration of hairdressers' and barbers' premises). |
| 9 & 10 Geo. 6. c. liv. | Rotherham Corporation Act 1946. | Section 42 (Recovery of rates from tenants and lodgers). |
| 11 & 12 Geo. 6. c. lii. | West Riding County Council (General Powers) Act 1948. | Section 8 (Exchange for improvement of county roads); Part IV (Superannuation); in so far as those provisions relate to the county. |
| 12 & 13 Geo. 6. c. li. | Barnsley Corporation Act 1949. | Section 4 (Locke Park); Section 20 (Demolition of buildings); Section 44 (Registration of hairdressers and barbers and their premises); Section 47 (Registration of hawkers of food and premises); Section 60 (Registration of weighing machines); Section 79 (Recovery of rates from certain owners); Section 83 (Places used for boxing or wrestling entertainments to be licensed); Section 85 (Restriction on erection of stands, &c.); and Section 87 (Notice of processions to be given). |

SCH. 3 —*cont.*

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 14 Geo. 6. c. xl. | Doncaster Corporation Act 1950. | Section 80 (Loans for erection &c. of buildings);<br>Section 83 (Prohibition of building until street formed and sewered);<br>Section 100 (Registration of hawkers of food and their premises);<br>Section 111 (Demolition of buildings);<br>Section 116 (Hairdressers and barbers);<br>Section 129 (Gratuities to servants);<br>Section 130 (Power to grant allowances or gratuities in certain cases);<br>Section 134 (Byelaws as to Doncaster Common);<br>Section 135 (As to setting apart of portions of Doncaster Common for bookmakers); and<br>Section 142 (Restriction on erection of stands &c.). |
| 14 & 15 Geo. 6. c. xliii. | West Riding County Council (General Powers) Act 1951. | Section 12 (Development of land);<br>Section 13 (Loans for erection &c. of buildings);<br>Section 21 (Public seats in streets);<br>Section 27 (Prohibition of building until street defined);<br>Section 28 (Prohibition of building until street formed and sewered);<br>Section 36 (Demolition of buildings);<br>Section 58 (Lighting, ventilation and sanitation of stables);<br>Section 76 (Registration of hawkers of food and their premises);<br>Section 86 (Notice of street processions);<br>Section 88 (Safety of stands);<br>Part XII (Movable dwellings and camping grounds);<br>Section 111 (Power to grant gratuities in certain cases);<br>Section 113 (Recovery of rates from certain owners); and |

SCH. 3 —*cont.*

| Chapter | Short title | Extent of repeal |
|---|---|---|
| 14 & 15 Geo. 6. c. xliii—*cont.* | West Riding County Council (General Powers) Act 1951. —*cont.* | Section 120 (Hairdressers and barbers);<br>in so far as those provisions relate to the county. |
| 14 & 15 Geo. 6. c. xlv. | Nottinghamshire County Council Act 1951. | Section 87 (Notice of street processions);<br>Section 106 (Demolition of buildings);<br>Section 123 (Cellars and rooms below subsoil water level);<br>Section 132 (Safety of stands);<br>Section 147 (Registration of hawkers of food and their premises);<br>Section 155 (Hairdressers and barbers); and<br>Section 220 (Recovery of rates from certain owners);<br>in so far as those sections relate to the county. |
| 4 & 5 Eliz. 2. c. lxxxv. | Barnsley Corporation Act 1956. | Section 39 (Prohibition of building until street formed and sewered);<br>Section 50 (Power to order alteration of chimneys); and<br>Section 64 (Recovery of rates from tenants and lodgers). |
| 1964 c. xxxix. | West Riding County Council (General Powers) Act 1964. | Section 18 (Firemen's switches for luminous tube signs);<br>Section 33 (Disposal of lost and uncollected property); and<br>Section 37 (Amendment of section 21 of West Riding County Council (General Powers) Act 1951);<br>in so far as those sections relate to the county. |

Section 109.

## SCHEDULE 4

### SAVING PROVISIONS

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

2. Where an instrument or document refers, either expressly or by implication, to an enactment in force in any area which is repealed by this Act, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to any enactment in this Act relating to the same matter in the same area.

3.—(1) Anything begun under an enactment repealed by this Act may be continued under any enactment in this Act relating to the same matter as if begun under that last-mentioned provision.

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

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

5. For the purpose of any provision of this Act specifying penalties for a second or subsequent offence, a previous conviction under an enactment repealed by this Act creating the like offence shall be taken as an offence under that provision of this Act.

6. The repeal by this Act of any enactment shall not affect the operation of any byelaw, registration or licence made or issued under that enactment if the byelaw, registration or licence is one which could be made or issued under any provision of this Act and any such byelaw, registration or licence shall have effect as if made or issued under this Act.

7. Nothing in this Act shall affect the operation of section 254 of the Act of 1972.

8. The mention of particular matters in this Schedule shall not be held to prejudice or affect the general application of sections 15, 16 and 17 of the Interpretation Act 1978.

1978 c. 30.

## SCHEDULE 5

Section 109.

ENACTMENTS CONTINUED

| Chapter | Short title | Extent continued |
|---|---|---|
| 13 Geo. 3. c. 52. | The Plate Assay (Sheffield and Birmingham) Act 1772. | The whole Act. |
| 6 Edw. 7. c. ix. | The Sheffield Assay Act 1906. | The whole Act. |

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