

ELIZABETH II



1980 CHAPTER xv

An Act to re-enact with amendments and to extend certain local enactments in force within the county of Isle of Wight; to confer further powers upon the Isle of Wight County Council, the Medina Borough Council and the South Wight Borough Council; to make further provision in regard to the improvement, health and local government of that county; and for other purposes.

[15th May 1980]

WHEREAS—

(1) By virtue of the Local Government Act 1972 (hereinafter 1972 c. 70. referred to as “the Act of 1972”) the county of Isle of Wight (hereinafter referred to as “the county”) was constituted on 1st April 1974 and is divided into the boroughs of Medina and South Wight:

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

(3) It is further provided by the said section 262 that certain local statutory provisions shall cease to have effect at the end of 1984:

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continue to have effect and that other local statutory provisions in force in or relating to the county should be repealed:

(5) It is expedient to extend and enlarge in various respects the powers of the Isle of Wight County Council, the Medina Borough Council and the South Wight Borough Council and to make further provision for the improvement, health and local government of the county:

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

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

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

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

PART I

PRELIMINARY

Citation and commencement.

1.—(1) This Act may be cited as the Isle of Wight Act 1980.

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

Interpretation.

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

1936 c. 49.

“the Act of 1936” means the Public Health Act 1936;

1959 c. 25.

“the Act of 1959” means the Highways Act 1959;

1971 c. 78.

“the Act of 1971” means the Town and Country Planning Act 1971;

1972 c. 70.

“the Act of 1972” means the Local Government Act 1972;

1976 c. 57.

“the Act of 1976” means the Local Government (Miscellaneous Provisions) Act 1976;

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

- “contravention” includes a failure to comply, and “contravene” shall be construed accordingly;
- “the county” means the county of Isle of Wight;
- “the county council” means the county council of the county;
- “daily fine” means a fine for each day on which an offence is continued after conviction thereof;
- “district” means a district in the county;
- “district council” means the council of a district;
- “the electricity undertakers” means the Central Electricity Generating Board and the Southern Electricity Board, or either of them, as the case may be;
- “enactment” includes an enactment in any Act, including this Act, and in any order, byelaw, scheme or regulation in force within the county;
- “functions” includes powers and duties;
- “house” means a dwelling-house, whether a private dwelling-house or not;
- “hovercraft” has the same meaning as in the Hovercraft Act 1968; 1968 c. 59.
- “hydrofoil vessel” means a vessel, however propelled, designed to be supported on foils;
- “local authority” means the county council or a district council;
- “main river” has the same meaning as in the Land Drainage Act 1976; 1976 c. 70.
- “officer” includes servant;
- “owner” has the meaning given by section 343 of the Act of 1936;
- “premises” includes messuages, buildings, lands, easements and hereditaments of any tenure;
- “public service vehicle” has the meaning given by section 117 of the Road Traffic Act 1960; 1960 c. 16.
- “seashore” includes all parts of the beach or shore above and below high-water mark and (where a promenade or esplanade exists) between the promenade or esplanade and low-water mark;
- “statutory undertakers” means the British Gas Corporation, the electricity undertakers, the water authority and the Post Office, or any of them as the case may be;
- “street” has the meaning given by section 295 of the Act of 1959;
- “telegraphic line” has the same meaning as in the Telegraph Act 1878; 1878 c. 76.
- “the water authority” means the Southern Water Authority.

PART I
—cont.

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

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

Appointed
day.

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

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

- (a) of the passing of any such resolution and of the day fixed thereby; and
- (b) of the general effect of the provision for the purposes of which the day has been fixed;

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

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

PART II

HOVERCRAFT AND SEASHORE WORKS

Facilities for
hovercraft,
hydrofoil
vessels, etc.

4.—(1) The county council may within the county, and a district council may within their district, use for such time as they may think fit land as a terminal for hovercraft, hydrofoil vessels and similar craft or vessels, and may erect or adapt on any such land and may maintain and manage buildings, structures, slipways and other works for use in connection with hovercraft, hydrofoil vessels and similar craft or vessels, and may make reasonable charges in respect of the use of such works.

(2) A local authority may at any terminal provided by them under this section provide such plant, facilities, appliances and conveniences as may be requisite or expedient for the operation, equipment, maintenance, repair and use of hovercraft, hydrofoil vessels and similar craft or vessels.

(3) A local authority may let to any person buildings, structures or facilities provided by them under this section.

(4) A local authority may make byelaws with respect to any premises provided by them under this section and for maintaining order in and for regulating the use of any premises used in connection therewith.

(5) The Secretary of State in deciding whether to confirm any byelaw under this section shall take into account any representations which may be made regarding the adverse effect of such byelaw on the commercial operation of hovercraft and from bodies representative of recreational users.

5.—(1) A local authority may, on any part of the seashore vested in them or on any other part of the seashore within their area with the consent of any person having right thereto— Power to execute works on seashore.

(a) construct landing stages, jetties, footpaths, roads and promenades; and

(b) execute any works for the purpose of preserving, improving and restoring amenity.

(2) (a) The Medina Borough Council may make byelaws for regulating or prohibiting digging for bait on any part of the seashore to which this subsection applies to such an extent or in such a manner as to be prejudicial to public safety or amenity.

(b) The part of the seashore to which this subsection applies is that part on the east of the borough of Medina which lies between the remains of the former St. Helens Church at National Grid reference point SZ6371 8948 and the groyne at the entrance to Bembridge Harbour at National Grid reference point SZ6400 8876 and which lies adjacent to that part of the said borough known as the Duver St. Helens.

(3) Nothing in this section shall authorise a local authority to construct or execute any works over or in the vicinity of the main river or in the vicinity of sea defences, sea walls or other similar works maintained by the water authority not in the vicinity of the main river without the consent of the water authority, which consent shall not be unreasonably withheld, and any question as to whether the consent has been unreasonably withheld shall be determined by arbitration.

6. In the exercise of the powers of section 4 (Facilities for hovercraft, hydrofoil vessels, etc.) and section 5 (Power to execute works on seashore) of this Act a local authority shall ensure that the operation of the shipping services of the British Railways Board and the hovercraft services of British Rail Hovercraft Limited are not thereby unreasonably impeded. For protection of British Railways Board and British Rail Hovercraft Limited.

PART II
—cont.

For protection
of Hovertravel
Limited and
others.

7. For the protection of the companies the following provisions shall unless otherwise agreed in writing between the local authority and the companies, as the case may be, apply and have effect:—

- (1) In this section “the companies” means Hovertravel Limited and the Southampton, Isle of Wight and South of England Royal Mail Steam Packet Company Limited and any other established operator of a hovercraft or hydrofoil service in the county;
- (2) Before exercising the powers of section 4 (Facilities for hovercraft, hydrofoil vessels, etc.) of this Act the local authority shall consult the companies;
- (3) Before exercising any powers of section 5 (Power to execute works on seashore) of this Act which may impede the shipping, hydrofoil vessel or hovercraft services of the companies the local authority shall consult the companies;
- (4) In the exercise of the powers of the said sections 4 and 5 the local authority shall ensure that the operation of shipping, hydrofoil vessel and hovercraft services of the companies are not thereby unreasonably impeded.

Saving for
certain harbour
authorities.

8. Nothing in this Part shall prejudice or derogate from, or in anywise alter, affect or interfere with, the jurisdiction, authority, rights, powers and privileges of—

1963 c. xxiii.

- (1) the Bembridge Harbour Improvements Company Limited within Bembridge Harbour as defined in the Bembridge Harbour Order 1963 or any order extending the limits of that harbour;
- (2) the Cowes Harbour Commissioners within the harbour of Cowes and Cowes Roads as defined by the Cowes Harbour Act and Orders 1897 to 1970 or any order extending the limits of that harbour;
- (3) The Queen’s Harbour Master Portsmouth as defined in the Dockyard Port of Portsmouth Order 1978;
- (4) the Yarmouth (Isle of Wight) Harbour Commissioner within the harbour of Yarmouth in the Isle of Wight as defined by the Yarmouth (Isle of Wight) Harbour Orders 1931 to 1971 or any order extending the limits of that harbour.

S.I. 1978/1881.

Saving for
Local Fisheries
Committee.

9. Nothing in this Part shall prejudicially affect or derogate from the powers and rights of the Local Fisheries Committee of the Southern Sea Fisheries District or any byelaws from time to time made by that committee.

PART III

LANDS, AMENITIES, OPEN SPACES AND MUNICIPAL PROPERTY

10.—(1) A district council may provide and maintain miniature railways and cable lifts on land vested in them or on any other land within their district with the consent of the owner and occupier thereof, and may, on such terms and conditions as they think fit, carry passengers thereon and may demand and take for any passengers so carried such fares as they may from time to time determine. Provision of miniature railways, etc.

(2) The operation of vehicles in pursuance of this section shall not, for the purpose of section 101 (1) of the Road Traffic Act 1930 (running of public service vehicles by local authorities), be regarded as the operation of a tramway, light railway, trolley vehicle or omnibus undertaking. 1930 c. 43.

(3) A district council may make arrangements for any miniature railway or cable lift which they have power to provide, maintain and operate under this section to be provided, maintained and operated by some other person including arrangements authorising that person to demand and take fares for passengers carried thereon.

(4) Any electrical works or equipment constructed, erected, laid down, maintained, worked or used pursuant to the powers conferred by this section shall be so constructed, erected or laid down and so maintained, worked and used that any electricity generated or conveyed by or used in or in connection with any such works or equipment does not cause interference (whether by induction or otherwise) with any telegraphic line belonging to or used by the Post Office or with any telecommunication by means of any such line.

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— Highway amenities.

- (a) footpaths within the meaning of the Act of 1959;
- (b) subways constructed under section 69 of that Act;
- (c) bridges constructed under section 69A of that Act; and
- (d) roads the use of which by vehicular traffic is prohibited by a traffic regulation order made under section 1 (3) of the Road Traffic Regulation Act 1967;

1967 c. 76.

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

PART III
—cont.

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

- (a) the omission from section 213 (1) of the words “ giving effect to the order or of ”;
- (b) the substitution in section 213 (3) (a), for the words “ the order under section 212 of this Act was made ”, of the words “ the powers were exercised ”;
- (c) the substitution in section 213 (3) (d), for the words from “ permitted ” to the end, of the words “ lawful; or ”;
- (d) the substitution in section 213 (5), for the words “ consulted the highway authority (if different) and ”, of the words “ obtained the consent of the highway authority (if different) and consulted ”.

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

(4) In section 213 (2) of the Act of 1971 as it has effect in the county, the power to provide facilities for recreation or refreshment includes power, subject to subsections (7) and (8) 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 the provision of such facilities and costs incurred by the authority in connection therewith and the removal or alteration of such facilities when required by the authority.

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

(6) 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 an

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.

(7) Where a competent authority propose—

- (a) to exercise the powers of section 213 of the Act of 1971 to provide facilities in any footpath or any such road as is mentioned in subsection (1) (d) above; or
- (b) to consider an application for permission to provide facilities for recreation or refreshment pursuant to subsection (4) above for more than 28 days in a calendar year;

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

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

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

- (a) by fixing the notice in a conspicuous position at or near the place where it is proposed to provide the facilities; and
- (b) by serving the notice on the occupier of any premises appearing to the competent authority to be likely to be affected by the facilities, addressed to him by name or, if his name is not known, by delivering the notice at the premises addressed to him as “The Occupier”.

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

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

12.—(1) The appropriate authority may provide in any street the county kiosks, show cases or other similar structures for Power to provide kiosks, etc.

PART III
—cont.

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) The appropriate authority shall not themselves undertake or engage in the business of newspaper vendors or, by virtue of this section, any other business at, or in connection with, any structure provided under this section.

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

(b) Subsections (7) to (9) of the said section 11 shall apply to any proposal of the appropriate authority to exercise the power 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 power of section 213 of the Act of 1971 as having effect in accordance with the said section 11.

(6) An appropriate authority shall not exercise the power 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 any 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.

(7) 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
- (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.

13.—(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. Provision of parking places in parks, etc.

(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.

(4) In this section “the prescribed area” means—

- (a) where the total area of the park, pleasure ground or open space does not exceed 4 hectares, one-eighth of that area;
- (b) where such area exceeds 4 hectares but does not exceed 6 hectares, one-half hectare;
- (c) in any other case, one-twelfth of such area.

14.—(1) In its application to any park or pleasure ground provided by a district council, section 44 (1) of the Public Health Acts Amendment Act 1890 (parks and pleasure grounds) shall have effect as if— Closure of parks. 1890 c. 59.

- (a) for so much of the said subsection as restricts the power of closing a park or pleasure ground on any one occasion to six consecutive days (excluding Sundays), and provides for the computation of any such period of six consecutive days, there were substituted a provision restricting the closing on any one occasion to six consecutive days, including Sundays; and
- (b) for so much of the proviso to the said section 44 (1) as prohibits the closing of a park or pleasure ground on a

PART III
—cont.

Sunday there were substituted a provision restricting the closing of such park or pleasure ground to no more than two Sundays in any one calendar year.

(2) Where a district council propose to exercise the power of the said section 44 (1) to close to the public a park or pleasure ground or any part thereof on a Sunday, the district council shall give reasonable notice thereof by publishing a notice in a newspaper circulating in the district and shall affix a copy or copies of the notice to some conspicuous object or objects in the park or pleasure ground.

Byelaws as to
leisure centres.

15.—(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 an leisure centre;
- (b) regulating the movement and parking of vehicles at an 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 1 (recreational facilities) of the Act of 1976 are provided.

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

Trespass on
school and
sports
premises.

16.—(1) This section applies to—

- (a) premises, including playing fields and premises providing other outdoor recreational facilities, of a county voluntary school or other school or college including one for further education, being premises maintained in whole or in part by a local education authority in the county;
- (b) premises of a local authority or parish council being playground, playing field or premises provided by the authority or council under paragraph (a), (b), (c) or (d) of section 19(1) of the Act of 1976 or facilities by way of parking spaces provided under paragraph (f) of the said section 19 (1).

(2) It is an offence to remain on premises to which this section applies after being requested to leave them by the authority concerned or without lawful authority to be on such premises, within one month after being so requested.

(3) A person does not commit an offence under this section unless there is displayed on the playground, playing field or other premises, a notice setting out the effect of this section.

(4) A person committing an offence under this section—

(a) may be removed from the premises concerned by the authority concerned;

(b) shall be liable on summary conviction to a fine not exceeding £50.

17. In their application to the county, the provisions of section 126 of the Housing Act 1974 (enabling local authorities to enforce covenants entered into with them by persons having an interest in land, as to works or development on that land) shall apply if a principal council, in the exercise of section 111 of the Act of 1972 or otherwise, and a person having an interest in land in their area become parties to an instrument under seal executed in connection with that land or other land in that area over which any right is granted to that person by the instrument, whether or not the instrument is executed (as described in subsection (1) of that section) for the purpose of securing the carrying out of works or of facilitating development; and accordingly—

Extension of
section 126 of
Housing Act
1974.
1974 c. 44.

(1) subsection (2) of that section shall extend to any covenant contained in such an instrument in relation to that land or such other land as aforesaid, whether or not it is a covenant to carry out any works or do any other thing on or in relation to the land in question; and

(2) subsections (3) and (4) of that section shall extend to the enforcement of such a covenant so as to empower the principal council to enter and do anything on the land, whether or not of the nature of carrying out works, which the covenant required to be carried out or done, and to recover any expenses incurred by the council in exercise of their powers under the said subsection (3).

PART IV

PUBLIC HEALTH

18.—(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. Dust, etc., from building operations.

PART IV
—cont.

(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 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.

19.—(1) No person shall in a district use or cause or permit to be used any air-powered tool or mobile air compressor in connection with works to which section 60 of the Act of 1974 applies unless an effective device or arrangement for minimising the noise emitted is in operation: Minimising noise from use of air-powered tools and compressors.

Provided that in any proceedings brought by virtue of this section it shall be a defence to prove that the best practicable means had been employed to minimise the noise emitted.

(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 £500.

(3) In proceedings for an offence under this section it shall be a defence to prove that the alleged offence was covered by a notice served under section 60 of the Act of 1974 or a consent given under section 61 or 65 of the Act of 1974.

(4) (a) In this section—

"the Act of 1974" means the Control of Pollution Act 1974; 1974 c. 40.

"best practicable means" has the meaning given by section 72 of the Act of 1974.

(b) Section 72 of the Act of 1974 shall apply for the construction of references in this section to "best practicable means" as it applies for the construction of references to that expression in Part III of the Act of 1974 but in subsection (4) of the said section 72 as so applied the references to statutory undertakers shall be deemed to include a reference to the water authority acting as the authority responsible for sewerage and sewage disposal.

(5) Section 108 (3) of the Act of 1974 (which authorises the Secretary of State to repeal or amend local Acts) shall apply to the provisions of this section as if this Act had been passed before the Act of 1974.

20.—(1) A district council may make byelaws for preventing the fouling by dogs of such grass verges managed by any local authority and maintained in an ornamental condition or mown as may be specified in the byelaws. Control of dogs in certain areas.

PART IV
—cont.

(2) A byelaw under this section prohibiting the fouling by a dog of any such grass verge may provide for the imposition on the owner or keeper of the dog, on summary conviction, of a fine not exceeding £50 for contravention of the byelaw; but in any proceedings for an offence under the byelaw it shall be a defence to show that—

- (a) all reasonable steps were taken by the defendant to prevent the commission of the offence; or
- (b) the dog is a dog kept and used solely by a blind person for his guidance.

Control of
stray dogs.
1906 c. 32.

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

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

- (b) in both subsections (2) and (4), the substitution for “ the chief officer of police, or any person authorised by him in that behalf ” of the words “ the chief officer of police or, as the case may be, the district council, or any person authorised by him or them in that behalf,”;
- (c) in subsection (6), the substitution for “ of a police area ” of the words “ and the district council ” and for “ in that area ” of the words “ by him or them respectively ”; and
- (d) in subsection (7), the substitution for “ The police shall not dispose of any dog seized under this section ” of the words “ A dog seized under this section shall not be disposed of ” and the insertion after “ inspection ” of the words “ at all reasonable times”.

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

Control of
foxes.

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

- (a) the district council shall, subject to the provisions of this section, have power to take any steps for the purpose of

abating or mitigating any nuisance, annoyance or damage caused in urban areas by foxes;

PART IV
—cont.

(b) without prejudice to the generality of paragraph (a) above if in the case of any land it appears to the district council that steps should be taken in respect of foxes on or resorting to the land they may, after giving not less than 7 days' notice to the occupier of their intention to do so, take such steps as appear to them to be necessary for the purpose mentioned in paragraph (a) above specifying the steps proposed to be taken.

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

23.—(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. Control of rats and mice.

(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.

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

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

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

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

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

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

PART IV
—cont.

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

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

PART V

PUBLIC ORDER AND PUBLIC SAFETY

Securing
unoccupied
buildings.

25.—(1) If it appears to a district council that any unoccupied building in the district is derelict and by reason of damage 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 had 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) 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.

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

(b) Notice under paragraph (a) above shall be served at a time not less than 72 hours before the procession starts to pass through any street or as soon as reasonably practicable after that time.

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

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

(a) commonly or customarily held; or

(b) organised or conducted for the purpose of a funeral.

(4) For the furtherance of co-operation between the organisers of processions and the police, the chief officer of police shall issue a code of practice giving guidance to the organisers of processions on any matters which he deems to be relevant, and in particular drawing attention to—

(a) the desirability of notifying the police as early as possible when a procession is planned and publicised; and

(b) the need to make arrangements for stewarding and to agree the route with the police.

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

27.—(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:—

Touting,
hawking,
photograph-
ing, etc.

PART V
—cont.

- (a) a public off-street car park, recreation ground, garden or other park, pleasure ground or open space under the management and control of a local authority;
- (b) a street or esplanade, parade, promenade, marine drive, or way to which the public commonly have access, whether or not as of right;
- (c) the seashore:

Provided that the district council shall not designate—

- (i) for the purpose of subsection (2) (b) below any highway specified in a control order under section 7 of the Act of 1976; or
- (ii) for the purpose of subsection (2) (c) (ii) below, any street.

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

- (a) gives reasonable cause for annoyance to any person by touting for a hotel, lodging house, restaurant or other place of refreshment, for a shop, for a theatre or other place of amusement or recreation, for a hackney carriage, public service vehicle or other conveyance or for a ship or boat; or
- (b) without the consent of the district council or in breach of any condition subject to which the council's consent is given, hawks, sells or offers or exposes for sale anything; or
- (c) without the consent of the district council or in breach of any condition subject to which the council's consent is given—
 - (i) photographs any person by way of trade or business; or
 - (ii) offers or exposes for hire any vehicle, chair or seat or any animal to ride;

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;

PART V
—cont.

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 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 selling or offering or exposing for sale of anything on land forming part of a highway by the owner or occupier of land fronting that part;
- (b) the selling or offering or exposing for sale of anything to persons on premises fronting on, or adjacent to, a place designated under this section, whether on those premises or in that part of any highway on which the premises front or to which they are adjacent;
- (c) the taking of a photograph for the purpose of making it available for publication in a newspaper or periodical if the photographer is employed as such by or on behalf of the owner or publisher of a newspaper or periodical or carries on a business which consists 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 anything in a highway the district council shall consult the highway authority.

Disposal of
dangerous
containers.

28.—(1) No person shall within a district dispose of as waste any container (including a container attached to a vehicle or machine) which has been used for the storage of petroleum-spirit without first rendering the container safe from danger of fire or explosion.

(2) If any person knowingly contravenes subsection (1) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200, and the district council may take such steps as may be reasonably necessary to prevent danger from the container and may recover from that person the expenses incurred by them in so doing.

(3) In any proceedings for an offence under this section it shall be a defence to show that all such steps as may be reasonably necessary were taken to prevent danger from the container.

1978 c. 3.

(4) No proceedings shall be instituted for an offence under this section if the disposal of the container contravenes section 2 of the Refuse Disposal (Amenity) Act 1978.

1928 c. 32.

(5) In this section “petroleum-spirit” has the meaning given by section 23 of the Petroleum (Consolidation) Act 1928.

Byelaws as to
boating
facilities.

29.—(1) A local authority may make byelaws to regulate—

- (a) the use of boating facilities provided by them under this section or any other enactment; and
- (b) the good and orderly conduct of persons resorting to such boating facilities.

(2) Nothing in this section shall authorise a local authority to make byelaws which shall have effect in the port of Southampton as from time to time existing.

PART VI

FIRE PRECAUTIONS

Parking
places: safety
requirements.

30.—(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

PART VI
—cont.

(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;

the district council shall reject the plans unless, 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), they are satisfied 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.

(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.

PART VI
—cont.

(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.

(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, 1928 c. 32. 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.

(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.

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

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

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

switch as to position, colour and marking shall for the purposes of this section be deemed to satisfy the requirements of the fire authority.

PART VI
—cont.

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

(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 or 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.

32.—(1) Except as provided in subsection (2) below, where plans for the erection or extension of a building are deposited with the 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 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

PART VI
—cont.

planning permission granted upon an application made under the Act of 1971 unless notice of the provisions of this section is endorsed on or accompanies the planning permission.

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

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

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

Oil-burning
equipment.

33.—(1) In this section—

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

“ boiler ” means a boiler, furnace, heater, oven or similar plant;

“ oil-burning equipment ” means a boiler designed or adapted for the combustion of oil and includes the burners, 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;

(b) any such equipment for generating electricity forming part of a generating station of the Central Electricity Generating Board or equipment provided in accordance with proposals approved under section 1 of the Electricity Act 1957;

1957 c. 48.

“ storage tank ” means a tank, container or device designed or adapted for the purpose of supplying oil to a boiler

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) If the Secretary of State, on considering byelaws submitted under section 236 of the Act of 1972 as having effect in accordance 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 a 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 in 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 stating the reasons for their disapproval, 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

PART VI
—cont.

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 of the installation or placing of oil-burning equipment under subsection (4) above; or
- (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, subsection (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.

PART VI
—cont.

(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

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

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

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

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

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

Interpretation
of Part VII.

(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.

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

Stacks to
which
Part VII
applies.

(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.

PART VII
—cont.

(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;
- (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 if—

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

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

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

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

36.—(1) Subject to subsection (2) of section 40 (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. Unlawful stacks.

(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.

PART VII
—cont.

(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:

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.

37. A person aggrieved by the county council's refusal of consent, or by any condition imposed on such a consent, under section 36 (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.

PART VII
—cont.

38. 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.

Powers of
entry for
Part VII.

39. Where a stack is on any premises in contravention of subsection (1) of section 36 (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.

Offences under
Part VII.

40.—(1) Where under subsection (5) of section 36 (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.

Transitional
provisions for
Part VII.

(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 36 (Unlawful stacks) of this Act does not give him reasonable time to adjust his undertaking, trade or business to the requirements of this Part, the county council may postpone the appointed day in respect of those premises to such other day as they may think fit, and, on that other day being notified to the appellant, the appointed day in respect of those premises shall be that day.

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

PART VIII SHANKLIN LIFT

41. In this Part—

Interpretation
of Part VIII.

“the borough” means the borough of South Wight;

“the deposited plan” means the plan marked “In Parliament, Session 1978-79, Isle of Wight, Shanklin lift” and prepared in triplicate, one copy of which has been

PART VIII
—cont.

deposited in the office of the Clerk of the Parliaments, one in the Private Bill Office, House of Commons and one in the office of the proper officer of the South Wight Council;

“ the lift ” means the lift and buildings referred to in section 42 (Power to maintain and reconstruct lift) of this Act;

“ the South Wight Council ” means the South Wight Borough Council.

Power to maintain and reconstruct lift.

42. The South Wight Council may maintain, reconstruct, renew and work on the lands in the borough shown coloured pink on the deposited plan a lift for the purpose of conveying passengers to and from the public road known as Lift Road from and to the public road known as Eastcliff Promenade and may maintain and reconstruct waiting rooms, booking offices and other buildings and may adapt, alter or remove any existing buildings or erections on the said lands and may maintain and renew all necessary machinery and apparatus for the lift:

Provided that any electrical works, machinery or apparatus maintained, renewed, worked or used for or in connection with the lift shall be so maintained, renewed, worked and used (whether by the South Wight Council or by any lessee of the lift) as to prevent interference with any telegraphic line belonging to or used by the Post Office or with telegraphic communication by means of any such line.

Charges for use of lift and byelaws relating to lift.

43. The South Wight Council may charge such reasonable sums as they think fit for the use of the lift and they may make byelaws for regulating the use of the lift and for regulating the conduct of persons using the lift.

Power to lease lift.

44. The South Wight Council may grant leases of the lift and any lands used in connection therewith and of the right to take for the use of the lift such sums as may be prescribed by the South Wight Council, for any period not exceeding 14 years and on such terms and conditions as the South Wight Council may think fit.

PART IX

MISCELLANEOUS

Inclusion within county of piers outside low-water mark.

45.—(1) The whole of any pier, any part of which is within a parish in the county, shall for all purposes be annexed to and incorporated with that parish, the district in which that parish is situated and the county.

(2) The whole of any other pier, any part of which is within a district in the county, shall for all purposes be annexed to and incorporated with that district and the county.

PART IX
—cont.

46.—(1) As from the appointed day in a district no person shall without the consent of the district council erect, provide or place any structure, or place any chair on any part of the seashore belonging or let to the district council unless he is authorised to do so by or under an enactment: Unauthorised structures on seashore.

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

(2) If any person erects, provides or places any structure or chair in contravention of subsection (1) above, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50 and if after his conviction thereof the structure or chair remains on any such part of the seashore, he shall be guilty of a further offence and liable on summary conviction to a further fine not exceeding £5 for each day on which it so remains.

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

47.—(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. Insurance of certain voluntary assistants.

(2) Any sum received by the 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.

(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. 1774 c. 48.
1974 c. 49.

(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

PART IX
—cont.

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;

“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.

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

48.—(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 owner 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.

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

49. 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 two months after lawful demand in writing has been made for the same.

PART IX
—cont.
Recovery of rates from tenants and lodgers.
1967 c. 9.

50.—(1) In connection with any aerodrome established by them under the Civil Aviation Act 1949 or any other enactment a local authority may provide services and facilities and may make reasonable charges in respect of the use of any such services and facilities.

Aerodrome undertaking.
1949 c. 67.

(2) Without prejudice to their power to manage an undertaking comprising any such aerodrome, and any works or buildings or other accommodation, or any services, facilities or businesses provided in connection therewith, a local authority may, subject to section 19 (6) of the Civil Aviation Act 1949, let the undertaking, or any part of it, on such terms and conditions as they think fit.

51.—(1) Section 153 of the Act of 1959 (prohibition of construction of vaults, arches or cellars under the carriageway of a street without consent) shall have effect in the county as if—

Buildings under highways.

(a) for the words “ a vault, arch or cellar under the carriageway of a street ” there were substituted the words “ under a highway any part of a building on land adjoining the highway or a vault, arch or cellar ”;

(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 ”;

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

“ (5A) 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.

and

(f) subsection (6) were omitted.

(2) Section 153 of the Act of 1959, as that section has effect in accordance with subsection (1) above, is set out in Part II of Schedule 1 to this Act.

PART IX
—cont.

(3) Section 154 of the Act of 1959 (openings to cellars or vaults under footway) shall have effect in the county as if, in substitution for the definition of “appropriate authority” in that section provided by section 153 (6) of the Act of 1959, there were inserted at the end of section 154—

“(6A) In this section ‘appropriate authority’ means in relation to any street which is a highway, the highway authority for the street and in relation to any other street the local authority in whose area the street is situated.”

Power to
provide
information.

52.—(1) A local authority may within their area at any premises to which section 142 (1) of the Act of 1972 applies supply information with regard to their area and neighbourhood and may if they think fit, make reasonable charges for the use of such premises or for information supplied by means thereof.

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

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

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

(3) The expenditure of a local authority under this section shall not in any financial year exceed the product of a rate of 2p in the pound for their area for that year and shall be computed in the manner prescribed by subsection (8) of section 137 of the Act of 1972 as estimated for the purpose of section 12 of the General Rate Act 1967.

1967 c. 9.

PART X
GENERALDisputes
about
compensation.

53.—(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.

1959 c. 22.

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

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

PART X
—cont.
Local inquiries.

55. 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—

Saving for conduct of business or use of premises.

- (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 59 (Suspension of proceedings pending appeal) of this Act.

56. Where under this Act any question or dispute is to be referred to or determined by an arbitrator or arbitration then, unless other provision is made, the reference shall be to a single arbitrator to be agreed upon between the parties, or, failing agreement, appointed on the application of either party to the dispute after notice in writing to the other by the President of the Institution of Civil Engineers.

Arbitration.

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

Appeals to magistrates' court.

58.—(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.

Appeals to Secretary of State.

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

- In section 30 (Parking places: safety requirements), subsection (6);
- Section 37 (Part VII appeals);
- In section 40 (Transitional provisions for Part VII), subsection (3).

PART X
—cont.

(3) On determining any such appeal, the Secretary of State shall give such directions, if any, as he considers appropriate for giving effect to his determination and, in the case of an appeal under the said section 37 may give directions for the granting of a consent subject to such conditions as the county council may impose under section 36 (Unlawful stacks) of this Act.

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

1925 c. 49.

(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).

(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.

59. 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.

60. 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 or a constable.

61.—(1) Where an offence under this Act, or against any byelaw made under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, as well as the body corporate, shall be guilty of the offence.

PART X
—cont.

Liability of
directors, etc.

(2) Where the affairs of a body corporate are managed by its members, the foregoing subsection shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

62. Any person who intentionally obstructs any officer of a local authority acting in execution of this Act or of any byelaws made thereunder shall be guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Penalty for
obstruction.

63.—(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.

Defence of
due diligence.

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

- Section 18 (Dust, etc., from building operations);
- Section 19 (Minimising noise from use of air-powered tools and compressors);
- Section 26 (Notice of street processions);
- Section 27 (Touting, hawking, photographing, etc.);
- Part VI (Fire precautions);
- Section 36 (Unlawful stacks).

(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 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.

64.—(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.

Application
of general
provisions
of Act of
1936.

PART X
—cont.

(2) Section 287 of the Act of 1936 (powers of entry) shall have effect as if references therein to that Act included a reference to the following provisions of this Act:—

- Section 18 (Dust, etc., from building operations);
- Section 22 (Control of foxes);
- Section 25 (Securing unoccupied buildings);
- Section 30 (Parking places: safety requirements);
- Section 31 (Firemen's switches for luminous tube signs);
- Section 33 (Oil-burning equipment);
- Part VII (Storage of flammable material):

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 that notice or in any such emergency shall comply with the reasonable requirements of the British Railways Board for the protection of their undertaking.

For protection
of certain
statutory
undertakers.

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

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

“ apparatus ” means—

(a) in relation to the British Gas Corporation mains, pipes and other apparatus belonging to or maintained by the British Gas Corporation;

(b) in relation to the electricity undertakers any electric line or works (as respectively defined in the Electric Lighting Act 1882) belonging to or maintained by the electricity undertakers;

(c) in relation to the water authority works, mains, pipes and other apparatus belonging to or maintained by the water authority for the purposes of their functions as the authority responsible for water supply, land drainage, sewerage and sewage disposal and pollution prevention;

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

“ operational land ” in relation to the undertakers means land which is used for the purpose of the carrying on of their undertaking and land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of carrying on of statutory undertakings;

“ the undertakers ” means the British Gas Corporation, the electricity undertakers and the water authority, or any of them, as the case may be;

- (2) Nothing in section 5 (Power to execute works on sea-shore) of this Act shall relieve a local authority from liability for damage caused by them to any apparatus in the exercise of the powers of the said section, and the said powers shall be so exercised as not to render unreasonably inconvenient the access to any apparatus or operational land of the undertakers;
- (3) Nothing in section 42 (Power to maintain and reconstruct lift) of this Act shall authorise the South Wight Borough Council to interfere with any gas apparatus in Lift Road in the borough of South Wight except by agreement with the British Gas Corporation;
- (4) Any difference which may arise between a local authority and the undertakers under this section shall be determined by arbitration.

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

Saving for
Health and
Safety at
Work etc.
Act 1974.
1974 c. 37.

- (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 18 (Dust, etc., from building operations);

Section 19 (Minimising noise from use of air-powered tools and compressors);

PART X
—cont.

Section 33 (Oil-burning equipment).

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

67. Subsection (2) of section 30 of the Fire Precautions Act 1971 (avoidance of duplication by local Act provisions) shall apply to this Act as if passed before the coming into operation of that subsection.

Amendment
of Isle of
Wight County
Council Act
1971.
1971 c. lxxi.

68.—(1) The Isle of Wight County Council Act 1971 is amended as follows.

(2) For section 5 (9) (d) of that Act there shall be substituted the following paragraphs:—

“(d) A person who commits an offence under this section shall be liable—

(i) on summary conviction to a fine not exceeding the prescribed sum as defined in section 28 (7) of the Criminal Law Act 1977;

(ii) on conviction on indictment to a fine.

(dd) The court before which a person is convicted on indictment of an offence under this section may, whether or not it imposes a fine, make an order requiring him to pay to the Council such amount in respect of extra expense incurred by the authorities by reason of the holding of the assembly, or breach of the term or condition, as the court may determine.

1977 c. 45.

(ddd) The Powers of Criminal Courts Act 1973 shall have effect as if references to a compensation order included references to an order made under paragraph (dd) above.”.

(3) After section 62 of the Isle of Wight County Council Act 1971 there shall be inserted the following section:—

“62A. Sections 18 to 20 and 39 above shall cease to have effect at the end of 1984.”.

Transitional
provisions,
savings,
amendments
and repeals.

69.—(1) The transitional provisions and savings in Schedule 3 to this Act shall have effect.

(2) Subject to the provisions of the said Schedule 3—

(a) each of the enactments specified in columns (1) and (2) of Part I of Schedule 4 to this Act shall continue to have effect to the extent mentioned in column (3) of that Part of that Schedule and to that extent section 262 (9) of the Act of 1972 shall not apply to those enactments;

- (b) the provisions of the Ryde Corporation Act 1973 specified in column (1) of Part II of Schedule 4 to this Act as continued by paragraph (a) above shall continue to have effect subject to the amendments specified in column (2) of the said Part. 1973 c. xviii.
- (c) the enactments relating to gas specified in column (1) of Part III of Schedule 4 to this Act, as applied by the Gas Act 1948 and the Gas Act 1972, shall continue to have effect subject to the amendments specified in column (2) of the said Part; and 1948 c. 67.
1972 c. 60.
- (d) the Acts specified in columns (1) and (2) of Part I of Schedule 6 to this Act and the confirmation Acts specified in columns (1) and (2) of Part II of that Schedule are hereby repealed to the extent mentioned in column (3) of that Schedule.

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

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

SCHEDULES

Section 21.

SCHEDULE 1**PART I**

1906 c. 32.

SECTION 3 OF THE DOGS ACT 1906 AS HAVING EFFECT IN ACCORDANCE WITH SECTION 21 (CONTROL OF STRAY DOGS) OF THIS ACT

3.—(1) Where it appears to a police officer or a duly authorised officer of the district council that any dog found in a highway or place of public resort is not accompanied by 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
- (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.

SCH. 1
—cont.

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

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

PART II

SECTION 153 OF THE ACT OF 1959 AS HAVING EFFECT IN ACCORDANCE WITH SECTION 51 (BUILDINGS UNDER HIGHWAYS) OF THIS ACT Section 51.

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

(2) A person aggrieved by the refusal of a consent required by the foregoing subsection, or by a requirement of a highway authority thereunder, may appeal to a magistrates' court.

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

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

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

(5A) 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.

SCHEDULE 2
SECTIONS OF ACT OF 1936 APPLIED

Section 64.

Section	Marginal note
283 (1)	Notices to be in writing; forms of notices, &c. Service of notices, &c.
285	
291	
297	Certain expenses recoverable from owners to be a charge on the premises; power to order payment by instalments.
304	Continuing offences and penalties. 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 69 (1).

SCHEDULE 3
TRANSITIONAL PROVISIONS AND SAVINGS

1.—(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 enactment.

(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.

2. For the purpose of any enactment in 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 enactment in this Act.

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

Section 69 (2)
and Schedule 6.

SCHEDULE 4
PART I
ENACTMENTS CONTINUED

Chapter (1)	Short title (2)	Extent continued (3)
1971 c. lxxi.	Isle of Wight County Council Act 1971.	Sections 1, 5, 6, 18 to 20, 39, 60 and 62A and, so far as they are relevant to them, sections 3, 59 and 62 and Schedule 2.
1973 c. xviii.	Ryde Corporation Act 1973.	The whole Act.

PART II

PROVISIONS OF RYDE CORPORATION ACT 1973 CONTINUED WITH AMENDMENTS

SCH. 4
—cont.
1973 c. xviii.

Provision (1)	Amendment (2)
Section 10 (Power to lease undertaking or charges)	In subsection (4) for the word "twenty" there shall be substituted the word "fifty".
Section 20 (Power to use lands for hovercraft terminal)	For the words "section 16 (Power to provide facilities for hovercraft, hydrofoil vessels, etc.) of the Ryde Corporation Act 1969" there shall be substituted the words "section 4 (Facilities for hovercraft, hydrofoil vessels, etc.) of the Isle of Wight Act 1980". 1969 c. xvi.
Section 36 (Application of provisions of Ryde Corporation Act 1969)	For the words "provisions of the Ryde Corporation Act 1969 so far as the same are" there shall be substituted the words "provision of the Isle of Wight Act 1980 so far as the same is"; for the words "those provisions" there shall be substituted the words "that provision" and for the words "namely" to the end of the section there shall be substituted the words "Section 60 (Restriction on right to prosecute)".

PART III

ENACTMENTS RELATING TO GAS CONTINUED WITH AMENDMENTS

Enactment (1)	Amendment (2)
Section 21 of the Cowes Urban District Council Gas Act 1897.	For the words "the lands described in the Schedule to this Act" there shall be substituted the words "the lands described in Part I of Schedule 5 to the Isle of Wight Act 1980". 1897 c. li.
Section 28 of the Newport (Isle of Wight) Corporation Act 1946.	For the words "the lands described in the First Schedule to this Act" there shall be substituted the words "the lands described in Part II of Schedule 5 to the Isle of Wight Act 1980". 1946 c. xxi.

Schedule 4.

SCHEDULE 5

PART I

LAND ON WHICH GASWORKS AND GASHOLDERS ARE OR ARE AUTHORISED
TO BE ERECTED

An irregularly shaped piece of land situate at Cowes in the borough of Medina having an area of 3,127 square metres or thereabouts and bounded on the west by and having a frontage of 50 metres or thereabouts to a road called Arctic Road, Cowes aforesaid and a depth therefrom on the north side of 58 metres or thereabouts and on the south side of 61 metres or thereabouts and bounded on the north and south by other property fronting Arctic Road aforesaid and on the east by property having as its eastern boundary the river Medina.

PART II

GAS LANDS

An irregularly shaped piece of land at Newport in the borough of Medina having an area of 4,180 square metres or thereabouts with access from a road called Fairlee Road and from a road called Hillside and bounded on the north partly by properties fronting on to Hillside aforesaid and partly by the southern boundary of Number 13 Fairlee Road aforesaid on the south-east by the former railway and on the west by land belonging to Medina Borough Council.

Section 69(2).

SCHEDULE 6

ENACTMENTS REPEALED

PART I

LOCAL ACTS

Chapter (1)	Short title (2)	Extent of repeal (3)
17 & 18 Vict. c. lxxxiii.	Ryde Improvement Act 1854.	The whole Act except sections 1, 2, 94 to 96, 104 to 106 and 108.
24 & 25 Vict. c. lviii.	Ryde Water Act 1861.	The whole Act except sections 1, 2 and 9.
39 & 40 Vict. c. lxi.	Newport (Isle of Wight) Borough Act 1876.	The whole Act.
47 & 48 Vict. c. cxviii.	Ventnor Local Board Act 1884.	The whole Act except sections 1 to 19, 26 and 51 and 52.
60 & 61 Vict. c. li.	Cowes Urban District Council Gas Act 1897.	The whole Act except sections 1 and 5 and the provisions referred to in Schedule 4 to this Act.
15 & 16 Geo. 5. c. xiii.	Isle of Wight Highways Act 1925.	The whole Act.

SCH. 6
—cont.

Chapter (1)	Short title (2)	Extent of repeal (3)
21 & 22 Geo. 5. c. 1.	Ventnor Urban District Council Act 1931.	The whole Act except sections 1, 4, subsection (1) of section 16 and sections 17, 66, 67 and 101.
1 & 2 Geo. 6. c. lxi.	Cowes Urban District Council Act 1938.	The whole Act.
9 & 10 Geo. 6. c. xxi.	Newport (Isle of Wight) Corporation Act 1946.	The whole Act except sections 1 and 4 and the provisions referred to in Schedule 4 to this Act.
4 & 5 Eliz. 2. c. xiii.	Sandown-Shanklin Urban District Council Act 1955.	The whole Act.
1969 c. xvi.	Ryde Corporation Act 1969.	The whole Act.
1971 c. lxxi.	Isle of Wight County Council Act 1971.	The whole Act except the provisions referred to in Schedule 4 to this Act.

PART II

CONFIRMATION ACTS AND ORDERS

Chapter (1)	Short title (2)	Extent of repeal (3)
14 & 15 Vict. c. 98.	Public Health Supplemental Act 1851, No. 2.	The Order relating to West Cowes.
24 & 25 Vict. c. 39.	Local Government Supple- mental Act 1861.	The Order relating to East Cowes.
26 & 27 Vict. c. 32.	Local Government Supple- mental Act 1863.	The Order relating to Ryde.
28 & 29 Vict. c. 108.	Local Government Supple- mental Act 1865 (No. 5).	Section 3 and the Order relating to Ryde.
29 & 30 Vict. c. 79.	Local Government Supple- mental Act 1866 (No. 2).	The Order relating to Ventnor.
30 & 31 Vict. c. 65.	Local Government Supple- mental Act 1867 (No. 2).	The Orders relating to Sandown and West Cowes respectively.
30 & 31 Vict. c. 83.	Local Government Supple- mental Act 1867 (No. 5).	Sections 2 and 3 and the Order relating to New- port.
32 & 33 Vict. c. cxxiv.	Local Government Supple- mental Act 1869.	The Order relating to Ryde.
36 & 37 Vict. c. lxxxii.	Local Government Board's Provisional Orders Con- firmation Act 1873, No. 2.	The Order relating to Shanklin.
36 & 37 Vict. c. ccxvi.	Local Government Board's Provisional Orders Con- firmation Act 1873 (No. 6).	The Order relating to Ventnor.

SCH. 6
—cont.

Chapter (1)	Short title (2)	Extent of repeal (3)
38 & 39 Vict. c. clxxvi.	Local Government Board's Provisional Orders Confirmation (Abingdon, &c.) Act 1875.	The Order relating to Sandown.
39 & 40 Vict. c. xv.	Local Government Board's Provisional Orders Confirmation (Blackburn, &c.) Act 1876.	The Order relating to St. Hellen's.
39 & 40 Vict. c. xcvi.	Local Government Board's Provisional Orders Confirmation (Bristol, &c.) Act 1876.	The Order relating to Ryde.
40 & 41 Vict. c. ccxxvii.	Local Government Board's Provisional Orders Confirmation (Caistor Union, &c.) Act 1877.	The Order relating to Sandown.
40 & 41 Vict. c. ccxxx.	Local Government Board's Provisional Orders Confirmation (Hyde, &c.) Act 1877.	The Order relating to Ryde.
45 & 46 Vict. c. lxiv.	Local Government Board's Provisional Orders Confirmation (No. 7) Act 1882.	The Order relating to West Cowes.
45 & 46 Vict. c. lxix.	Local Government Board's Provisional Order Confirmation (No. 10) Act 1882.	The Order relating to Ryde.
52 & 53 Vict. c. clxxvii.	Local Government Board's Provisional Order Confirmation (No. 2) Act 1889.	The whole Act.
57 & 58 Vict. c. cxxiv.	Local Government Board's Provisional Orders Confirmation (No. 12) Act 1894.	The Isle of Wight Order 1894.
58 & 59 Vict. c. xl.	Local Government Board's Provisional Orders Confirmation (No. 1) Act 1895.	So much of the Act and the Schedules as relates to Ryde and West Cowes.
62 & 63 Vict. c. cxlviii.	Local Government Board's Provisional Orders Confirmation (No. 10) Act 1899.	The Ryde Order 1899.
9 Edw. 7. c. cxxi.	Local Government Board's Provisional Orders Confirmation (No. 5) Act 1909.	The Isle of Wight Joint Hospital Order 1909.
8 & 9 Geo. 5. c. xliv.	Local Government Board's Provisional Orders Confirmation (No. 2) Act 1918.	The Isle of Wight Joint Hospital Order 1918.
15 & 16 Geo. 5. c. lxxx.	Ministry of Health Provisional Orders Confirmation (No. 4) Act 1925.	The Newport (Isle of Wight) Order 1925.
16 & 17 Geo. 5. c. lv.	Ministry of Health Provisional Orders Confirmation (No. 6) Act 1926.	The Isle of Wight Joint Hospital Order 1926.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR BERNARD M. THIMONT

Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

Isle of Wight Act 1980

CHAPTER xv

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