

**ELIZABETH II**



**1985 CHAPTER xlii**

An Act to re-enact with amendments certain local enactments in force within the city of Hereford; to confer further powers on the Council of the city of Hereford; to make provision with regard to the health, local government and improvement of the city; and for other purposes.  
[30th October 1985]

**WHEREAS—**

(1) By virtue of the Local Government Act 1972 (hereinafter 1972 c. 70. referred to as “the Act of 1972”) the city of Hereford was constituted on 1st April 1974 comprising the former city of Hereford:

(2) Certain local enactments were in force in the said former city and by section 262 of the Act of 1972 it was provided that, subject to certain exceptions those local statutory provisions should cease to have effect at the end of 1984 which date has been postponed to 31st December 1986 by order made by the Secretary of State for the Environment:

(3) It is expedient that certain of the said local statutory provisions should be re-enacted with amendments:

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

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

(6) 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 Hereford City Council Act 1985.

(2) This Act shall come into operation on the expiry of a period of three months beginning with the date on which it is passed.

Interpretation.

1936 c. 49.

1972 c. 70.

1960 c. 62.

1947 c. 41.

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

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

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

“caravan” has the meaning given by the Caravan Sites and Control of Development Act 1960;

“the city” means the city of Hereford;

“the Council” means the city council of Hereford;

“the county council” means the county council of Hereford and Worcester;

“contravention” includes a failure to comply and “contravene” shall be construed accordingly;

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

“fire authority” in relation to any premises means the authority discharging in the area in which the premises are situated the functions of fire authority under the Fire Services Act 1947;

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

“railway property” means any railway of the British Railways Board and any works connected therewith

for the maintenance or operation of which that board are responsible and includes any lands held or used by that board for the purposes of such railway or works;

PART I  
—cont.

“the river” means so much of the river Wye as lies between a point 1,595 metres upstream of the centre of the Old Wye Bridge in the city and a point 4,929 metres downstream of the centre of the said Old Wye Bridge;

“street” has the meaning given by section 329 of the Highways Act 1980;

1980 c. 66.

“traffic sign” has the meaning given by section 64 of the Road Traffic Regulation Act 1984.

1984 c. 27.

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

(3) Any reference in this Act to a proper officer shall, in relation to any purpose, be construed as a reference to an officer appointed for that purpose by the Council.

3.—(1) In this Act “the appointed day” in relation to any provision, means such day (not earlier than three months after the passing of this Act) as may be fixed for the purposes of that provision in accordance with subsection (2) below by resolution of the Council.

Appointed day.

(2) The Council shall publish in a newspaper circulating in the city notice—

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

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

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

(3) A photostatic or other reproduction certified by the proper officer of the Council to be a true reproduction of a page, or part of a page, of any newspaper being a page or part 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

THE MAY FAIR

4. In this Part, “the May Fair” means the fair known as “the May Fair”, “Saint Ethelbert’s Fair” or “the Nine Days Fair”, the franchise, right or privilege and jurisdiction whereof was transferred from the Lord Bishop of Hereford for the time being

The May Fair.

PART II  
—cont.

1836 c. lxix.

to the mayor, aldermen and burgesses of the city of Hereford by the Act passed in the first year of the reign of Queen Victoria intituled "An Act for amending the Provisions of Two Acts of Parliament relating to the City of Hereford, and for limiting the Duration of St. Ethelbert's or the Nine Days Fair, held annually in the City", and thereafter held by them and the Council.

Incorporation  
of Markets  
and Fairs  
Clauses Act  
1847.  
1847 c. 14.

5. The Markets and Fairs Clauses Act 1847 is incorporated with and forms part of this Act, and this Act shall be deemed to be the special Act for the purposes of that Act.

Power to hold  
the May Fair.  
1854 c. xxxi.

6. Notwithstanding the provisions of Schedule 3 to this Act, (which, inter alia, repeal so much of the Hereford Improvement Act 1854 as relates to the holding of fairs)—

- (a) the Council are and shall remain seized of, possessed of and entitled to all the lands, buildings, fairs, franchises, privileges, moneys, property, effects, choses in action, claims and demands whatsoever of or to which they were, immediately before the commencement of this Act, seized, possessed or in any way entitled at law or in equity or by virtue of the Hereford Improvement Act 1854, or any existing charter or grant from the Crown, or otherwise howsoever, with the appurtenances;
- (b) the Council, subject to the provisions of this Act, may maintain and regulate the May Fair held in the city in such manner as they may think proper and may appoint such places within the city and times for the holding of the May Fair as they may think proper;
- (c) the May Fair shall be held on such days and within such hours in every day as the Council may appoint, provided that the May Fair shall not be held on Sunday, or any public holiday and provided also that until the Council otherwise appoint, the May Fair shall be held on the now accustomed days, that is to say, on the Tuesday after the first Monday in May and on the next two days in each year.

## PART III

## PUBLIC HEALTH

Power to  
order  
alteration of  
chimneys.

7.—(1) If, upon a complaint by the Council or any person aggrieved under this section, a magistrates' court is satisfied that any gas, vapour or fumes from a chimney of a building or caravan in the city is injurious or is likely to be injurious to



health or a nuisance, the court may make an order requiring the owner of the chimney within such time as may be specified in the order to cause such means for remedying the cause of complaint to be adopted as the court thinks fit.

PART III  
—cont.

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

(a) in the case of a single private dwelling-house or caravan, £500; and

(b) in any other case, £1,500;

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

(3) Any person who, without reasonable excuse, fails to comply with an order made under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale and to a daily fine not exceeding £5.

(4) Unless the Secretary of State has granted scheduled monument consent under sections 3 or 4 of the Ancient Monuments and Archaeological Areas Act 1979 or listed building consent under section 55 of the Town and Country Planning Act 1971 for the alteration of any chimney in a scheduled monument or listed building no complaint shall be made to a magistrates' court under this section in respect of any chimney in such monument or building.

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

(6) In this section "chimney" includes structures, openings and ducts of any kind from which any gas, vapour or fumes may be emitted whether or not as the product of combustion and reference to a chimney of a building includes reference to a chimney of a building which serves the whole or a part of a building but is structurally separate therefrom.

8. In its application within the city, section 17 (3) of the Public Health Act 1961 as substituted by section 27 of the Local Government (Miscellaneous Provisions) Act 1982 (which empowers a local authority to require stopped-up drains etc. to be remedied) shall have effect as if for "forty-eight hours" there were substituted "twenty-four hours".

Power to  
remedy  
stopped-up  
drains, etc.  
1961 c. 64.  
1982 c. 30.

PART III  
—cont.  
Registration of  
eating houses.

**9.—(1)** As from the appointed day no premises in the city which were not used as an eating house immediately before the appointed day shall be so used unless such premises are registered with the Council by the occupier thereof.

(2) On application for registration under this section the Council shall register the premises specified in the application and shall issue to the applicant a certificate of registration.

(3) The Council shall keep a register of the premises registered under this section.

(4) Any person who contravenes subsection (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Subject to subsection (6) below, a person duly authorised by the Council may on producing, if so required, some duly authenticated document showing his authority enter any premises in the city if he has reason to suspect that an offence under subsection (1) above is being committed there.

(6) The power conferred by this section may be exercised by a person duly authorised by the Council only if he has been granted a warrant by a justice of the peace.

(7) A justice may grant a warrant under this section only if he is satisfied—

(a) that admission to any premises has been refused, or that refusal is apprehended, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and

(b) that there is reasonable ground for entry under this section.

(8) A warrant shall not be granted 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 case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(9) A warrant shall cease to have effect at the expiration of a period of 7 days beginning with the day on which it is granted.

(10) In this section “eating house” means premises wholly or mainly used for the sale of meals and refreshments to members of the public for consumption on or off the premises other than premises—

(a) so used in pursuance of a planning permission granted on an application made under the Town and Country Planning Act 1971, or a notice or application made under the Building Act 1984, specifying that use; or

(b) in respect of which a justices' licence to sell intoxicating liquors by retail has been granted and is in force; or

PART III  
—cont.

(c) used as railway refreshment rooms; or

(d) required to be registered under section 16 of the Food Act 1984; or

1984 c. 30.

(e) forming part of a departmental store.

10.—(1) No person shall deposit in a dustbin or other receptacle for removal by or on behalf of the Council (whether as house refuse or trade refuse)—

Restriction on use of dustbins.

(a) any flammable liquid (whether in a container or not); or

(b) any substance or thing;

which is likely to cause injury to the health of any person, or damage to vehicles or other equipment used to remove the liquid, substance or thing.

(2) It shall be a defence for a person charged with an offence under this section to prove—

(a) that he did not know and had no reasonable means of knowing that the liquid was flammable or that the liquid, substance or thing was likely to cause such injury or damage; or

(b) that he took all reasonable steps to prevent that injury or damage.

(3) A person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### PART IV

#### PUBLIC ORDER AND SAFETY

11.—(1) A duly authorised officer of the 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 the city and for the purposes of that section, as it applies to the city, a dog shall be treated as a stray if it appears not to be in the charge of any person.

Control of stray dogs.  
1906 c. 32.

(2) In consequence of subsection (1) above, section 3 of the Dogs Act 1906 shall have effect in the city 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 of the district council that any dog



PART IV  
—cont.

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”.

1906 c. 32.

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

Grass verges,  
etc.

**12.—**(1) The Council may by notice prohibit, either entirely or at such times or on such days as may be specified in the notice, any of the following things:—

- (a) allowing horses or cattle to enter land to which this section applies;
- (b) driving, parking or riding a vehicle on such land;
- (c) using any equipment provided on such land:

Provided that in the case of such prohibition as is mentioned in paragraph (c) above the Council may exempt a child under such age as may be specified in the notice in respect of that paragraph and may similarly exempt any other person who is in charge of such a child while the child is on the land.

(2) The land to which this section applies is—

- (a) land vested in the Council or the county council and laid out as a public garden or used for the purposes of public recreation, or a disused burial ground provided by the Council or the county council and maintained as a public garden or for those purposes or as a disused burial ground, as the case may be;
- (b) other land vested in the Council or the county council and mown or otherwise maintained in an ornamental condition;
- (c) land vested in a person other than the Council or the county council and laid out, used, mown or maintained as aforesaid:



Provided that notice shall not be given in respect of land vested in the county council except after consultation with the county council, nor in respect of land such as is mentioned in paragraph (c) above, except with the consent of the person concerned or his representatives.

PART IV  
—cont.

(3) A prohibition under subsection (1) (b) above shall not extend to driving, parking or riding a vehicle—

- (a) in the course of building operations; or
- (b) by statutory undertakers or the British Railways Board where reasonably necessary for the exercise of their statutory powers; or
- (c) for the maintenance of the land:

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

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

(5) Notice of a prohibition contained in subsection (1) (b) above if it relates to a grass verge forming part of or adjoining a highway used by motor vehicles (as defined in section 136 of the Road Traffic Regulation Act 1984) shall be indicated by a traffic sign and subsection (1) of section 65 of the said Act of 1984 shall have effect as respects the erection and display of the notice by the Council as if it were a notice by the highway authority.

1984 c. 27.

(6) A person who without reasonable excuse contravenes the notice shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(7) Where land to which a prohibition contained in subsection (1) (a) or (b) above applies forms part of a highway, the rights of the public over the highway, except rights of grazing horses and cattle, shall be subject to the prohibition; but, subject as aforesaid, nothing in this section shall—

- (a) limit any right of way, public or private, over land;
- (b) restrict the exercise by any person of any statutory right to enter upon land;
- (c) restrict the entry by horses or cattle on any grass or other margin provided by a highway authority in pursuance of section 71 of the Highways Act 1980 (provision of margins for horses and livestock).

1980 c. 66.

13.—(1) The Council may make byelaws for the following purposes with respect to any leisure centre, that is to say, any place owned or managed by them (whether alone or in

Leisure centres  
and golf  
courses.

PART IV  
—cont.

1976 c. 57.

conjunction with any other local authority or body) at which recreational facilities of any of the descriptions mentioned in section 19 (1) (recreational facilities) of the Local Government (Miscellaneous Provisions) Act 1976 are provided and with respect to any golf course provided by them:—

- (a) securing the good and orderly conduct of persons resorting to the leisure centre or golf course;
- (b) regulating the movement and parking of vehicles at the leisure centre or golf course;
- (c) prohibiting or regulating the use of vehicles by the public at the leisure centre or golf course otherwise than on a road as defined in section 257 of the Road Traffic Act 1960.

1960 c. 16.

(2) Byelaws made under subsection (1) (a) above may provide for any person infringing any such byelaws to be removed from the leisure centre or golf course by a person duly authorised by the Council on producing, if required to do so, his authority.

(3) Where the Council provide a golf course, they may let it, or any part thereof, for such consideration and on such terms and conditions as they think fit.

Defective  
electrical  
installations in  
houses and  
caravans.

14.—(1) In this section “electrical installation” means any installed electrical wiring or fitting not belonging to the Midlands Electricity Board or to the occupier of the house or caravan in which they are installed.

(2) Where it appears to the proper officer, that, by reason of any defect in any electrical installation in any occupied house or caravan let for human habitation, or in any part of a building so let and occupied as a separate dwelling, in the city, that house, caravan or, as the case may be, that part of the building is in such a state as to be dangerous, the Council may, by notice, require the owner of the house, caravan or building to carry out such work as shall be necessary to remedy the defect.

(3) The provisions of section 290 of the Act of 1936 shall apply in relation to notices given under subsection (2) above as they apply in relation to the notices mentioned in subsection (1) thereof.

(4) There shall be included among the grounds upon which an appeal may be brought under subsection (3) of the said section 290 against a notice under subsection (2) above the ground that it is not reasonably practicable to comply with the notice, or that, having regard to the period during which the house, caravan or part of the building is likely to continue to be used for human habitation, it is unreasonable to require the execution of the work.

(5) Not later than the seventh day after that on which the Council give notice under subsection (2) above they shall send a copy of the notice to the said electricity board.

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—cont.

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

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

Dealers in  
second-hand  
goods.

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

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

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

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

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

(6) The occupier of any premises used by a person registered under this section for the purposes of the business in respect of which he is so registered shall keep a copy of the certificate of registration displayed in the premises, and, if without reasonable excuse he fails to do so, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale and to a daily fine not exceeding £5.

(7) (a) An authorised officer of the Council, on producing if so required a duly authenticated document showing his authority, or any police constable, may—

(i) at all reasonable times enter and inspect any premises registered under this section and inspect any book



PART IV  
—cont.

kept in accordance with subsection (3) above and may do all such things as are reasonably necessary for the purposes of ascertaining whether there is, or has been, in, or in connection with, the premises, a contravention of the provisions of this section; or

- (ii) subject to paragraph (b) below, enter and inspect any premises not registered under this section which he has reasonable cause to believe are being used for, or in connection with, the business of a dealer in second-hand goods, for the purpose of ascertaining whether in connection with such premises there is a contravention of subsection (1) above.

(b) The powers of paragraph (a) (ii) above may be exercised in respect of premises to which they relate only on the grant of a warrant by a justice of the peace.

(c) (i) A justice may grant a warrant under paragraph (b) above only if he is satisfied either—

- (A) that notice of intention to apply for a warrant has been given to the occupier of the premises; or  
(B) that the case is one of urgency, or the occupier is temporarily absent, or that the giving of notice of intention to apply for a warrant would defeat the object of entry.

(ii) A warrant under this subsection shall authorise entry, if need be, by force but shall cease to have effect at the expiration of a period of 7 days beginning with the day on which it is granted.

(8) (a) If a person registered under this section acquires any second-hand goods from a person whom he knows to be under the age of 16, whether those goods are offered by that person on his own behalf or on behalf of another person, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(b) Any person who, on selling second-hand goods to a person registered under this section, gives that person a false name or false address shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(9) This section shall not apply to—

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



- (b) a person in respect of whom particulars are registered under the Scrap Metal Dealers Act 1964 in respect of his business as a scrap metal dealer; or PART IV  
—cont.  
1964 c. 69.
- (c) the holder of a licence issued under section 22 of the Consumer Credit Act 1974, in respect of activities covered by the licence or a person who does not need such a licence by virtue of section 21 of that Act; or 1974 c. 39.
- (d) a person engaged in the business either of financing the acquisition of goods by means of hire-purchase agreements, conditional sale agreements or credit-sale agreements (as defined in section 189 (1) of the said Act of 1974) or of financing the use of goods by means of bailment agreements, in respect of any such business or any transaction incidental thereto; or
- (e) a person engaged in a business of which the primary purpose is the supply of new unused goods and to which the supply of second-hand or used goods is merely incidental; or
- (f) a person engaged in business as a dealer in waste paper, cardboard, textiles, plastics in bulk or second-hand clothes in respect of his business as such; or
- (g) a person whose sole or principal business is the sale or purchase of, or dealing in, motor vehicles as defined in section 190 (1) of the Road Traffic Act 1972; 1972 c. 20.

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

**16.—**(1) The Council may designate, in accordance with subsection (6) below, any of the following places, or any part of such places, in the city as places to which this section applies for any of the purposes of subsection (2) below:— Touting,  
photographing,  
etc.

- (a) a public off-street car park, recreation ground, garden or other park, pleasure ground or open space under the management and control of the Council;
- (b) a street, precinct, parade or way to which the public commonly have access, whether or not as of right:

Provided that the Council shall not designate any street for the purposes of subsection (2) (b) (ii) below.

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

- (a) importunes any person by touting for an hotel, lodging house, restaurant or other place of refreshment, for a shop, for a theatre or other place of amusement

PART IV  
—cont.

or recreation or for a hackney carriage or other conveyance, not being a public service vehicle; or

(b) without the consent of the Council or in breach of any condition subject to which the Council's consent is given—

(i) photographs or pretends to photograph 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 level 3 on the standard scale.

(3) The conditions of consent referred to in subsection (2) (b) above include conditions as to the times or period for which the consent is valid, the display of a certificate of the consent and the payment for the consent of such reasonable fee to cover the expense of the Council in dealing with applications for such consents as the Council may by resolution prescribe.

(4) Subject to any condition as to the period for which a consent under subsection (2) (b) above is valid, any such consent may be revoked by notice to the person to whom the consent was given.

(5) A person aggrieved by—

(a) the withholding by the Council of consent referred to in subsection (2) (b) above;

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

(c) the revocation of such consent under subsection (4) above;

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

(6) (a) Before designating any place for any of the purposes of subsection (2) above, the Council shall give notice of their proposal by advertisement in a newspaper circulating in the city, 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 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.

(7) A resolution under subsection (6) (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 (6) (a) above, being a day not less than 28 days after the day on which notice is given under this subsection.

PART IV  
—cont.

(8) 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;

(b) 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.

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

Parking  
places: safety  
requirements.

(a) parking space for more than three motor vehicles being a space of which any part of the floor is situated more than 1.2 metres below the surface of the ground adjoining any wall of the building; or

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

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

1928 c. 32.



PART IV  
—cont.

(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.

1984 c. 55.

(4) Section 16 (6) to (8) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements), shall apply as if this section were a section of Part I of the Building Act 1984.

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

(6) If any conditions, subject to compliance with which plans have been passed under subsection (2) above have been or are being contravened, the Council may by notice to the owner or occupier of the parking place prohibit, or, as the case may be, require the cessation of its use for the parking of vehicles while those conditions are being contravened.

(7) If it appears to the Council, after consultation with the fire authority, that any building or part of a building in the city—

- (a) has been first brought into use after the commencement of this Act as a parking place to which this section applies;
- (b) has been so brought into use in circumstances in which no notice had to be given, or plans, sections, specifications or written particulars deposited, in accordance with building regulations; and
- (c) is not so constructed or equipped that, if plans of the work consisting of, or including, the parking place had been deposited under subsection (2) above, the Council would have given their consent under that subsection without specifying conditions with respect to any of the matters specified in paragraphs (b) to (h) of subsection (3) above;



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

PART IV  
—cont.

- (i) such conditions with respect to any of those matters as may be specified in the notice; and
- (ii) for the purpose of restricting the use of the parking place while those conditions are being contravened, such other conditions as may be so specified.

(8) The provisions of Part IV of the Building Act 1984 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under subsection (7) above as if—

1984 c. 55.

- (a) references in those provisions to that Act included reference to that subsection;
- (b) in section 99 (2) paragraph (b) were omitted; and
- (c) for the reference in sections 102 and 104 to the court there were substituted reference to the Secretary of State.

(9) Any person on whom notice is served under subsection (6) 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 level 3 on the standard scale.

(10) Any person on whom notice is served under subsection (7) 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 level 3 on the standard scale.

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

1928 c. 32.

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

PART IV  
—cont.  
Access for fire  
brigade.

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

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

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

1971 c. 78.

1984 c. 55.

(3) Section 16 (6) and (7) and section 36 (2) to (6) of the Building Act 1984 (notice of rejection or passing of plans and enforcement of requirements) shall apply as if this section were a section of Part I of that Act.

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

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

## PART V

### PARKS AND RIVER

Power to  
improve lands  
adjoining  
river, etc.  
1976 c. 70.

19.—(1) For the purpose of preserving or improving the amenities of the city or of any part thereof and subject to the provisions of the Land Drainage Act 1976 or any byelaws made thereunder the Council may in addition to any existing powers possessed by them—

- (a) improve, straighten and strengthen any banks which form part of or are adjacent to any lands held by them within a distance of 150 metres from either of the banks within the city of the river or of any stream;



- (b) lay out any lands so held and construct and maintain footpaths, fences, steps, walls, embankments and other works thereon;
- (c) with the consent of the owner of any other lands in the city which are situate on or within a distance of 150 metres from any such banks as aforesaid exercise with regard to such lands the powers referred to in paragraphs (a) and (b) above.

(2) Where the river or stream passes under, through or within a distance of 15 metres from any railway property the powers of this section shall be exercised subject to the following conditions:—

- (a) the Council shall not commence any of the works authorised by this section until copies of the detailed plans or drawings of such works and any calculations which may be required by him have been submitted to and approved by the chief civil engineer of the British Railways Board for the time being responsible for the area in which the said railway property is situated;
- (b) any such works shall be done under the superintendence (if given) and to the reasonable satisfaction of that chief civil engineer and shall be done so as not to cause any injury to the said railway property, and if any injury shall arise to the said railway property in consequence of such works the Council shall make compensation to that board in respect of such injury;
- (c) any question or dispute which may arise between the Council and that board with reference to the provisions of this subsection, or as to any works to be carried out in consequence thereof, shall be referred to, and settled by a single arbitrator to be agreed by the parties or, failing agreement, to be appointed on the application of either party (after notice in writing to the other) by the President of the Institution of Civil Engineers.

(3) (a) The Council shall not exercise the powers referred to in subsection (1) above within a distance of 15 metres from any works or apparatus of the British Gas Corporation or the Midlands Electricity Board unless 14 days' previous notice shall have been given to an engineer appointed by the said corporation or the said board and all works of the Council under that subsection shall be done under the superintendence (if given) and to the reasonable satisfaction of that engineer and shall be done so as not to cause any injury to the said works or apparatus.

(b) If any injury shall arise to the said works or apparatus in consequence of such works of the Council the Council shall

PART V  
—cont.

make compensation to the said corporation or the said board, as the case may be, in respect of such injury.

(4) Before exercising the powers of this section, the Council shall consult any body appearing to the Council sufficiently to represent the interests of river users or any category of river users, and shall have regard to any observations made by any body so consulted.

Byelaws in  
relation to  
river.

20.—(1) The Council may make byelaws for all or any of the following purposes:—

- (a) for securing the conservation and improvement of the river and its amenities for the purposes of recreation and for promoting the ease, convenience and safety of navigation;
- (b) for the prevention of obstruction to vessels using the river and to prescribe the maximum speed of vessels on the river;
- (c) for classifying pleasure-boats for the purposes of the application of any byelaws of the Council;
- (d) for the government, good order and regulation of persons navigating the river or using the footpaths or landing places, stages or pontoons, whether for business, recreation, training or any other purpose;
- (e) for prescribing precautions for the prevention of fire and precautions to be taken in cases of fire or accident occurring in or to any vessel;
- (f) for the preservation of flora and fauna in, or on the banks of the river.

(2) Byelaws made under this section may relate to the whole of the river and the banks thereof, or to any part thereof, and may make different provisions for different parts.

(3) Byelaws made by the Council under this section may provide for the imposition of a fine on summary conviction not exceeding level 3 on the standard scale and, in the case of a continuing offence, a daily fine not exceeding £20.

(4) Any person contravening any byelaw made under this section may be required by the court in addition to any fine thereby incurred, to pay to the Council a sum in satisfaction of the cost of repairing or making good any damage occasioned thereby to the property of the Council; and the provisions of section 41 of the Administration of Justice Act 1970 shall apply to any sum required to be paid pursuant to this section as they apply in the cases specified in Part I of Schedule 9 to that Act.

(5) (a) Before making a byelaw under this section applying to any part of the river in the district of South Herefordshire, the Council shall consult the South Herefordshire District Council.



(b) The Council shall send a copy of every byelaw applying to any part of the river in the district of South Herefordshire made by them, and confirmed, to the South Herefordshire District Council.

(6) (a) Not less than two months before—

(i) the Council make, amend or revoke any byelaws under this section; or

(ii) the water authority make, amend or revoke any byelaws applying to any part of the river under any enactment;

the Council or, as the case may be, the water authority shall give notice of their intention to the other of them and shall consider any written representations made by that other within the said period of two months.

(b) Not later than the date on which notice of intention to apply for confirmation of any byelaws referred to in subparagraph (a) above is first published, the Council or, as the case may be, the water authority shall send a copy of the byelaws to the other of them.

(7) On the coming into operation of byelaws applicable to the river made by the water authority for any of the purposes specified in subsection (1) above any provisions of byelaws made under the said subsection (1) relating to the same subject matter as the byelaws made by the water authority shall be revoked.

(8) Nothing in any byelaw made under this section shall restrict, prevent, interfere with or prejudice the construction, maintenance, repair, renewal or use of railway property.

(9) In this section—

“pleasure-boat” means any vessel used wholly or mainly for recreation, not being a vessel used solely as a houseboat, mooring stage or pontoon; and

“the water authority” means the Welsh Water Authority.

21.—(1) The Council may close to the public the whole or any part of the lands in the city known as “Castle Green”, “Bishops Meadow” and “Redcliffe Gardens” together with the footpaths (if any) thereover respectively for such period not exceeding six days as the Council may determine: Powers as to closing and leasing certain lands.

Provided that the said lands shall not be closed under the provisions of this subsection for more than a total of 10 days in any one year.

PART V  
—cont.

(2) During any period in which the said lands are closed to the public in accordance with the provisions of subsection (1) above the Council may—

(a) let the said lands to or permit the use of the said lands by any association, society or person for the purposes of any agricultural, horticultural or other show or for any pageant or entertainment or for any other public purpose of a temporary nature and authorise such association, society or person to make charges for the use thereof or for access thereto; or

(b) use the said lands for the purposes aforesaid and make such charges as they think fit for access thereto.

(3) (a) Nothing in this section shall prejudice any contractual requirement imposed on the Council by the Lord Bishop of Hereford relating to Bishops Meadow.

(b) The Council shall, before exercising any of the powers of this section in relation to Bishops Meadow, notify the Lord Bishop of Hereford and consider any observation he may make.

## PART VI

## ESTABLISHMENTS FOR MASSAGE OR SPECIAL TREATMENT

Interpretation  
of Part.

22. In this Part “establishment for massage or special treatment” means any premises used or represented as being or intended to be used by way of business for the reception or treatment of persons requiring—

(a) massage; or

(b) electric treatment, radiant heat, light or electric vapour treatment or sauna or other baths for therapeutic treatment; or

(c) other similar treatment.

Licensing of  
persons to  
carry on  
establish-  
ments.

23.—(1) As from the appointed day, no person shall carry on an establishment for massage or special treatment in the city without a licence from the Council authorising him to do so.

(2) The Council may, on the application of any person, grant or renew to him a licence under this Part on such terms and conditions as may be specified in the licence.

(3) A licence under this Part shall be for such period, not exceeding 13 months, specified in the licence as the Council may determine.

(4) An application for a licence or the renewal of a licence under this Part shall be made to the Council and the applicant shall in the application state—

- (a) where the applicant is a private individual, his full name and date of birth;
- (b) where the applicant is a private individual, his private address;
- (c) where the applicant is a company, society, association or other body, the registered or principal office (if any) of that body and, so far as may reasonably be required, the names and private addresses of the directors or other persons directly or indirectly responsible for the management of the body;
- (d) the name under which and the address at which the establishment is carried on or proposed to be carried on;
- (e) the nature of the establishment;
- (f) where the applicant is a private individual, his qualifications (if any) for the conduct of an establishment of that nature, or where the applicant is a company, society, association or other body, the qualifications (if any) of any person named in the application;
- (g) where the applicant is a private individual whether, and if so to what extent, he is or has been interested or employed in any other establishment for massage or special treatment or, where the applicant is a company, society, association or other body, whether, and if so to what extent, any person named in the application is or has been so interested or employed;
- (h) such further information (if any) as the Council may reasonably require with respect to the applicant or the establishment carried on, or proposed to be carried on.

PART VI  
—cont.

(5) With an application for a licence under this Part the applicant shall pay such reasonable fee to cover the expense of the Council in dealing with such applications as the Council may by resolution prescribe, and different fees may be prescribed for applications of different kinds.

(6) An applicant for a licence or the renewal of a licence under this Part shall give notice of the application to the chief officer of police and such an application shall not be entertained by the Council unless they are satisfied that the applicant has complied with this subsection.

24.—(1) On considering an application for a licence or the renewal of a licence under this Part the Council shall take into consideration any representations which may be made to the

Grant, renewal and transfer of licences.



PART VI  
—cont.

Council by the chief officer of police with respect to the application or the establishment to which it relates.

(2) The Council may refuse to grant or renew a licence under this Part or may revoke a licence so granted where—

- (a) the person applying for or holding the licence is under the age of 21;
- (b) the person applying for or holding the licence has been convicted of an offence under the Sexual Offences Acts 1956 to 1976 or the Street Offences Act 1959 or is otherwise unsuitable to hold such a licence or, where the person applying for or holding the licence is a company, society, association or other body, any director or other person directly or indirectly responsible for the management of the body has been so convicted;
- (c) the premises are unsuitable for the provision of massage or special treatment or the accommodation or provision for such massage or special treatment as may there be provided is not reasonably adequate or suitable;
- (d) adequate professional, technical or other staff is not available for the administration of such massage or special treatment as may be provided at the establishment; or
- (e) the establishment is being carried on in contravention of the provisions of this Part or any byelaw made thereunder.

(3) Before refusing to grant or renew a licence under this Part or revoking a licence so granted, the Council shall give to the person applying for the grant or renewal of the licence or, in the case of a revocation, the holder of the licence, an opportunity of appearing before and of being heard by a committee or sub-committee of the Council and, if so required by him, the Council shall within 7 days after their decision give him notice thereof containing a statement of the grounds on which it was based.

(4) The Council may on the application of the holder of a licence under this Part, or of any person to whom he wishes to assign the licence, transfer the licence to that person; and subsections (4) to (6) of section 23 (Licensing of persons to carry on establishments) of this Act and subsections (1) to (3) above shall apply to a transfer as they apply to the grant of a licence under this Part.

(5) Where, before the date of expiry of a licence granted under this Part, an application has been made for the renewal of that licence, the licence shall be deemed to remain in force



notwithstanding that the date of expiry of the licence has passed, until the determination of the application by the Council or until the withdrawal of the application.

PART VI  
—cont.

(6) Where, before the date of expiry of a licence granted under this Part, an application has been made for the transfer of that licence, the licence shall be deemed to remain in force (with any necessary modifications) notwithstanding that the date of expiry of the licence has passed or that the applicant for such transfer is carrying on an establishment for massage or special treatment in respect of which the licence was granted, until the determination of the application by the Council or until the withdrawal of the application.

25.—(1) The Council may make byelaws—

Byelaws as to  
establish-  
ments.

- (a) prescribing the books, cards or forms to be kept by every person holding a licence under this Part showing the business conducted by him so far as it relates to his establishment for massage or special treatment;
- (b) prescribing the entries to be made in connection with such business in such books, cards or forms; and
- (c) generally for regulating any premises used for the purposes of, or in connection with, any such establishment.

(2) Every person holding a licence under this Part shall keep exhibited in a suitable place (to be approved by the Council) in the premises to which the licence relates a copy of the byelaws for the time being in force under this section.

26.—(1) A person who—

Offences under  
Part.

- (a) carries on an establishment for massage or special treatment, or permits such an establishment to be carried on, contrary to subsection (1) of section 23 (Licensing of persons to carry on establishments) of this Act; or
- (b) carries on an establishment for massage or special treatment, or permits such an establishment to be carried on, in contravention of terms or conditions specified in a licence under this Part; or
- (c) on an application for a licence or the renewal or transfer of a licence under this Part provides any information which he knows to be false in a material respect or intentionally withholds any material information that is required by this Part to be given;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

PART VI  
—cont.

(2) A person who—

- (a) without reasonable excuse contravenes any byelaw made under this Part; or
- (b) knowingly issues, publishes, or displays or causes to be issued, published or displayed any advertisement relating to an establishment for massage or special treatment which is not licensed under this Part after the expiration of a period of 7 days after the Council have given him notice that the licence relating to such establishment has expired or has been refused or revoked under this Part;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and to a daily fine not exceeding £20.

(3) Any person who, without reasonable excuse, contravenes the provisions of subsection (2) of section 25 (Byelaws as to establishments) of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale and to a daily fine not exceeding £5.

(4) On conviction of any person for an offence under subsection (1) or (2) above the court may, instead of, or in addition to imposing a fine, make an order revoking a licence granted or transferred to him under this Part.

## Appeals.

27. A person aggrieved by a refusal to grant or renew or transfer a licence under this Part, or by any terms or conditions specified in such a licence, or by the revocation of such a licence, may appeal to a magistrates' court; and on any such appeal the court may order the grant or transfer of the licence, or the grant or transfer of it on such terms or conditions, not more onerous than those imposed by the Council, as the court thinks fit and make directions for giving effect to its decision.

Powers of  
entry,  
inspection and  
examination.

28.—(1) An authorised officer of the Council, on producing, if so required, a duly authenticated document showing his authority, or any police officer, may at all reasonable times enter and inspect—

- (a) any premises specified in any licence or application under this Part; or
- (b) any other premises which he has reasonable cause to believe are used or intended to be used for the purposes of, or in connection with, an establishment for massage or special treatment;

for the purpose of ascertaining—

- (i) whether there is, or has been, in or in connection with

the premises, a contravention of the provisions of this Part or of any byelaw made thereunder or of any term or condition specified in a licence under this Part; or

PART VI  
—cont.

(ii) whether or not circumstances exist which would authorise the Council to take action under this Part.

(2) An authorised officer or a police officer may exercise powers under subsection (1) (b) above only if he has been granted a warrant by a justice of the peace.

(3) (a) A justice may grant a warrant under this section only if he is satisfied either—

- (i) that notice of intention to apply for a warrant has been given to the occupier of the premises; or
- (ii) that the case is one of urgency or that the premises are unoccupied or the occupier is temporarily absent, or that the giving of notice of intention to apply for a warrant would defeat the object of entry.

(b) A warrant under this section shall authorise entry, if need be, by force, but shall cease to have effect at the expiration of a period of 7 days beginning with the day on which it is granted.

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

Savings.

(a) an establishment for massage or special treatment carried on by—

- (i) a registered medical practitioner; or
- (ii) a person registered by any board established under the Professions Supplementary to Medicine Act 1960; or
- (iii) a member of the Chartered Society of Physiotherapy; or
- (iv) a nurse registered or enrolled by the United Kingdom Central Council for Nursing, Midwifery and Health Visiting; or
- (v) a member of any organisation or association which specifies qualifications for the practice by its members of chiropractic, osteopathy, naturopathy, or acupuncture, being a member who is required by that organisation or association to observe professional standards in such practice; or

1960 c. 66.

(b) any hospital provided by the Secretary of State or by a charity which is registered under section 4 of the Charities Act 1960 or is excepted from registration by subsection (4) of that section; or

1960 c. 58.

(c) any nursing home which is for the time being registered under the Nursing Homes Act 1975 or exempted from registration under that Act; or

1975 c. 37.



PART VI  
—cont.

(d) any premises which are an establishment for massage or special treatment merely by reason of face or scalp massage being administered in those premises.

1974 c. 37.

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

## PART VII

## MISCELLANEOUS

Power to  
grant  
gratuities.

1936 c. cxiii.

30. The repeal by this Act of section 144 (Power to grant allowances or gratuities in certain cases) of the Hereford Corporation Act 1936 shall not affect the power of the Council to continue making payments to any person already receiving payments under that section at the passing of this Act or their power to make payments under that section to or in respect of any person in the employment of the Council at the passing of this Act who entered that employment before 6th April 1978.

Prohibition of  
parking of  
goods vehicles  
in residential  
streets.

S.I. 1982/1879.

31.—(1) In this section—

“goods vehicle” means a vehicle, whether mechanically propelled or not, which is constructed or adapted for the carriage of goods and has a maximum gross weight which exceeds 3.5 tonnes;

“maximum gross weight” has the meaning given to it by article 4 (c) of the Traffic Signs (Amendment) Regulations 1982;

“prescribed hours” means the hours between 9.00 p.m. and 8.00 a.m.;

“residential street” means a street, not being a trunk road, predominantly fronted either by residential or mainly residential buildings or by such buildings and schools or public open spaces.

(2) (a) If, after the appointed day, it appears to the Council in consequence of a representation made to the Council in accordance with paragraph (b) below that amenities of any part of the city are prejudicially affected by the use during the prescribed hours of any residential street in the city for parking one or more goods vehicles where parking is not otherwise prohibited, the Council may, by an order made in accordance with this section, prohibit parking by goods vehicles during the prescribed hours, in the residential street to which the representation relates.

(b) A representation under paragraph (a) above shall be made in writing and signed by local government electors residing in not less than five dwelling-houses, being dwelling-

houses in the residential street concerned, or dwelling-houses in any other such street which are within 100 metres thereof.

PART VII  
—cont.

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

- (i) publish a notice stating the effect of the proposal in a newspaper circulating in the city;
- (ii) post copies of the notice in a conspicuous position at each end of the residential street to which the proposal relates; and
- (iii) serve a copy of the notice and the statement of the nature of the representation made under subsection (2) above on the owner or occupier of every dwelling-house in the street to which the draft order relates.

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

(c) Before making the order the Council shall—

- (i) consider all objections made as provided in paragraph (b) above;
- (ii) consult the chief officer of police, the licensing authority for the purposes of Part V of the Transport Act 1968 (regulation of carriage of goods by road) and the 1968 c. 73. county council; and
- (iii) afford to the owner or occupier of every dwelling-house in the street to which the draft order relates, being a person who has made objection, an opportunity of being heard by a committee or sub-committee of the Council.

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

(5) When an order has been made by the Council under this section they shall publish notice of it, and of the right of appeal

PART VII  
—cont.

under subsection (7) below, in the manner required by subsection (3) (a) above for notice of a proposal.

(6) (a) Any order made under this section shall come into operation at the expiration of the period of 28 days after the Council have published notice of the making of the order under subsection (5) above or, if an appeal is lodged under subsection (7) below, when the appeal is disposed of or withdrawn or fails for want of prosecution and the Council shall publish notice of the date of coming into operation of any such order in the manner required by subsection (3) (a) above as soon as may be after that date is known.

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

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

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

(8) A person shall not be guilty of an offence under this section by reason only of the fact that he parks a goods vehicle during the prescribed hours in any residential street for any period not exceeding one hour or for such period as is reasonably necessary for dealing with a breakdown or other emergency.

(9) A person shall not be guilty of an offence under this section by reason only of the fact that he parks a goods vehicle in a residential street for so long as may be necessary to enable the vehicle, if it cannot reasonably be used for such purpose without parking in that street, to be used in connection with the erection, laying, placing, maintenance, testing, alteration, repair, renewal or removal of—

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

(b) any structure, works or apparatus of statutory undertakers or the British Railways Board in land adjacent to the street in any case where it is reasonably necessary to carry out those operations during the prescribed hours.

(10) An order under this section shall not apply to any goods vehicle held ready for use in an emergency by the British Gas Corporation, not being a vehicle which has a maximum gross weight exceeding 5.6 tonnes but nothing in this subsection shall be taken to prejudice any rule of law or other enactment.



(11) If any person parks a goods vehicle in contravention of an order under this section, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

PART VII  
—cont.

(12) Notice of the effect of an order made under this section shall be indicated by a traffic sign and subsection (1) of section 65 of the Road Traffic Regulation Act 1984 shall have effect as respects the erection and display of the notice by the Council as if it were a notice by the highway authority.

1984 c. 27.

32.—(1) Subject to the provisions of this section, as from the appointed day a person who parks a vehicle, other than a heavy commercial vehicle, within the meaning of section 36A of the Road Traffic Act 1972, in the city, wholly or partly—

Prohibition of parking vehicles on verges, central reservations and footways.

(a) on the verge of an urban road; or

(b) on any land which is situated between two carriageways of an urban road and which is not a footway; or

(c) on a footway comprised in an urban road;

1972 c. 20.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) A person shall not be convicted of an offence under this section with respect to a vehicle if he proves to the satisfaction of the court—

(a) that it was parked in accordance with permission given by a police officer in uniform; or

(b) that it was parked for the purpose of saving life or extinguishing fire or meeting any other like emergency; or

(c) that the conditions specified in subsection (3) below were satisfied.

(3) The conditions mentioned in subsection (2) (c) above are—

(a) that the vehicle was parked on a verge or footway for the purpose of loading or unloading or was parked for the exercise by the Midlands Electricity Board of their statutory powers; and

(b) that the loading or unloading of the vehicle or the exercise by the Midlands Electricity Board of their statutory powers, as the case may be, could not have been satisfactorily performed if it had not been parked in contravention of subsection (1) above; and

(c) that the vehicle was not left unattended at any time while it was so parked.

(4) The Council may by resolution provide that, in relation

PART VII  
—cont.

to vehicles of such classes as may be specified in the resolution, subsection (1) above shall not apply or shall apply subject to such conditions as may be so specified.

(5) The Council may by resolution provide that, in respect of any such verge, land or footway or part thereof as may be specified in the resolution, subsection (1) above shall not apply, but they may not so resolve in respect of any verge, land or footway which is in or on any highway for which the Secretary of State is the highway authority.

(6) The Secretary of State may provide, by such notice (which may be amended or revoked by a subsequent notice) as appears to him to be appropriate, that in respect of any such verge, land or footway as is in or on any highway for which he is the highway authority, and as may be specified in the notice, subsection (1) above shall not apply from a date specified in the notice.

1980 c. 66. (7) In this section “footway” has the same meaning as in the Highways Act 1980 and “urban road” means a road which—

1984 c. 27. (a) is a restricted road for the purposes of section 81 of the Road Traffic Regulation Act 1984 (30 m.p.h. speed limit); or

(b) is subject to an order under section 84 of that Act imposing a speed limit not exceeding 40 m.p.h.; or

(c) is subject to a speed limit not exceeding 40 m.p.h. which is imposed by or under any local Act.

1972 c. 20. (8) Sections 181 and 183 of the Road Traffic Act 1972 (which relate to evidence by certificate and proof of the identity of a driver) shall apply to this section as if it were a section to which those sections are applied.

(9) Notice of the effect of this section shall be indicated by a traffic sign and subsection (1) of section 65 of the Road Traffic Regulation Act 1984 shall have effect as respects the erection and display of the notice by the Council as if it were a notice by the highway authority.

1974 c. 50. (10) This section shall cease to have effect on the day on which the Secretary of State brings into operation section 7 of the Road Traffic Act 1974 in the city.

Restriction on  
use of  
armorial  
bearings.

33.—(1) If any person uses, in connection with any trade, business, calling or profession, the armorial bearings of the Council, or an emblem or device closely resembling those armorial bearings, in such a manner as to be calculated to lead to the belief that he is entitled to use those bearings as his own, he may at the suit of the Council be restrained by injunction from continuing to use them.

(2) If any person without the consent of the Council uses, in connection with any trade, business, calling or profession, any part of the armorial bearings of the Council, or any emblem or device closely resembling any such part, in a manner calculated to lead to the belief that he displays the part, emblem or device with the approval of the Council, he may at the suit of the Council be restrained by injunction from continuing to use that part, emblem or device.

PART VII  
—cont.

(3) Nothing in this section shall affect any right of the proprietor to the continued use of any trade mark in existence at the commencement of this Act.

PART VIII

GENERAL

34. The Secretary of State 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.

Local inquiries.

35. 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.

36.—(1) On an appeal to the Secretary of State under subsection (5) of section 17 (Parking places: safety requirements) of this Act the Secretary of State may at his discretion afford to the appellant and the Council 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) 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.

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

(4) 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 16 of the Supreme Court Act 1981 (jurisdiction of the Court of Appeal to hear and determine appeals from any judgment of the High Court).

1981 c. 54.



PART VIII  
—cont.

(5) In this section “decision” includes a direction, and references to the giving of a decision shall be construed accordingly.

Suspension of  
proceedings  
pending  
appeal.

37. Where a requirement, refusal or other decision of the Council against which a right of appeal is conferred by this Act—

- (a) involves the execution of any work or the taking of any action; or
- (b) makes it unlawful for 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 Council 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.

38. The written consent of the Director of Public Prosecutions is needed for the laying of an information of an offence created by or under this Act by any person other than a party aggrieved, the Council or a police officer.

Liability of  
directors, etc.

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

(2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Penalty for  
obstruction.

40. Any person who intentionally obstructs any officer of the Council 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 level 3 on the standard scale.

**41.**—(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.

PART VIII  
—cont.  
Defence of  
due diligence.

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

Subsections (1) and (3) of section 15 (Dealers in second-hand goods):

Paragraph (b) of subsection (1) of section 26 (Offences under Part).

(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.

**42.**—(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.

(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 7 (Power to order alteration of chimneys);

Section 14 (Defective electrical installations in houses and caravans);

Section 17 (Parking places: safety requirements).

**43.**—(1) The Acts specified in Schedule 3 to this Act are hereby repealed to the extent specified in that Schedule.

Repeals.

(2) The saving provisions contained in Schedule 4 to this Act shall have effect in relation to repeals effected by this Act.

**44.** Section 108 (3) of the Control of Pollution Act 1974 (which authorises the Secretary of State to repeal or amend local Acts) shall apply to section 10 (Restriction on use of dustbins) of this Act as if this Act had been passed before the Control of Pollution Act 1974.

Saving for  
Control of  
Pollution Act  
1974.  
1974 c. 40.

**45.** In the Health and Safety at Work etc. Act 1974 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.

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

## SCHEDULES

Section 11.

## SCHEDULE 1

1906 c. 32.

## SECTION 3 OF THE DOGS ACT 1906 AS HAVING EFFECT IN ACCORDANCE WITH SECTION 11 (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 in the charge of any person, he may seize the dog and may detain it until the owner has claimed it and paid all expenses incurred by reason of its detention.

(2) Where any dog so seized wears a collar having inscribed thereon or attached thereto the address of any person, or the owner of the dog is known, the chief officer of police or, as the case may be, the district council or any person authorised by him or them in that behalf, shall serve on the person whose address is given on the collar, or on the owner, a notice in writing stating that the dog has been so seized, and will be liable to be sold or destroyed if not claimed within seven clear days after the service of the notice.

(3) A notice under this section may be served either—

- (a) by delivering it to the person on whom it is to be served; or
- (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.

SCHEDULE 2

Section 42.

SECTIONS OF ACT OF 1936 APPLIED

Section	Marginal note
283 (1)	Notices to be in writing; forms of notices, &c.
285	Service of notices, &c.
289	Power to require occupier to permit works to be done.
291	Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments.
297	Continuing offences and penalties.
304	Judges and justices not to be disqualified by liability to rates.
328	Powers of Act to be cumulative.
341	Power to apply provisions of Act to Crown property.

Sections 6  
and 43.

SCHEDULE 3  
ENACTMENTS REPEALED

Chapter	Short title	Extent of repeal
17 & 18 Vict. c. xxxi.	Hereford Improvement Act 1854.	<p>Section VIII (Property of Commissioners transferred to Corporation);</p> <p>Section IX (Corporation to continue entitled to Powers under other Acts);</p> <p>Section X (Compensation to Bishop of Hereford under thirdly recited Act to continue);</p> <p>In section XXX (Corporation to maintain and regulate Markets and Fairs in Hereford), the words "and may maintain and regulate the Fair held in the City in such Manner as they from Time to Time think proper" and the words "and Fairs respectively";</p> <p>In section XXXI (Market and Fair Days), the words "and Fairs" in both places where they occur and the words "or Fairs".</p>
26 Geo. 5 & 1 Edw. 8. c. cxiii.	Hereford Corporation Act 1936.	<p>Section 98 (As to defective drains &amp;c.);</p> <p>Section 135 (Power to purchase and improve lands adjoining rivers &amp;c.);</p> <p>Section 136 (For protection of River Wye Catchment Board);</p> <p>Section 137 (Powers as to closing and leasing certain lands);</p> <p>Section 144 (Power to grant allowances or gratuities in certain cases).</p>

SCHEDULE 4

Section 43.

SAVING PROVISIONS

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 provision.

(2) Where any period of time specified in, or having effect in relation to, an enactment repealed by this Act is current at the date of such repeal, any provision of this Act relating to the same matter shall have effect as if that period began to run under that provision.

2. References in this Act to things done, left undone, suffered or occurring in the past shall, so far as the context requires for the continuity of operation between an enactment which is repealed by this Act and any enactment in this Act relating to the same matter, be construed as including reference to things done, left undone, suffered or occurring before the coming into operation of that provision of this Act.

3. Nothing in this Act shall affect the operation of section 254 of the Act of 1972.

4. The mention of particular matters in this Schedule shall not be held to prejudice or affect the general application of sections 15, 16 and 17 of the Interpretation Act 1978.

1978 c. 30.



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# Hereford City Council Act 1985

## CHAPTER xlii

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2. Interpretation.
3. Appointed day.

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5. Incorporation of Markets and Fairs Clauses Act 1847.
6. Power to hold the May Fair.

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8. Power to remedy stopped-up drains, etc.
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- Schedule 1—Section 3 of the Dogs Act 1906 as having effect in accordance with section 11 (Control of stray dogs) of this Act.
- Schedule 2—Sections of Act of 1936 applied.
- Schedule 3—Enactments repealed.
- Schedule 4—Saving provisions.