



London Local Authorities Act 1995

1995 CHAPTER x

PART I

PRELIMINARY

1 Citation and commencement

- (1) This Act may be cited as the London Local Authorities Act 1995.
- (2) The London Local Authorities Act 1990, the London Local Authorities (No. 2) Act 1990, the London Local Authorities Act 1991, the London Local Authorities Act 1994 and this Act may together be cited as the London Local Authorities Acts 1990 to 1995.
- (3) This Act, except Part V (Registration of door supervisors) and, save as otherwise provided by section 15 (Application of Part IV), Part IV (Near beer licensing) shall come into operation at the end of the period of two months beginning with the date on which it is passed.

2 Interpretation

In this Act, except as otherwise expressly provided or unless the context otherwise requires—

“the Act of 1984” means the Road Traffic Regulation Act 1984;

“the Act of 1990” means the Town and Country Planning Act 1990;

“the Act of 1991” means the Road Traffic Act 1991;

“authorised officer” means an officer of a participating council authorised by the council in writing to act in relation to the relevant provision of this Act;

“the Commissioner” means the Commissioner of Police of the Metropolis or, in the City of London, the Commissioner of the City Police;

“the fire authority” means the London Fire and Civil Defence Authority;

“participating council” means the common council of the City of London and the council of any London borough other than Tower Hamlets; and “borough” and “council” shall be construed accordingly;

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“penalty charge” has the same meaning as in section 66 of the Act of 1991;
 “road” has the same meaning as in section 142 (1) of the Act of 1984;
 “special parking area” means a special parking area designated by an order made by the Secretary of State under section 76 (1) of the Act of 1991;
 “traffic sign” has the same meaning as in section 64 (1) of the Act of 1984.

3 Appointed day

- (1) In this Act “the appointed day” means such day as may be fixed in relation to a borough by resolution of the borough council, subject to and in accordance with the provisions of this section.
- (2) Different days may be fixed under this section for the purpose of the application of different provisions of this Act to a borough.
- (3) The borough council shall cause to be published in a local newspaper circulating in the borough notice—
 - (a) of the passing of any such resolution and of a day fixed thereby; and
 - (b) of the general effect of the provisions of this Act coming into operation as from that day;
 and the day so fixed shall not be earlier than the expiration of three months from the publication of the said notice.
- (4) Either a photostatic or other reproduction certified by the officer appointed for that purpose by the borough council to be a true reproduction of a page or part of a page of any such newspaper bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice, and of the date of publication.

PART II

PARKING

4 Stopping on or near pedestrian crossings

- (1) This section shall apply to any part of a road in a special parking area in the borough of a participating council within the limits of a crossing or a crossing controlled area.
- (2) A driver of a vehicle shall not at any time cause it to stop on a part of a road to which this section applies and the prohibition under this subsection shall be enforceable as if it had been imposed by an order under section 6 of the Act of 1984.
- (3) Nothing in this section shall prohibit the driver of a vehicle from causing it to stop within the limits of a crossing or a crossing controlled area in circumstances where doing so would not contravene regulations made or having effect as if made under section 25 of the Act of 1984.
- (4) (a) No penalty charge shall be payable pursuant to subsection (2) above by the driver of a vehicle who causes it to stop contrary to that subsection in any case where—
 - (i) by reason of that stopping the vehicle is removed by, or under arrangements made by, a constable or traffic warden under regulations made pursuant to section 99 of the Act of 1984; or

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- (ii) a notice is given to the driver under section 54 (2) or (4) of the Road Traffic Offenders Act 1988 in respect of any offence under section 25 of the Act of 1984 constituted by that stopping; or
 - (iii) notification of an intention to prosecute the driver in respect of such an offence is given by the Commissioner to the council of the borough in which the crossing is situated before the expiry of the period of 14 days, beginning with the day on which the stopping takes place.
 - (b) Where the driver of a vehicle causes it to stop contrary to subsection (2) above, he shall not be liable to be prosecuted in respect of any offence under section 25 of the Act of 1984 constituted by that stopping unless the case falls within sub-paragraph (i), (ii) or (iii) of paragraph (a) above.
- (5) Nothing in subsection (2) above shall require the placing of any traffic signs in connection with the prohibition thereby imposed.
- (6) In this section—
 - (a) “crossing” means a crossing for pedestrians established or having effect as if established pursuant to section 23 of the Act of 1984; and
 - (b) “crossing controlled area” means any area of the carriageway in the vicinity of a crossing being an area the presence and limits of which are indicated in accordance with regulations made or having effect as if made under section 25 of the Act of 1984.

5 Designated parking places

- (1) Where a designated parking place within the meaning of section 45 of the Act of 1984 exists in a special parking area in the borough of a participating council there shall exist in respect of that designated parking place a prohibited zone.
- (2) The prohibited zone shall be—
 - (a) where the designated parking place is adjacent to the edge of the carriageway of the road, the area between two imaginary lines drawn at right angles to the edge of the carriageway from the two points where the edge of the carriageway meets the boundaries of the designated parking place and each of those lines shall extend to—
 - (i) the centre of the carriageway in the case where the centre of the carriageway would be crossed by those lines; or
 - (ii) a point 8 metres into the carriageway from each of those points in all other cases;
 - (b) where the designated parking place is not adjacent to the edge of the carriageway of the road, the area between two imaginary lines drawn as far apart from each other as possible at right angles to the edge of the carriageway from one edge of the carriageway to the opposite edge of the carriageway and touching the edge of the designated parking place;but shall not include any designated parking place or any other part of a road in respect of which the waiting of vehicles is specifically authorised.
- (3) There shall be a prohibition on the waiting of vehicles in a prohibited zone during any period when parking is restricted in the designated parking place in respect of which the prohibited zone exists and such prohibition shall be enforceable as if it had been imposed by an order under section 6 of the Act of 1984.

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- (4) Nothing in subsection (3) above shall require the placing of any traffic signs in connection with the prohibition thereby imposed.
- (5) Nothing in this section shall prohibit the driver of a vehicle from causing it to stop in a prohibited zone—
- (a) if the driver is prevented from proceeding by circumstances beyond his control or it is necessary for him to stop in order to avoid an accident;
 - (b) if the vehicle is stopped for the purpose of making a left or right turn;
 - (c) if the vehicle is being used for fire brigade, ambulance or police purposes;
 - (d) for so long as may be necessary up to a maximum of 20 minutes for the delivery or collection of goods or merchandise or the loading or unloading of the vehicle at any premises if that cannot reasonably be carried out as respects those premises without stopping in the prohibited zone;
 - (e) for so long as may be necessary to enable the vehicle, if it cannot be used for such purpose without stopping in the prohibited zone, to be used in connection with any building operation, demolition or excavation on the road in or in the vicinity of the prohibited zone, the collection of waste by any participating council, the removal of any obstruction to traffic, the maintenance, improvement or reconstruction of the road in or in the vicinity of the prohibited zone, or the laying, erection, alteration, repair or cleaning in or near to the prohibited zone of any traffic sign or sewer or of any main, pipe or apparatus for the supply of gas, water or electricity, or of any telegraph or telephone wires, cables, posts or supports;
 - (f) for so long as may be necessary for the purpose of enabling persons to board or alight from the vehicle.

6 Disposal of abandoned vehicles

- (1) Subsection (2) below shall have effect with respect to the time at which a competent authority may dispose of a vehicle under section 101 of the Act of 1984 (disposal of vehicles abandoned and removable under that Act) where the place from which the vehicle has been removed or could at any time be removed is in the borough of a participating council or the vehicle has been delivered by the Commissioner to a participating council.
- (2) In the circumstances mentioned in subsection (1) above, subsection (3) of the said section 101 shall have effect as though—
- (a) at the end of paragraph (b) there were added “or after the expiry of a period of three months beginning with the removal, whichever is the sooner”; and
 - (b) at the end of the subsection there were added “or the expiry of a period of three months beginning with the removal, whichever is the sooner”.

7 Recovery of unpaid penalty charges

- (1) The Secretary of State may make regulations for securing, subject to subsection (2) below, that—
- (a) where a vehicle found in the borough of a participating council is in the custody of a competent authority under section 101 of the Act of 1984 and a person claiming the vehicle pursuant to subsection (4A) of that section is liable for the payment of any earlier penalty charge relating to that vehicle which remains unpaid, the claimant shall not be entitled to remove the vehicle

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from the authority's custody unless, in addition to the penalty charge and other sums specified in the said subsection (4A), he also pays the earlier penalty charge; and

- (b) where a vehicle to which an immobilisation device has been fixed under section 69 of the Act of 1991 is in the borough of a participating council, there shall be no obligation to release the vehicle from that device pursuant to subsection (4) of that section unless, in addition to the charges payable under that subsection, there is paid any unpaid earlier penalty charge relating to that vehicle for the payment of which the person making payment pursuant to that subsection and, if not the same person, the person in charge of the vehicle at the time the immobilisation device was fixed, is liable.

(2) Regulations under this section—

- (a) may make provision for appeals to the parking adjudicator in respect of unpaid penalty charges; and
- (b) may contain such exemptions and exceptions as appear to the Secretary of State to be appropriate and shall in any event make provision whereby there is no requirement for the payment of an earlier penalty charge in order to permit the removal of a vehicle from the custody of a competent authority or, as the case may be, to secure the release of a vehicle from an immobilisation device if—

- (i) representations have been made in relation to that charge to the relevant authority under section 71 of or Schedule 6 to the Act of 1991 within the period of time provided by subsection (5) of that section or paragraph 2 (3) of that Schedule, as the case may be, and have not yet been considered by that authority; or
- (ii) an appeal has been made in relation to that charge to the adjudicator under section 72 of or Schedule 6 to that Act within the period of time provided by subsection (1) of that section or paragraph 5 (1) of that Schedule, as the case may be, and has not yet been considered by the adjudicator.

(3) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(4) In this section “parking adjudicator” means a parking adjudicator appointed under section 73 of the Act of 1991.

8 Rounding of penalties

Section 66 of the Act of 1991 (which makes provision for the recovery of parking penalties in London in relation to designated parking places) shall have effect in the borough of a participating council as though after subsection (4) there were inserted the following subsection:—

“(4A) If the amount to be paid after the penalty charge has been reduced by the specified proportion under subsection (3) (d) above is not a whole number of pounds an authority may reduce the amount further to the nearest pound.”.

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9 Special temporary prohibitions

- (1) A participating council may, by notice, make a special temporary waiting prohibition in respect of a road or part of a road within a special parking area in the borough of that council.
- (2) While a prohibition is in force the waiting of vehicles on the part of the road to which it relates shall be prohibited and that prohibition shall be enforceable as if it had been imposed by an order under section 6 of the Act of 1984.
- (3) A prohibition may not—
 - (a) be made unless the participating council are satisfied that waiting should be prohibited for the purpose of—
 - (i) facilitating the holding of a special event; or
 - (ii) enabling members of the public to watch a special event; or
 - (iii) reducing the disruption to traffic likely to be caused by a special event; or
 - (b) last longer than three days.
- (4) A notice under this section shall be displayed in a prominent place in the vicinity of the part of the road to which the prohibition relates for a period of not less than one day before the prohibition comes into effect and for the duration of the prohibition and shall—
 - (a) state that whilst the prohibition is in force the waiting of vehicles is prohibited in the part of the road to which the prohibition relates; and
 - (b) state the maximum duration of the prohibition.
- (5) Subject to subsections (3) and (4) above, the Secretary of State may make regulations with respect to the procedure to be followed in connection with the giving of notice under this section including provision for notifying the public of the exercise, or proposed exercise, of the powers conferred by this section and the effect of notices made in the exercise of those powers.
- (6) Any regulations under this section may make different provisions for different circumstances; and where this section or any regulations thereunder require a participating council to post a notice in a road, the council may take such steps for that purpose as they think fit, including the use for that purpose of any lamp-post, traffic sign or other structure whatsoever in the road, whether or not belonging to that authority.
- (7) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section—

“prohibition” means a special temporary waiting prohibition made under subsection (1) above;

“special event” means any individual event including any sporting event, social event, entertainment or funeral which in the opinion of the participating council concerned requires a prohibition to be made for the purpose of safety, relieving traffic congestion or facilitating the holding of the event; and

“waiting” means waiting for any purpose including the delivery or collection of goods or merchandise and the loading or unloading of vehicles.

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PART III

ADVERTISEMENTS, DISPLAYS, ETC.

10 Placards and posters

In its application to a participating council, section 225 of the Act of 1990 (power to remove or obliterate placards and posters) shall have effect as though subsections (3), (4) and (5) of that section were replaced by the following subsections:—

- “(3) The council of a London borough may give notice in writing to a person who displays or causes to be displayed a placard or poster in respect of which they may exercise the powers conferred by subsection (1)—
- (a) that in their opinion it is displayed in contravention of regulations made under section 220;
 - (b) requiring him to remove or obliterate it before the expiry of a period being not less than two days from the service of the notice, specified in the notice; and
 - (c) that if he does not do so, they intend to remove or obliterate it after the expiry of the period and recover from him the expenses reasonably incurred by them in so doing.
- (4) Where a notice has been duly served under subsection (3) and the poster or placard to which it relates has not been removed or obliterated before the expiry of the period specified in the notice, the council of the London borough may remove or obliterate it and may recover from the person on whom the notice was served the expenses reasonably incurred by them in so doing; but in any proceedings for the recovery of such expenses it shall be for the council to show that the poster or placard was displayed in contravention of regulations made under section 220.
- (5) If a poster or placard is removed or obliterated pursuant to a notice under this section and within 28 days thereof another poster or placard is displayed on the same premises, in addition to the power under the foregoing provisions of this section the council of the London borough may serve a notice under subsection (3) on the owner or occupier of the premises on which the poster or placard is displayed, and subsection (4) shall, subject to subsection (6) apply to that person.
- (6) In its application to a case in which a notice is served on any person under subsection (5), subsection (4) shall have effect with the omission of the right to recover from that person the expenses of removal or obliteration.
- (7) If a poster or placard is removed or obliterated pursuant to a notice under this section, the council of the London borough may exhibit a notice in the vicinity of the place where the poster or placard was displayed, stating that the display of an advertisement in contravention of regulations made under section 220 is a criminal offence punishable by a fine under section 224.
- (8) A notice under subsection (7) may not be exhibited without the consent of the occupier of the premises, unless he cannot after reasonable enquiry be identified.

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- (9) Without prejudice to the generality of subsection (3), a person shall be deemed to display or cause to be displayed a placard or poster for the purposes of that subsection if the placard or poster gives publicity to his goods, trade, business or other concerns except when the placard or poster is displayed on a hoarding or other structure designed for the display of advertisements.”.

11 Unauthorised advertisement hoardings, etc

- (1) This section applies to a hoarding or other structure used, or designed or adapted for use, for the display of advertisements including a movable structure, fitments used to support a hoarding or other structure and a structure which itself is an advertisement, other than such a structure for which deemed or express consent has been granted under the Act of 1990 or regulations made thereunder or for which no such consent for such use is required or which was erected before 1st April 1990.
- (2) Where there is in their area a hoarding or structure to which this section applies, a participating council may serve notice under this section on any person who appears to them to be responsible for the erection or maintenance thereof or, if after reasonable enquiry they have been unable to ascertain the name and address of such person, may affix a notice under this section to the hoarding or structure or exhibit a notice in the vicinity of the place where the hoarding or structure is fixed and serve a copy on the occupier of the land unless after reasonable enquiry he cannot be identified.
- (3) A notice under this section shall require the removal of the hoarding or structure to which it relates within a period, being not less than 21 days after the date of the notice, specified in the notice, and shall state the effect of subsection (4) below.
- (4) If a notice under subsection (2) above is not complied with before the expiry of the period specified in the notice, the participating council may—
- (a) enter on the land;
 - (b) remove the hoarding or structure and its fitments and dispose of them; and
 - (c) recover from the person on whom the notice was served the reasonable expenses incurred by them in so doing unless he satisfies them that he was not responsible for the erection, and is not responsible for the maintenance of the hoarding or structure.
- (5) Where, in the exercise of a right of entry conferred under subsection (4), damage is caused to land or chattels other than the hoarding or structure and its fitments, compensation may be recovered from the participating council by any person suffering the damage.
- (6) Nothing in subsection (4) above shall authorise entry into a building.

12 Defacement of buildings

- (1) Where there is a sign to which this subsection applies in the borough of a participating council on a surface to which this section applies, if that council consider it to be detrimental to the amenity of the area or offensive, they may—
- (a) serve on the occupier of the premises which include the surface; or
 - (b) if there appears to be no occupier of the premises which include the surface, affix to the surface;

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a notice under this section, requiring the occupier or in the case of paragraph (b) above the occupier or owner to remove or obliterate the sign within a period specified in the notice, being not less than 14 days after the service or affixation of the notice.

- (2) A sign to which subsection (1) of this section applies includes any writing, letter, picture, device or representation, other than an advertisement within the meaning of the Act of 1990.
- (3) A person on whom notice has been served under subsection (1) (a) above, or the occupier or owner of premises which include a surface to which a notice has been affixed under subsection (1) (b) above may appeal to a magistrates' court on any of the following grounds:—
 - (a) that the sign is not detrimental to the amenity of the area and is not offensive;
 - (b) that there has been some informality, defect or error in, or in connection with, the notice;
 - (c) in the case of a notice under subsection (1) (a) above, that the notice should have been served on another person.
- (4) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in, or in connection with, the notice, the court shall dismiss the appeal, if it is satisfied that the informality, defect or error was not a material one.
- (5) Where the grounds upon which an appeal under this section is brought include a ground specified in subsection (3) (c) above, the appellant shall serve a copy of his notice of appeal on each other person referred to therein.
- (6) Subject to such right of appeal as aforesaid, if the person required by the notice to remove or obliterate the sign fails to do so within the time thereby limited, the council may themselves remove or obliterate the sign.
- (7) Where there is a sign to which this subsection applies in the borough of a participating council on a surface to which this section applies and the owner or occupier of the premises which include that surface requests that council to remove or obliterate that sign, the council may do so and they may recover from the said owner or occupier the expenses reasonably incurred by them in so doing.
- (8) A sign to which subsection (7) of this section applies includes any writing, letter, picture, device or representation, and any advertisement within the meaning of the Act of 1990, other than an advertisement for the display of which deemed or express consent has been granted under the Act of 1990 or regulations made thereunder.
- (9) A surface to which this section applies is the surface of any building, wall, fence or other structure or erection, where that surface is readily visible from a place to which the public have access.

13 For protection of British Railways Board, Railtrack PLC, British Waterways Board and London Regional Transport

- (1) Subsection (5B) of section 225 of the Act of 1990 (as amended by section 10 (Placards and posters) of this Act) shall have effect in relation to any notice under that subsection served on a protected party in pursuance of subsection (5D) of that section as if for the period of two days specified in subsection (5B) there were substituted the period of 28 days.

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- (2) Subsections (3) to (5) below apply where a participating council propose to exercise any power (hereinafter referred to as a “relevant power”) conferred by section 225 of the Act of 1990 (as amended by the said section 10) or section 11 (Unauthorised advertisement hoardings, etc.) or 12 (Defacement of buildings) of this Act to enter on any operational land of a protected party or to remove or obliterate a poster, placard, hoarding, structure or sign on that land or on any premises or surface of any such land.
- (3) Before exercising the relevant power the participating council shall serve not less than 28 days' notice in writing of their intention so to do on the relevant protected party specifying the placard, poster, hoarding, structure or sign concerned and its location.
- (4) The protected party on whom a notice under subsection (3) above is served may within the period of 28 days beginning with the day on which the notice is served serve a counter-notice on the participating council specifying conditions subject to which the relevant power is to be exercised, being reasonable conditions which are necessary or expedient in the interests of safety or the efficient and economic operation of the transport undertaking concerned or (where the protected party is the British Waterways Board) for the protection of any works, apparatus or other property not vested in the protected party which are lawfully present on, in, under or over the land upon which entry is proposed to be made.
- (5) Where a counter-notice is served under subsection (4) above the relevant power may only be exercised subject to and in accordance with the conditions in the counter-notice.
- (6) Before exercising any power conferred by section 225 of the Act of 1990 (as amended by the said section 10) or the said section 12 of this Act to remove or obliterate a placard, poster or sign from any surface on a bus shelter or other street furniture of a protected party (not being situated on operational land of the protected party), the participating council shall serve not less than 28 days' notice in writing of their intention so to do on the protected party specifying the bus shelter or other street furniture concerned.
- (7) Nothing in this section shall be taken as prejudicing the operation of section 225 (1) of the Act of 1990.
- (8) In this section—
 - “operational land” has the same meaning as in the Act of 1990; and
 - “protected party” means the British Railways Board, Railtrack PLC, the British Waterways Board or London Regional Transport or any of their subsidiaries (as defined by section 736 of the Companies Act 1985).

PART IV

NEAR BEER LICENSING

14 Interpretation of Part IV

In this Part of this Act—

“the Act of 1964” means the Licensing Act 1964;

“near beer premises” means any premises, vehicle, vessel or stall used for a business which—

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- (a) consists to a significant degree in—
 - (i) the sale to customers for consumption on the premises of liquid refreshments which include in their trade description any of the following words:— beer, lager, pils, shandy, cider, wine, champagne, cocktail, sherry, gin, brandy, whisky, vodka or other words which imply that the liquid refreshment contains or can reasonably be expected to contain alcohol; or
 - (ii) the sale to customers for consumption on the premises of liquid refreshments which consist of any beverage commonly expected to contain alcohol or calculated to represent any alcoholic beverage; and
- (b) offers, expressly or by implication, whether on payment of a fee or not, either or both of the following:—
 - (i) the provision of companions for customers on the premises; or
 - (ii) the provision of live entertainment on the premises;

but does not include any such premises in which the sale to customers for consumption of intoxicating liquor is provided exemption or saving from the provisions of the Act of 1964 by virtue of section 199 of that Act or in respect of which there is in force—

- (A) a justices' on-licence within the meaning of section 1 (2) of the Act of 1964;
- (B) a licence granted by the council under Schedule 12 to the London Government Act 1963, section 21 (Licensing of public exhibitions, etc.) of the Greater London Council (General Powers) Act 1966 or the Private Places of Entertainment (Licensing) Act 1967;
- (C) a licence granted by the council under the Theatres Act 1968 for the performance of plays;
- (D) a licence granted by the council under the Cinemas Act 1985;
- (E) a licence granted by licensing justices under section 148 (licences for seamen's canteens authorising the holding of retailer's on-licences) of the Act of 1964;
- (F) a permission granted by licensing justices under section 1 (grant of occasional permissions) of the Licensing (Occasional Permissions) Act 1983;
- (G) an occasional licence granted under section 180 (consent to grant of occasional licence) of the Act of 1964;

during the hours permitted by such licence or, in the case of premises to which sub-paragraph (A) above applies, until the expiration of 30 minutes after the end of the hours permitted by such licence:

Provided that the premises are in use wholly or mainly and bona fide for the purpose authorised by such licence; and

does not include any such premises in respect of which there is in force a licence under Part II of the Gaming Act 1968;

“occupier” in relation to any premises means an occupier who is—

- (a) the freeholder; or
- (b) a lessee; or
- (c) a tenant holding a tenancy of at least one year in duration.

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15 Application of Part IV

This Part of this Act applies to the City of Westminster as from the date of commencement and to the boroughs of all other participating councils as from the appointed day.

16 Licensing

- (1) No premises shall be used in the borough as near beer premises except under and in accordance with a near beer licence granted under this section by the council.
- (2) The council may grant to an applicant and from time to time, renew or transfer a near beer licence on such terms and conditions and subject to such restrictions as may be specified.
- (3) Without prejudice to the generality of subsection (2) above, such conditions may relate to—
 - (a) the maintenance of public order and safety;
 - (b) the hours of opening and closing the premises for use as near beer premises to ensure that nuisance is not likely to be caused to residents in the neighbourhood;
 - (c) the display of advertisements on or near the near beer premises and the prohibition of touting in any form;
 - (d) the display of prices of goods and services offered on the premises;
 - (e) the number of persons who may be allowed to be on the premises at any time;
 - (f) the taking of proper precautions against fire, and the maintenance in proper order of means of escape in case of fire, fire-fighting equipment and means of lighting, sanitation and ventilation of the premises;
 - (g) the maintenance in safe condition of means of heating the premises.
- (4) Provided it has not been cancelled or revoked the near beer licence shall remain in force for 18 months or such shorter period specified in the near beer licence as the council may think fit.

17 Applications under Part IV

- (1) The occupier of premises in the borough may apply for the grant, renewal or transfer of a near beer licence, and shall not later than the day the application is made send a copy to the Commissioner and a copy to the fire authority and, subject to subsection (2) below, no such application shall be considered by the council unless the applicant complies with this subsection.
- (2) The council may in such cases as they think fit, after consulting with the Commissioner and the fire authority, consider an application for the grant, renewal or transfer of a near beer licence notwithstanding that the applicant has failed to comply with subsection (1) above.
- (3) In considering any application for the grant, renewal or transfer of a near beer licence the council shall have regard to any observations submitted to them by the Commissioner or by the fire authority within 28 days of the making of the application and may have regard to any observations submitted by him or them thereafter.

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- (4) An applicant for the grant, renewal, transfer or variation of a near beer licence shall furnish such particulars and give such other notices, including the public advertisement of the application, as the council may by regulation prescribe.
- (5) Regulations under subsection (4) above may, inter alia, prescribe the procedure for determining applications.
- (6) An applicant for the grant, renewal or transfer of a near beer licence shall pay a reasonable fee determined by the council.
- (7) Where, before the date of expiry of a near beer licence, an application has been made for its renewal or transfer, the near beer licence shall be deemed to remain in force, or as the case may require, to have effect with any necessary modifications until the determination of the application by the council or the withdrawal of the application.

18 Refusal of licence

- (1) The council may refuse to grant, renew or transfer a near beer licence on any of the following grounds:—
 - (a) the premises are not structurally suitable for the purpose;
 - (b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;
 - (c) the persons concerned or intended to be concerned in the conduct or management of the premises as a near beer establishment could be reasonably regarded as not being fit and proper persons to hold such a licence;
 - (d) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;
 - (e) the means of heating the premises are not safe;
 - (f) proper precautions against fire on the premises are not being taken;
 - (g) satisfactory means of escape in case of fire and suitable fire-fighting equipment are not provided on the premises; or
 - (h) the applicant has failed to comply with the requirements of subsection (4) or (6) of section 17 (Applications under Part IV) of this Act.
- (2) The council shall not refuse an application without giving the applicant an opportunity to appear before the committee or sub-committee determining the application.
- (3) The council may not delegate to an officer their function of refusing an application under this Part of this Act.
- (4) Where the council refuse to grant, renew or transfer a licence, they shall, if required to do so by the applicant or holder of the licence, give him a statement in writing of the reasons for their decision within 7 days of his requiring them to do so.

19 Transmission and cancellation of near beer licences

- (1) In the event of the death of the holder of a near beer licence, the person carrying on at the place in respect of which the near beer licence was granted the function to which the near beer licence relates shall be deemed to be the holder of the near beer licence unless and until the near beer licence is transferred to some other person.

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- (2) The council may, at the written request of the holder of a near beer licence, cancel the near beer licence.

20 Power to prescribe standard terms, conditions and restrictions under Part IV

- (1) The council may make regulations prescribing standard conditions applicable to all, or any class of near beer licences, that is to say terms, conditions and restrictions on or subject to which such near beer licences, or near beer licences of that class are in general to be granted, renewed or transferred by them.
- (2) Where the council have made regulations under this section, every such near beer licence granted, renewed or transferred by them shall be deemed to have been so granted, renewed or transferred subject to any standard conditions applicable to it unless those standard conditions have been expressly excluded or amended.

21 Provisional grant of near beer licences

- (1) Where application is made to the council for the grant of a near beer licence in respect of premises which are to be, or are in the course of being constructed, extended or altered or improved and the council are satisfied that the premises would if completed in accordance with plans or proposals deposited in pursuance of the requirements of the council be such that they would grant the near beer licence, the council may grant the near beer licence subject to a condition that it shall be of no effect until confirmed by them.
- (2) The council shall, on application being made for the appropriate variation of the near beer licence, confirm any near beer licence granted by virtue of subsection (1) above if and when they are satisfied that the premises have been completed in accordance with the plans or proposals referred to in the said subsection (1) or in accordance with those plans or proposals as modified with the approval of the council.

22 Variation of near beer licences

- (1) The holder of a near beer licence may at any time apply to the council for a variation in the terms, conditions or restrictions on or subject to which the near beer licence is held.
- (2) The person making an application for such a variation of licence shall on making the application pay to the council such reasonable fee as the council may fix.
- (3) The council may—
- (a) make the variation specified in the application;
 - (b) make that variation together with such further variation consequent thereon as the council may determine; or
 - (c) refuse the application:

Provided that no variation relating to fire safety conditions shall be made under this section before the fire authority have been consulted.

23 Appeals under Part IV

- (1) Any of the following persons, that is to say:—

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- (a) an applicant for the grant, renewal or transfer of a near beer licence whose application is refused;
- (b) an applicant for the grant, renewal or transfer of a near beer licence who is aggrieved by any term, condition or restriction on or subject to which the near beer licence is granted, renewed or transferred;
- (c) an applicant for the variation of the terms, conditions or restrictions on or subject to which a near beer licence is held whose application is refused;
- (d) an applicant for the variation of the terms, conditions or restrictions on or subject to which a near beer licence is held who is aggrieved by any term, condition or restriction contained in a further variation made consequent on the variation applied for;
- (e) a holder of any such near beer licence whose near beer licence is revoked under section 24 (Enforcement under Part IV) of this Act;

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the petty sessions area in which the premises are situated by way of complaint for an order.

- (2) In this section “the relevant date” means the date on which the person in question is notified in writing of the refusal of his application, the imposition of the terms, conditions or restrictions by which he is aggrieved or the revocation of his near beer licence, as the case may be.
- (3) An appeal by either party against the decision of the magistrates' court under this section may be brought to the Crown Court.
- (4) On an appeal to the magistrates' court or to the Crown Court under this section the court may make such order as it thinks fit and it shall be the duty of the council to give effect to such order.
- (5) Where any near beer licence is revoked under the said section 24 of this Act or an application for the renewal of such a near beer licence is refused, the near beer licence shall be deemed to remain in force—
 - (a) until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal; and
 - (b) where an appeal relating to the refusal of an application for such a renewal is successful until the licence is renewed by the council.
- (6) Where any near beer licence is renewed under section 16 (Licensing) of this Act and the council specify any term, condition or restriction which was not previously specified in relation to that licence, the near beer licence shall be deemed to be free of it until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.
- (7) Where the holder of a licence makes an application under section 22 (Variation of near beer licences) of this Act and the council make the variation applied for together with a further variation, then the licence shall continue as it was before the application—
 - (a) until the time for bringing an appeal under this section against any term, condition or restriction contained in the further variation has expired; and
 - (b) where any such appeal is brought, until the determination or abandonment of the appeal.

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24 Enforcement under Part IV

- (1) If any occupier or other person concerned in the conduct or management of premises in the borough which are not currently licensed by the council under this Part of this Act—
- (a) uses them as near beer premises; or
 - (b) permits them to be so used knowing or having reasonable cause to suspect that they are not currently so licensed;
- he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding three months or to both.
- (2) If any premises in respect of which a near beer licence is in force are used as near beer premises otherwise than in accordance with the terms, conditions or restrictions on or subject to which the near beer licence is held then the holder of the licence or other person concerned in the conduct or management of the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) Subject to section 23 (Appeals under Part IV) of this Act, the council may revoke a near beer licence if its holder is convicted of an offence under subsection (2) above.

25 Powers of entry under Part IV

- (1) Any authorised officer (on production, if so required, of a duly authenticated document of his authority) or any police officer may at all reasonable times enter upon, inspect and examine any premises used, or which he has reasonable cause to believe are—
- (a) used or intended to be used as a near beer premises either without the requisite near beer licence; or
 - (b) used in contravention of the terms, conditions or restrictions on or subject to which a near beer licence is granted;
- and may do all things reasonably necessary for the purpose of ascertaining whether an offence has been committed.
- (2) Subsections (2), (3) and (4) of section 287 of the Public Health Act 1936 shall apply in respect of entry to premises for the purposes of subsection (1) above as they apply to entry to premises for the purposes of subsection (1) of that section.
- (3) An officer of the fire authority authorised by the fire authority in writing to act in relation to this Part of this Act may at all reasonable times enter upon, inspect and examine premises which are licensed under this Part of this Act to ascertain whether conditions attached to the licence by virtue of section 16 (3) (f) (Licensing) of this Act are being complied with.
- (4) Any person who intentionally obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

26 Seizure

- (1) Any police officer who enters any premises by virtue of the powers contained in subsection (1) of section 25 (Powers of entry under Part IV) of this Act or any authorised officer who enters any premises under the authority of a warrant granted

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under subsection (2) of the said section 25 of this Act may seize and remove any apparatus or equipment or other thing whatsoever found on the premises which he has reasonable cause to believe may be liable to be forfeited under section 43 of the Powers of Criminal Courts Act 1973.

- (2) (a) The following provisions of this subsection shall have effect where any apparatus or equipment or any other thing is seized under subsection (1) above and references in those provisions to proceedings are to proceedings in respect of the alleged offence in relation to which the article or thing is seized.
- (b) Subject to paragraphs (c) and (d) below, at the conclusion of the proceedings the apparatus, equipment or thing shall be returned to the premises from which it was seized unless the court orders it to be forfeited under any enactment.
- (c) If no proceedings are instituted before the expiration of a period of 28 days beginning with the date of seizure, or any proceedings instituted within that period are discontinued, at the expiration of that period or, as the case may be, on the discontinuance of the proceedings, the apparatus, equipment or thing shall, subject to paragraph (d) below, be returned to the premises from which it was seized.
- (d) Where, at the time at which any apparatus, equipment or thing falls to be returned under paragraph (b) or (c) above, the premises from which it was seized have ceased to be occupied or the occupier of the premises appears to the council to be different from the person who occupied the premises at the time of seizure the council may, instead of returning it to the premises apply to a magistrates' court for an order as to the manner in which it should be dealt with.

27 Application to existing premises

Where near beer premises exist on the date this Part of this Act comes into force in the borough in which the near beer premises are situated and application for a near beer licence is made in respect of those premises within four weeks of that date those premises may lawfully continue to be used as near beer premises until the determination or withdrawal of that application and if an appeal is lodged until the determination or abandonment of the appeal.

28 Amendment of London Local Authorities Act 1990

Section 4 (Interpretation of Part II) of the London Local Authorities Act 1990 is hereby amended by the deletion, in the definition of night café, of the words “or the Private Places of Entertainment (Licensing) Act 1967” and the substitution of “, the Private Places of Entertainment (Licensing) Act 1967 or section 16 (Licensing) of the London Local Authorities Act 1995”.

PART V

REGISTRATION OF DOOR SUPERVISORS

29 Interpretation of Part V

In this Part of this Act—

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“door supervisor” means any person employed at or near the entrance to licensed premises to ascertain or satisfy himself as to the suitability of customers to be allowed on those premises or to maintain order on those premises;

“licensed premises” means any premises in respect of which there is in force for the time being a justices' on-licence within the meaning of section 1 (2) of the Licensing Act 1964 or an occasional licence within the meaning of section 180 (1) of that Act or any premises in respect of which there is in force a licence under Schedule 12 to the London Government Act 1963, the Private Places of Entertainment (Licensing) Act 1967 or Part IV (Near beer licensing) of this Act but does not include any such premises—

- (a) in respect of which there is in force a licence—
 - (i) under the Cinemas Act 1985; or
 - (ii) under Part IV of the Licensing Act 1964:

Provided that the premises to which such licence relates are in use wholly or mainly and bona fide for the purpose authorised by such licence; or

- (b) in respect of which there is in force—
 - (i) a licence under the Theatres Act 1968; or
 - (ii) letters patent of the Crown by virtue of which it is lawful for those premises to be used for the public performance of plays without a licence under the Theatres Act 1968,

except when a play as defined in the said Act of 1968 is not being performed and the premises are being used for a purpose for which a licence is required under Schedule 12 to the London Government Act 1963 or under the Private Places of Entertainment (Licensing) Act 1967 other than a concert of classical music; or

- (c) which are being used exclusively and bona fide by a club registered or licensed under Part II of the Licensing Act 1964 and to which a certificate under section 79 of that Act does not apply; or
- (d) in respect of which there is in force a licence under Part II of the Gaming Act 1968; or
- (e) which are kept open wholly or mainly and bona fide as a tenpin bowling establishment; or
- (f)
 - (i) which are structurally adapted and bona fide used, or intended to be used, for the purpose of habitually providing the customary main meal at midday or in the evening, or both, for the accommodation of persons frequenting the premises; or
 - (ii) which are bona fide used, or intended to be used for the purpose of habitually providing for reward board and lodging, including breakfast and one other at least of the customary main meals; or
- (g) which from time to time are by resolution of the borough council excluded from the operation of this Part of this Act;

“registration” means registration as a door supervisor under section 31 (Registration of door supervisors) of this Act.

30 Application of Part V

This Part of this Act applies to the borough of a participating council as from the appointed day.

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31 Registration of door supervisors

As from the appointed day no person may be employed on licensed premises as a door supervisor unless he holds a valid current registration from the council.

32 Power to register

- (1) The council may register an applicant and from time to time renew a registration on such terms and conditions and subject to such restrictions as may be specified.
- (2) Without prejudice to the generality of subsection (1) above, such conditions may relate to—
 - (a) the wearing of an identification card whilst on duty;
 - (b) an obligation to notify the council of any arrest or prosecution of the door supervisor for a crime of violence or dishonesty during the period of registration;
 - (c) training.
- (3) Provided it has not been cancelled or revoked the registration shall remain in force for three years or such shorter period as the council may think fit.

33 Applications under Part V

- (1) An applicant for registration as a door supervisor or for renewal of a registration shall not later than the day the application is made send a copy of any application document to the Commissioner and, subject to subsection (2) below, no such application shall be considered by the council unless the applicant complies with this subsection and consents to the disclosure to the council by the police of the record of his criminal convictions other than spent convictions within the meaning of the Rehabilitation of Offenders Act 1974.
- (2) The council may, in such cases as they think fit, after consulting with the Commissioner consider an application for the grant or renewal of a registration notwithstanding that the applicant has failed to comply with subsection (1) above.
- (3) In considering any application for the grant or renewal of a registration the council shall have regard to any observations submitted to them by the Commissioner within 28 days of the making of the application and may have regard to any observations submitted by him thereafter.
- (4) An applicant for the grant or renewal of registration shall furnish such particulars as the council may by regulation prescribe.
- (5) Regulations under subsection (4) above may, inter alia, prescribe the procedure for determining applications.
- (6) An applicant for the grant or renewal of a registration shall pay a reasonable fee determined by the council:

Provided that where the holder of a valid current registration from a council under this Part of this Act applies for registration by another council, that council may not charge a fee greater than one-quarter of the fee payable by an applicant who is not the holder of a valid current registration.

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- (7) Where, before the date of expiry of a registration, an application has been made for its renewal the registration shall be deemed to remain in force, or as the case may require, to have effect with any necessary modifications until the determination of the application by the council or the withdrawal of the application.

34 Refusal of registration

- (1) The council may refuse to grant or renew a registration on any of the following grounds:—
- (a) the applicant could be reasonably regarded as not being a fit and proper person to hold a registration;
 - (b) the applicant has received insufficient training;
 - (c) the applicant has made a material statement which he knew to be false in a material particular in connection with his application;
 - (d) the applicant has failed to comply with the requirements of subsection (4) or (6) of section 33 (Applications under Part V) of this Act.
- (2) The council shall not refuse an application or revoke a registration without giving the applicant or holder an opportunity to appear before the committee, sub-committee or officer determining the matter.
- (3) Where the council refuse to grant or renew a registration, they shall, if required to do so by the applicant or holder of the registration, give him a statement in writing of the reasons for their decision within 7 days of his requiring them to do so.

35 Cancellation

The council may, at the written request of the holder of a registration, cancel that registration.

36 Revocation

- (1) The council may revoke a registration on any of the grounds included in section 34 (Refusal of registration) of this Act.
- (2) Where the council consider that a registration could be revoked under subsection (1) above they may instead of revoking it attach additional conditions to the registration.

37 Power to prescribe standard terms, conditions and restrictions under Part V

- (1) The council may make regulations prescribing standard conditions applicable to all registrations that is to say terms, conditions and restrictions on or subject to which such registrations are in general to be granted or renewed by them.
- (2) Where the council have made regulations under this section, every such registration granted or renewed by them shall be deemed to have been so granted or renewed subject to the standard conditions unless those standard conditions have been expressly excluded or amended.

38 Appeals under Part V

- (1) Any of the following persons, that is to say:—

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- (a) an applicant for the grant or renewal of a registration whose application is refused;
- (b) a holder of any such registration who is aggrieved by any term, condition or restriction on or subject to which the registration is held; or
- (c) a holder of any such registration whose registration is revoked under section 36 (Revocation) of this Act;

may at any time before the expiration of the period of 21 days beginning with the relevant date appeal to the magistrates' court acting for the petty sessions area in which the council's offices concerned with registration are situated by way of complaint for an order.

- (2) In this section “the relevant date” means either the date on which the person in question or his representative is informed orally of the refusal of his application, the imposition of the terms, conditions or restrictions by which he is aggrieved or the revocation of his registration, as the case may be, or 7 days after the date when such notification was posted to him by first class pre-paid letter, whichever is the earlier.
- (3) An appeal by either party against the decision of the magistrates' court under this section may be brought to the Crown Court.
- (4) On an appeal to the magistrates' court or to the Crown Court under this section the court may make such order as it thinks fit and it shall be the duty of the council to give effect to such order.
- (5) Where any registration is revoked under section 36 (Revocation) of this Act or an application for the renewal of such a registration is refused, the registration shall be deemed to remain in force—
 - (a) until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal;
 - (b) where an appeal relating to the refusal of an application for such a renewal is successful until the licence is renewed by the council; and
 - (c) where any registration is renewed under section 32 (Power to register) of this Act and the council specify any term, condition or restriction which was not previously specified in relation to that licence or such a condition or restriction is imposed under section 32 (2) of this Act the registration shall be deemed to be free of it until the time for bringing an appeal under this section has expired and, if such an appeal is duly brought, until the determination or abandonment of the appeal.

39 Enforcement under Part V

- (1) If the holder of a licence in respect of licensed premises, or any person concerned in the conduct or management of such premises, employs a person as a door supervisor who is not currently registered with the council he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) Any person who is employed on licensed premises as a door supervisor without being currently registered with the council shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (3) Any person who—
 - (a) contravenes any of the conditions of his registration; or

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- (b) resists or intentionally obstructs any person in the execution of his duties under this Part of this Act; or
- (c) in connection with his application for registration makes a statement which he knows to be false in a material particular,

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

40 Powers of entry under Part V

- (1) Any authorised officer (on production, if so required, of a duly authenticated document of his authority) or any police officer may at all reasonable times enter upon any premises where he has reasonable cause to believe—
 - (a) persons are being employed or are acting as door supervisors who have not been registered by the council; or
 - (b) door supervisors are contravening any of the conditions of the registration, and may do all things reasonably necessary for the purpose of ascertaining whether an offence has been committed.
- (2) Subsections (2), (3) and (4) of section 287 of the Public Health Act 1936 shall apply in respect of entry to premises for the purpose of this section as they apply to entry to premises for the purposes of subsection (1) of that section.

41 Confidentiality

- (1) A person who discloses information which he has obtained by virtue of this Part of this Act and which relates to the affairs of any particular business shall be guilty of an offence unless he does so—
 - (a) with the consent of the person for the time being carrying on the business; or
 - (b) in the exercise of functions under this Part of this Act.
- (2) A person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum; and
 - (b) on conviction on indictment, to imprisonment not exceeding two years or a fine or both.

42 Application to existing door supervisors

Persons who are employed as door supervisors on the appointed day and who apply for registration within four weeks of that day may lawfully continue to be employed as door supervisors until the determination or withdrawal of their application and if an appeal is lodged until the determination or abandonment of the appeal.

43 Defence of due diligence

- (1) In proceedings for an offence under any provision of this Part of this Act except subsections (2) and (3) of section 39 (Enforcement under Part V) of this Act it shall be a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) 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

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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.

PART VI

MISCELLANEOUS

44 Appointment of deputies

- (1) A participating council may appoint one or more members of the council to act as deputy to the member appointed by them to the fire authority, and shall notify that authority of any such appointment and, if more than one appointment is made, of the order of priority as between each such deputy.
- (2) If a member appointed to the fire authority ceases to be a member of that authority the appointment of any deputy under this section by the participating council which appointed that member shall continue to have full effect, as if the member had continued to be a member.
- (3) If the member appointed to the fire authority is not present at a meeting of that authority or at part of such a meeting, the deputy or one of the deputies to that member, duly notified to the authority under subsection (1) above, may attend that meeting or that part of that meeting in his place as if he were the member appointed to that authority.
- (4) Where a participating council have appointed more than one deputy under subsection (1) above, the right of a deputy under subsection (3) above shall be exercisable in accordance with the order of priority notified by the appointing council.
- (5) The enactments referred to in the Schedule to this Act shall apply to deputies appointed under this section as if they were appointed under Part IV of the Local Government Act 1985.
- (6) A participating council may appoint one or more members of the council to act as deputy to the member appointed by them to the London Waste Regulation Authority, and the foregoing provisions of this section shall apply with the necessary modifications in respect of such appointment.
- (7) Notwithstanding anything in subsection (3) above a deputy may not preside at a meeting of the fire authority.

45 Cinema licence fees

Section 3 (8) of the Cinemas Act 1985 (which relates to the grant, etc., of licences for film exhibitions) in its application to a participating council shall have effect as though—

- (a) after the word “cases” in both places where that word occurs there were inserted the words “or areas”; and
- (b) at the end there were inserted the words “and may make provision for different fees in the case of grants from those in the case of renewals”.

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46 Application of London Local Authorities Act 1991 to City of London

Part III (Entertainment) of the London Local Authorities Act 1991 shall apply to the City of London as if it were a London borough and the Common Council were the council of that borough.

47 Special treatment: acupuncture, etc

When a participating council have appointed a day for the purposes of Part II (Special treatment premises) of the London Local Authorities Act 1991, they may serve notice on any person registered by them under section 19 (Acupuncturists, tattooists and cosmetic piercers) of the Greater London Council (General Powers) Act 1981 notifying him of the repeal of that section and terminating his registration under that section from a date specified in the notice, being not less than six months after the date of service of the notice.

48 Offences by bodies corporate

- (1) Where an offence 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, any 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 that offence and shall be liable to be proceeded against and punished accordingly.
- (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 function of management as if he were a director of the body corporate.