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Joint Circular from the



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Sir

28 April 1981

The Local Government, Planning and Land Act 1980— Various Provisions

1. The Local Government, Planning and Land Act 1980 received Royal Assent on 13 November 1980. Of its provisions this circular is concerned with those touching the relaxation of controls and miscellaneous matters in Parts I, XIV, and XIX; compulsory acquisition powers in Part IX; land registers in Part X; the repeal of the Community Land Act and certain re-enactments in Parts XI and XIV; land compensation in Part XIII; derelict land and the assessment of development land in Part XIV; and gypsy caravan sites in Parts VII and XVII. Information on other aspects of the Act has been or will be made available elsewhere as appropriate.

Relaxation of Controls

2. The provisions relaxing controls follow in general the White Paper "Central Government Controls over Local Authorities" (Cmnd 7634) of September 1979. They are to be found in Sections 1, 36, 37, 89, 90, 183, 188, 190, and 191, and Schedules 1 to 7, 14, 15, and 23 of the Act. With the exception of the planning and rating provisions, on which separate advice is being given, notes on the more significant details of these provisions are to be found in *Annex 1* to this circular, which also contains notes on the miscellaneous provisions of Sections 181, 184, 185, and 186 of the Act.

3. All the above provisions came into force on Royal Assent.

Compulsory Acquisition Powers

4. Section 91, which also came into force on Royal Assent, amends local authorities' powers of compulsory acquisition in Section 112(1) of the Town and Country Planning Act 1971. The amendment clarifies the powers and, in particular removes any doubt that they may be used to acquire land *for the purpose of disposal* for private development. It also sets out the tests to be satisfied for justification of compulsory purchase.

5. Although the Community Land Act is repealed, authorities still have a valuable, though limited, role to play in ensuring that land is brought forward for private development. Their compulsory purchase powers may be useful

in circumstances where the private market is not operating smoothly (eg in land assembly exercises, where a monopoly of land ownership is retarding development, or where access to land ripe for development is blocked by an owner who is unwilling to sell).

Land Registers

6. Part X provides for the introduction of registers of unused and insufficiently used land held by public bodies—listed at Schedule 16—in areas to be designated by order, with powers for the Secretaries of State in England and Wales, under certain conditions, to direct that such land be offered for sale.

The first 21 districts and London boroughs in which land registers are to be kept have been designated by a commencement order (SI 1980/1871). The intention to designate 12 more districts and boroughs was announced on 19 January. An order (SI 1981/15) specifying the “appropriate Ministers” for certain bodies not covered by the definition in Part XI of the Town and Country Planning Act 1971 comes into operation on 6 February. There are no plans at present to designate any areas in Wales.

Repeal of the Community Land Act

7. Section 101 repeals the Community Land Act, and this repeal is to take effect in England as described in Schedule 17, and in Wales (where the Land Authority for Wales is continuing in a modified role) as described in paragraphs 1–8 of Schedule 17, supplemented by Schedule 22. These provisions have effectively repealed most of the Community Land Act from the date of Royal Assent, leaving only a few sections (mainly those concerning land accounts and necessary definitions) to remain in force until the day or days to be appointed by the Secretary of State.

8. The following circulars and guidance notes on the Community Land Scheme are cancelled with effect from the dates shown:

Cancelled immediately

| | | | |
|----------------|---------------|--------|-----|
| DOE Circulars: | <u>121/75</u> | GNLAs: | /5 |
| | <u>128/75</u> | | /8 |
| | 22/76 | | /11 |
| | 23/76 | | /20 |
| | 26/76 | | |
| | 31/76 | | |
| | 36/76 | | |
| | <u>98/76</u> | GNLAs: | /18 |
| | | | /19 |
| | | | /21 |
| | | | /22 |
| | <u>10/77</u> | | |
| | <u>59/77</u> | | |
| WO Circulars: | <u>206/75</u> | | |
| | <u>40/76</u> | | |
| | <u>44/76</u> | | |
| | <u>48/76</u> | | |
| | <u>49/76</u> | | |
| | <u>150/76</u> | | |

9. The attention of authorities is drawn to 4 points relating to 'notices of intention' served in response to applications for planning permission for 'relevant' development (local authorities in Wales, although not directly affected except by (ii) below, will no doubt wish to be aware of these points):—

- (i) such notices are no longer required;
- (ii) entries in the local land charges register relating to previous notices should be removed;
- (iii) the suspension of any planning permission as a consequence of a notice of intention to acquire has been lifted, and any applicants whose permissions were still suspended at the time the 1980 Act came into force should be informed accordingly; and
- (iv) any compulsory purchase powers under the Town and Country Planning Act 1971 abandoned as a result of a notice of intention *not* to acquire (or where the council were deemed to have served such a notice) have been restored; similar provision is made as respects the compulsory purchase powers of the Land Authority for Wales.

10. Four minor provisions of the Community Land Act (Sections 37, 38, 41, and 47), are re-enacted in Part XIV. The first three deal, respectively, with extended Crown acquisition powers, (Sections 122 and 123), exclusion of the special Parliamentary procedure in the compulsory acquisition of land from public bodies other than the National Trust (Section 120), and certification of appropriate alternative development (Section 121). The fourth consists of amendments to the Land Compensation Act 1961, which for ease of reference are shown in full in Schedule 24.

11. Section 90 and paragraph 18 of Schedule 15 amend Section 194(2)(d) of the Town and Country Planning Act 1971. That provision, as originally enacted, enabled an authority in certain circumstances to serve a blight counter-notice stating that they did not intend to acquire the land within fifteen years, but this period was reduced to 10 years by the Community Land Act 1975 and the circumstances in which it applied extended. The amendment in paragraph 18 of Schedule 15 restores the original 15-year span and the limited circumstances to which it applies.

Land Authority for Wales—Register of Land Holdings

12. Regulations (SI 1980/1856) have recently been made under Schedule 21, paragraph 7 requiring the Land Authority for Wales to continue keeping a register of its acquisitions, holdings, and disposals of land. District councils in Wales should note that extracts from this register will no longer need to be kept at their offices; appropriate extracts will instead be available for public inspection at the Land Authority's two area offices at Carmarthen and Wrexham.

Land Compensation

13. Part I of the Land Compensation Act 1973 required that claims under it should be made during the two year period beginning on the expiry of twelve months from the relevant date. Section 112 amends this provision by removing the two year time limit in respect of all works to which Part I applies for which the claim period is running or has yet to begin on 13 November 1980. Claims may now be made after the 'first claim day' (formerly the start of the claim period). The special provisions for claims in respect of property disposed of in the first year after the relevant date are unaffected. Section 112 also applies the Limitation Acts to these claims

and those described in paragraphs 13 and 14 below, with the effect that the right to claim is extinguished after six years.

14. Section 113 allows the Minister of Transport (in Wales the Secretary of State) to admit claims under Part I of the Land Compensation Act 1973 in certain circumstances where the original claim period has expired. The provision applies only to roads for which the Minister or Secretary of State was highway authority. Authorities are requested to refer any would-be claimants who may approach them in the first instance to the appropriate office of the Department of Transport or the Welsh Office.

15. Part III of the Land Compensation Act 1973 provides for home loss payments to be made to people who are compulsorily and permanently displaced from their homes in consequence of certain actions by public authorities. Claims had to be made within six months from the date of displacement. Section 114 removes the time limit in respect of persons displaced on or after 13 May 1980.

Assessment of Development Land

16. Section 116 of the Act empowers the Secretary of State to direct a council to make an assessment of the land in its area that it considers to be available and suitable for residential development; and also enables him to direct how the assessment is to be made, who is to be consulted, and what reports are to be produced.

17. The provision underlines the importance attached to such assessments but is essentially a reserve power. Circular 9/80 (Welsh Office Circular 30/80) asked authorities to ensure the availability at all times of a 5 years' supply of land for private house building consistent with structure and local plans. It also asked authorities to collaborate with builders in making assessments of the available land. The response has been very encouraging: assessments covering most of the country have got under way, and it seems unlikely that it will be necessary for the Secretary of State to exercise this power. In Wales the Land Authority has been invited by the Secretary of State for Wales, in pursuance of WO Circular 30/80 to take the leading role in the production of a regular series of basic housing land availability surveys.

Derelict Land

18. Section 117 of the Act enables grants for reclamation of derelict land to be paid to any person instead of just to local authorities. It also extends the scope of such grants to cover situations where land is derelict as a result of the collapse of disused underground mineral workings (excluding coal mines), and to be paid towards the costs of site surveys and of works to enable reclaimed land to be brought into use. In addition it provides, as an emergency measure, for the possibility of grant being paid to local authorities in anticipation of actual dereliction.

Gypsy Caravan Sites

19. Section 70 makes provision for grants towards the capital costs of local authority sites. It came into effect on Royal Assent. Such grants have been available in England and Wales since July 1979 by the authority of the Appropriation Acts, and the relevant procedures are contained in DOE Circular 11/79, which remains in force. Authorities should, however, note that the highest priority for grant-aid will be given to schemes providing long-stay sites. Transit sites and emergency stopping places will be considered only if a recognised and specific need is identified.

20. Part XVII contains amendments to the Caravan Sites Act 1968 and one amendment to the Caravan Sites and Control of Development Act 1960. These came into effect one month after Royal Assent, apart from the two exceptions mentioned below.

21. Section 173 removes the power to exempt metropolitan county councils and London borough councils from the duty of site provision under Section 6 of the 1968 Act, and also cancels all existing exemptions. This eliminates the anomalies identified in the Cripps Report over exemption and designation and thus provides an equitable basis throughout counties for further consideration of suitable site programmes. To allow some time for such consideration in areas previously exempted (but without any immediate assumption that provision is required) this repeal will not come into effect until 12 months after Royal Assent. The Cripps Report also recommended against the continued requirement on a county council, in providing a gypsy caravan site, to obtain a site licence from the relevant district council. Section 176 accordingly exempts county councils from this requirement, but they are advised to consult district councils about site facilities.

22. Section 175 amends the designation provision in Section 12 of the 1968 Act so as to permit individual districts or groups of districts within a county to be designated. This will avoid the present need for such districts to wait for solutions to be found over site provision throughout a county before obtaining the enhanced powers of control over unauthorised gypsy encampments that designation confers. These control powers are themselves revised by Section 174, which amends Section 11 of the 1968 Act so as to facilitate action through the magistrates courts for the removal of unlawfully parked caravans and their occupants, and so as to increase to £200 the maximum penalty prescribed for an offence under this section. Section 174 will come into effect 3 months after Royal Assent.

23. There have been relatively few applications for designation so far, but as Section 175 now provides greater scope and flexibility for designation, authorities will no doubt be interested in the criteria which the Department has evolved for considering applications. These are set out in Annex 2.

Further Information

24. Inquiries on this circular should be addressed to the appropriate point identified in Annex 3.

We are, Sir, your obedient Servants,

D P WALLEY, *Assistant Secretary*

B H EVANS, *Assistant Secretary*

The Chief Executive
County Councils }
District Councils } in England and Wales
London Borough Councils
The Peak Park Joint Planning Board
The Lake District Special Planning Board
The Council of the Isles of Scilly

The Town Clerk, City of London

The Director General, Greater London Council

[DOE B/103/15/10]

[CL 53/28/04]

ANNEX 1: RELAXATION OF CONTROLS

Pest Control (Prevention of Damage by Pests Act 1949)

Schedule 1
Paragraph 1

1. The repeal of Section 2(2) of the Prevention of Damage by Pests Act 1949, in paragraph 1 of Schedule 1 to the present Act, removes the power of the Minister of Agriculture, Fisheries and Food, the Secretary of State for Wales and the Secretary of State for Scotland to require local authorities to keep records and make reports on their duties under Part I of the 1949 Act.

Paragraph 2

2. The repeal of Section 12(1) of the 1949 Act, and the consequential amendment of Section 28(1), removes the power of the Minister of Agriculture, the Secretary of State for Wales and the Secretary of State for Scotland to direct the manner in which local authorities shall exercise their functions under Part I of that Act.

Filling Materials (Rag Flock and Other Filling Materials Act 1951)

Paragraphs 3 & 4

3. The repeal of Sections 6(5) and (6) and 7(5) and (6) of the Rag Flock and Other Filling Materials Act 1951 removes the right of appeal to the Secretary of State for the Environment against a local authority's refusal to grant or renew a licence for premises in respect of the manufacture or storage of rag flock. The grounds upon which such licences may be refused, however, remain limited by Sections 6(3) and 7(3) of the 1951 Act.

Paragraph 5

4. The repeal of Section 15(5) of the 1951 Act removes the power of the Secretary of State for the Environment to prescribe in regulations the fees which analysts may charge for testing samples, submitted to them by local authorities, of filling materials prescribed under the Act. The test fees prescribed in the Rag Flock and Other Filling Materials Regulations 1971 (SI 1971/1652) lapse with this repeal. Analysts are now free to negotiate with local authorities such fees as are appropriate for carrying out the work. In the absence of any prescribed fees under the Rag Flock legislation, Section 111 of the Local Government Act 1972 is sufficient to authorise the payment of fees by local authorities to analysts who have been requested by them, in the course of fulfilling their duty under Section 12 of the 1951 Act, to carry out tests.

Food Standards (Food and Drugs Act 1955)

Paragraph 6

5. The repeal of Section 99(2) of the 1955 Act removes the requirement to transmit to the Minister of Agriculture copies of public analysts' quarterly reports.

Paragraph 7

6. The repeal of Section 109(3) of the 1955 Act removes the power of the Minister of Agriculture to require not less than 14 days notice to be given when a food and drugs authority is to institute proceedings for false labelling or advertising.

Fertiliser and Animal Feedstuff Standards (Agriculture Act 1970)

Paragraphs 8 & 9

7. The repeal of Sections 67(7) and 80(2) of the Agriculture Act 1970 removes the powers of Ministers to require enforcement authorities in England, Scotland and Wales to render annual returns of enforcement activities and in England and Wales, to notify central government before undertaking prosecutions. This repeal will not, of course, prevent such information being supplied.

Emergencies and Disasters (*Local Government Act 1972*)

Schedule 1
Paragraph 10

8. The repeal of Section 138(2) of the Local Government Act 1972 removes the requirement on local authorities to notify the Secretary of State for the Environment, or the Secretary of State for Wales, of action taken under Section 138(1), and also abolishes the Secretaries of State's power of direction. The powers of local authorities under the Section remain unchanged.

Slaughterhouses (*Slaughterhouses Act 1974*)

Paragraph 11

9. The repeal of Section 2(6) and (7) of the 1974 Act removes the powers of the Minister of Agriculture and the Secretary of State for Wales to make regulations under these sections, and in future it will be left to local authorities to determine the form of licences, applications and records kept. As a consequence, the Slaughterhouse Licences (Forms and Records) Regulations 1959 lapse.

Paragraphs 12 & 13

10. The amendment to Sections 12(1) and 16(1)(a) of the 1974 Act removes the powers of the Minister of Agriculture and the Secretary of State for Wales to require local authorities to make byelaws relating to slaughterhouses and knackers' yards.

Smoke Control Orders (*Clean Air Act 1956*)

Schedule 2
Paragraph 2

11. Local authorities are now not required to seek the Secretary of State's confirmation to smoke control orders unless those orders revoke or vary orders made before the passing of the Act. A separate Circular will be issued dealing with the administrative procedures on smoke control orders and other clean air matters. Until such revised procedures are introduced local authorities should continue to apply for financial approval for individual smoke control orders sending to the Department the same information as before; this can be done during the period allowed for objections.

Waste Collection, Disposal and Street Cleaning (*Control of Pollution Act 1974*)

Paragraphs 7-11 & 13

12. Various ministerial regulation-making powers under the Control of Pollution Act 1974 are now repealed. They are as follows:—

| | <i>Matter</i> | <i>Enabling power in 1974 Act</i> |
|---|---|-----------------------------------|
| Paragraph 7 “(See note (1), page 8)” | (a) Plan-making by waste disposal authorities. | Section 2(2) and (3) |
| Paragraph 8 | (b) Content of a disposal licence application. | Section 5(1) |
| Paragraph 8 | (c) Concurrent processing of applications for planning permissions and for disposal licences. | Section 5(2) |
| Paragraph 8 | (d) Persons to be consulted before disposal authorities issue a disposal licence. | Section 5(4) |
| Paragraph 9 | (e) Conditions in disposal licences. | Section 6(1) |
| Paragraph 9 “(See note (2), page 8)” | (f) Particulars to be included in a register of disposal licences. | Section 6(4) |

| | <i>Matter</i> | <i>Enabling power in 1974 Act</i> |
|---|---|---------------------------------------|
| Schedule 2 Paragraph 9 | (g) Persons to be consulted before disposal authorities pass a resolution governing the operation of waste disposal sites on land occupied by the authorities. | Section 11(3) |
| Paragraph 9 “(See note (2), below)” | (h) Particulars to be included in a register of disposal licences. | Section 11(10) |
| Paragraph 10 “(See note (3), below)” | (i) Conditions for use of receptacles for controlled waste. | Section 13(7) |
| Paragraph 11 “(See note (4), below)” | (j) Detailed form and procedure for notices which a local or highway authority may serve to prohibit parking to facilitate street cleaning; and the covering up of traffic signs and parking meters while cleaning takes place. | Section 23(2) and (3) |
| Paragraph 11 | (k) Detailed form of further notices to be displayed and steps to be taken by a highway or local authority to cancel a notice prohibiting parking where street cleaning operation is terminated early or does not take place. | Section 23(5) |
| Paragraph 13 | (l) Detailed form of maps showing location of pipes provided by disposal authorities for transporting heat and waste. | Section 28(1) |

Notes:

(1) Paragraph 7 of Schedule 2 also repeals the Secretary of State's power to direct a disposal authority as to the time by which it is to perform its plan-making duty.

(2) Although these powers under Sections 6 and 11 are repealed, disposal authorities now have a duty to keep copies of disposal licences, and of resolutions, in the register of disposal licences.

(3) Although these powers under Section 13 are repealed, a new power is given to a collection authority to serve a notice on the occupier of premises requiring him to take whatever action is specified in the notice with respect to any of the matters that were to have been covered by the regulations.

(4) Although these powers under Section 23 are repealed, a new duty is placed on highway or local authorities to cover up traffic signs and parking meters while a street cleansing operation takes place.

Noise Abatement Orders (*Section 63 of the Control of Pollution Act 1974*)

Paragraphs 14 & 18 13. Local authorities are no longer required to obtain the Secretary of State's confirmation to noise abatement orders. Instead a local authority is required to give adequate notice of intention to make an order. Careful selection and description of the classes of premises which will become subject to control and the early distribution of full information about the order and its effects will be even more important.

14. A local authority is also now required to give proper consideration to objections made to the proposed order and not withdrawn. How it does so will be for each local authority to decide; it may proceed on written statements or by discussing the grounds of objection with objectors. Once it has reached a decision, the local authority should be able to give its reasons for the decision if required to do so.

15. The revised procedure will apply to orders revoking or varying existing orders. Other appeals procedures in the implementation of noise abatement orders remain unaltered.

16. Paragraph 2.9 of Appendix 2 to Circular 2/76 and Welsh Office Circular 3/76 and the model noise abatement order in those appendices are hereby cancelled. The revised model order is now shown at the end of this Annex.

Questions as to Local Authority Areas (*Section 73(2)(a) of the 1974 Act*)

Schedule 2
Paragraph 15

17. The Secretary of State is now no longer required to determine whether a noise is within the area of a local authority.

Commons (*Commons Act 1876 and 1899*)

Schedule 3
Paragraph 1

18. Section 8 of the Commons Act 1876, which provided that "urban sanitary authorities" (now District Councils) may, with the sanction of the Secretary of State, contribute towards the cost of maintenance of urban commons, is repealed by paragraph 1 of Schedule 3.

Paragraph 2

19. The requirement for the Secretary of State to confirm schemes of regulation made under Section 2 of the Commons Act 1899 in respect of common land is removed. As a consequence, the Secretary of State will no longer incur expenses in connection with such schemes and the provision in Section 11 for the recovery of such expenses from District Councils is superfluous. Section 11 is amended accordingly.

Paragraph 3

20. The need for the Secretary of State to approve, under Section 12 of the 1899 Act, contributions by the council of an urban district (now a District Council) towards the expenses of any other council in connection with a scheme of regulation made under Section 2 of the Act is removed.

Suspension of Public Access to the Countryside to Avoid Exceptional Risk of Fire (*Section 69 National Parks and Access to the Countryside Act 1949*)

Paragraph 7

21. Under Section 69 of the 1949 Act the Minister of Agriculture, Fisheries and Food and the Secretary of State for Wales were empowered, in exceptional weather conditions where there is a risk of fire, to suspend the operation of Section 60(1) of the 1949 Act so as to restrict public access to land covered by an access agreement or order. This power is now transferred to the county planning authority.

Caravan site licences (*Section 3(2) Caravan Sites and Control of Development Act 1960*)

Paragraph 10

22. Section 3(2) of the 1960 Act provided that an application to a local authority for a caravan site licence must be in such form as the Minister might by order prescribe. An order (SI 1960/1474) was made and came into operation on 29 August 1960. This power of prescription is now

removed, and the provisions amended so as to require the applicant to give the local authority such particulars in connection with the application as they may reasonably require.

GLC Powers to Establish Parks (*London Government Act 1963*)

Schedule 3
Paragraph 11

23. Under Section 58(1) of the 1963 Act there were certain circumstances in which the Greater London Council had to seek Ministerial approval that a park they wished to establish was for the benefit of an area of Greater London substantially larger than the boroughs in or near which the park was to be provided. It is still intended that London borough councils should be responsible for local parks, and the GLC only for parks of wider significance. As a result of paragraph 11 of Schedule 3, however, it will now be for the councils themselves to decide into which category a particular proposal falls.

Provision of Caravan Sites (*Caravan Sites Act 1968*)

Paragraph 13

24. The revision of Section 9 removes all Ministerial controls saving only that originally provided in subsection (2).

Removal of Abandoned Vehicles (*Refuse Disposal (Amenity) Act 1978*)

Paragraphs 14-16

25. The powers of prescription relating to the manner of giving notice in the following provisions of the Refuse Disposal (Amenity) Act 1978 are now repealed:—

Section 3(2) (notice to be given before, and of making objection to, the removal of an abandoned vehicle).

Section 6(2) (the notice to be given before, and of making objection to, the removal of certain refuse).

Section 4(4) (information to be given to certain persons is also repealed). Local authorities can now decide what information they will give out about disposed vehicles and to whom.

Closing Orders (*Shops Act 1950*)

Schedule 4
Paragraph 1

26. The combined effect of these amendments to the Shops Act 1950 is to remove the need for local authorities to obtain the consent of the Home Secretary to make and revoke orders (made under the provisions of Section 8 of the 1950 Act) which fix closing hours which are earlier than the general closing hours of 8 pm (or 9 pm on one late day each week).

Weights & Measures (*Weights and Measures Act 1963 and 1979*)

Paragraphs 2-5, 8-9
and 11

27. The bulk of Schedule 4 to the Act is concerned with freeing local authorities from constraints relating to weights and measures. It provides that local authorities instead of the Secretary of State shall decide on:—

(a) the working standards and testing and stamping equipment needed to enable their inspectors to carry out their functions (paragraphs 2 and 4);

(b) the hiring in or the making available to other persons of certain standards or equipment (paragraph 3); and

(c) the level of fees that their inspectors are to charge for adjusting a trader's weights or measures (paragraph 8) or for inspecting, testing or certifying equipment (paragraphs 5, 9 and 11). It is understood that the Local Authorities Co-ordinating Body on Trading Standards will be recommending a scale of fees.

Schedule 4
Paragraphs 6, 7, 12

28. Paragraph 7 abolishes the requirement for each authority to notify the Secretary of State when persons take up or cease to hold appointment with the authority as inspectors of weights and measures. Paragraph 6 removes the power of the Secretary of State to cause a local inquiry to be held into a complaint that a local weights and measures authority is not properly discharging its functions under the Acts and also removes some supplementary provisions. Paragraph 12 makes a consequential amendment to the 1979 Act.

Inquiries under the Trade Descriptions Act 1968, Consumer Credit Act 1974 and Estate Agents Act 1979

Paragraph 10

29. Paragraph 10 of the Schedule removes the powers given to the Secretary of State by the Trade Descriptions Act, the Consumer Credit Act and the Estate Agents Act to cause a local inquiry to be held into a complaint that a local authority is not properly discharging its functions under the Acts. It also removes incidental provisions relating to the evidence at, and costs of, an inquiry and to the publication of the report of the person holding it.

Allotments

30. The following controls over and duties of local authorities in relation to the provision and management of allotments are removed:—

Schedule 5

Small Holdings and Allotments Act 1908

Section 28(3) The requirement for rules made by local authorities for the management of allotments to be confirmed by the Secretary of State.

Section 32(2) The requirement for the Secretary of State to approve the use for other capital purposes of any proceeds from the sale of allotment land which are surplus to allotment needs.

Section 47(1) Tenants' rights of appeal to the Secretary of State against a local authority's prohibition of improvements to allotments.

Section 49(2) The requirement for the Secretary of State to consent to the making by local authorities of grants or advances to co-operative allotment societies; and the power of the Secretary of State to make regulations governing the making of such grants or advances.

Section 54 The duty on local authorities to keep separate allotment accounts; and the requirement for the Secretary of State to approve the use of receipts for other purposes than allotments.

Section 59 The duty on local authorities to make an annual report to the Secretary of State; and the duty on the Secretary of State to make an annual report to Parliament.

Land Settlement (Facilities) Act 1919

Section 22(1) The requirement under this sub-section for the consent of the Secretary of State to be obtained to the appropriation of allotment land to other purposes. It should be noted that the Secretary of State's consent to the appropriation of allotment land is still required under Section 8 of the Allotments Act 1925.

Allotments Act 1922

Section 20 The Secretary of State's default powers in respect of Outer London Boroughs.

Allotments Act 1925

Section 13 The duty of local authorities to include in their annual report under Section 59 of the Small Holdings and Allotments Act 1908 (now repealed) details of land purchases for allotments.

The removal of these controls does not affect the statutory duty of local authorities (save those in Inner London which have discretionary powers only) under Section 23(1) of the Small Holdings and Allotments Act 1908 that, where they are of the opinion that there is a demand, they shall provide a sufficient number of allotments.

Charges and rates of interest

Schedule 6

31. The bulk of Schedule 6 is concerned with enactments which enable local authorities to recover expenditure incurred on works undertaken by them together with interest on any unpaid sums. It enables individual local authorities to charge such reasonable interest rates on recoverable expenses as they themselves determine.

32. Before the Local Government Act 1972 the maximum rates of interest under the enactments concerned were fixed by the Minister by a series of statutory instruments. The statutory instruments had to be revised from time to time to reflect changes in interest rates generally. Section 171 of the Local Government Act 1972, however, dispensed with the need for statutory instruments by tying the rate of interest in each case to a Public Works Loan Board (PWLB) rate. The PWLB interest rates are promulgated to local authorities by circular letter, formerly by the Department of the Environment and currently by the PWLB themselves. Since the 1972 Act certain further enactments authorising interest to be charged on recoverable expenses have also tied the interest rate to that specified under Section 171 of the 1972 Act. Section 171 of the Local Government Act 1972 is repealed by an appropriate reference in Part VI of Schedule 34 to the present Act, and the specific provisions to which it related are amended accordingly.

Schedule 2
Paragraph 17

Schedule 6
Paragraphs 4-5, 7-9
12, 14, 16-21

Schedule 7
Paragraphs 3 & 6(4)

33. The provisions that are amended are:—

Section 291(3) Public Health Act 1936 (rates of interest on charges for works).

Section 10(2) Coast Protection Act 1949 (regulations as to rates of interest).

Section 10(3) & (5) Housing Act 1957 (rates of interest).

Sections 181(1), 211(2) and 264(1) & (2) Highways Act 1959.

Section 18(3) Housing Act 1961 (expenses incurred in carrying out certain works).

Section 80(3) Housing Act 1964 (expenses incurred in carrying out certain works).

Section 23(5) Mines and Quarries (Tips) Act 1969 (expenses).

Section 19(6)(a) Greater London Council (General Powers) Act 1972 (recovery of expenses in respect of restoration of gas and electricity services).

Section 121(1) Local Government (Scotland) Act 1973.

Section 90(2)(b) Control of Pollution Act 1974.

Sections 76(2) & (3), 81(2)(b), 82(6) & 94(3)(b) Housing Act 1974.

Sections 24(6) & 33(3) Local Government (Miscellaneous Provisions) Act 1976.

34. The provisions that are repealed are:—

Section 10(6) Housing Act 1957.
Sections 181(5), 246(2) and 264(5) Highways Act 1959.
Section 18(8) Housing Act 1961.
Section 171 Local Government Act 1972.
Section 19(6)(c) Greater London Council (General Powers) Act 1972.
Section 76(6) Housing Act 1974.

35. From the date when these amendments and repeals came into effect, that is 13 November 1980, local authorities (and the other bodies to which the amendments apply) entitled under any of these enactments to charge interest on recoverable expenses have been able to set such interest rates as seem reasonable to them, no matter when the relevant expenses were originally incurred. Authorities should use their own discretion in determining interest rates and should be prepared to defend their judgement as to what are "reasonable" rates of interest to their auditors and, if need be, to the courts.

Schedule 6

Paragraphs 1-2, 6
10-11, 13 and 15:

36. The remainder of Schedule 6 is concerned with changes to allow local authorities to charge such reasonable fees as they may determine under the various enactments in place of fees which are at present prescribed by the responsible Minister. The enactments concerned are:—

Section 46 Town Police Clauses Act 1847.
Sections 1 & 3 Theatrical Employers Registration Act 1925.
Section 2(1), 6(1) & 7(1) Rag Flock and Other Filling Materials Act 1951.
Section 8(2) Public Libraries and Museums Act 1964.
Paragraph 3 of Schedule 1 Theatres Act 1968.
Section 5(3) & 6(2) Poisons Act 1972.
Section 1(2) Breeding of Dogs Act 1973.

Highways

Schedule 7

37. Schedule 7 removes a number of Ministerial controls over local highways activities as follows:—

Paragraph 1 repeals the need for a local highway authority to seek the Secretary of State's approval under the following provisions:—

Paragraph 1(1)

Section 53 of the National Parks and Access to the Countryside Act 1949*—to provide and operate a long distance ferry.

Paragraph 1(2)

Section 26(3) of the Highways Act 1959—to provide and maintain a new road-ferry.

Paragraph 2 repeals certain powers of the Secretary of State in relation to footpaths and bridleways as follows:—

Paragraph 2(1)

Section 29(3) of the Highways Act 1959—to direct a local authority or national parks planning board to make an order to create a footpath or bridleway. The Secretary of State retains the power to make an order himself.

Paragraph 2(2)

Section 30(2) of the Highways Act 1959—to determine an application against works which a highway authority requires to be carried out to a newly created footpath or bridleway.

Paragraph 2(4)

Section 112(5) of the Highways Act 1959—to direct a local authority or national parks planning board to make an order to stop up or divert a footpath or bridleway. The Secretary of State retains the power to make an order himself.

Schedule 7
Paragraph 2(5)

Section 126(2) of the Highways Act 1959—to determine an appeal against a highway authority's refusal to permit the erection of a stile etc, in a footpath or bridleway.

Paragraph 2(6)

Section 29(4) of the Countryside Act 1968 is amended to remove the need for a highway authority to consult the Minister of Agriculture, Fisheries and Food before they may refuse to make a temporary diversion order to extend the period over which a footpath or bridleway may remain ploughed.

Paragraph 3 amends Sections 181(1), 211(2) and 264 of the Highways Act 1959 to empower a local authority to charge, on sums recoverable under these provisions, such reasonable rates of interest as they may determine.

Paragraph 4 amends Section 233(2) and (5) of the Highways Act 1959 to repeal:—

(a) the Secretary of State's power to determine for how many years a local authority may continue to charge tolls on a toll highway acquired from a private interest; and

(b) the need for the Secretary of State's approval to an agreement between two or more local authorities for the management of a toll highway.

Paragraph 5 amends Section 2 of the Highways Act 1971. The Secretary of State may now make procedural regulations to provide for a local highway authority now to confirm its own orders made under this Section (to stop up a private means of access causing danger to traffic), except where there are unwithdrawn objections from owners, occupiers or lessees of the premises whose access would be stopped up.

Paragraph 6 repeals the power of the Secretary of State to determine disputes under the following provisions:—

Paragraph 6(2)

Section 5(3) of the Local Government (Miscellaneous Provisions) Act 1953*—provision of bus shelters.

Paragraph 6(3)

Section 108(10) of the Highways Act 1959—refusal of the GLC to consent to an application to a magistrates' court for an order to stop up a metropolitan road.

Paragraph 6(4)

Section 246(2) of the Highways Act 1959—what part of a sum paid to or recovered by a local highway authority under certain provisions of the Act represents capital.

Paragraph 6(5)

Schedule 3 of the Public Health Act 1961—provision of guard rails in private streets, safety barriers or litter bins.

Paragraph 6(6)

Section 29(3) of the Local Government Act 1966—exercise of a lighting authority's power in respect of a highway for which they are not the highway authority.

Paragraphs 7 and 8 repeal the following, unrelated, powers of the Secretary of State:—

Paragraph 7(a)(i)

The proviso to Section 73(1) of the Highways Act 1959—to direct highway authorities to consult the Secretary of State about proposed building lines for classified roads.

Paragraph 7(a)(ii)

Sections 95 and 96 of the Highways Act 1959—to make regulations about the provision and construction of cattle-grids.

| | |
|---------------------------|---|
| Schedule 7 | Section 120 of the Transport Act 1968*—to prescribe the minimum height for parapets of bridges carrying roads over railways. |
| Paragraph 7(b) | |
| Paragraph 8(1) | Section 280(2), (3) and (4) of the Highways Act 1959—to make regulations prescribing the form of notices, etc, to be used in the dedication of highways and the execution of private street works. |
| Paragraph 8(2), (3) & (4) | Sections 288 of the Highways Act 1959, 16(4) of the Highways (Miscellaneous Provisions) Act 1961 and 85 of the Highways Act 1971—to make orders to bring local Act powers into line with those of general highways legislation. |

38. These changes (except where marked with an asterisk) are incorporated in the Highways Act 1980. This Act, which came into force on 1 January 1981, consolidates the existing provisions of the Highways Act 1959 and 1971 and other enactments relating to highways. It also incorporates a number of amendments which were recommended in a report by the Law Commission (Cmnd 7828: Law Commission No 100) as being necessary to produce a satisfactory consolidation.

Road Traffic

| | |
|--------------|---|
| Paragraph 9 | 39. Section 1(2) of the Road Traffic Regulation Act 1967 is amended to give local authorities power to make an order regulating traffic on a trunk road as part of a scheme of general traffic control. The power is subject to consent of the appropriate Minister responsible for traffic management on trunk roads. Obsolete Ministerial powers to make orders for non-trunk roads at the request of a university are removed. |
| | 40. Section 9(2) of the 1967 Act is recast to give local authorities power to make an experimental order relating to a trunk road, subject to Ministerial consent, as part of an experimental scheme of general traffic control. Section 9(3) is rewritten so as to extend from 6 to 18 months the maximum period of an experimental traffic order, thus bringing the powers of local authorities into line with those of the Greater London Council. Section 9(5) is amended to extend to local authorities the GLC's power to appoint an officer to modify or suspend experimental traffic orders in certain circumstances after consulting the police, thus removing the need for the variation order. |
| Paragraph 10 | 41. Section 21 of the Road Traffic Regulation Act 1967 is modified to empower local authorities to install pedestrian crossings on non-trunk roads in their area, or to alter or remove them, without first submitting a scheme to the appropriate Minister for approval. This is subject to consultation procedures and written notice to the Minister. Ministerial default powers are omitted. |
| Paragraph 11 | 42. Section 26(5) of the Road Traffic Regulation Act 1967 is repealed thus removing Ministerial power to vary or revoke orders made by a local authority to restrict vehicular access to roads used as playgrounds for children. Under Section 84B(1) of the 1967 Act an order which prevented access to premises for more than 8 hours in 24 would continue to require Ministerial approval where there were unwithdrawn objections from frontagers. |
| Paragraph 12 | 43. Section 84B(1) of the Road Traffic Regulation Act 1967 is amended to limit Ministerial involvement in local authorities' traffic regulation orders which prevent vehicular access to premises for more than 8 hours in 24, to cases where there are unwithdrawn objections from frontagers and, in relation |

to experimental orders under Section 9 of the 1967 Act, to cases where there are unwithdrawn objections from any person to the prevention of loading and unloading, or from public transport operators.

Schedule 7
Paragraph 13

44. Section 32 of the Countryside Act 1968 is altered to limit the appropriate Minister's power to make traffic regulation orders on roads in special areas of the countryside after receiving a request from the Countryside Commission, to cases where the highway authority has first been approached and has refused to act.

Paragraph 14

45. Paragraph 14 of Schedule 7 removes various obsolescent or unimplemented provisions for the imposition of restrictions on bridges carrying roads and for appeals against such restrictions to be referred to the appropriate Minister. Authorities will continue to rely on Sections 1, 6, 9 and 12 of the Road Traffic Regulation Act 1967 which enable prohibitions and restrictions to be placed on any road to which the public has access, including any bridge over which such a road passes.

Paragraph 15

46. Section 1(9) of the Road Traffic Regulation Act 1967 is repealed, thus removing Ministerial powers to repeal or amend certain local Act provisions.

Acquisition, appropriation and disposal of land

Schedule 23
Paragraph 1

47. The acquisition of Land (Authorisation Procedure) Act 1946 is amended so as to remove the need for acquiring authorities to obtain the consent of the confirming authority to dispense with the service of notices of the making of a compulsory purchase order, where it is impracticable to ascertain the name of the owner of land.

Paragraph 2

48. The repeal of Section 77(4) of the National Parks and Access to the Countryside Act 1949 removes the power of the Minister of Agriculture, Fisheries and Food to acquire land in a National Park for public access for open air recreation.

Paragraphs 3-7 and 9-20

49. The Town and Country Planning Acts 1959 and 1971 and the Local Government Act 1972 are amended so that appropriations and disposals of open space land (including that which is subject to public trusts) can be effected without Ministerial consent. Instead authorities will be required to advertise their proposals for two consecutive weeks in a local newspaper and consider any objections which may be received. Local authorities will also be able to appropriate and dispose of land acquired compulsorily without consent.

Paragraph 8

50. Section 119 of the Town and Country Planning Act 1971 is also amended so that consent will not be required for the acquisition of land by agreement, for the purposes set out in subsection (1) of that section.

Land Drainage (*Land Drainage Act 1976*)

Section 181

51. Section 181 gives the Minister of Agriculture, Fisheries and Food, and the Secretary of State for Wales, acting jointly, power to specify, by order, the statutory limit on drainage rate precepts by water authorities on local authorities contained in Section 46(5) of the Land Drainage Act 1976. This is the limit which cannot be exceeded without the consent of a majority of the local authority representatives on the land drainage committee of the water authority.

Social Services (*Local Authority Social Services Act 1970*)

Section 183

52. The requirement in the Local Authority Social Services Act 1970 on all social service authorities to appoint a social services committee and a director of social services remains. But through Section 183(1) the present Act repeals the requirement in Section 3(1) of the 1970 Act for authorities to obtain the consent of the Secretary of State before any non-social services matter is referred to, or dealt with, by the social services committee. However, his approval is still required to the employment of a director of social services on non-social services functions.

53. Section 183(3) repeals the power in the 1970 Act to make regulations prescribing the qualification for a person's appointment as a director of social services and the requirement for the Secretary of State to be consulted about these appointments in the absence of such regulations. Authorities, therefore, no longer need to send the Secretary of State particulars of applicants for these posts but it would be helpful if a change in directorship were notified to the appropriate regional office of the Department of Health and Social Security's Social Work Service, or in the case of Wales to the Chief Social Work Service Office, Welsh Office.

54. LASS L 14/73 and Welsh Office Circular 90/73 (concerning the appointment of Directors of Social Services) are now obsolete.

Commission for Local Administration (*Local Government Act 1974*)

Section 184

55. Section 184(1) amends Section 32(3) of the 1974 Act to ensure the right of access by a Local Commissioner to information needed by him to carry out an investigation. The amendment provides that a notice issued under the section cannot prevent the disclosure of information to the Local Commissioner or his staff, but can prevent disclosure by him to any other person. Section 184(2) makes similar provision from Scotland.

Pleasure Boats

Sections 185-186

56. Section 185 provides power for district and London borough councils and the Common Council of the City of London to make byelaws for the regulation of pleasure boats and vessels which are let for hire to the public. The matters in respect of which local authorities may make byelaws under the section are similar to those covered by Section 172 of the Public Health Act 1875, except that there is no power to fix rates of hire. Section 172 of the 1875 Act is repealed in Schedule 34. Local authorities' powers under Section 185 do not extend to pleasure boats and vessels operating in waters which may be controlled by the British Waterways Board, or a water, navigation or harbour authority:

57. Existing byelaws made under Section 172 of the 1875 Act which fix the rates of hire for pleasure boats and byelaws which apply to pleasure boats and vessels operating on waters which may be controlled by the British Waterways Board, or a water, navigation or harbour authority, cease to have effect on Royal Assent (13 November 1980). All other byelaws made under that section will continue to have effect as before. The British Waterways Board and water, navigation and harbour authorities should, where necessary, take steps to assume active responsibility for the regulation of pleasure boats and vessels on waters under their control where local authority byelaws lapse.

58. Section 186 amends in two ways Section 94 of the Public Health Acts Amendment Act 1907 which provides local authorities with a power to licence hire pleasure craft. First, the new subsection (8) excludes from the scope of the local authority's licensing power under Section 94 pleasure boats and vessels operating on canals owned or managed by the British Waterways Board. Second, the new subsection (9) makes clear that the expression "let for hire" in Section 94 means "let for hire to the public". Private transactions are thus excluded from the licensing requirement.

Crematoria

Section 188

59. New Crematoria will no longer need to have had their sites and plans approved by the Secretary of State for the Environment or the Secretary of State for Wales before they can be brought into use. However, under Section 1(1) of the Cremation Act 1952 as now amended, they still cannot be brought into use before being certified to the Home Secretary as complete and properly equipped for purposes of disposing of human remains by cremation.

Publicity for Greater London

Section 190

60. Section 190 repeals Section 73(2) of the London Government Act 1963 and Section 144(3) of the Local Government Act 1972, which restricted the powers of local authorities in Greater London to give publicity to the commercial and industrial advantages of their areas.

Grants Towards the Improvement or Conversion of Industrial and Commercial Buildings within Improvement Areas (*Inner Urban Areas Act 1978*)

Section 191

61. Section 191(1) amends Section 6(3) of the Inner Urban Areas Act 1978, which limits the amount of grant payable towards the cost of converting or improving industrial and commercial buildings within industrial improvement areas, to the lower of 50% of the cost of the works or £1,000 (or such other amount as the Secretary of State for the Environment or Secretary of State for Wales may specify) for each job created or preserved. The effect of Section 191(1) is to limit the maximum grant payable to 50% of the cost of carrying out the works.

Declaration of Industrial Improvement Areas (*Inner Urban Areas Act 1978*)

62. The effect of Section 191(2) is to terminate the general powers of the Secretary of State for the Environment or the Secretary of State for Wales, on the notification to him of the declaration of an improvement area under Section 4 of, and the Schedule to, the Inner Urban Areas Act 1978, to notify the local authority that all or part of an area so declared is not to be an improvement area. The Secretary of State's intervention powers are however retained in respect of the declaration of improvement areas within the area of an Urban Development Corporation. Local authorities continue to be required to notify the Secretary of State of all improvement area declarations.

THE CONTROL OF POLLUTION ACT 1974

The *Noise Abatement Order 19* .

The [local authority], in exercise of the powers conferred upon them by Section 63 of the Control of Pollution Act 1974, as amended by the Local Government, Planning and Land Act 1980 hereby make the following order:—

1. This order may be cited as the *Noise Abatement Order 19* , and shall come into operation on *19* .
2. The area described in the Schedule hereto [for the purposes of general identification only, and shown coloured on the map annexed hereto]* is hereby designated a noise abatement zone.
3. This order applies to the following classes of premises:—

Seal

[Sealing clause]

Schedule

Noise Abatement Zone designated by the *Noise Abatement Order 19* .

[If there is any conflict between the area described below and the area shown on the map annexed to the order the map is to prevail]*

*Note. If there is no map annexed to the order, the words in brackets should be omitted.

ANNEX 2: GYPSY SITES: DESIGNATION CRITERIA

1. To meet the terms of the new Section 12 of the Caravan Sites Act 1968 substituted by the 1980 Act, the appropriate Secretary of State needs to be satisfied that the sites provided are sufficiently diverse and suitably designed and managed to meet the accommodation needs, within reason, of gypsies residing in or resorting to a county or to a relevant part of that county, or to a London borough. Once designated, an authority should be able to handle any reasonable and foreseeable demands within its own area, as it would expect adjoining authorities. Designation may also be granted when the Secretary of State is satisfied that in the circumstances there is no need for any site provision.

Assessment of Needs

2. Half-yearly counts of gypsy caravans are now undertaken but any additional information available to a local authority could be useful in an overall assessment of the need.

3. Types of sites likely to be needed are:—

(a) Residential (long-stay sites with full facilities);

(b) Transit (short-stay sites with minimum facilities), and

(c) Emergency stopping-places (land with few or no facilities, to deal with unexpected incursions requiring a temporary facility. A statement of intent to provide this if necessary, rather than a detailed identification of sites, would be acceptable).

Gypsies finding their own seasonal—and perhaps traditional—accommodation and those with their own private sites relieve local authorities of any commitment, apart from the need to provide a public site should such private facilities disappear.

Consultation

4. The Department is available for consultation during any stage of development of an adequate network of sites for designation. It will be necessary for county councils and London boroughs to consult neighbouring authorities, gypsy representative organisations operating in the area, if any, and local voluntary support groups, where these might be able to provide relevant information. County councils will also need to consult closely with district councils, particularly where designation of districts or groups of districts is in mind.

Applications

5. The Department is always ready to consider requests from local authorities for some advance assurances about designation or to give informal consideration to the final form of such an application. However, no designation can be granted until an appropriate programme of sites has been fully developed and put into effective use. At that stage formal written application for designation should be submitted, summarising the needs of the area and the ways in which they have been met and setting out the views of those consulted.

6. Authorities who have already sought designation have been able to give assurances that enforcement powers would be used with compassion and this assurance will continue to be sought. This is not to preclude such

authorities from a proper use of their powers but, purely on humanitarian considerations apart, there are often distinct advantages in terms of community relationships and demands upon local resources in giving gypsies a reasonable opportunity to move voluntarily, if appropriate.

Reviews

7. Completed programmes will be expected to be sufficient, initially, for at least 5 years. The need for subsequent review by local authorities, bearing in mind their continuing statutory commitment, would depend upon local circumstances, including the degree to which the available accommodation was proving inadequate or excessive.

ANNEX 3 i

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SECTIONS OF THE ACT

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