



Public Health Act 1961

1961 CHAPTER 64

An Act to amend the provisions of the Public Health Act, 1936, relating to building byelaws, to make such amendments of the law relating to public health and the functions of county councils and other local authorities as are commonly made in local Acts, to amend the law relating to trade effluents and to amend section two hundred and forty-nine of the said Act of 1936. [3rd August, 1961]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

GENERAL

1 Construction

- (1) Part II of this Act shall be construed as one with Part II of the Public Health Act, 1936.
- (2) Part III of this Act shall be construed as one with Part V of the Public Health Act, 1936.
- (3) Part V of this Act shall be construed as one with the Public Health (Drainage of Trade Premises) Act, 1937, and references in Part V of this Act to that Act of 1937 are references to that Act as extended by orders under section twenty-two of the London County Council (General Powers) Act, 1953 (under which title Act of 1937 may be applied to areas outside London served by the London sewerage system).
- (4) Subject to the provisions of this Act, the provisions of the Public Health Act, 1936, set out in the following table shall apply in relation to Part IV and Part VI of this Act as if the said Part IV and the said Part VI were contained in that Act.

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2 Interpretation

- (1) In this Act "the Minister" means the Minister of Housing and Local Government.
- (2) Any reference in this Act to a parish council shall include a reference to the council of a borough included in a rural district.
- (3) In this Act the expression " local authority ", except where the context otherwise requires, means the council of a borough or urban or rural district, and includes the Council of the Isles of Scilly.
- (4) Any reference in this Act to the medical officer of health, or to a public health inspector, or to the surveyor, shall, in relation to premises in the district of a local authority, mean the medical officer of health, or a public health inspector, or the surveyor, of that local authority.
- (5) Any reference in this Act to any enactment shall be taken as a reference to that enactment as amended by or under any other Act, including this Act.

3 Extent

This Act shall not extend to Scotland or Northern Ireland or, save as otherwise expressly provided, to the administrative county of London.

PART II

SANITATION AND BUILDINGS

Building regulations

4 Power to make building regulations

- (1) The Minister shall have power to make regulations for all or any of the matters set out in sections sixty-one and sixty-two of the Public Health Act, 1936 (being the matters which local authorities can now regulate by building byelaws), and local authorities shall no longer have power to make building byelaws.

Regulations under this section shall be known as building regulations.

- (2) Any provision contained in building regulations may be made so as to apply generally, or in an area specified in the regulations, and the regulations may make different provision for different areas.
- (3) It shall be the function of every local authority to enforce building regulations in their district.
- (4) Local authorities shall, in relation to building regulations, have all such functions under sections sixty-four and sixty-five of the Public Health Act, 1936 (which confer power to pass plans, and to enforce building byelaws), as they have in relation to building byelaws; and building regulations shall provide in appropriate cases for the deposit of plans with local authorities, and for the giving of notices to local authorities.
- (5) Building regulations may include such supplemental and incidental provisions as appear to the Minister to be expedient.
- (6) If a person contravenes or fails to comply with any provision contained in building regulations he shall be liable to a fine not exceeding one hundred pounds and to a further fine not exceeding ten pounds for each day on which the default continues after he is convicted.
- (7) The power of making building regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

5 Application to building regulations of statutory provisions concerning building byelaws

- (1) Subject to the provisions of this section, for any reference—
- (a) to building byelaws as defined in section three hundred and forty-three of the Public Health Act, 1936, or
 - (b) to byelaws made under Part II of that Act with respect to buildings, works and fittings,

which occurs in that Act or in any other Act, or in any instrument having effect under any Act, there shall be substituted a reference to building regulations.

- (2) Subsection (1) of this section shall not apply to the definition of building byelaws in section one hundred and eighty-nine of the Housing Act, 1957, but in subsection (4) of section twelve, subsection (2) of section twenty-nine and subsection (2) of section

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fifty-nine of that Act references to building byelaws shall include references to building regulations.

- (3) References to building regulations shall be included in any references to byelaws in any of the following enactments, that is to say—
- (a) Part XII of the Public Health Act, 1936, except section three hundred and twelve ; and
 - (b) section seventeen of the Restriction of Ribbon Development Act, 1935 (which authorises a local authority as a condition of approving building plans to require the provision of means of entrance and egress from buildings),
- and in subsection (2) of section ninety of the Public Health Act, 1936, for the references to byelaws there shall be substituted references to building regulations.

6 Relaxation of building regulations

- (1) Subject to the provisions of this section, if the Minister, on an application made in accordance with the provisions of this Act, considers that the operation of any requirement in building regulations would be unreasonable in relation to the particular case to which the application relates, he may, after consultation with the local authority, give a direction dispensing with or relaxing that requirement.
- (2) If building regulations so provide as regards any requirement contained in the regulations, the power to dispense with or relax that requirement under subsection (1) of this section shall be exercisable by the local authority (instead of by the Minister after consultation with the local authority) :

Provided that any building regulations made by virtue of this subsection shall except applications made by local authorities and may except applications of any other description.
- (3) Building regulations may provide as regards any requirement contained in the regulations that the foregoing subsections of this section shall not apply.
- (4) An application under this section shall be in such form as may be prescribed by building regulations and shall contain such particulars as may be so prescribed.
- (5) The application shall be made to the local authority and, except where the power of giving the direction is exercisable by the local authority, the local authority shall at once transmit the application to the Minister and give notice to the applicant that it has been so transmitted.
- (6) An application by a local authority shall be made to the Minister.
- (7) The provisions of Part I of the First Schedule to this Act shall have effect as regards any application made under this section for a direction which will affect the application of building regulations to work which has been carried out before the making of the application.
- (8) Section sixty-three of the Public Health Act, 1936 (which is superseded by this section), shall cease to have effect.

7 Appeal against refusal by local authority to relax building regulations

- (1) If a local authority refuse an application to dispense with or relax any requirement in building regulations which they have power to dispense with or relax, the applicant

may by notice in writing appeal to the Minister within one month from the date on which the local authority notify the applicant of their refusal.

- (2) If within a period of two months beginning with the date of an application, or within such extended period as may at any time be agreed in writing between the applicant and the local authority, the local authority do not notify the applicant of their decision on the application, subsection (1) of this section shall apply in relation to the application as if the local authority had refused the application and notified the applicant of their decision at the end of the said period.
- (3) The notice of appeal shall set out the grounds of appeal, and a copy of the notice of appeal shall be sent to the local authority.
- (4) The local authority on receiving a copy of the notice of appeal shall at once transmit to the Minister a copy of the application and a copy of all documents furnished by the applicant for the purposes of his application.
- (5) The local authority shall at the same time give to the Minister in writing any representations which they desire to make as regards the appeal, and shall send a copy to the appellant.
- (6) If the Minister allows the appeal he shall give such directions for dispensing with or relaxing building regulations as may be appropriate.

8 Advertisement of proposal to relax building regulations

- (1) Subject to the provisions of this section, not less than twenty-one days before the Minister or a local authority give a direction under section six of this Act, the Minister or, as the case may be, the local authority shall publish in a local newspaper circulating in the area where the site of the work in respect of which the application is made is situated a notice—
 - (a) indicating the situation and nature of the work and the requirement to be dispensed with or relaxed, and
 - (b) stating that representations with regard to the effect which the direction may have on public health or safety may be made by a date specified in the notice, being a date not less than twenty-one days from the date of the notice,and before publication of the notice the Minister or the local authority may, as a condition of entertaining the application, require the applicant to pay or undertake to pay the cost of publication.
- (2) If it appears to the Minister or the local authority that any effect which the direction may have on public health or safety will be limited to premises adjoining the site of the works, the Minister or, as the case may be, the local authority need not publish a notice under the foregoing subsection, but in that case shall give such a notice to the owner and occupier of those premises.
- (3) No notice need be published or given under this section where the work in respect of which the application is made affects only an internal part of a building.
- (4) The Minister may, instead of himself publishing or giving any notice under this section, require the local authority to give or publish the notice.
- (5) Before giving the direction the Minister or, as the case may be, the local authority shall consider any representations duly made in pursuance of a notice published or given under this section.

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- (6) If, after a local authority have received representations under this section, they refuse the application to which the representations relate and an appeal is brought against their refusal, the local authority shall transmit to the Minister copies of those representations.

9 Consultation with Building Regulations Advisory Committee and other bodies

- (1) The Minister shall appoint a committee, to be known as the Building Regulations Advisory Committee, for the purpose of advising the Minister on the exercise of his power to make building regulations, and on other subjects connected with building regulations.
- (2) The Minister may pay such expenses incurred by members of the Building Regulations Advisory Committee as he may, with the approval of the Treasury, determine.
- (3) Before making any building regulations, the Minister shall consult the Building Regulations Advisory Committee and such other bodies as appear to him to be representative of the interests concerned.

10 Minor amendments

- (1) In subsection (2) of section sixty-one of the Public Health Act, 1936 (which as amended by the foregoing provisions of this Act enables building regulations to include provisions as to the giving of notices and deposit of plans), the word " estimates" inserted by section fourteen of the Statistics of Trade Act, 1947, shall cease to have effect, together with subsections (1) and (2) of the said section fourteen.
- (2) In subsection (4) of section sixty-four of the Public Health Act, 1936 (which defines the period within which plans must be passed or rejected by the local authority), for the words from " one month " to the end of the subsection there shall be substituted the words " five weeks or such extended period (expiring not later than two months from the deposit of the plans) as may before the expiration of the five weeks be agreed in writing between the person depositing the plans and the local authority " .
- (3) Section eighteen of the Ancient Monuments Consolidation and Amendment Act, 1913 (which gives power to relax byelaws), shall cease to have effect.
- (4) In subsection (1) of section seventy of the Public Health Act, 1936 (which requires local authorities to keep certain information available to the public), for the words from the beginning of the subsection to the words " appended thereto " there shall be substituted the words " Every local authority shall keep at their offices for inspection by the public at all reasonable times free of charge " .
- (5) For paragraph (c) of subsection (1) of the said section seventy there shall be substituted the following paragraph—
- “(c) in a district in which there is in force a local Act containing provisions which impose any obligation or restriction as to the construction, nature or situation of buildings, a copy of those provisions of the local Act”.
- (6) Subsection (3) of section twenty-five and subsection (2) of section sixty-six of the Public Health Act, 1936 (which contain transitional provisions consequent upon the enactment of that Act), shall cease to have effect.

11 Building regulations: transitionals and consequential amendments

- (1) The provisions of this Part of this Act as regards building regulations shall have effect subject to the transitional provisions in Part II of the First Schedule to this Act.
- (2) The enactments specified in Part III of the First Schedule to this Act shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Part of this Act relating to building regulations.

Sewers, drains and sanitary conveniences

12 Contribution to cost of sewerage highway

- (1) Where a local authority—
 - (a) resolve to construct a sewer in a street or part of a street which is a highway maintainable at the public expense, and
 - (b) include in the resolution a declaration that the construction of the sewer will, in the opinion of the local authority, increase the value of premises fronting the street or that part of the street,the provisions of this section shall have effect as respects the recovery by the local authority of payments from the owners of those premises in respect of the construction of the sewer.
- (2) A notice of any such resolution shall be published by the local authority in a local newspaper circulating in their district; and the resolution shall come into operation for the purposes of this section on the date of the publication.
- (3) This section shall not authorise the recovery of any payment in respect of any sewer if the construction of the sewer is not complete at the expiration of the period of two years beginning with the date on which the resolution concerning the sewer comes into operation.
- (4) This section shall not apply to any street or part of a street if at any time before the construction of the sewer there was in that street or part of a street a public sewer into which foul water could be discharged by virtue of section thirty-four of the Public Health Act, 1936 (which relates to the connection of premises with public sewers).
- (5) Subject to the provisions of this section, a payment shall be recoverable in respect of any premises fronting the street or part of the street in which the sewer is constructed—
 - (a) if a building is erected on those premises after the date on which the resolution comes into operation, and
 - (b) if that building is connected with the sewer for the purpose of discharging foul water.
- (6) Subject to the provisions of this section, the amount of the payment in respect of any premises shall be one-half of—
 - (a) the actual cost per yard of the sewer constructed in the street or part of the street, or
 - (b) the estimated cost per yard of a sewer having an internal diameter of nine inches constructed in the street or part of the street at a depth of seven feet,whichever is the less, multiplied by the extent in yards of the frontage to the street or part of the street of those premises.

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- (7) If a payment has become recoverable under this section by reference to any length of frontage, no further payment shall be recoverable by reference to that length of frontage.
- (8) The local authority may, on the application of the owner of any premises in respect of which a payment is recoverable under this section, remit any part of that payment on the ground that by reason of the extent of the frontage of those premises the amount of the payment is disproportionate to the benefit received by those premises from the construction of the sewer; and if the owner is dissatisfied with the decision of the local authority upon his application, or if the local authority do not within one month of his application give him notice of their decision, he may appeal to a magistrates' court, and that court may direct that any part of the payment be remitted on the said ground.
- (9) Where any part of a payment has been remitted under the last foregoing subsection in respect of any premises, subsection (7) of this section shall not apply, but any further payment which may be recoverable by reference to the frontage of those premises shall not exceed the amount remitted, and, for the purposes of this subsection, that amount shall be treated as distributed proportionately over the length of that frontage.
- (10) This section shall apply to a sewer whether or not the sewer is constructed in the district of the local authority, but shall not authorise the recovery of any payment in respect of any premises situated outside that district.
- (11) If a local authority have entered into any agreement (whether before or after the date on which this section comes into force) for the construction of a sewer for the benefit of any premises, this section shall have effect as respects the recovery of any payment in respect of those premises subject to the terms of that agreement.
- (12) The provisions of the Second Schedule to this Act shall have effect in relation to this section.

13 Contribution to cost of sewer in land subsequently laid out as street

- (1) Where a local authority—
 - (a) have, after the commencement of this Act, constructed a sewer in any land which has, after the construction of the sewer, been laid out as a street or as part of a street, and
 - (b) pass a resolution declaring that the construction of the sewer has, in the opinion of the local authority, increased the value of premises fronting the street or that part of the street,the provisions of subsections (5) to (9) of the last foregoing section shall have effect as respects the recovery by the local authority of payments from the owners of those premises in respect of the construction of the sewer.
- (2) A notice of any such resolution shall be published by the local authority in a local newspaper circulating in their district; and the resolution shall come into operation for the purposes of this section on the date of publication.
- (3) Where compensation due to the owner of any land under section two hundred and seventy-eight of the Public Health Act, 1936, in respect of damage sustained by reason of the construction therein of the sewer has been diminished by setting off any sum on account of the enhancement in value of the land by reason aforesaid, no payment shall be recoverable by virtue of this section in respect of any premises forming part of that land.

(4) Subsections (10), (11) and (12) of the last foregoing section shall apply to this section.

14 Evasion of liability to contribute under two last foregoing sections

- (1) If on a complaint by a local authority it is shown to the satisfaction of a magistrates' court—
- (a) that any premises which do not front a street or part of a street have by reason of any transfer of land been severed from any other premises which do so front (whether at the time of the transfer or subsequently), and
 - (b) that but for the transfer a payment under either of the two last foregoing sections would be recoverable in respect of the premises so severed, and
 - (c) that the transfer was intended for the purpose of evading liability to make any such payment,
- the court may make an order under this section.
- (2) An order under this section may direct that the premises so severed shall be deemed for the purposes of those sections to have a frontage to the street or part of the street of such extent in yards as may be specified in the order.
- (3) In this section " transfer " includes any disposal of land whether by way of sale, lease, exchange, gift or otherwise; and references to premises and to fronting shall be construed in the same manner as in the two last foregoing sections.

15 Recovery of cost of maintaining public sewers

In the proviso to subsection (1) of section twenty-four of the Public Health Act, 1936 (under which a local authority must, unless in their opinion immediate action is necessary, give seven days notice of any work for the maintenance of a sewer which is chargeable to owners of premises served by the sewer), for the words " unless in the opinion of the local authority immediate action is necessary, they " there shall be substituted the words " unless the medical officer of health or public health inspector certifies in writing to the local authority that immediate action is necessary, the local authority " .

16 Examination and testing of drains

The medical officer of health or public health inspector of a local authority may, as an officer of the local authority, exercise the powers conferred on the local authority by subsection (1) of section forty-eight of the Public Health Act, 1936 (which gives power to examine and test drains), without being empowered to act by the local authority.

17 Summary power to remedy stopped-up drains

- (1) If it appears to the medical officer of health or public health inspector that on any premises a drain, private sewer, water-closet or soil pipe is stopped up, he may by notice in writing require the owner or occupier of the premises to remedy the defect within forty-eight hours from the service of the notice.
- (2) If the notice is not complied with, the local authority may themselves carry out the work necessary to remedy the defect and may, subject to the next following subsection, recover the expenses reasonably incurred in so doing from the person on whom the notice was served:

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Provided that, where the expenses do not exceed two pounds, the local authority may, if they think fit, remit the payment of the expenses,

- (3) In proceedings to recover expenses under this section the court may inquire—
- (a) whether any requirement contained in a notice served under this section was reasonable, and
 - (b) whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings,

and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

- (4) The provisions of this section shall be without prejudice to section thirty-nine of the Public Health Act, 1936 (which empowers a local authority to serve notices as regards defective drains).

18 Power to repair drains and private sewers

- (1) If it appears to a local authority that a drain or private sewer—
- (a) is not sufficiently maintained and kept in good repair, and
 - (b) can be sufficiently repaired at a cost not exceeding fifty pounds,

the local authority may, after giving not less than seven days' notice to the person or persons concerned, cause the drain or sewer to be repaired, and, subject to the next following subsection, recover the expenses reasonably incurred in so doing, so far as they do not exceed fifty pounds, from the person or persons concerned, in such proportions, if there is more than one such person, as the local authority may determine:

Provided that, where the expenses do not exceed two pounds, the local authority may, if they think fit, remit the payment of the expenses.

- (2) The provisions of subsection (1) of this section shall not authorise a local authority to carry out any works in land which belongs to any statutory undertakers and is held or used by them for the purposes of their undertaking:

Provided that the exemption conferred by this subsection shall not extend to houses, or to buildings used as offices or showrooms, other than buildings so used which form part of a railway station.

- (3) In proceedings to recover expenses under this section the court shall inquire whether the local authority were justified in concluding that the drain or private sewer was not sufficiently maintained and kept in good repair, and, if the court determines that the local authority were not so justified, the local authority shall not recover the expenses or any part of them.
- (4) Subject to the provisions of the last foregoing subsection, in proceedings to recover expenses under this section the court may inquire whether any apportionment by the local authority was fair, and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not revise an apportionment unless it is satisfied that all persons affected thereby have had due notice of the proceedings and an opportunity of being heard.

- (5) In this section " person concerned " means, in relation to a drain or private sewer, any person owning any premises drained by means of the drain or sewer and also, in the case of a sewer, the owner of the sewer.
- (6) The provisions of this section shall be without prejudice to section thirty-nine of the Public Health Act, 1936.

19 Disconnection of drains

- (1) Where any person—
 - (a) reconstructs in the same or a new position a drain which communicates with a sewer or another drain, or
 - (b) executes any works to such a drain so as permanently to discontinue its use, or
 - (c) executes any works on premises served by such a drain so as permanently to discontinue its use,

he shall cause any drains or parts of drains thereby becoming disused or unnecessary to be disconnected and sealed at such points as the local authority may reasonably require.

- (2) Any question as to the reasonableness of any requirement of a local authority under this section shall be determined by a magistrates' court and the court may vary the requirement as it thinks fit.
- (3) No one shall be required under this section to carry out any work in land outside the premises served by the drain if he has no right to carry out that work, but, subject to the provisions of Part XII of the Public Health Act, 1936, with respect to the breaking open of streets, the person undertaking the reconstruction of the drain or the execution of the works may break open any street for the purpose of complying with any requirement under this section.
- (4) Before a person complies with any requirement under this section he shall give at least forty-eight hours notice to the local authority, and a person who fails to comply with this subsection shall be liable to a fine not exceeding five pounds.
- (5) A person who knowingly fails to comply with subsection (1) of this section shall be liable to a fine not exceeding five pounds and to a further fine not exceeding twenty shillings for each day on which the default continues after he is convicted.
- (6) This section shall not apply in relation to anything done in the course of the demolition of a building, or of part of a building, being a demolition as respects which the local authority have power under section twenty-nine of this Act to serve a notice on the person undertaking the demolition.

20 Fine for improper construction or repair of water closets or soil pipes

- (1) If a watercloset, drain or soil pipe is so constructed or repaired as to be prejudicial to health or a nuisance, the person who undertook or executed the construction or repair thereof shall, unless he shows that the prejudice to health or nuisance could not

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have been avoided by the exercise of reasonable care, be liable to a fine not exceeding twenty pounds.

- (2) A person charged with an offence under this section (hereafter in this section referred to as "the original defendant") shall, upon information duly laid by him and on giving to the prosecutor not less than three clear days' notice of his intention, be entitled to have any other person, being his agent or servant, to whose act or default he alleges that the offence was due brought before the court at the time appointed for the hearing of the charge ; and—
- (a) if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person, that other person may be convicted of the offence, and
 - (b) if the original defendant further proves that he used all due diligence to secure that the watercloset, drain or soil pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance, he shall be acquitted of the offence.
- (3) Where the original defendant seeks to avail himself of the provisions of subsection (2) of this section—
- (a) the prosecutor as well as the person whom the original defendant charges with the offence shall have the right to cross-examine the original defendant, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence, and
 - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

21 Closet accommodation for separate dwellings

- (1) In subsection (1) of section forty-four of the Public Health Act, 1936 (paragraph (a) of which relates to the sufficiency of closet accommodation in buildings), after the said paragraph (a) there shall be added the following paragraph—
- “(aa) that any part of a building, being a part which is occupied as a separate dwelling, is without sufficient closet accommodation ; or”
- (2) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the said Act against a notice under the said subsection (1) as amended by this section shall be—
- (a) that the need for the works to be executed under the notice would not, in whole or in part, arise but for the occupation of part of the building as a separate dwelling, and that the occupation of that part as a separate dwelling is a matter in respect of which the appellant has a cause of action, and
 - (b) that the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.
- (3) Where the grounds on which an appeal under the said section two hundred and ninety is brought include the ground specified in subsection (2) of this section, the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and on the hearing of the appeal the court may make such order as it thinks fit with respect to the contribution to be made by any such person towards the cost of the works, or as to the proportion in which any expenses which may be recoverable by the local authority are to be borne by the appellant and any such other person.

22 Power to cleanse or repair drains

A local authority may, on the application of the owner or occupier of any premises, undertake the cleansing or repair of any drains, waterclosets, sinks or gullies in or connected with the premises, and may recover from the applicant such reasonable charge, if any, for so doing as they think fit.

23 Loan of temporary sanitary conveniences

- (1) A local authority may, at the request of the occupier of any premises connected with a cesspool, sewer or drain on which any work of maintenance, improvement or repair which necessitates the disconnection of the water-closets or other sanitary conveniences provided for or in connection with the premises is to be carried out—

- (a) by a local authority, or
- (b) in pursuance of section thirty-nine of the Public Health Act, 1936, by the owner or occupier of the premises,

supply on loan temporary sanitary conveniences in substitution for any waterclosets or other sanitary conveniences. so disconnected.

- (2) Subject to the following provisions of this section, the local authority may make reasonable charges for supplying, removing and cleansing any temporary sanitary conveniences lent under this section for more than seven days:

Provided that the local authority may not make charges for the use of the temporary sanitary conveniences for the first seven days.

- (3) No charge may be made under subsection (2) of this section where the work is made necessary by a defect in a public sewer vested in and maintainable by the local authority (not being a length of sewer to which subsection (4) of this section applies).

- (4) Where the work is made necessary—

- (a) by a defect in any length of a public sewer of a kind described in subsection (4) of section twenty-four of the Public Health Act, 1936 (which relates to sewers for the maintenance of which a local authority may make the owners of the premises served by the sewers pay), or
- (b) by a defect in any cesspool, private sewer or drain in respect of which the local authority have served a notice under section thirty-nine of the said Act,

no charge may be made under subsection (2) of this section but, if the temporary sanitary conveniences are provided for a period of more than seven days, the reasonable expenses of supplying, removing and cleansing them shall be recoverable from the owner of the premises:

Provided that the local authority may not recover charges for the use of the temporary sanitary conveniences for the first seven days.

- (5) In proceedings to recover expenses under the last foregoing subsection the court may inquire whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had notice of the proceedings and an opportunity of being heard.

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Buildings and structures

24 Section 58 of Public Health Act, 1936, to apply to buildings constituting a danger to persons in streets

- (1) Subsection (1) of section fifty-eight of the Public Health Act, 1936 (which empowers a local authority to deal with any building which is dangerous to those in the building or on any adjoining premises), shall also apply to any building which is dangerous to persons in a street and accordingly in paragraph (a) of that subsection the words from " to persons in the building " to " adjoining premises " shall cease to have effect.
- (2) Subsections (1) and (2) of section one hundred and forty-five of the Highways Act, 1959 (which, as regards buildings dangerous to those using streets, gives local authorities a power corresponding to that in section fifty-eight of the Public Health Act, 1936), shall cease to have effect.

25 Emergency measures to deal with dangerous buildings

- (1) If it appears to a local authority that a building or structure, or part of a building or structure, is in such a state, or is used to carry such loads, as to be dangerous and that immediate action should be taken to remove the danger, they may take such steps as may be necessary for that purpose.
- (2) Before exercising their powers under this section the local authority shall, if it is reasonably practicable to do so, give notice of their intention to the owner and occupier of the building, or of the premises on which the structure is situated.
- (3) Subject to the provisions of this section, the local authority may recover from the owner the expenses reasonably incurred by them under this section.
- (4) So far as expenses incurred by the local authority under this section consist of expenses of fencing off the building or structure, or arranging for it to be watched, the expenses shall not be recoverable in respect of any period—
 - (a) after the danger has been removed by other steps under this section, or
 - (b) after an order made under section fifty-eight of the Public Health Act, 1936, for the purpose of its removal has been complied with or has been executed as mentioned in subsection (2) of that section.
- (5) In proceedings to recover expenses under this section the court shall inquire whether the local authority might reasonably have proceeded instead under subsection (1) of the said section fifty-eight, and, if the court determines that the local authority might reasonably have proceeded instead under the said subsection (1), the local authority shall not recover the expenses or any part of them.
- (6) Subject to the provisions of the last foregoing subsection, in proceedings to recover expenses under this section the court may inquire whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

- (7) Where in consequence of the exercise of the powers conferred by this section the owner or occupier of any premises sustains damage but subsection (1) of section two hundred and seventy-eight of the Public Health Act, 1936, does not apply because the owner or occupier has been in default, the owner or occupier may apply to a magistrates' court to determine whether the local authority were justified in exercising their powers under (this section so as to occasion the damage sustained ; and, if the court determines that the local authority were not so justified, the owner or occupier shall be entitled to compensation, and subsection (2) of section two hundred and seventy-eight of the Public Health Act, 1936, shall apply in relation to any dispute as regards compensation arising under this subsection.
- (8) The surveyor of a local authority may, as an officer of the local authority, exercise the powers conferred on the local authority by subsection (1) of this section without being empowered to act by the local authority.
- (9) The foregoing provisions of this section shall not apply to any premises forming part of a mine or quarry within the meaning of the Mines and Quarries Act, 1954.
- (10) Subsection (3) of section fifty-eight of the Public Health Act, 1936, and subsection (3) of section one hundred and forty-five of the Highways Act, 1959, shall cease to have effect.

26 Defective premises

- (1) If it appears to a local authority that—
 - (a) any premises are in such a state (in this section referred to as a " defective state ") as to be prejudicial to health or a nuisance, and
 - (b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by sections ninety-three to ninety-five of the Public Health Act, 1936,the local authority may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section ninety-three (if the local authority had proceeded under that section) a notice stating that the local authority intend to remedy the defective state and specifying the defects which they intend to remedy.
- (2) Subject to the next following subsection, the local authority may, after the expiration of nine days after service of a notice under the foregoing subsection, execute such works as may be necessary to remedy the defective state and may recover the expenses reasonably incurred in so doing from the person on whom the notice was served.
- (3) If, within seven days after service of a notice under subsection (1) of this section, the person on whom the notice was served serves a counter-notice that he intends to remedy the defects specified in the first-mentioned notice, the local authority shall take no action in pursuance of the first-mentioned notice unless the person who served the counter-notice either—
 - (a) fails within what seems to the local authority a reasonable time to begin to execute works to remedy the said defects, or
 - (b) having begun to execute such works fails to make such progress towards their completion as seems to the local authority reasonable.
- (4) In proceedings to recover expenses under this section the court—
 - (a) shall inquire whether the local authority were justified in concluding that the premises were in a defective state, or that unreasonable delay in remedying

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the defective state would have been occasioned by following the procedure prescribed by sections ninety-three to ninety-six of the Public Health Act, 1936, and

- (b) if the defendant proves that he served a counter-notice under subsection (3) of this section, shall inquire whether the defendant failed to begin the works to remedy the defects within a reasonable time, or failed to make reasonable progress towards their completion,

and if the court determines—

- (i) that the local authority were not justified in either of the conclusions mentioned in paragraph (a) of this subsection, or
- (ii) that there was no failure under paragraph (b) of this subsection,

the local authority shall not recover the expenses or any part of them.

- (5) Subject to the provisions of the last foregoing subsection, in proceedings to recover expenses under this section the court may inquire whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

- (6) A local authority shall not serve a notice under this section, or proceed with the execution of works in accordance with a notice so served, if the execution of the works would, to their knowledge, be in contravention of a building preservation order under section twenty-nine of the Town and Country Planning Act, 1947.
- (7) The power conferred on a local authority by subsection (1) of this section may be exercised notwithstanding that the local authority might instead have proceeded under section nine of the Housing Act, 1957.

27 Ruinous and dilapidated buildings and neglected sites

- (1) If it appears to a local authority that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood, the local authority may by notice require the owner thereof—
 - (a) to execute such works of repair or restoration, or
 - (b) if he so elects, to take such steps for demolishing the building or structure, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition,
 as may be necessary in the interests of amenity.
- (2) If it appears to a local authority that rubbish or other material resulting from, or exposed by, the demolition or collapse of a building or structure is lying on the site or on any adjoining land, and that by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood, the local authority may by notice require the owner of the site or land to take such steps for removing the rubbish or material as may be necessary in the interests of amenity.
- (3) The provisions of Part XII of the Public Health Act, 1936, with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply

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in relation to any notice given under this section, and in the application of section two hundred and ninety of that Act to a notice given under subsection (1) of this section—

- (a) subsection (2) shall be construed as requiring the notice to indicate both the nature of the works of repair or restoration and the works of demolition and removal of rubbish or material, and
 - (b) subsection (6) shall be construed as authorising the local authority to execute, subject to the provisions of that subsection, at their election either the works of repair or restoration, or the works of demolition and removal of rubbish or material.
- (4) The foregoing provisions of this section shall not apply to any advertisement as defined in subsection (1) of section one hundred and nineteen of the Town and Country Planning Act, 1947.
- (5) Paragraph (b) of subsection (1) of section fifty-eight of the Public Health Act, 1936, shall cease to have effect except as regards proceedings instituted under that paragraph before the commencement of this Act.

28 New building overreaching adjacent chimneys

- (1) Where after the commencement of this Act—
- (a) any person erects or raises a building (in this section referred to as the " taller building ") to a greater height than an adjoining building, and
 - (b) any chimneys or flues of an adjoining building are in a party wall between the two buildings or are six feet or less from the nearest part of the taller building,
- the local authority may by notice—
- (i) require that person, within such time as may be specified in the notice, to build up those chimneys and flues, if it is reasonably practicable so to do, so that the top thereof will be of the same height as the top of the chimneys of the taller building or the top of the taller building, whichever is the higher, and
 - (ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him:

Provided that, if the said owner or occupier, within fourteen days from the date of service of the notice on him, serves on the first-mentioned person and on the local authority a notice (in this section referred to as a " counter-notice ") that he elects to carry out the work himself, the owner or occupier shall comply with the notice served under paragraph (i) of this subsection instead of the first-mentioned person and may recover the expenses reasonably incurred in so doing from, that person.

- (2) Any person on whom a notice is served under paragraph (i) or paragraph (ii) of the foregoing subsection may appeal to a magistrates' court.
- (3) If—
- (a) any person on whom a notice is served under paragraph (i) of subsection (1) of this section fails to comply with the notice, except in a case where the owner or occupier of an adjoining building has refused to allow entry on that building, or has refused to allow the carrying out of any such work as may be necessary to comply with the notice, or has served a counter-notice, or
 - (b) any person on whom a notice is served under paragraph (ii) of subsection (1) of this section fails to comply with the notice or, having served a counter-notice, fails to comply with the notice served under paragraph (i) of that subsection,

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he shall be liable to a fine not exceeding twenty pounds; and the local authority may themselves carry out such work as may be necessary to comply with the notice served under the said paragraph (i), and recover the expenses reasonably incurred in so doing from the person on whom that notice was served.

29 Powers of local authority in relation to demolitions

- (1) Subject to the provisions of this section, a local authority may serve a notice under this section on any person who undertakes the demolition of the whole or of part of a building.
- (2) Subsection (1) of this section shall not apply to the demolition—
 - (a) of an internal part of a building where the building is occupied, and it is intended that it should continue to be occupied, or
 - (b) of a building which has a cubic content (as ascertained by external measurement) of not more than one thousand seven hundred and fifty cubic feet, or, where a greenhouse, conservatory, shed or prefabricated garage forms part of a larger building, of that greenhouse, conservatory, shed or prefabricated garage, or
 - (c) without prejudice to the last foregoing paragraph, of an agricultural building (as defined in section two of the Rating and Valuation (Apportionment) Act, 1928) unless it is contiguous to another building which is not itself of a kind mentioned in this or the last foregoing paragraph.
- (3) No person shall undertake a demolition to which subsection (1) of this section applies unless a notice specifying the building and the works of demolition intended to be carried out has been given to the local authority; and a person contravening this subsection shall be liable to a fine not exceeding five pounds:

Provided that notice need not be given under this subsection of a demolition undertaken to comply with any requirement contained in—

- (a) a notice, order or other instrument issued by, or on the application of, the local authority in pursuance of any power conferred by or under an Act of Parliament, or
 - (b) an injunction or other direction given in legal proceedings brought by the local authority,
- except where compliance with the requirement is effected, at the election of the person complying with it, either by undertaking the demolition or by taking some other steps.
- (4) The time within which a notice may be served under subsection (1) of this section shall be—
 - (a) where a notice was given under subsection (3) of this section, within six weeks from the giving of that notice, or such longer period as the person undertaking the demolition may in writing allow, and
 - (b) in the case of a demolition undertaken to comply with a requirement contained in a demolition order or clearance order under the Housing Act, 1957, at any time not more than seven days after serving on the person undertaking the demolition a copy of the demolition order or clearance order in accordance with that Act, or within such longer period as the person undertaking the demolition may in writing allow, and
 - (c) in any other case, within six weeks from the beginning of the demolition.

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- (5) A notice under subsection (1) of this section may require the person undertaking the demolition to take action under all or any of the following paragraphs, that is to say—
- (a) to shore up adjacent buildings,
 - (b) to weatherproof any surfaces of an adjacent building which are exposed by the demolition,
 - (c) to remove material or rubbish resulting from the demolition and clearance of the site,
 - (d) to disconnect and seal, at such points as the local authority may reasonably require, any sewer, drain or water pipe in or under the building to be demolished,
 - (e) to remove any such sewer, drain or water pipe and seal any sewer, drain or water pipe with which the sewer, drain or pipe to be removed is connected, and
 - (f) to make good to the satisfaction of the local authority the surface of the ground disturbed by anything done under paragraph (d) or paragraph (e) of this subsection.
- (6) No one shall be required under paragraph (d) or paragraph (e) of subsection (5) of this section to carry out any work in land outside the premises on which the works of demolition are being carried out if he has no right to carry out that work, but, subject to the provisions of Part XII of the Public Health Act, 1936, with respect to the breaking open of streets, the person undertaking the demolition, or the local authority acting in his default, may break open any street for the purpose of complying with any such requirement.
- (7) Nothing in subsection (5) of this section shall be construed as exempting any person from the obligation to obtain any consent required under section sixty-eight of the Third Schedule to the Water Act, 1945 (which relates to alterations in supply pipes and other apparatus), or under any similar enactment.
- (8) Before a person complies with any requirement under paragraph (d) or paragraph (e) of subsection (5) of this section he shall give at least forty-eight hours notice to the local authority, and before he complies with paragraph (f) of that subsection, he shall give at least twenty-four hours notice to the local authority ; and a person who fails to comply with this subsection shall be liable to a fine not exceeding five pounds.
- (9) The provisions of Part XII of the Public Health Act, 1936, with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under subsection (1) of this section.
- (10) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the Public Health Act, 1936, against a notice under subsection (1) of this section shall be—
- (a) in the case of a notice requiring an adjacent building to be shored up, that the owner of the building is not entitled to the support of that building by the building which is being demolished, and ought to pay, or contribute towards, the expenses of shoring it up, and
 - (b) in the case of a notice requiring any surfaces of an adjacent building to be weatherproofed, that the owner of the adjacent building ought to pay, or contribute towards, the expenses of weatherproofing those surfaces.
- (11) Where the grounds on which an appeal under the said section two hundred and ninety is brought include any ground specified in the last foregoing subsection, the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that

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ground of appeal, and on the hearing of the appeal the court may make such order as it thinks fit in respect of the payment of, or contribution towards, the cost of the works by any such person, or as to how any expenses which may be recoverable by the local authority are to be borne as between the appellant and any such other person.

- (12) This section shall not apply to a demolition begun before the commencement of this Act.

30 Cellars and rooms below subsoil water level

- (1) No person shall without the consent of the local authority construct any cellar or room in, or as part of, a house, shop, inn, hotel or office if the floor level of the cellar or room is lower than the ordinary level of the subsoil water on, under or adjacent to the site of the house, shop, inn, hotel or office.
- (2) A consent under this section may be given subject to such conditions as to the construction or use of the premises as may be specified therein; and conditions specified therein shall be binding on successive owners of the house, shop, inn, hotel or office.
- (3) If a local authority refuse an application for consent under this section or attach any conditions to a consent under this section the person applying for the consent may appeal to a magistrates' court against their refusal or, as the case may be, against any such condition; and if a magistrates' court allow an appeal against a refusal to grant a consent they may direct the local authority to give their consent subject to such conditions, if any, as appear to the court to be appropriate.
- (4) An application may be made at any time to the local authority for the variation or withdrawal of any condition attached to a consent under this section, and, if the local authority refuse the application, the applicant may appeal to a magistrates' court.
- (5) If any person constructs a cellar or room in contravention of subsection (1) of this section, or of any condition attached to a consent under this section—
 - (a) he shall be liable to a fine not exceeding twenty pounds; and
 - (b) the local authority may by notice require him either to alter the cellar or room so that its construction will no longer contravene the said subsection or condition or, if he so elects, to fill it in or otherwise make it unusable.
- (6) The provisions of Part XII of the Public Health Act, 1936, with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under the last foregoing subsection, and in the application of section two hundred and ninety of that Act to such a notice—
 - (a) subsection (2) shall be construed as requiring the notice to indicate both the nature of the works of alteration and the works for making the cellar or room unusable, and
 - (b) subsection (6) shall be construed as authorising the local authority to execute, subject to the provisions of that subsection, at their election either the works of alteration or the works for making the cellar or room unusable.
- (7) If the owner for the time being of the house, shop, inn, hotel or office causes or permits a cellar or room forming part of it to be used in a manner which he knows to be in contravention of any condition attached to a consent under this section he shall be liable to a fine not exceeding twenty pounds.

- (8) Subsection (1) of this section shall not apply to the construction of a cellar or room carried out in accordance with plans deposited on an application under the Licensing Act, 1953, to licensing justices on which they made a provisional grant of a justices' licence for the premises of which the cellar or room forms part, or made a provisional grant of a removal of a justices' licence to those premises.
- (9) Nothing in this section shall apply to the construction of any cellar or room in connection with a shop, inn, hotel or office which forms part of a railway station.

31 Food storage accommodation in new houses

- (1) Where plans—
- (a) for the erection of a house, or of a building part of which is intended to be occupied as a separate dwelling, or
 - (b) of any works involving the conversion of a building into a house or into separate dwellings, or the conversion of part of a building into a separate dwelling,
- have been deposited with a local authority in pursuance of building byelaws or building regulations, the local authority may, subject to the provisions of this section, reject the plans if they do not show that the house, or, as the case may be, each separate dwelling, will be provided with sufficient and suitable accommodation for the storage of food, or sufficient and suitable space for the provision of such accommodation by the occupier.
- (2) If the local authority reject the plans under this section, the person by whom the plans were deposited may appeal to a magistrates' court, and if the magistrates' court allow the appeal they shall direct the local authority to allow the plans under this section.

32 Food storage accommodation in existing houses

- (1) If it appears to a local authority that any house, or any part of a building which is occupied as a separate dwelling, is without sufficient and suitable accommodation for the storage of food, the local authority may by notice require the owner of the house or building to provide the house or building with sufficient and suitable accommodation for that purpose.
- (2) The provisions of Part XII of the Public Health Act, 1936, with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under this section.
- (3) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the Public Health Act, 1936, against a notice under this section shall be that it is not reasonably practicable to comply with the notice.
- (4) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the Public Health Act, 1936, against a notice under this section shall be—
- (a) that the need for the works to be executed under the notice would not, in whole or in part, arise but for the occupation of part of the building as a separate dwelling, and that the occupation of that part as a separate dwelling is a matter in respect of which the appellant has a cause of action, and
 - (b) that the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.

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- (5) Where the grounds on which an appeal under the said section two hundred and ninety is brought include the ground specified in subsection (4) of this section, the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and on the hearing of the appeal the court may make such order as it thinks fit with respect to the contribution to be made by any such person towards the cost of the works, or as to the proportion in which any expenses which may be recoverable by the local authority are to be borne by the appellant and any such other person.

33 Provision of bathrooms

- (1) Where plans—
- (a) for the erection of a house, or of a building part of which is intended to be occupied as a separate dwelling, or
 - (b) of any works involving the conversion of a building into a house or into separate dwellings, or the conversion of part of a building into a separate dwelling,
- have been deposited with a local authority in pursuance of building byelaws or building regulations, the local authority may, subject to the provisions of this section, reject the plans if they do not show that the house, or as the case may be, each separate dwelling, will be provided with a bathroom containing either a fixed bath or a shower bath, and a suitable installation for the provision of hot and cold water to the bath or shower bath.
- (2) If the local authority reject the plans under this section, the person by whom the plans were deposited may appeal to a magistrates' court, and if the magistrates' court allow the appeal they shall direct the local authority to allow the plans under this section.

Accumulations of rubbish

34 Accumulations of rubbish

- (1) If it appears to a local authority that there is on any vacant site in a built-up area an accumulation of rubbish which is seriously detrimental to the amenities of the neighbourhood, the local authority may, subject to the provisions of this section, take such steps for removing the rubbish as they may consider necessary in the interests of amenity.
- (2) Not less than twenty-eight days before taking any action under this section, the local authority shall serve on the owner and occupier of the site a notice stating the steps which they propose to take and giving particulars of the following provisions of this subsection ; and a person on whom the notice is served and any other person having an interest in the land may within twenty-eight days from the service of the notice—
- (a) serve a counter-notice on the local authority stating that he intends to take those steps himself; or
 - (b) appeal to a magistrates' court on the ground that the local authority were not justified in concluding that action should be taken under this section, or that the steps proposed to be taken are unreasonable.

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- (3) If a counter-notice is served under the last foregoing subsection, the local authority shall take no further action in the matter under this section unless the person who served the counter-notice either—
 - (a) fails within what seems to the local authority a reasonable time to begin to take the steps stated in the notice, or
 - (b) having begun to take those steps fails to make such progress towards their completion as seems to the local authority reasonable.
- (4) If an appeal is brought under subsection (2) of this section, the local authority shall take no further action in the matter under this section until the appeal is finally determined or withdrawn ; and on the hearing of the appeal the court may direct the local authority to take no further action or may permit the local authority to take such steps as the court may direct or may dismiss the appeal.
- (5) In this section " rubbish" means rubble, waste paper, crockery and metal, and any other kind of refuse (including organic matter), but does not include any material accumulated for, or in the course of, any business.

Filthy or verminous premises or articles

35 Filthy or verminous premises

- (1) Section eighty-three of the Public Health Act, 1936 (which relates to the cleansing of filthy or verminous premises), shall be amended as follows.
- (2) For subsection (1) of the said section eighty-three there shall be substituted the following subsections—
 - “(1) Where a local authority, upon consideration of a report from any of their officers, or other information in their possession, are satisfied that any premises—
 - (a) are in such a filthy or unwholesome condition as to be prejudicial to health, or
 - (b) are verminous,the local authority shall give notice to the owner or occupier of the premises requiring him to take such steps as may be specified in the notice to remedy the condition of the premises by cleansing and disinfecting them, and the notice may require among other things the removal of wallpaper or other covering of the walls, or, in the case of verminous premises, the taking of such steps as may be necessary for destroying or removing vermin.
- (1A) A notice under the foregoing subsection may require—
 - (a) the interior surface of premises used for human habitation or as shops or offices to be papered, painted or distempered, and
 - (b) the interior surface of any other premises to be painted, distempered or whitewashed,and shall allow the person on whom the notice is served, or the local authority acting in his default, to choose, in a case under paragraph (a) of this subsection, between papering, painting and distempering and, in a case under paragraph (b) of this subsection, between painting, distempering and whitewashing.”

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- (3) At the end of the said section eighty-three there shall be added the following subsection—

“(4) This section shall not apply to any premises forming part of a factory or of a mine or quarry within the meaning of the Mines and Quarries Act, 1954.”

- (4) This section shall not affect any notice given under the said section eighty-three before the commencement of this Act.

36 Power to require vacation of premises during fumigation

- (1) If a local authority serve a notice under subsection (3) of section eighty-three of the Public Health Act, 1936, as amended by the last foregoing section, on the owner and occupier of any premises requiring that they shall be allowed to employ gas for the purpose of destroying vermin on the premises—

- (a) the notice to the occupier may also require that the premises shall, as from such date as may be specified in the notice, be vacated until the local authority give the occupier further notice that the premises can safely be reoccupied; and
- (b) the local authority may also serve notice on the occupiers of any other premises having any floor, wall or ceiling contiguous with the first-mentioned premises, or into which there is reason to apprehend that the gas may penetrate, requiring that those other premises shall be vacated as aforesaid.

- (2) No person shall be required under this section to vacate any premises used for human habitation for any period unless alternative shelter or other accommodation has been provided for him by the local authority free of charge for that period ; and any notice given under this section shall specify the alternative shelter or other accommodation so provided.

- (3) A person on whom a notice is served under this section may within the period of seven days from the date on which the notice was served on him appeal to a magistrates' court, and the requirements included in the notice in pursuance of this -section shall not take effect until the expiration of that period or, where an appeal is brought within that period, before the appeal is disposed of or withdrawn.

The provisions of this subsection as to the period within which an appeal shall be brought shall have effect notwithstanding anything in subsection (2) of section three hundred of the Public Health Act, 1936, as applied to this Part of this Act.

- (4) So much of subsection (2) of the said section eighty-three as imposes a penalty for failure to comply with the requirements of a notice under that section shall also apply to the requirements included in the notice by virtue of this section.
- (5) The local authority shall defray any reasonable expenses incurred in removing from and returning to any premises in compliance with a notice served under paragraph (b) of sub-Section (1) of this section, and may, if they think fit, defray any such expenses incurred in compliance with a notice under paragraph (a) of that subsection.

37 Prohibition of sale of verminous articles

- (1) No dealer shall—
- (a) prepare for sale, or
- (b) sell or offer or expose for sale, or

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- (c) deposit with any person for sale or preparation for sale, any household article if it is to his knowledge verminous, or if by taking reasonable precautions he could have known it to be verminous.
- (2) If a household article which is verminous is on any premises—
 - (a) being prepared by a dealer for sale, or
 - (b) offered or exposed by a dealer for sale, or
 - (c) deposited by a dealer with any person for sale or preparation for sale,the medical officer of health or public health inspector may cause the article to be disinfested or destroyed as the case may require, and if necessary for that purpose to be removed from the premises; and the local authority may recover from the dealer the expenses reasonably incurred by the local authority in taking any action under this subsection.
- (3) If any person contravenes the provisions of subsection (1) of this section he shall be liable to a fine not exceeding twenty pounds.
- (4) In this section—
 - (a) "dealer" means a person who trades or deals in any household articles ;
 - (b) "household article" means an article of furniture, bedding or clothing or any similar article ;
 - (c) references to preparation for sale do not include references to disinfestation.

PART III

PREVENTION AND NOTIFICATION OF DISEASE

38 Power of justice to order a medical examination

- (1) If a justice of the peace (acting, if he deems it necessary, *ex parte*) is satisfied, on a written certificate issued by the medical officer of health for any district—
 - (a) that there is reason to believe that some person in the district is or has been suffering from a notifiable disease, and
 - (b) that in his own interest, or in the interest of his family, or in the public interest, it is expedient that he should be medically examined, and
 - (c) that he is not under the treatment of a registered medical practitioner or that the registered medical practitioner who is treating him consents to the making of an order under this section,the justice may order him to be medically examined by the medical officer of health, or by a registered medical practitioner nominated by the medical officer of health.
- (2) An order under this section may be combined with a warrant under subsection (2) of section two hundred and eighty-seven of the Public Health Act, 1936, authorising the medical officer of health to enter any premises.

39 Information to be furnished by occupier in case of notifiable disease or food poisoning

- (1) On the application of the medical officer of health for any district the occupier of any premises in the district in which there is or has been any person suffering

Status: This is the original version (as it was originally enacted).

from a notifiable disease or food poisoning shall furnish such information within his knowledge as that officer may reasonably require for the purpose of enabling measures to be taken to prevent the spread of the disease or, as the case may be, to trace the source of food poisoning.

- (2) If any person required to furnish information under this section fails to furnish it, or knowingly furnishes false information, he shall be liable to a fine not exceeding five pounds.
- (3) In this section " occupier ", in relation to any premises, include—
 - (a) a person having the charge, management or control of the premises, or of a building of which the premises form part, and
 - (b) in the case of premises consisting of a building the whole of which is ordinarily let out in separate tenements, or of a lodging house the whole of which is ordinarily let to lodgers, the person receiving the rent payable by the tenants or by the lodgers, as the case may be, either on his own account or as the agent of another person.

40 Exclusion of children from places of entertainment or assembly

- (1) This section applies—
 - (a) to any theatre, including a cinematograph theatre, and any building used as a public hall, public concert-room or lecture room, public dance room or public gymnasium or indoor swimming baths, and
 - (b) to any sports ground, outdoor swimming baths, outdoor swimming pool, or skating or roller skating rink, to which the public are admitted, either on payment of a charge for admission or not, and
 - (c) to any circus, show, fair, fete, amusement arcade or other public place of entertainment which is not in a building.
- (2) With a view to preventing the spread of a notifiable disease, a local authority on the advice of their medical officer of health may, by notice published in such manner as they think best for bringing it to the notice of persons concerned, prohibit or restrict the admission of persons under the prescribed age to any place to which this section applies for a time specified in the notice.
- (3) A notice under this section may contain exemptions from the prohibitions or restrictions which it imposes, and any such exemption may be made subject to compliance with such conditions as may be specified in the notice.
- (4) A notice under this section may be expressed to apply to particular premises, or parts of premises, designated in the notice, or to part only of the district of the local authority, but, save as otherwise provided in the notice, the notice shall apply throughout the district of the local authority.
- (5) If the person responsible for the management of some place to which this section applies, having been served by the local authority with a copy of a notice published under this section, admits any person under the prescribed age to that place in contravention of the notice, or fails to comply with any condition specified in the notice, he shall be liable to a fine not exceeding ten pounds:

Provided that in any proceedings under this subsection it shall be a defence to prove that there were reasonable grounds for believing that the person admitted had attained the prescribed age.

- (6) In this section "prescribed age" in relation to a notice means such age, not exceeding sixteen, as may be prescribed by the notice.

41 Compensation for stopping employment to prevent spread of disease

- (1) With a view to preventing the spread of—
- (a) a notifiable disease, or
 - (b) a disease to which subsection (1) of section twenty-three of the Food and Drugs Act, 1955, applies,
- the medical officer of health for any district may by notice in writing request any person to discontinue his work.
- (2) The local authority shall compensate a person who has suffered any loss in complying with a request under this section and subsection (2) of section two hundred and seventy-eight of the Public Health Act, 1936, shall apply in relation to any dispute arising under this subsection.

42 Inducements to children offered by dealers in rags and old clothes

Section one hundred and fifty-four of the Public Health Act, 1936 (which makes it an offence for a dealer in rags or old clothes to sell or deliver any article to a person under fourteen years), shall apply in relation to the sale or delivery to a person under that age of any animal, fish, bird or other living thing as it applies in relation to the sale or delivery to such a person of any article.

PART IV

STREETS AND PUBLIC PLACES

Streets

43 Guard rails in private streets

- (1) Subject to the provisions of this section, in any street which is not a highway maintainable at the public expense and which consists of or comprises a carriageway a local authority may provide and maintain such pillars, rails or fences as they think necessary for the purpose of safeguarding persons using the street.
- (2) The power conferred by the foregoing subsection to provide any works shall include power to alter or remove them.
- (3) The Third Schedule to this Act (which makes it necessary to obtain certain consents before carrying out work in streets) shall apply to the powers conferred on local authorities by this section.
- (4) A local authority shall pay compensation to any person who sustains damage by reason of the execution by them of works under this section, and sections two hundred and sixty-seven and two hundred and sixty-eight of the Highways Act, 1959 (which relate to compensation), shall apply as if this section were contained in that Act.

Status: This is the original version (as it was originally enacted).

44 Barriers in streets

- (1) Subject to the provisions of this section, for the purpose of securing public order or public safety or preventing congestion of traffic a local authority may, in any case of emergency or on any occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed, cause barriers to be erected in any street and kept in position for so long as may be necessary for that purpose.
- (2) For the purpose of erecting barriers in a street under this section the local authority may provide and maintain sockets or slots in or under the surface of the street.
- (3) A local authority shall not exercise the powers conferred by this section in such a way as to deprive pedestrians of reasonable access to any premises.
- (4) The Third Schedule to this Act shall apply to the powers conferred on local authorities by this section.
- (5) If a person wilfully removes or damages a barrier, socket or slot erected or provided under this section, he shall be liable on summary conviction to a fine not exceeding five pounds.

45 Attachment of street lamps to buildings

- (1) Subject to the provisions of this section, a county council, local authority or parish council or parish meeting (hereafter in this section referred to as a "street lighting authority") may affix to any building such lamps, brackets, pipes, electric lines and apparatus (hereafter in this section referred to as "attachments ") as may be required for the purposes of street lighting.
- (2) A street lighting authority shall not under this section affix attachments to a building without the consent of the owner of the building:

Provided that, where in the opinion of the street lighting authority any consent required under this subsection is unreasonably withheld, they may apply to the appropriate authority, who may either allow the attachments subject to such conditions, if any, as to rent or otherwise as the appropriate authority thinks fit, or disallow the attachments.

- (3) Where any attachments have been affixed to a building under this section and the person who gave his consent under subsection (2) of this section, or who was the owner of the building when the attachments were allowed by the appropriate authority, ceases to be the owner of the building, the subsequent owner may give to the street lighting authority notice requiring them to remove the attachments; and, subject to the provisions of this subsection, the street lighting authority shall comply with the requirements within three months after the service of the notice:

Provided that, where in the opinion of the street lighting authority any such requirement is unreasonable, they may apply to the appropriate authority, who may either annul the notice subject to such conditions, if any, as to rent or otherwise as the appropriate authority thinks fit or confirm the notice subject to such extension, if any, of the said period of three months as the appropriate authority thinks fit

- (4) Where any attachments have been affixed to a building under this section, the owner of the building may give the street lighting authority by whom they were affixed not less than fourteen days notice requiring them at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building.

Status: This is the original version (as it was originally enacted).

- (5) Where attachments are affixed to a building under this section, the street lighting authority shall have the right as against any person having an interest in the building to alter or remove them, or to repair or maintain them.
- (6) If the owner of a building suffers damage by, or in consequence of, the affixing to the building of any attachments under this section, or by or in consequence of the exercise of the rights conferred by subsection (5) of this section, he shall be entitled to be paid by the street lighting authority compensation to be determined in case of dispute by the Lands Tribunal, and, so far as the compensation is properly to be calculated by reference to the depreciation of the value of his interest in the building, Rules 2 to 4 of the Rules set out in section five of the Land Compensation Act, 1961, shall apply.
- (7) A street lighting authority shall not do anything under this section which would, to their knowledge, be in contravention of a building preservation order under section twenty-nine of the Town and Country Planning Act, 1947.
- (8) In this section " appropriate authority " means a magistrates' court, except that in relation to buildings of the descriptions in the Fourth Schedule to this Act it has the meaning there given.
- (9) In this section—
" building " includes a structure and a bridge or aqueduct over a street;
" owner "—
(a) in relation to a building occupied under a tenancy for a term of years whereof five years or more remain unexpired, means the occupier of the building, and
(b) in relation to any other building, has the same meaning as in the Public Health Act, 1936, and
" owned " shall be construed accordingly ;
" street lighting " includes the lighting of markets and public buildings under section one hundred and sixty-one of the Public Health Act, 1875 (which relates to the powers conferred on urban authorities within the meaning of that Act), and the lighting of public places under section three of the Parish Councils Act, 1957,
and the definitions in this section shall apply for the purposes of the Fourth Schedule to this Act.
- (10) Section five of the Parish Councils Act, 1957 (which contains provisions as to the consents required for the exercise of the powers of street lighting conferred by that Act), shall not apply in relation to the affixing after the commencement of this Act of any attachments to a building within the meaning of this section but those powers shall not be taken to authorise anything to be done without consent for which consent is required by this section.

46 Forecourts abutting on streets

- (1) If it appears to a local authority that the forecourt of premises abutting on a street, or any steps or projection or goods (whether for sale or not) placed in such a forecourt, is or are a source of danger, obstruction or inconvenience to the public, the local authority may by notice require the owner or occupier of the forecourt to fence the forecourt from the street or, if he so elects, to take such other steps as may be specified in the notice to obviate the danger, obstruction or inconvenience to the public.

Status: This is the original version (as it was originally enacted).

- (2) If it appears to a local authority that a stall or other erection on a forecourt of premises abutting on a street is by reason of its character injurious to the amenities of the street, the local authority may by notice require the owner or occupier of the forecourt to make such alterations in the stall or other erection as may be necessary to prevent its being injurious to the amenities of the street or, if he so elects, to remove it:

Provided that this subsection shall not apply to any erection which has been in position in the forecourt of any premises at all times since the tenth day of November, nineteen hundred and sixty.

- (3) A local authority shall not have power under subsection (1) or subsection (2) of this section to give a notice applying to any advertisement as defined in subsection (1) of section one hundred and nineteen of the Town and Country Planning Act, 1947, or under subsection (2) of this section to give a notice applying to anything erected in conformity with planning permission granted on an application under Part III of that Act.
- (4) The provisions of Part XII of the Public Health Act, 1936, with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under this section as if this section were contained in that Act and subsection (6) of section two hundred and ninety of that Act shall authorise the local authority at their election to take either of the courses which were open to the person on whom the notice was served in order to comply with it.

47 Urgent repairs to private streets

- (1) In any street, not being a highway maintainable at the public expense, the street works authority as defined in subsection (2) of section two hundred and thirteen of the Highways Act, 1959, may execute such repairs as are in their opinion urgently required to prevent or remove danger to persons or vehicles in the street.
- (2) The provisions of this section shall be without prejudice to section two hundred and four of the said Act (which empowers the street works authority to require the owners of premises fronting the street to execute repairs to the street) or to any enactment for the time being in force relating to private street works.
- (3) This section shall not authorise the execution of any such works as are mentioned in paragraph (a) or (b) of subsection (1) of section three hundred and seven of the Highways Act, 1959 (which relates to dock, harbour and canal undertakings), except with the consent of the undertakers concerned (as defined in that section).

48 Pavement lights and ventilators

- (1) It shall not be lawful after the commencement of this Act to carry out any works in a street to provide means for the admission of air or light to premises situated under, or abutting on, the street without the consent of the local authority, and the local authority in giving any consent under this subsection may impose any requirement as to the construction of the works.
- (2) A person who has applied for consent under subsection (1) of this section may appeal to a magistrates' court against the refusal of consent or against any requirement imposed by the local authority under that subsection.

- (3) A person who carries out any works in contravention of subsection (1) of this section, or fails to comply with a requirement of a local authority imposed on him under that subsection, shall, subject to any order made on appeal, be guilty of an offence and shall, without prejudice to any other liability to which he may be subject, be liable in respect thereof to a fine not exceeding five pounds.
- (4) As soon as may be after a local authority give a consent under this section they shall give notice thereof to any public utility undertakers having any apparatus under the street.
- (5) This section shall be construed as one with the Highways Act, 1959, and subsection (4) of section one of this Act shall not apply to this section.

49 Use by local authorities of vehicles and appliances on footways and bridleways

- (1) No statutory provision prohibiting or restricting the use of footpaths, footways or bridleways shall affect the use by a county council, local authority, parish council or parish meeting of appliances or vehicles, whether mechanically operated or propelled or not, for cleansing or maintaining footpaths, footways or bridleways or their verges.
- (2) The Minister of Transport and the Minister of Power acting jointly may make regulations prescribing the conditions under which the rights conferred by this section may be exercised, and such regulations may in particular make provision as to—
 - (a) the construction of any appliances or vehicles used under this section.
 - (b) the maximum weight of any such appliances or vehicles, or the maximum weight borne by any wheel or axle,
 - (c) the maximum speed of any such appliances or vehicles,
 - (d) the hours during which the appliances or vehicles may be used, and
 - (e) the giving by the Minister of Transport or the Minister of Power of directions dispensing with or relaxing any requirement of the regulations as it applies to a particular authority or in any particular case.

The power of making regulations under this subsection shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) In this section " statutory provision " means a provision contained in, or having effect under, any enactment.
- (4) This section shall come into force on such date as may be specified in regulations made under subsection (2) of this section.

50 New streets: separate sewers for foul water and surface water

For the purpose of facilitating the disposal of sewage the powers of a local authority under section one hundred and fifty-seven of the Highways Act, 1959, shall extend to the making; of byelaws requiring any person constructing a new street to; provide separate sewers for foul water drainage and surface water drainage respectively.

Status: This is the original version (as it was originally enacted).

51 Refuse and litter bins

- (1) Subject to the provisions of this section, a county council, local authority or parish council may provide and maintain in any street or public place receptacles for refuse or litter :

Provided that a county council's powers under this subsection shall not be exercisable in a borough or urban district.

- (2) It shall be the duty of a county council, local authority or parish council to make arrangements for the regular emptying and cleansing of any receptacles for refuse or litter provided or maintained by them under this section or under section one hundred and fifty-six of the Highways Act, 1959; and a county council, local authority or parish council shall have power to cleanse and empty receptacles for refuse or litter provided in any street or public place by them or any other person.
- (3) The regular emptying mentioned in the last preceding subsection shall be sufficiently frequent to ensure that no such receptacle or the contents thereof shall become a nuisance or give reasonable ground for complaint.
- (4) In any place where a receptacle for refuse or litter may be provided or maintained under this section or under section one hundred and fifty-six of the Highways Act, 1959, a county council, local authority or parish council may put up notices about the leaving of refuse and litter, and for that purpose may, subject to the provisions of this section, erect and maintain notice boards.
- (5) No authority shall have power under this section to place any receptacle for refuse or litter or any notice board—
- (a) on any land forming part of an open space as defined in the Open Spaces Act, 1906, which is provided by or under the management and control of some other authority (being a county council, local authority or parish council or parish meeting) without the consent of that other authority, or
 - (b) on any other land not forming part of a street without the consent of the owner and of the occupier of that land,
- and the Third Schedule to this Act (which makes it necessary to obtain certain consents before carrying out works in streets) shall also apply to the powers conferred by this section.
- (6) A county council may if they think fit make a contribution to any expenditure incurred by a parish council under this section.
- (7) A parish council may contribute towards—
- (a) the reasonable expenses incurred by any person in doing anything which the parish council have power to do under this section, and
 - (b) the expenses incurred by any other parish council in exercising their powers under this section,
- and two or more parish councils may by agreement combine for the purpose of exercising their powers under this section.
- (8) A county council, local authority or parish council may sell refuse or litter removed by them from any receptacles for refuse or litter.
- (9) Paragraph (a) of subsection (1) of section seventy-six of the Public Health Act, 1936 (which authorises a local authority to provide receptacles for refuse), shall cease to

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have effect, and this section shall apply to any such receptacle provided under that section as if it had been provided under this section.

- (10) A reference to the said section seventy-six in any order made before the commencement of this Act under subsection (3) of section one hundred and ninety of the Local Government Act, 1933 (under which expenses incurred by a rural district council may be made special expenses separately chargeable in specified parts of the district), shall include a reference to this section.
- (11) Any person who wilfully removes or otherwise interferes with any receptacle or notice board provided or erected under this section or section one hundred and fifty-six of the Highways Act, 1959, shall be liable on summary conviction to a fine not exceeding five pounds; and the court by which that person is convicted may order him to pay a sum not exceeding twenty pounds as compensation to the county council, local authority or parish council concerned and any such order shall be enforceable in the same way as an order for costs to be paid by the offender.

Parks and open spaces

52 Management of parks and pleasure grounds

- (1) Sections seventy-six and seventy-seven of the Public Health Acts Amendment Act, 1907 (which give a local authority certain powers as regards their parks and pleasure-grounds), together with Part VI of the Public Health Act, 1925 (which extends the said section seventy-six), shall be in force throughout the district of every local authority and section three of the said Act of 1907 (which relates to the adoption by a local authority of provisions in that Act) shall not apply to the said sections seventy-six and seventy-seven.
- (2) When any part of a park or pleasure-ground is set apart by a local authority under paragraph (b) of subsection (1) of the said section seventy-six for the purpose of cricket, football or any other game or recreation, the local authority may, subject to the restrictions or conditions, if any, prescribed by rules made under that section, permit the exclusive use by any club or other body of persons of—
 - (a) any portion of the part set apart as aforesaid, and
 - (b) the whole or any part of any pavilion, convenience, refreshment room or other building provided under that section,subject to such charges and conditions as the local authority think fit.
- (3) Subsection (2) of this section shall not empower a local authority to permit at one and the same time the exclusive use of—
 - (a) more than one-third of the area of any park or pleasure ground, or
 - (b) more than one-quarter of the total area of all the parks and pleasure-grounds provided by them or under their management and control,and in exercising their powers under paragraph (a) of that subsection, the local authority must satisfy themselves that they have not unfairly restricted the space available to the public for games and recreations.
- (4) Subsections (2) and (3) of this section shall be read as one with the said section seventy-six.

53 Closing of parks and pleasure grounds

- (1) Subsection (1) of section forty-four of the Public Health Acts Amendment Act, 1890 (which empowers a local authority to close their parks and pleasure-grounds or to allow their use for a show or other special purposes), shall be amended as follows.
- (2) That subsection shall be in force throughout the district of every local authority, and sections three and five of the said Act (which relate to the adoption or bringing into force of provisions in that Act) shall not apply to that subsection.
- (3) So much of the said subsection as restricts the power of closing parks or pleasure-grounds shall have effect as if for the reference to four consecutive days there were substituted a reference to six consecutive days (excluding Sunday) and in computing any such period of six consecutive days a Saturday and the following Monday shall be regarded as consecutive days.
- (4) The proviso to the said subsection (which prohibits the closing of a park or pleasure ground on a Sunday or public holiday) shall cease to apply to a public holiday, but on any bank holiday, or on Christmas Day or Good Friday, or on a day appointed for public thanksgiving or mourning, a local authority shall not have power under the subsection to close any park or pleasure-ground, or any part thereof, if the area so closed, together with any other area so closed, exceeds one-quarter of the total area of all the parks or pleasure-grounds provided by the local authority.
- (5) The reference in paragraph (d) of subsection (1) of section eight of the Local Government Act, 1894 (under which parish councils may provide pleasure-grounds), to section forty-four of the said Act of 1890 shall be taken as a reference to that section as amended by this section.

54 Boating pools and lakes

- (1) Subject to the provisions of this section, a local authority or parish council may in any park or pleasure-ground provided by them, or under their management and control, provide a boating pool.
- (2) The local authority or parish council may provide such buildings and execute such work as may be necessary or expedient in connection with the provision of a boating pool under this section, and may also provide boats for the boating pool and such other equipment as may be reasonably required in connection with the use of the boating pool and buildings.

References in this section to a boating pool so provided shall include references to anything else provided under this subsection.

- (3) The local authority or parish council may either—
 - (a) themselves manage a boating pool provided under this section, making such reasonable charges for its use, or for admission, as they think fit, or
 - (b) let it, or any part of it, for such consideration, and on such terms and conditions, as they think fit.
- (4) Where the existence of a boating pool is likely to interfere with any water flowing directly or indirectly out of or into any watercourse which is vested in or controlled by a river board, catchment board or internal drainage board, the local authority or parish council shall before providing a boating pool under this section consult with the board.

Status: This is the original version (as it was originally enacted).

- (5) No power given by this section shall be exercised in such a manner as to contravene any covenant or condition subject to which a gift or lease of a park or pleasure-ground has been accepted or made without the consent of the donor, grantor, lessor or other person or persons entitled in law to the benefit of the covenant or condition.
- (6) Subsection (2) of section forty-four of the Public Health Acts Amendment Act, 1890 (which gives a local authority certain powers as regards lakes and water in parks and pleasure-grounds)—
- (a) shall apply in relation to a park or pleasure-ground under the management and control of a local authority as it applies in relation to a park or pleasure-ground provided by them, and
 - (b) shall be in force throughout the district of every local authority;
- and sections three and five of the said Act shall not apply to that subsection.
- (7) Section two hundred and seventy-eight of the Public Health Act, 1936 (under which compensation may be paid for damage incurred in consequence of the exercise by the local authority of their powers under that Act), shall apply as if this section were contained in that Act.
- (8) In the First Schedule to the Parish Councils Act, 1957 (which lists the expenses of parish councils which are not subject to the limit imposed by section one hundred and ninety-three of the Local Government Act, 1933), there shall be added at the end of paragraph 3 (which relates to expenditure on recreation grounds) the following words—
- “or in exercising any powers under section fifty-four of the Public Health Act, 1961”.
- (9) Sections three hundred and thirty-one and three hundred and thirty-four of the Public Health Act, 1936 (which contain savings for water rights and for the works of land drainage authorities), shall apply as if this section were contained in that Act and as if references in those sections to a local authority included references to a parish council.
- (10) It is hereby declared that this section does not authorise a local authority or parish council to do anything in contravention of byelaws made under section forty-seven of the Land Drainage Act, 1930 (under which byelaws may be made, among other things, for regulating the use of watercourses).

PART V

TRADE EFFLUENTS

Exemptions under Act of 1937

55 Charges in cases exempted under s. 4 of Act of 1937

- (1) This section shall apply in relation to the discharge of trade effluents into public sewers where by virtue of subsection (1) or subsection (2) of section four of the Public Health (Drainage of Trade Premises) Act, 1937 (which concern cases where a discharge of trade effluents was made before the coming into force of that Act, or before a change in the sewerage system), the restrictions imposed by sections one and two of that Act (hereafter referred to as the Act of 1937) do not apply.

Status: This is the original version (as it was originally enacted).

- (2) A local authority may direct that where trade effluents are discharged from any trade premises specified in the direction, and this section applies in relation to the discharge of those trade effluents, the occupier for the time being of the trade premises shall pay such charges to the local authority as the local authority may specify in the direction, regard being had to the nature and composition and to the volume and rate of discharge of the trade effluent, to any additional expense incurred or likely to be incurred by a sewerage authority in connection with its reception or disposal, and to any revenue likely to be derived by a sewerage authority from the trade effluent; and a local authority may from time to time vary or annul a direction given under this section by a further direction.
- (3) No further direction shall be given under subsection (2) of this section within two years from the date on which notice was given of the previous direction, but this subsection shall not prevent a further direction being given before that time with the written consent of the owner and occupier of the trade premises, and any direction given with such consent shall not affect the time at which any subsequent direction may be given.
- (4) A local authority shall not have power to give a direction under this section without the approval of any body which is an interested body as defined in subsection (1) of section fourteen of the Act of 1937, unless in any particular case the Minister by a notice to the local authority dispenses with the requirements of this subsection.
- (5) The local authority shall give notice of any direction under this section to the owner and occupier of the trade premises to which the direction relates, and the notice shall include information as to the right of appeal conferred by the next following subsection.
- (6) The owner or occupier of the trade premises may within two months of the giving of the notice to him, or with the written permission of the local authority at any later time, appeal to the Minister against the direction.
- (7) On an appeal against a direction under this section the Minister shall have power to annul the direction or to substitute for it any other direction under this section, whether more or less favourable to the appellant, and any direction given by the Minister may include provision as to the charges to be made for any period between the giving of the notice by the local authority and the determination of the appeal.
- (8) If charges are payable under this section for the discharge of trade effluents for any period, no charges shall be payable under paragraph (c) of subsection (1) of section four of the Act of 1937 (which, in a case where before the coming into force of the Act of 1937 any sum was payable for the discharge of trade effluents, makes it a condition of the exercise of the right under the said subsection that an equivalent payment is made) for the discharge of those trade effluents for that period.
- (9) If, under any agreement to which the local authority and the owner or occupier of the trade premises are parties, any charges are payable to the local authority for the discharge of trade effluents for any period, no charges shall be payable under this section for the discharge of those trade effluents for that period.

56 Withdrawal of exemptions after two years' disuse

- (1) If after subsection (1) or subsection (2) of section four of the Act of 1937 has operated to exempt any discharge of trade effluents from any trade premises there has been a period of two years or more during which no trade effluents of the nature or

composition so exempted were discharged from those premises, that exemption shall no longer apply to those trade premises.

- (2) This section shall apply whether or not the said period of two years or more, or any part of it, falls after the commencement of this Act, but shall not apply in relation to a period falling wholly before the commencement of this Act if the discharge of trade effluents in question from the premises was resumed before the commencement of this Act.

57 Installation of inspection chambers and meters on exempted premises

- (1) A local authority may direct that the discharge of trade effluents from any trade premises specified in the direction, in any case where subsection (1) or subsection (2) of section four of the Act of 1937 has operated to exempt the discharge of the trade effluents, shall be subject to conditions as regards all or any of the following matters—
- (a) the temperature of the trade effluent at the time when it is discharged into the sewer, and its acidity or alkalinity at that time,
 - (b) the provision and maintenance of such an inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into the sewer from the trade premises,
 - (c) the provision and maintenance of such meters as may be required to measure the volume and rate of discharge of any trade effluent being discharged from the trade premises into the sewer, and for the testing of such meters,
 - (d) the keeping of records of the volume and rate of discharge of any trade effluent being so discharged, and in particular the keeping of records of readings of meters provided in compliance with any other condition imposed under this section, and
 - (e) the making of returns and giving of other information to the local authority concerning the volume, rate of discharge, nature and composition of any trade effluent so discharged,

and a local authority may from time to time vary or annul a direction given under this section by a further direction.

- (2) No further direction shall be given under subsection (1) of this section within two years from the date on which notice was given of the previous direction, but this subsection shall not prevent a further direction being given before that time with the written consent of the owner and occupier of the trade premises, and any direction given with such consent shall not affect the time at which any subsequent direction may be given.
- (3) A local authority shall not have power to give a direction under this section without the approval of any body which is an interested body as defined in subsection (1) of section fourteen of the Act of 1937, unless in any particular case the Minister by a notice to the local authority dispenses with the requirements of this subsection.
- (4) A local authority shall give notice of any direction under this section to the owner and occupier of the trade premises to which the direction relates, and the notice shall include information as to the right of appeal conferred by the next following subsection.
- (5) The owner or occupier of the trade premises may within two months of the giving of the notice to him, or with the written permission of the local authority at any later time, appeal to the Minister against the direction.

Status: This is the original version (as it was originally enacted).

- (6) The notice shall state the date on which the direction is to take effect, being a date not less than two months after the giving of the notice, and if an appeal is brought under this section before that date, the direction shall not take effect until the appeal is withdrawn or finally disposed of.
- (7) On an appeal against a direction under this section the Minister shall have power to annul the direction or to substitute for it any other direction under this section, whether more or less favourable to the appellant.
- (8) If there is a failure to comply with a condition imposed under this section, and any trade effluent has been discharged from the trade premises into a sewer to which the condition relates at any time since the imposition of the condition, the occupier of the trade premises shall be guilty of an offence under the Act of 1937.

Trade effluents byelaws

58 Withdrawal of power to make byelaws under Act of 1937

Section five of the Act of 1937 (under which local authorities may make trade effluents byelaws) shall cease to have effect.

Conditions attached to consents

59 Conditions which may be attached to consents under Act of 1937

- (1) Paragraph (e) of subsection (3) of section two of the Act of 1937 (under which conditions may be attached to a consent under that Act with respect to the matters set out in subsection (1) of the said section five) shall cease to have effect but conditions may be so attached under the said subsection (3) with respect to all or any of the following matters (which correspond, subject to minor variations, to the matters set out in subsection (1) of the said section five)—
 - (a) the period or periods of the day during which the trade effluent may be discharged from the trade premises into the sewer,
 - (b) the exclusion from the trade effluent of all condensing water,
 - (c) the elimination or diminution of any specified constituent of the trade effluent, before it enters the sewer, where the local authority are satisfied that that constituent would, either alone or in combination with any matter with which it is likely to come into contact while passing through any sewers—
 - (i) injure or obstruct those sewers, or make specially difficult or expensive the treatment or disposal of the sewage from those sewers, or
 - (ii) (where the trade effluent is to be, or is, discharged into a sewer having an outfall in any harbour or tidal water or into a sewer which connects directly or indirectly with a sewer or sewage disposal works having such an outfall) cause or tend to cause injury or obstruction to the navigation on, or the use of, the said harbour or tidal water,
 - (d) the temperature of the trade effluent at the time when it is discharged into the sewer, and its acidity or alkalinity at that time,
 - (e) the payment by the occupier of the trade premises to the local authority of charges for the reception of the trade effluent into the sewer, and for the

- disposal thereof, regard being had to the nature and composition and to the volume and rate of discharge of the trade effluent so discharged, to any additional expense incurred or likely to be incurred by a sewerage authority in connection with the reception or disposal of the trade effluent, and to any revenue likely to be derived by a sewerage authority from the trade effluent,
- (f) the provision and maintenance of such an inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into the sewer from the trade premises, and
 - (g) the provision and maintenance of such meters as may be required to measure the volume and rate of discharge of any trade effluent being discharged from the trade premises into the sewer, and for the testing of such meters.
- (2) Conditions may also be imposed under the said subsection (3) with respect to all or any of the following matters—
- (a) the provision and maintenance of apparatus for determining the nature and composition of any trade effluent being discharged from the premises into the sewer, and for the testing of the apparatus,
 - (b) the keeping of records of the volume, rate of discharge, nature and composition of any trade effluent being so discharged, and in particular the keeping of records of readings of meters and other recording apparatus provided in compliance with any other condition attached to the consent, and
 - (c) the making of returns and giving of other information to the local authority concerning the volume, rate of discharge, nature and composition of any trade effluent so discharged.

60 Power to vary conditions

- (1) A local authority may from time to time under subsection (3) of section two of the Act of 1937 give a direction varying the conditions which have been attached to their consent to the discharge of trade effluent into a public sewer.
- (2) No direction shall be given under subsection (1) of this section within two years from the date of the consent or, where a previous direction has been given under that subsection, within two years from the date on which notice was given of that direction, but this subsection shall not prevent a direction being given before that time with the written consent of the owner and occupier of the trade premises, and any direction given with such consent shall not affect the time at which any subsequent direction may be given.
- (3) A local authority shall not have power to give a direction under subsection (1) of this section without the approval of any body which is an interested body as defined in subsection (1) of section fourteen of the Act of 1937 unless in any particular case the Minister by a notice to the local authority dispenses with the requirements of this subsection.
- (4) The local authority shall give to the owner and occupier of the trade premises to which the consent relates notice of any direction under subsection (1) of this section, and the notice shall include information as to the right of appeal conferred by the next following subsection.
- (5) The owner or occupier of the trade premises may within two months of the giving of the notice to him, or with the written permission of the local authority at any later time, appeal to the Minister against the direction.

Status: This is the original version (as it was originally enacted).

- (6) The notice shall state the date on which the direction is to take effect, being a date not less than two months after the giving of the notice, and if an appeal is brought under this section before that date, the direction shall not take effect until the appeal is withdrawn or finally disposed of:

Provided that so far as a direction relates to the making of charges payable by the occupier of the trade premises, it may take effect on any date after the giving of the notice.

- (7) On an appeal under this section the Minister shall have power to annul the direction given by the local authority or to substitute for it any other direction, whether more or less favourable to the appellant, and any direction given by the Minister may include provision as to the charges to be made for any period between the giving of the notice by the local authority and the determination of the appeal.
- (8) References in this section to the variation of conditions include references to the addition or annulment of a condition, or to the attachment of a condition to a consent to which no condition was previously attached.

61 Appeals under s. 3 of Act of 1937

- (1) This section shall have effect as respects any appeal under section three of the Act of 1937 (under which an appeal may be brought by a person aggrieved by a direction prohibiting the discharge of trade effluent until a specified date, or by refusal or failure to give a consent under that Act, or by a condition attached to a consent).
- (2) Where the appeal is in respect of a refusal to give a consent under the Act of 1937, or failure to give such a consent, the Minister may give the necessary consent, either unconditionally or subject to such conditions as the Minister thinks fit to impose for determining any of the matters as respects which the local authority have power to impose conditions under subsection (3) of section two of the Act of 1937.
- (3) Where the appeal is in respect of a condition attached to a consent the Minister may take into review all the conditions attached to the consent, whether appealed against or not, and may substitute for them any other set of conditions, whether more or less favourable to the appellant, or may annul any of the conditions.
- (4) The Minister may under the last foregoing subsection include provision as to the charges to be made in pursuance of any condition attached to a consent for any period before the determination of the appeal.
- (5) On any appeal the Minister may give a direction that no trade effluent shall be discharged in pursuance of the trade effluent notice in question until a specified date, or vary such a direction given by the local authority by substituting either an earlier or a later date for the date specified in the direction.

This subsection shall apply whether or not any direction given by the local authority is appealed against.

- (6) This section shall not apply to an appeal instituted before the commencement of this Act.

62 Postponement of right to discharge trade effluents in special cases

- (1) If, after a direction has under the Act of 1937 or this Part of this Act been given requiring that no trade effluent shall be discharged in pursuance of a trade effluent notice until a specified date, it appears to the local authority that in consequence of a failure to complete any works required in connection with the reception and disposal of the trade effluent, or in consequence of any other exceptional circumstances, a later date ought to be substituted for the date so specified in the direction, they may apply to the Minister and the Minister shall have power to vary the direction so as to extend the period during which the trade effluent may not be discharged until the date specified in the application or, if he thinks fit, any earlier date.
- (2) Not less than one month before making an application under this section the local authority shall give notice of their intention to the owner and occupier of the trade premises to which the trade effluent notice relates and the Minister before varying the direction shall take into account any representations made to him by the owner or occupier of those trade premises.

Farming, scientific research and other special cases

63 Effluents from farms and premises used for scientific research

- (1) For the purposes of the definition of " trade premises" in subsection (1) of section fourteen of the Act of 1937, any land or premises used or intended to be used (in whole or in part and whether for profit or not)—
 - (a) for agricultural or horticultural purposes, or
 - (b) for scientific research or experiment,shall be deemed to be premises used for carrying on a trade or industry, and for the purposes of the definition in that subsection of " trade effluent" the expression " trade or industry " shall include agriculture, horticulture and scientific research or experiment.
- (2) Subject to the provisions of this section, if at the commencement of this Act, or at any earlier time not more than one year before the commencement of this Act, there was being discharged from any premises any quantity of effluent which would fall within the definition of trade effluent as amended by this section (but not as unamended), none of the restrictions imposed by sections one and two of the Act of 1937 shall by virtue of subsection (1) of this section apply in relation to the discharge from those premises of trade effluent of the same nature and composition—
 - (a) during the period of twelve months beginning with the commencement of this Act, and
 - (b) if before the end of the said period of twelve months a trade effluent notice is duly served under section two of the Act of 1937 regarding the discharge from those premises of trade effluent of that nature and composition, either during the said period of twelve months or at any later time permitted under the next following subsection.
- (3) Where such a trade effluent notice has been served before the end of the said period of twelve months, the exemption conferred by subsection (2) of this section shall continue—

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- (a) until the local authority give their consent under the Act of 1937, or give notice to the owner or occupier of the trade premises that they refuse to give their consent, and
- (b) for a further three months beginning with the giving of the consent, or of notice refusing the consent,

and if before the expiration of the said period of three months an appeal is brought under section three of the Act of 1937 by reference to the trade effluent notice, the exemption shall continue until the appeal is withdrawn or finally disposed of.

- (4) The exemptions conferred by subsection (2) and subsection (3) of this section shall apply only if and so long as the quantity of the trade effluent in question discharged from the premises into the sewer on any one day does not exceed the maximum quantity thereof so discharged on any one day during the period of twelve months ending immediately before the commencement of this Act, and the exemption conferred by virtue of subsection (3) of this section shall apply only in relation to the discharge of trade effluent in accordance with the trade effluent notice.
- (5) The amendments made by subsection (1) of this section shall not apply for the purposes of subsection (1) of section four of the Act of 1937 and those amendments shall not apply for the purposes of subsection (2) of the said section four except in relation to the closing of a drain or sewer after the commencement of this Act.
- (6) The owner or occupier of any trade premises from which any effluent which falls within the definition of trade effluent by virtue of subsection (1) of this section is discharged into a sewer shall, if requested by the local authority in writing so to do, furnish to the local authority such information specified in the request as he can reasonably be expected to supply with respect to the discharge of any effluent from those premises during the period of one year ending with the commencement of this Act.
- (7) A person who fails to comply with a request for information under the last foregoing subsection shall be liable to a fine not exceeding five pounds.
- (8) Nothing in this Part of this Act shall affect any agreement duly made before the commencement of this Act between a local authority and the owner or occupier of any premises with respect to the discharge from those premises of any effluent which would fall within the definition of trade effluent as amended by subsection (1) of this section (but not as unamended).

64 Power to extend Act of 1937 to other effluents

- (1) The Minister may by order provide that the Act of 1937 and this Part of this Act shall apply in relation to liquid or other matter of any description specified in the order which is discharged from any premises into public sewers as they apply in relation to trade effluents, but subject to such modifications, if any, as may be specified in the order, and in particular subject to any modification of the definition of trade premises in the Act of 1937 which may be so specified.
- (2) The Minister may include in an order under this section such provisions as appear to him expedient for modifying any enactment relating to sewage as that enactment applies in relation to the discharge into sewers of any liquid or other matter to which any provisions of the Act of 1937 are applied by an order under this section.

- (3) The Minister may include in an order under this section such transitional, supplemental and incidental provisions as appear to him to be expedient.
- (4) An order made under this section may be varied or revoked by a subsequent order.
- (5) An order under this section shall be made by statutory instrument and the Minister shall not make an order under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

65 Laundries

- (1) If a local authority apply to the Minister and satisfy him that the discharge of trade effluent under the exemption conferred by subsection (4) of section four of the Act of 1937 (which exempts laundries from certain requirements contained in that Act) is likely to overload any sewers, or to make the treatment or disposal of sewage from any sewers specially difficult or expensive, or that there are other exceptional circumstances, the Minister may by order provide that the said subsection (4) shall not apply to premises specified in the order.
- (2) An order under this section may designate particular premises in the district of the local authority, or may be made to apply to premises throughout the district, or to premises in any part of the district specified in the order.
- (3) A local authority shall take such steps as appear to them to be appropriate for bringing any application under this section to the attention of those who may be affected and affording them an opportunity of making representations to the Minister.
- (4) After an order is made under this section the local authority shall publish a notice of the order on at least two occasions in a local newspaper circulating in their district.
- (5) On the coming into force of an order under this section the local authority shall treat any trade effluent notice served on them before the coming into force of the order as regards any premises affected by the order as being an application for consent under subsection (1) of section one of the Act of 1937 to the discharge of trade effluents in accordance with the trade effluent notice and, if the local authority fail to give that consent within two months from the coming into force of the order the occupier of the premises may appeal to the Minister under section three of the Act of 1937.
- (6) No consent under subsection (1) of section one of the Act of 1937 shall be required by virtue of the making of an order under this section for the discharge of trade effluents in accordance with a trade effluent notice served on the local authority before the coming into force of the order for the period of three months beginning with the date on which the order comes into force, and if within that period an appeal is brought under section three of the Act of 1937 by reference to the trade effluent notice, no consent shall be so required until the appeal is withdrawn or finally disposed of:

Provided that this subsection shall only apply if and so long as the quantity of trade effluent discharged from the premises in pursuance of the trade effluent notice on any one day does not exceed the maximum quantity so discharged on any one day during the period of twelve months ending with the coming into force of the order.
- (7) Nothing in section fifty-five or section fifty-seven of this Act shall authorise the imposition of any charge or condition in relation to the discharge of a trade effluent to which the exemption conferred by subsection (4) of section four of the Act of 1937 for the time being applies.

- (8) An order made under this section may be varied or revoked by a subsequent order.

Supplemental

66 Appeals to the Minister

- (1) At any stage of the proceedings on an appeal or reference to the Minister under section three, or subsection (5) of section four, of the Act of 1937, or under any provision of this Part of this Act, the Minister may, and if so directed by the High Court shall, state in the form of a special case for the decision of the High Court any question of law arising in those proceedings ; and the decision of the High Court on the special case shall be deemed to be a judgment of the Court within the meaning of section twenty-seven of the Supreme Court of Judicature (Consolidation) Act, 1925 (which relates to the jurisdiction of the Court of Appeal to hear and determine appeals on any judgment of the High Court), but no appeal to the Court of Appeal shall be brought by virtue of this subsection except with the leave of the High Court or the Court of Appeal.
- (2) The Act of 1937 and this Part of this Act shall apply in relation to any consent or direction given, or condition imposed, by the Minister on an appeal concerning the exercise of the powers of a local authority under any provision of the Act of 1937 or this Part of this Act as if the consent or direction had been given or, as the case may be, the condition had been imposed by the local authority under that provision.

67 Recording and testing of trade effluents

- (1) Any meter or apparatus provided in pursuance of the Act of 1937 or this Part of this Act in any trade premises for the purpose of measuring, recording or determining the volume, rate of discharge, nature or composition of trade effluent discharged from those premises shall in any proceedings be presumed to register accurately until the contrary is shown.
- (2) The powers of entry conferred by section two hundred and eighty-seven of the Public Health Act, 1936, as applied to this Part of this Act, shall extend to entry for the purpose of reading any meter or other recording apparatus provided in any premises in pursuance of the Act of 1937 or this Part of this Act for the purpose of assessing any charge.
- (3) In subsection (2) of section ten of the Act of 1937 (which provides that the result of an analysis of a sample of trade effluent taken under that section shall not be admissible as evidence unless certain requirements have been complied with) references to an analysis shall include references to any test of whatever kind and " analysed " and " analyst " in that subsection shall be construed accordingly.

68 Restriction of disclosure of information

- (1) If any person discloses any information which has: been furnished to him under the Act of 1937 or this Part of this Act he shall be guilty of an offence, unless the disclosure is made—
- (a) with the consent of the person by whom the information was furnished; or
 - (b) in connection with the execution of the Act of 1937 or this Part of this Act; or
 - (c) for the purposes of any proceedings arising out of the Act of 1937 or this Part of this Act (including appeals and applications to the Minister and arbitrations)

or of any criminal proceedings whether so arising or not, or for the purpose of any report of any such, proceedings.

- (2) A person guilty of an offence under the foregoing subsection shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both.

69 Explanation of Act of 1937

- (1) It is hereby declared that nothing in the Act of 1937 or this Part of this Act authorises the discharge of any effluent into a public sewer otherwise than by means of a drain or sewer as defined in the Public Health Act, 1936.
- (2) It is hereby declared that the power of the Minister to amend or adapt local Acts under subsection (1) of section twelve of the Act of 1937, as applied to this Part of this Act, applies to local Acts coming into force after, as well as before, that Act.

70 Copies of directions by local authorities to be available to the public

A copy of every direction given by a local authority under this Part of this Act, certified by the clerk of the local authority, shall be kept by the local authority at their offices so as to be available at all reasonable times for inspection and copying by any person, upon payment of a fee of sixpence for each inspection.

71 Amendment of s. 22 of London County Council (General Powers) Act, 1953

In section twenty-two of the London County Council (General Powers) Act, 1953, references to the Act of 1937 shall include references to this Part of this Act, and the Minister in exercising his power of making orders under that section may apply this Part of this Act subject to such modifications as appear to him expedient.

PART VI

MISCELLANEOUS

72 Discharge of steam

In paragraph (d) of subsection (1) of section ninety-two of the Public Health Act, 1936 (under which dust or effluvia caused in any trade or business is a statutory nuisance if it is prejudicial to the health of, or a nuisance to, the local inhabitants), the reference to effluvia shall include a reference to any spent or ejected steam so, however, that this section shall not be taken as applying to steam ejected by a railway locomotive.

73 Derelict petrol tanks

- (1) Where a fixed tank or other fixed container which has been used for the storage of petroleum spirit, and is no longer used for that purpose, is kept on any premises, the occupier of the premises shall take all such steps as may be reasonably necessary to prevent danger from the container.
- (2) An officer of the local authority duly authorised by them may, on producing, if so required, some duly authenticated document showing his authority, require

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the occupier of premises on which there is any tank or other container to which subsection (1) of this section applies to show it to him and permit him to ascertain whether steps have been taken to comply with the provisions of this section.

- (3) The local authority may by notice require the occupier of the premises to take any steps reasonably necessary to prevent danger from any tank or other container to which subsection (1) of this section applies.
- (4) The provisions of Part XII of the Public Health Act, 1936, with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice under subsection (3) of this section, and shall so apply as if this section were contained in that Act.
- (5) This section shall apply in relation to premises which are unoccupied with the substitution for the references to the occupier of the premises of references to their owner (as defined in subsection (1) of section three hundred and forty-three of the Public Health Act, 1936); and this section shall not apply to premises situated within the jurisdiction of a harbour authority (as defined in section twenty-three of the Petroleum (Consolidation) Act, 1928).
- (6) In this section the expression "petroleum spirit" has the same meaning as in the said Act of 1928.

74 Power to reduce numbers of pigeons and other birds in built-up areas

- (1) Subject to the provisions of this section, a local authority shall have power to take any steps for the purpose of abating or mitigating any nuisance, annoyance or damage caused by the congregation in any built-up area of house doves or pigeons or of starlings or sparrows.
- (2) Nothing in section twenty-three of the Larceny Act, 1861, or in any other provision in that Act, shall prevent a local authority, in exercise of their powers under this section, from taking any reasonable steps to seize or destroy, or sell or otherwise dispose of, any house doves or pigeons which in their belief have no owner.
- (3) A local authority acting under this section shall take all reasonable precautions to ensure that the seizure and destruction of any birds are carried out humanely.
- (4) It is hereby declared that this section does not authorise a local authority to do anything in contravention of the Protection of Birds Act, 1954.

75 Byelaws as to pleasure fairs and roller skating rinks

- (1) A local authority may make byelaws—
 - (a) for regulating the hours during which pleasure fairs and roller skating rinks may be open to the public;
 - (b) for securing safe and adequate means of ingress to, and egress from, any pleasure fair or roller skating rink ;
 - (c) for the prevention and suppression of nuisances, and the preservation of sanitary conditions, cleanliness, order and public safety, at any pleasure fair or roller skating rink;

and it shall be the duty of the local authority to enforce byelaws made by them under this section.

- (2) In this section—
- (a) "pleasure fair" means any place—
 - (i) which is for the time being used wholly or mainly for providing, whether or not in combination with any other entertainment, any entertainment to which this section applies, and
 - (ii) for admission to which, or for the use of the contrivances in which, a charge is made ;
 - (b) " roller skating rink " means any place which is for the time being used wholly or mainly for roller skating and for admission to which a charge is made.
- (3) Subject to the provisions of the next following subsection, the entertainments to which this section applies are the following:—
- (a) circuses;
 - (b) exhibitions of human beings or of performing animals;
 - (c) merry-go-rounds, roundabouts, swings, switchback railways;
 - (d) coco-nut shies, hoop-las, shooting galleries, bowling alleys;
 - (e) dodgems or other mechanical riding or driving contrivances;
 - (f) automatic or other machines intended for entertainment or amusement;
 - (g) anything similar to any of the foregoing.
- (4) Nothing in this section, or the byelaws made thereunder, shall apply to—
- (a) a fair held by statute, royal charter, royal licence, letters patent or ancient custom, or
 - (b) a place owned by, or under the management and control of, an authority having power to make byelaws with respect to entertainments provided at that place.
- (5) Different byelaws may be made under this section for pleasure fairs and roller skating rinks and for different kinds of pleasure fairs.
- (6) Section two hundred and eighty-seven of the Public Health Act, 1936 (which relates to powers of entry), shall have effect as if this section were contained in that Act.
- (7) Section thirty-eight of the Public Health Acts Amendment Act, 1890 (under which byelaws may be made for the prevention of danger from roundabouts, swings and shooting galleries), shall cease to have effect, but any byelaws under that section in force at the commencement of this Act shall continue in force and may be revoked at any time as if they had been made under this section.
- (8) The Secretary of State shall be the confirming authority as respects byelaws under this section, and the Secretary of State shall not confirm any byelaw under this section unless he is satisfied that all bodies which appear to him to be representative of the interests of those who carry on pleasure fairs and entertainments to which this section applies have been consulted on the matters dealt with by the byelaw.

76 Byelaws as to seaside pleasure boats

- (1) For the prevention of danger, obstruction or annoyance to persons bathing in the sea or using the seashore, a local authority may make byelaws—
- (a) regulating the speed of pleasure boats;

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- (b) regulating the use of pleasure boats so as to prevent their navigation in a dangerous manner or without due care and attention or without reasonable consideration for other persons;
 - (c) requiring the use of effectual silencers on pleasure boats propelled by internal combustion engines.
- (2) The Secretary of State shall be the confirming authority as respects byelaws made under this section.
 - (3) Any byelaw may be made under this section so as to have effect not only within the district of the local authority but also within a distance seaward from that district not exceeding one thousand yards from low-water mark of ordinary spring tides; and any offence against any such byelaw committed within that distance may be inquired into and dealt with as if it had been committed within the district of the local authority.
 - (4) Any byelaw made under this section shall be of no effect if and in so far as it is inconsistent with any byelaw made by any dock undertakers or by any person authorised by any enactment or statutory order to construct or operate a pier.

77 Byelaws as to hairdressers and barbers

- (1) A local authority may make byelaws for the purpose of securing—
 - (a) the cleanliness of premises on which a hairdresser's or barber's business is carried on and of the instruments, towels, materials and equipment used therein, and
 - (b) the cleanliness of the hairdressers or barbers working in such premises in regard to both themselves and their clothing;and it shall be the duty of the local authority to enforce byelaws made by them under this section.
- (2) Section two hundred and eighty-seven of the Public Health Act, 1936, shall have effect as if this section were contained in that Act.
- (3) The Minister shall be the confirming authority as respects byelaws under this section.

78 Water supply to houses

- (1) In the proviso to subsection (3) of section one hundred and thirty-eight of the Public Health Act, 1936 (under which a householder may be required to pay up to twenty pounds towards the cost of providing a water supply for a house), for the word " twenty " there shall be substituted the word " sixty ".
- (2) This section shall not have effect in relation to a notice given under the said section one hundred and thirty-eight before the commencement of this Act.

79 Discontinuance of reports regarding canal boats

- (1) Subsection (3) of section two hundred and forty-nine of the Public Health Act, 1936 (which requires a registration authority for any canal to make a report regarding canal boats to the Minister every year), shall cease to have effect.
- (2) This section extends to the administrative county of London.

80 Meaning of "refreshment-house" in s. 89 of Public Health Act, 1936

It is hereby declared that the expression "refreshment-house " in section eighty-nine of the Public Health Act, 1936, means any building in which food or drink is sold to and consumed by the public.

81 Summary recovery of damages for negligence

Damages recoverable by a county council, local authority or parish council or parish meeting for damage caused by negligence to any lamp, lamp-post, notice board, fence, rail, post, shelter or other apparatus or equipment provided by them in a street or public place shall, if the amount thereof does not exceed twenty pounds, be recoverable summarily as a civil debt.

PART VII

SUPPLEMENTAL

82 Power to amend local Acts

- (1) The Minister may, subject to the provisions of this section, by order repeal or amend any provision—
 - (a) in any local Act passed before this Act, or in any Act passed before this Act and confirming a provisional order, or
 - (b) in any order or other instrument made under an Act of Parliament before the passing of this Act,where it appears to him that that provision is inconsistent with, or has become unnecessary in consequence of, any provision of this Act, other than the provisions of Part V.
- (2) Subject to subsection (3) of this section, the Minister shall not make an order under this section repealing or amending any provision in any local Act the Bill for which was promoted—
 - (a) by a county council or local authority, or
 - (b) by any authority, board, commissioners, trustees or other body whose functions under the local Act have become exercisable by a county council or local authority,except on the application of that county council or local authority.
- (3) Subsection (2) of this section shall not apply in relation to any order so far as the provisions of the local Act which it repeals or amends are repealed or amended as being inconsistent with, or as having become unnecessary in consequence of, the provisions of this Act relating to building regulations.
- (4) Before making an order under this section the Minister shall consult with any county council or local authority which appear to him to be concerned, not being an authority on whose application the order is made.
- (5) An order made under this section—
 - (a) may contain such transitional, supplemental or incidental provisions as appear to the Minister to be expedient, and

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(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) The provisions of this section shall be without prejudice to the powers conferred by section three hundred and thirteen of the Public Health Act, 1936 (under which amendments may be made in certain local Acts), as applied to any of the provisions of this Act.

83 Saving for law relating to ancient monuments and for planning law

It is hereby declared that a local authority or other person may not under this Act do anything which is unlawful under the law relating to ancient monuments or to town and country planning.

84 Extension of certain references to Public Health Acts

(1) Subsection (3) of section nine of the New Towns Act, 1946 (under which provisions of the Public Health Acts relating to sewage may be applied to new towns), paragraph (b) of subsection (4) of section eight of the Town Development Act, 1952 (under which such provisions may be applied to an authority acting under that Act), and any other enactment conferring power to apply the provisions of the Public Health Act, 1936, or the Public Health (Drainage of Trade Premises) Act, 1937, relating to sewage shall have effect as if references to the said Acts of 1936 and 1937 or either of them included references to the provisions of this Act.

(2) Any order made before the commencement of this Act under subsection (2) of section nine of the New Towns Act, 1946, which applies all the provisions of the said Act of 1937 (or all those provisions except any which are repealed by this Act) without modification, shall have effect as if references to that Act included references to Part V of this Act, but nothing in this subsection shall affect any power to vary or revoke any such order.

85 Expenses

There shall be paid out of money provided by Parliament—

- (a) any increase in the sums so payable under any Act other than this Act which is attributable to the provisions of this Act, and
- (b) any expenses incurred by any Minister under this Act.

86 Short title, commencement and repeals

(1) This Act may be cited as the Public Health Act, 1961.

(2) Save as otherwise expressly provided, this Act shall come into force as follows—

- (a) the provisions of Part II relating to building regulations shall come into force on such date as the Minister may by order contained in a statutory instrument appoint, and
- (b) the other provisions of this Act shall come into force at the expiration of the period of two months beginning with the passing of this Act.

(3) The Acts mentioned in the Fifth Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule:

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Provided that the repeals mentioned in Part I of that Schedule shall, save as otherwise expressly provided in the said Part I, take effect on the date appointed under paragraph (a) of the last foregoing subsection.

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SCHEDULES

FIRST SCHEDULE

Sections 6 and 11.

BUILDING REGULATIONS

PART I

RELAXATION FOR EXISTING WORK

Interpretation

- 1 This Part of this Schedule applies to any direction under this Act which will affect the application of building regulations to work which has been carried out before the giving of the direction.

Cases where no direction may be given

- 2 Neither the Minister nor a local authority shall give a direction to which this Part of this Schedule applies—
- (a) if the local authority have before the making of the application for the direction become entitled under subsection (3) of section sixty-five of the Public Health Act, 1936, to pull down, remove or alter the work to which the application relates, or
 - (b) if when the application is made there is in force an injunction or other direction given by a court which requires the work to be pulled down, removed or altered.

Suspension of certain provisions while an application is pending

- 3 (1) Subject to the following provisions of this Schedule, after the making of an application for a direction to which this Part of this Schedule applies, and until the application is withdrawn or finally disposed of, no notice shall be given under section sixty-five of the Public Health Act, 1936, as regards the work to which the application relates on the ground that it contravenes the requirement to which the application relates.
- (2) If an application for a direction to which this Part of this Schedule applies is made less than twelve months after the completion of the work to which the application relates, so much of subsection (4) of the said section sixty-five as prevents a notice being given more than twelve months after the completion of the work shall not prevent the giving of such a notice as regards that work at any time within the period of three months from the date on which the application is withdrawn or finally disposed of.
- (3) If an application for a direction to which this Part of this Schedule applies is made after a notice under the said section sixty-five has been given on the ground that the work to which the application relates contravenes the requirement to which

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the application relates (not being an application prohibited by paragraph 2 of this Schedule), subsection (3) of the said section sixty-five shall have effect in relation to that work as if for the reference to the period there mentioned there were substituted a reference to a period expiring twenty-eight days after the application is withdrawn or finally disposed of, or such longer period as a magistrates' court may allow.

- (4) Subject to the following provisions of this Schedule, if an application for a direction to which this Part of this Schedule applies is made after any person has, in consequence of the carrying out of the work to which the application relates in contravention of building regulations, become liable to a penalty continuing from day to day, the daily penalty shall not be recoverable in respect of any day after the making of the application and before it is withdrawn or finally disposed of.
- (5) In a case where an application is withdrawn or is finally disposed of without any direction being given, the Minister or, as the case may be, the local authority may order that the daily penalty shall not be recoverable in respect of any day during such further period not exceeding twenty-eight days as may be specified in the order.
- 4 Sub-paragraph (1), sub-paragraph (3) and sub-paragraph (4) of the last foregoing paragraph shall not apply to an application which is a repetition, or substantially a repetition, of a previous application under this Act.

Saving for criminal liability incurred before making of application

- 5 The giving of a direction to which this Part of this Schedule applies shall not affect the liability of any person for an offence committed before the giving of the direction except so far as that liability depends on the continuation of the offence after the giving of the direction.

Termination of proceedings under section 65 of Act of 1936 on giving of a direction

- 6 If before the giving of a direction to which this Part of this Schedule applies a notice has been given under section sixty-five of the Public Health Act, 1936, and the contravention of building regulations by virtue of which the notice was given comes to an end when the direction is given, the local authority shall not, after the giving of the direction, be entitled to proceed under subsection (3) of the said section sixty-five by virtue of that notice.

PART II

TRANSITIONAL PROVISIONS

- 7 Section sixty-eight of the Public Health Act, 1936 (which provides for the temporary operation of building byelaws), shall cease to have effect at the passing of this Act and, accordingly, until the date when the other provisions of this Act relating to building regulations come into force (hereafter in this Part of this Schedule referred to as " the appointed date ") building byelaws in force immediately before the passing of this Act shall continue in force, but subject to the power to make further building byelaws varying or revoking them.
- 8 (1) Any building byelaw in force immediately before the appointed date shall after the appointed date continue to apply in relation to—
- (a) plans which, in accordance with building byelaws, were deposited with a local authority before the appointed date, and

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- (b) work carried out in accordance with plans de-posed before the appointed date, with or without any departures or deviations from those plans, and
 - (c) work carried out and completed before the appointed date.
- (2) Except as provided by the foregoing sub-paragraph, all building byelaws shall be repealed at the appointed date, but subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals), shall apply in relation to the repeals effected by this sub-paragraph as it applies in relation to the repeal of any provision in an Act of Parliament.
- 9 (1) Subject to the provisions of this paragraph, a local authority may, on an application made after the appointed date by any person (other than the local authority), and with the consent of the Minister, give a direction dispensing with or relaxing any requirement of building byelaws, and the Minister may, on such an application by a local authority, give such a direction in their favour.
- (2) Subsection (4) of section six and sections seven and eight of this Act, and Part I of this Schedule, shall apply in relation to any application or direction under this paragraph as if references to building regulations included references to building byelaws, and as if an application or direction under this paragraph were an application or direction under the said section six.
- (3) Any application for the relaxation of or dispensation with the requirements of a building byelaw under section sixty-three of the Public Health Act, 1936, which is pending at the appointed date shall have effect after the appointed date as if it were an application under sub-paragraph (1) of this paragraph.
- (4) Where under the said section sixty-three notice of any proposed relaxation or dispensation has been given before the appointed date, no notice need be published or given under section eight of this Act as regards that relaxation or dispensation.
- 10 The amendments made by section five of this Act and Part III of this Schedule in any enactment shall not apply so as to exclude from that enactment any reference to building byelaws as in force before the appointed date, or as continued in force by this Part of this Schedule.
- 11 Subsection (2) of section ten of this Act shall not apply in relation to any plans deposited before the appointed date.

PART III

CONSEQUENTIAL AMENDMENTS

The Restriction of Ribbon Development Act, 1935

25 & 26 Geo. 5. c.47

In section seventeen, in subsection (1), after the word " byelaw " there shall be inserted the words " or building regulations ".

The Public Health Act, 1936

26 Geo. 5 & 1 Edw. 8. c. 49

In section twenty-five, in subsection (1), for the word " byelaws' there shall be substituted the word " regulations " .

In section thirty-seven, in subsection (1), for the word " byelaws " there shall be substituted the word " regulations" .

In section forty-three, in subsection (1), for the word " byelaws " there shall be substituted the word " regulations" .

In section fifty-three, in subsections (1) and (2), for the word " byelaws " wherever it occurs, there shall be substituted the word " regulations " and in subsection (7), for the words " A local authority may by their building byelaws " there shall be substituted the words " The Minister may by building regulations ", and for the words " in the byelaws " there shall be substituted the words " in the regulations" .

In section fifty-four, in subsection (1), for the word "byelaws" there shall be substituted the word " regulations" .

In section fifty-five, in subsection (1), for the word " byelaws" there shall be substituted the word " regulations" .

In section fifty-nine, in subsection (1) and paragraph (d) of subsection (5), for the word " byelaws " there shall be substituted the word " regulations" .

In section sixty-one, in subsection (1), for the words " Every local authority may and, if required by the Minister, shall make byelaws " there shall be substituted the words " The Minister shall, subject to the provisions of the Public Health Act, 1961, have power to make regulations "; and in subsection (2) for the word " Byelaws " there shall be substituted the word " Regulations" .

In section sixty-two, in subsection (1) and paragraph (c) of subsection (2), for the word " byelaws " wherever it occurs there shall be substituted the word " regulations" .

In section sixty-four, for the words " byelaw" and " byelaws " wherever they occur there shall be substituted the words " regulation " and " regulations " respectively. In section sixty-five, for ' the words " byelaw " and " byelaws " wherever they occur there shall be substituted the words " regulation " and " regulations " respectively. In section sixty-six, in subsection (1), for the word "byelaws" wherever it occurs there shall be substituted the word " regulations" .

In section sixty-seven, for the word " byelaws " wherever it occurs there shall be substituted the word " regulations" .

In section seventy, in subsection (2), for the word " appended " there shall be substituted the word " kept" .

In section seventy-one, for the word " byelaws " wherever it occurs there shall be substituted the word " regulations" .

In section ninety, in subsections (2) and (3), for the word " byelaws " wherever it occurs there shall be substituted the word " regulations" .

In section one hundred and thirty-seven, in subsection (1) for the word " byelaws " there shall be substituted the word " regulations" .

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In section two hundred and sixty-nine, in subsection (8), in paragraph (i), for the words "the building byelaws of the local authority" there shall be substituted the words "building regulations".

In section two hundred and eighty-four, in subsection (2), after the word "byelaws" there shall be inserted the words "building regulations".

In section two hundred and eighty-seven, in subsection (1), after the word "byelaws" wherever it occurs there shall be inserted the words "or building regulations".

In section two hundred and eighty-eight, after the word "byelaw" there shall be inserted the words "building regulation".

In section two hundred and ninety-nine, after the word "byelaws" wherever it occurs there shall be inserted the words "or building regulations".

In section three hundred and forty-three, in subsection (1), for the word "byelaws" where it occurs for the first and second time there shall be substituted the word "regulations".

The Civil Defence Act, 1939

2 & 3 Geo. 6. c. 31

Section thirty-three shall be amended as follows—

- (a) in subsection (4), in paragraph (a), for the words from "relate to areas" to "were building byelaws" there shall be substituted the words "apply outside the administrative county of London as if the regulations were building regulations", and
- (b) in subsection (7), for the word "byelaws" there shall be substituted the word "regulations".

The Clean Air Act, 1956

4. & 5 Eliz. 2. c. 52

In section ten, for the word "byelaws" wherever it occurs there shall be substituted the word "regulations".

In section twenty-four, for the word "byelaws" there shall be substituted the word "regulations".

In section twenty-nine, in subsection (1), for the word "byelaws" there shall be substituted the word "regulations".

The amendments of the said sections ten, twenty-four and twenty-nine do not affect the law in the administrative county of London or in Scotland and, accordingly, in subsection (6) of section thirty-two, and in subsection (1) of section thirty-four (which adapt the Act in its application to London and to Scotland) for the words "building byelaws" there shall be substituted the words "building regulations".

The Housing Act, 1957

5. & 6 Eliz. 2 c. 56

In section twelve, in subsection (4), after the words "building byelaws" there shall be inserted the words "or building regulations".

In section twenty-nine, in subsection (2), after the words " building byelaws" there shall be inserted the words " or building regulations".

In section fifty-nine, in subsection (2), after the words " building byelaws" there shall be inserted the words " or building regulations ".

The Highways Act, 1959

7 & 8 Eliz. 2. c. 25

In section one hundred and ninety-two, in subsection (1), for the word " byelaws " there shall be substituted the word " regulations".

In section one hundred and ninety-three, in subsection (1), for the word " byelaws " there shall be substituted the word " regulations".

In section two hundred and thirteen, in subsections (1) and (2), for the word " byelaws" there shall be substituted the word " regulations ".

SECOND SCHEDULE

Section 12.

SUPPLEMENTARY PROVISIONS CONCERNING SEWERAGE CONTRIBUTIONS

Establishment of actual and estimated cost per yard of sewer

- 1 (1) As soon as may be after a resolution has been passed for the purposes of section twelve or section thirteen of this Act and the actual cost of constructing the sewer to which the resolution relates has been ascertained, the local authority shall serve on the owners of the premises fronting the street or the part of the street in which the sewer is constructed a notice specifying—
 - (a) the amount of the actual cost per yard of the sewer constructed in the street or part of the street, and
 - (b) the amount which the local authority estimate as the cost per yard of a sewer having an internal diameter of nine inches constructed in the street or part of the street at a depth of seven feet,and every such notice shall state that the lesser of these amounts will be relevant in computing the amount of any payment recoverable under section twelve or section thirteen of this Act, as the case may be, in respect of those premises, and shall give particulars of the right of objection conferred by the next following paragraph.
- (2) The cost per yard of a sewer constructed in a street or part of a street shall be computed by the local authority by dividing the cost of constructing that sewer by its extent in yards.
- 2 (1) Any person on whom a notice is served under the foregoing-paragraph may within one month of the date of the notice serve on the local authority an objection in writing to the correctness of any amount specified by that notice.
- (2) If an objection is made under this paragraph within the said period and is not withdrawn, the local authority shall, after the expiration of that period, apply to a magistrates' court to appoint a time for hearing and determining all objections so made within that period and shall serve on all the objectors notice of the time and place so appointed.

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- (3) At the hearing the court may direct that there be substituted for any amount specified in the notice such other amount as the court may determine.
- (4) Subject to any direction by a court on the hearing of objections under this paragraph (whether at first instance or on appeal), the amounts specified in the notice shall be conclusive for all purposes.

Recovery of payments

- 3 (1) Whenever a payment becomes recoverable in respect of any premises, the local authority shall serve a notice specifying the amount of the payment on the owner of the premises for the time being, and may recover that amount together with interest thereon from the date of the notice from that person :

Provided that no notice shall be served under this paragraph before the amount of the actual and estimated cost per yard of the sewer has been conclusively established.

- (2) A notice under this paragraph shall give particulars of the power of remission and the right of appeal conferred by subsection (8) of section twelve of this Act.

- 4 The rate of interest chargeable under the last foregoing paragraph shall be such rate as the local authority may determine not exceeding the maximum rate fixed by the Minister for the purpose of section two hundred and ninety-one of the Public Health Act, 1936, at the time when the notice is served, or, if different maximum rates are then so fixed, the highest of those rates.

- 5 The payment recoverable in respect of any premises together with interest thereon from the date of the notice served under paragraph 3 of this Schedule shall, from that date until recovered, be a charge on the premises and on all estates and interests therein.

Interpretation

- 6 (1) A building shall be deemed to be erected after the date on which a resolution comes into operation unless its erection was complete before that date.

- (2) A building shall be deemed to be erected—
- (a) if any part of the building is wholly or partly re-erected when the outer wall of that part has been demolished (otherwise than in consequence of fire or other accident) to within ten feet of the surface of the ground adjoining the lowest storey of that part;
 - (b) if (not having been originally constructed for human habitation) it is converted into a house ;
 - (c) if it is converted into a factory, shop or place of public resort;
 - (d) if it is extended so that the area occupied by the site of the building will (with any previous extension made since the date on which a resolution came into operation in relation to the building) be increased by an area of more than one-eighth or, in the case of a building constructed for agricultural purposes, one-quarter, of that occupied by the site of the building before that date;

and subsection (2) of section ninety of the Public Health Act, 1936 (Which specifies operations which are deemed to be the erection of a building), shall not apply in relation to section twelve or section thirteen of this Act.

- 7 (1) References to premises on which a building is erected are references to the building and any land occupied with the building.
- (2) References to "fronting" include references to adjoining and abutting and "frontage" shall be construed accordingly.

Proof of publication of resolutions

- 8 Publication of a notice of a resolution for the purposes of section twelve or section thirteen of this Act in a newspaper and the date of any such publication may be proved by the production of a photostatic or other reproduction certified by the clerk of the local authority to be a true reproduction of a page or part of a page of that newspaper bearing the date of its publication and containing the notice.

THIRD SCHEDULE

Sections 43, 44 and 51.

CONSENTS REQUIRED FOR EXECUTION OF CERTAIN WORKS IN STREETS

- 1 In this Schedule "the authority" means the county council, local authority or parish council having power to carry out the works to which this Schedule applies.
- 2 The authority shall not carry out any works to which this Schedule applies in any such situation or position as is described in the first column of the following Table except with the consent of the person described in relation thereto in the second column of that Table.

TABLE

In any street which is a highway for which there is a highway authority other than the authority carrying out the works.	The highway authority.
In any street belonging to, and repairable by any railway, dock, harbour, canal, inland navigation or passenger road transport undertakers and forming the approach to any station, dock, wharf or depot of those undertakers.	The undertakers.
On any bridge not vested in the authority carrying out the works or on the approaches to any such bridge.	The authority or other person in whom the bridge is vested.
On any bridge carrying a street over any railway, canal or inland navigation, or on the approaches to any such bridge, or under any bridge carrying a railway, canal or inland navigation over a street.	The railway, canal or inland navigation undertakers concerned.
Except in the case of works under section forty-four of this Act, in a position obstructing or interfering	The owner (as defined by the Public Health Act, 1936) and the occupier of the land or premises.

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with any existing access to any land or premises abutting upon a street.

- 3 Any consent required by this Schedule in respect of any works shall not unreasonably be withheld but may be given subject to any reasonable conditions, including a condition that the authority shall remove the works either at any time or at or after the expiration of a period if reasonably required so to do by the person giving the consent.
- 4 Any dispute between the authority and a person whose consent is required under this Schedule as to whether that consent is unreasonably withheld or is given subject to reasonable conditions, or whether the removal of anything to the provision of which the consent relates in accordance with any condition of the consent is reasonably required, shall—
- (a) in the case of a dispute between the authority and the Minister of Transport, be referred to and determined by an arbitrator to be appointed in default of agreement by the President of the Institution of Civil Engineers, and
 - (b) in any other case, be referred to and determined by the Minister of Transport, who may cause a local inquiry to be held for that purpose,
- and section two hundred and ninety of the Local Government Act, 1933, shall apply in relation to a local inquiry held under this paragraph as it applies in relation to such an inquiry held under that Act.

FOURTH SCHEDULE

Section 45.

ATTACHMENT OF STREET LIGHTING EQUIPMENT TO CERTAIN BUILDINGS

As regards buildings of the descriptions in the first column of the following Table the appropriate authority for the purposes of section forty-five of this Act shall be the person specified in the second column of that Table (and not a magistrates' court).

TABLE

A building which is for the time being included in a list published under section 12 of the Ancient Monuments Consolidation and Amendment Act, 1913.	The Minister of Works.
A building which is subject to a building preservation order under section 29 of the Town and Country Planning Act, 1947, or included in a list compiled or approved under section 30 of that Act.	The Minister of Housing and Local Government.
A building owned by railway, canal, dock, harbour or inland navigation undertakers.	The Minister of Transport.
A building owned by electricity or gas undertakers or the National Coal Board.	The Minister of Power.
A building owned by statutory water undertakers.	The Minister of Housing and Local Government.

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A building forming part of an aerodrome licensed under the Civil Aviation Act, 1949, or any enactment repealed by that Act.	The Minister of Aviation.
A building owned by a county council, local authority or parish council or parish meeting who are not the street lighting authority concerned.	The Minister of Housing and Local Government.
A building owned by a development corporation established under the New Towns Act, 1946, or the Commission for the New Towns established under the New Towns Act, 1959.	The Minister of Housing and Local Government.

FIFTH SCHEDULE

Section 86.

ENACTMENTS REPEALED

PART I

REPEALS CONSEQUENT ON BUILDING REGULATION PROVISIONS

Session and Chapter	Short Title	Extent of Repeal
3 & 4 Geo. 5. c. 32.	The Ancient Monuments Consolidation and Amendment Act, 1913.	Section eighteen except as it applies in the administrative county of London.
26 Geo. 5 and 1 Edw. 8. c. 49.	The Public Health Act, 1936.	In section twenty-five, subsection (3). In section sixty-one, in subsection (2), the word "estimates " and subsection (3). Section sixty-three. In section sixty-six, subsections (2) and (3). Section sixty-eight as from the passing of this Act. Section sixty-nine. In section seventy, in paragraph (b) of subsection (1), the words from the beginning to " thirty-one, and ", the words "or section fifteen of the Public Health Acts

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Session and Chapter	Short Title	Extent of Repeal
2 & 3 Geo. 6. c. 31.	The Civil Defence Act, 1939.	Amendment Act, 1907" and the words " in question ". In section three hundred and forty-three, in subsection (1), in the definition of " building byelaws", the words from " and includes " to the end of the definition.
10 & 11 Geo. 6. c. 39.	The Statistics of Trade Act, 1947.	In section thirty-three, in subsection (6), the words "Any building byelaws. or ".
5 & 6 Eliz. 2. c. 56.	The Housing Act, 1957	In section fourteen, subsections in and (2) In section one hundred and forty-eight, subsection (3). In section one hundred and eighty-nine, in the definition of " building byelaws" in subsection (1) the words " or section sixty-one of the Public Health Act, 1936" and the words "new buildings, including the drainage thereof, and ".

PART II

OTHER REPEALS

Session and Chapter	Short Title	Extent of Repeal
53 & 54 Vict. c. 59.	The Public Health Acts Amendment Act, 1890.	Section thirty-eight, but without prejudice to any byelaws in force under that section. In section forty-four, in the proviso to subsection (1), the words " or public holiday ".
15 & 16 Geo. 5. c. 71.	The Public Health Act, 1925.	In section two, subsection (3).
26 Geo. 5 and 1 Edw. 8. c. 49.	The Public Health Act, 1936.	In section fifty-eight, in subsection (1), the words from " to persons in the building " to the end of the first paragraph (b), the words " in the first-mentioned case",

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Session and Chapter	Short Title	Extent of Repeal
1 Edw. 8. and 1 Geo. 6. c.40.	The Public Health (Drainage of Trade Premises) Act, 1937.	<p>and paragraph (ii); and the whole of subsection (3).</p> <p>In section seventy-six, paragraph (a) of subsection (1).</p> <p>In section two hundred and forty-nine, subsection (3) as it applies both in London and elsewhere.</p> <p>In subsection (1) of section one, the words " and of any byelaws under this Act which are for the time being in force " and the words " or, so far as is permitted by any such byelaws as aforesaid, without such consent".</p> <p>In subsection (3) of section two, the words from " and " at the end of paragraph (d) to the end of the subsection.</p> <p>In section three (except as regards appeals instituted before the commencement of this Act), in subsection (1), the words from " and upon " to the end of the subsection, and subsection (3).</p> <p>In subsection (5) of section four, the proviso.</p> <p>Sections five and six.</p> <p>In section seven, in subsection (1), the words " and of any trade effluents byelaws for the time being in force ", and in subsection (4), the words " or in any trade effluents byelaws " and the words from " or the " to the end of the subsection.</p> <p>Section eight.</p> <p>The Schedule.</p>
5 & 6 Eliz. 2. c. 42.	The Parish Councils Act, 1957.	In section three, subsection (7).

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Session and Chapter	Short Title	Extent of Repeal
7 & 8 Eliz. 2. c. 25.	The Highways Act, 1959	Section one hundred and forty-five.

TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Larceny Act, 1861	24 & 25 Vict. c. 96.
Public Health Act, 1875	38 & 39 Vict. c. 55.
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Public Health Acts Amendment Act, 1890	53 & 54 Vict. c. 59.
Local Government Act, 1894	56 & 57 Vict. c. 73.
Open Spaces Act, 1906	6 Edw. 7. c. 25.
Public Health Acts Amendment Act, 1907	7 Edw. 7. c. 53.
Ancient Monuments Consolidation and Amendment Act, 1913.	3 & 4 Geo. 5. c. 32.
Supreme Court of Judicature (Consolidation) Act, 1925.	15 & 16 Geo. 5. c. 49.
Public Health Act, 1925	15 & 16 Geo. 5. c. 71.
Petroleum (Consolidation) Act, 1928	18 & 19 Geo. 5. c. 32.
Rating and Valuation (Apportionment) Act, 1928.	18 & 19 Geo. 5. c. 44.
Land Drainage Act, 1930	20 & 21 Geo. 5. c. 44.
Local Government Act, 1933	23 & 24 Geo. 5. c. 51.
Restriction of Ribbon Development Act, 1935	25 & 26 Geo. 6. c. 47.
Public Health Act, 1936	26 Geo 5 & 1 Edw. 8. c.49.
Public Health (Drainage of Trade Premises) Act, 1937.	1 Edw. 8 & 1 Geo. 6. c. 40.
Civil Defence Act, 1939	2 & 3 Geo. 6. c. 31.
Water Act. 1945	8 & 9 Geo. 6. c. 42.
New Towns Act, 1946	9 & 10 Geo. 6. c. 68.
Statistics of Trade Act, 1947	10 & 11 Geo. 6. c. 39.
Town and Country Planning Act, 1947	10 & 11 Geo. 6. c. 51.
River Boards Act, 1948	11 & 12 Geo. 6. c. 32.
Civil Aviation Act, 1949	12, 13 & 14 Geo. 6. c. 67.
Town Development Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 54.
Magistrates' Courts Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.

Status: This is the original version (as it was originally enacted).

Short Title	Session and Chapter
London County Council (General Powers) Act, 1953.	1 & 2 Eliz. 2. c. xliii.
Licensing Act, 1953	1 & 2 Eliz. 2. c. 46.
Protection of Birds Act, 1954	2 & 3 Eliz. 2. c. 30.
Atomic Energy Act, 1954	2 & 3 Eliz. 2. c. 32.
Mines and Quarries Act, 1954	2 & 3 Eliz. 2. c. 70.
Food and Drugs Act, 1955	4 & 5 Eliz. 2. c. 16.
Clean Air Act, 1956	4 & 5 Eliz. 2. c. 52.
Parish Councils Act, 1957	5 & 6 Eliz. 2. c. 42.
Housing Act, 1957	5 & 6 Eliz. 2. c. 56.
Highways Act, 1959	7 & 8 Eliz. 2. c. 25.
New Towns Act, 1959	7 & 8 Eliz. 2. c. 62.
Land Compensation Act, 1961	9 & 10 Eliz. 2. c. 33.