



# Public Health Act 1936

## 1936 CHAPTER 49

### PART II

#### SANITATION AND BUILDINGS.

##### *Sewerage and sewage disposal.*

#### **14 General duty of local authority to provide for sewerage of their district.**

It shall be the duty of every local authority to provide such public sewers as may be necessary for effectually draining their district for the purposes of this Act, and to make such provision, by means of sewage disposal works or otherwise, as may be necessary for effectually dealing with the contents of their sewers.

#### **15 Provision of public sewers and sewage disposal works.**

(1) A local authority may within their district and also, subject to the provisions of the next succeeding section, without their district—

(1) construct a public sewer—

(a) in, under or over any street, or under any cellar or vault below any street, subject, however, to the provisions of Part XII of this Act with respect to the breaking open of streets; and

(b) in, on or over any land not forming part of a street, after giving reasonable notice to every owner and occupier of that land;

(ii) construct sewage disposal works on any land acquired, or lawfully appropriated, for the purpose;

(iii) by agreement acquire, whether by way of purchase, lease or otherwise, any sewer or sewage disposal works, or the right to use any sewer or sewage disposal works.

(2) Where a local authority propose in the exercise of their powers under this section to construct a sewer which will cross or interfere with any watercourse or works vested

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in, or under the control of, a land drainage authority, they shall before adopting plans for the construction of the sewer give notice of their proposals to that authority.

- (3) If a land drainage authority to whom notice has been given under the last preceding subsection, serve within twenty-eight days on the local authority notice of objection to their proposals, the local authority shall not proceed with their proposals unless all objections so made are withdrawn, or the Minister after a local inquiry "has approved the proposals either with or without modification.
- (4) Where a rural authority propose to carry out works for the sewerage of any part of their district, they shall, before adopting plans for the works, give notice of their proposals to the parish council of each parish to be served by the works, or, in the case of a parish not under a parish council, to the parish meeting.

## **16 Notices to be given before constructing public sewers, or sewage disposal Works, outside district.**

- (1) Where a local authority, in the exercise of their powers under the last preceding section, propose to construct any public sewer or sewage disposal works outside their district, the provisions of that section with respect to notices and appeals shall apply, and the authority shall, in addition to giving any notice required by that section—
  - (a) publish by advertisement in a local newspaper circulating in the district in which the proposed work is to be executed a notice describing the nature of their proposals and specifying the land in or on which they propose to execute any work, and naming a place where a plan illustrative of their proposals may be inspected at all reasonable hours by any person free of charge; and
  - (b) serve, not later than the date of the publication of the advertisement, a copy of the notice on the local authority of the district in which the proposed work is to be executed.
- (2) If, within twenty-eight days after the publication of the notice referred to in the preceding subsection, notice of objection to their proposals is served on the local authority either by the local authority of the district in which the proposed work is to be executed or by any owner or occupier of land directly affected by the proposals, they shall not proceed with their proposals, unless all objections so made are withdrawn, or the Minister, after a local inquiry, has approved the proposals, either with or without modification.
- (3) The foregoing provisions of this section with respect to the publication and service of, and appeals against, such additional notices as are therein referred to shall not apply where the work which a local authority propose to carry out in the district of another local authority consists only of the construction of a public sewer in a highway repairable by the inhabitants at large and they have obtained the consent of that other local authority.

## **17 Adoption by local authority of sewers and sewage disposal works.**

- (1) Subject to the provisions of this section, a local authority may at any time declare that any sewer or sewage disposal works situate within their district, or serving their district or any part of their district, being a sewer or works the construction of which was not completed before the commencement of this Act, shall, as from such date as may be specified in the declaration, become vested in them :

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Provided that an authority who propose to make a declaration under this subsection shall give notice of their proposal to the owner or owners of the sewer or works in question, and shall take no further action in the matter until either two months have elapsed without an appeal against their proposal being lodged under subsection (3) of this section, or, as the case may be, until any appeal so lodged has been determined.

- (2) Subject as aforesaid, the owner, or any of the owners, of any sewer or sewage disposal works with respect to which a local authority might have made a declaration under the preceding subsection may make an application to that authority requesting them to make such a declaration with respect thereto.
- (3) An owner aggrieved by the proposal of a local authority to make a declaration under this section may appeal to the Minister within two months after notice of the proposal is served upon him, and an owner aggrieved by the refusal of a local authority to make such a declaration may appeal to the Minister at any time after receipt of notice of their refusal, or if no such notice is given to him, at any time after the expiration of two months from the making of his application.

On the hearing of an appeal under this subsection, the Minister may allow or disallow the proposal of the local authority or, as the case may be, make any declaration which the local authority might have made, and any declaration so made shall have the same effect as if it had been made by the authority:

Provided that the Minister may, if he thinks fit, specify conditions, including conditions as to the payment of compensation by the local authority, and direct that his declaration shall not take effect unless any conditions so specified are accepted.

- (4) A local authority and, on an appeal, the Minister, in deciding whether a declaration should be made under this section, shall have regard to all the circumstances of the case and, in particular, to the following considerations:—
  - (a) whether the sewer or works in question is or are adapted to, or required for, any general system of sewerage or sewage disposal which the authority have provided, or propose to provide, for their district or any part thereof;
  - (b) whether the sewer is constructed under a highway, or under land reserved by a planning scheme for a street;
  - (c) the number of buildings which the sewer is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;
  - (d) the method of construction and state of repair of the sewer or works; and
  - (e) in a case where an owner objects, whether the making of the proposed declaration would be seriously detrimental to him.
- (5) Any person who immediately before the making of a declaration under this section was entitled to use the sewer in question shall be entitled to use it, or any sewer substituted therefor, to the same extent as if the declaration had not been made.
- (6) A declaration or an application under this section may be made with respect to a part only of a sewer.
- (7) Where a local authority are about to take into consideration the question of making a declaration under this section with respect to a sewer or sewage disposal works situate within the district of another local authority, or situate within their own district but serving the district, or any part of the district, of another local authority, they shall give notice to that other authority, and no declaration shall be made by them until either

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that other authority have consented thereto, or the Minister, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

In this subsection references to another local authority and their district include references to the council of a metropolitan borough and that borough.

- (8) Where a local authority have made a declaration under this section with respect to a sewer or sewage disposal works situate within the district of another local authority or within a metropolitan borough, they shall forthwith give notice of the fact to that other authority or, as the case may be, to the council of that borough.
- (9) A local authority shall not, except on the application of the authority, council, board or statutory undertakers concerned, make a declaration under this section with respect to any sewer or any part of a sewer, or any works, if that sewer or part of a sewer, or those works—
  - (a) is or are vested in another local authority, the council of a metropolitan borough, a county council (including the London County Council), or a joint sewerage board; or
  - (b) is or are vested in a railway company or dock undertakers and situate in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

#### **18 Power of local authority to agree to adopt sewer or drain, or sewage disposal works, at future date.**

- (1) A local authority may agree with any person constructing, or proposing to construct, a sewer or sewage disposal works that, if the sewer or works is or are constructed in accordance with the terms of the agreement, they will upon the completion of the work, or at some specified date, or on the happening of some future event, declare the sewer or works to be vested in them, and any such agreement shall be enforceable against the authority by the owner or occupier for the time being of any premises served by the sewer Or works.
- (2) The foregoing provisions of this section shall apply also in relation to drains, but it shall be a condition of any agreement made under those provisions with respect to a drain that the declaration shall not be made before the drain has become a sewer.
- (3) A local authority shall not make an agreement under this section with respect to a sewer or drain or sewage disposal works situate within the district of another local authority or within a metropolitan borough, until that other authority or, as the case may be, the council of that borough have consented thereto, or the Minister, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

#### **19 Power of local authority to require proposed sewer or drain to be so constructed, as to form part of general system.**

- (1) Where a person proposes to construct a drain or sewer, the local authority may, if they consider that the proposed drain or sewer is, or is likely to be, needed to form part of a general sewerage system which they have provided or propose to provide, require him to construct the drain or sewer in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall, or otherwise, from the manner in which he

proposes, or could otherwise be required by them, to construct it, and it shall be his duty to comply with the requirements of the local authority :

Provided that, if he is aggrieved by the requirements of the authority, he may within twenty-eight days appeal to the Minister who may either disallow the requirements or allow them with or without modification.

- (2) An authority who exercise the powers conferred upon them by this section shall repay to the person constructing the drain or sewer the extra expenses reasonably incurred by him in complying with their requirements and, until the drain or sewer becomes a public sewer, they shall also from time to time repay to him so much of any expenses reasonably incurred by him in repairing or maintaining it as may be attributable to their requirements having been made and complied with, and, if any question arises as to the amount of any payment to be made to him under this subsection, that question may on his application be determined by a court of summary jurisdiction, or he may require it to be referred to arbitration.
- (3) If any person who under this section has been required by a local authority to construct a drain or sewer in a particular manner constructs it otherwise than in accordance with the requirements of the authority, he shall be liable to a fine not exceeding fifty pounds, but without prejudice to the right of the authority to avail themselves of any other remedy.
- (4) Nothing in this section shall apply in relation to so much of any drain or sewer as is proposed to be constructed by a railway company or dock undertakers in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

## **20 Vesting of public sewers and sewage disposal works in local authority.**

- (1) All sewers within the meaning of the Public Health Act, 1875, and sewage disposal works which, by virtue of the provisions of that Act, were immediately before the commencement of this Act vested in a local authority, shall continue to be vested in them, and there shall also vest in them—
  - (a) all combined drains constructed before the commencement of this Act which, by virtue of the provisions of the Public Health Act, 1875, would immediately before the commencement of this Act have been vested in the local authority as sewers but for the provisions of some enactment or statutory scheme relating to the construction of combined drains, or of an order made under such an enactment or scheme;
  - (b) all sewers and sewage disposal works constructed by them at their expense, or acquired by them;
  - (c) all sewers constructed under any enactment relating to the sewerage of private streets to the satisfaction of the council carrying that enactment into execution, except any such sewer which by virtue of section twenty-nine of the Local Government Act, 1929, will vest in the county council; and
  - (d) all sewers and sewage disposal works with respect to which a declaration of vesting made under the foregoing provisions of this Part of this Act has taken effect.
- (2) Sewers which by virtue of this section continue to be, or become, vested in a local authority shall be known as, and are in this Act referred to as, " public sewers " :

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Provided that a sewer constructed by a local authority after the commencement of this Act for the purpose only of draining property belonging to them shall not be deemed to be a public sewer for the purposes of this Act until it has been declared to be a public sewer.

**21 Agreements with county council for use of highway drains and sewers for sanitary purposes, or to allow public sewers to be used for drainage of highways.**

- (1) Subject to the provisions of this section, a county council and a local authority may agree that—
  - (a) any drain or sewer which is vested in the county council in their capacity of highway authority may, upon such terms as may be agreed, be used by the local authority for the purpose of conveying surface water from premises or streets ;
  - (b) any public sewer vested in the local authority may, upon such terms as may be agreed, be used by the county council for conveying surface water from roads repairable by the county council.
- (2) Where a sewer or drain with respect to which a county council and a local authority propose to make an agreement under this section discharges, whether directly or indirectly, into the sewers or sewage disposal works of another sewerage authority, the agreement shall not be made without the consent of that other sewerage authority, who may give their consent upon such terms as they think fit.
- (3) A county council or local authority shall not unreasonably refuse to enter into an agreement for the purposes of this section or insist unreasonably upon terms unacceptable to the other party, and a sewerage authority shall not unreasonably refuse to consent to the making of such an agreement or insist unreasonably upon terms unacceptable to either party thereto, and any question arising under this section as to whether or not any authority or council are acting unreasonably shall be referred to the Minister, whose decision shall be final.
- (4) Nothing in this section shall be construed as limiting the rights of a county council under subsection (2) of section twenty-nine of the Local Government Act, 1929.

**22 Power of local authority to alter, or close, public sewers.**

A local authority may alter the size or course of any public sewer vested in them, or may discontinue and prohibit the use of any such public sewer, either entirely, or for the purpose of foul water drainage, or for the purpose of surface water drainage, but, before any person who is lawfully using the sewer for any purpose is deprived by the authority of the use of the sewer for that purpose, they shall provide a sewer equally effective for his use for that purpose and shall at their expense carry out any work necessary to make his drains or sewers communicate with the sewer so provided.

**23 General duty of local authority to maintain public sewers.**

It shall be the duty of every local authority to maintain, cleanse and empty all public sewers vested in them, subject, however, to their right under the next succeeding section to recover in certain cases the expenses, or a part of the expenses, incurred by them in maintaining a length of a public sewer.

## **24 Power of local authority to recover cost of maintaining certain lengths of public sewers.**

- (1) Where a local authority have carried out work for the maintenance of any length of a public sewer, being a length to which this section applies, they may, subject to the provisions of this section, recover the expenses reasonably incurred by them in so doing from the owners for the time being of the premises served by that length of sewer in such proportions as the authority deem it fair to fix, regard being had by them to all the circumstances of the case, including the benefit derived by each owner from that length of sewer, the distance for which it is laid in land belonging to each owner, the point at which any work was necessary and the responsibility for any act or default which rendered the work necessary:

Provided that, unless in the opinion of the local authority immediate action is necessary, they shall, not less than seven days before commencing the work, give notice of the work which they propose to undertake to the owners of any premises known by them to be served by the length of sewer in question and consider any representations as to the need for, and reasonableness of, the proposed work which may be made to them by any of those owners within seven days of the service of the notice.

The expression " maintenance " in relation to any length of a public sewer to which this section applies includes repair, renewal and improvement, but in the case of improvement includes only such improvement as may be necessary to make that length of sewer adequate for draining the premises served by it immediately before the improvement was undertaken.

- (2) If a local authority, in lieu of executing works of maintenance only to any length of a public sewer to which this section applies, improve or enlarge that length of sewer for the purpose of enabling it to serve additional premises, they shall be entitled to recover under the last preceding subsection from the owners of the premises served by the existing sewer such sum only as they might reasonably have expended in executing works of maintenance necessary to make that length of sewer adequate for draining the premises served by it immediately before the improvement or enlargement was undertaken, and for the purposes of any future works of maintenance that length of sewer shall cease to be a length of sewer to which this section applies.
- (3) Any question arising under this section as to whether any length of sewer is one to which this section applies, as to the necessity for any work carried out by a local authority, as to the amount, or the reasonableness, of the expenses incurred by them, or as to the fairness of any division or apportionment of expenses made by them, may be determined by a court of summary jurisdiction either in proceedings taken by the local authority for the recovery of expenses incurred by them, or on the application of any owner concerned.
- (4) This section applies to any length of a public sewer, being either—
- (a) a length for the maintenance of which persons other than the local authority were, immediately before the commencement of this Act, responsible by virtue either of some enactment or statutory scheme relating to combined drains or of an order made under such an enactment or scheme, or of an agreement, being an enactment, scheme, order or agreement whereby the authority were entitled to require those persons to maintain that length of the sewer, or to abate any nuisance therein, or to contribute in proportions to, or indemnify the authority against, any expenses incurred by the authority in maintaining it; or

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- (b) a length which was vested in the local authority immediately before the commencement of this Act, but was not constructed at their expense or at the expense of any authority whose successors they are, and which lies in a garden, court or yard belonging to any of the premises served by the sewer or common to any two or more of them, or lies under a building comprised in any of those premises, or lies in a roadway, footway, passage or alley which is used solely or mainly as a means of access to those premises or any of them, but is not a highway repairable by the inhabitants at large.
- (5) So much of any local Act as relates to the liability for the repair of a single private drain connecting two or more houses with a public sewer is hereby repealed.

**25 Buildings not to be erected without consent over sewer or drain shown on deposited map.**

- (1) Where plans of a building or of an extension of a building are, in accordance with building byelaws, deposited with a local authority, and it is proposed to erect the building or extension, as the case may be, over any sewer or drain which is shown on the map of sewers required by this Part of this Act to be kept deposited at the offices of the authority, the authority shall reject the plans, unless they are satisfied that in the circumstances of the particular case they may properly consent to the erection of the proposed building or extension, either unconditionally or subject to compliance with any requirements specified in their consent.
- (2) Any question arising under the preceding subsection between a local authority and the person by whom or on whose behalf plans are deposited as to whether the site on which it is proposed to erect a building or an extension of a building is over any such sewer or drain as aforesaid, or whether, and if so upon what conditions, a consent ought to be given by the local authority, may on the application of that person be determined by a court of summary jurisdiction.
- (3) If before the commencement of this Act a building has been erected over a sewer without such consent, if any, as under section twenty-six of the Public Health Act, 1875, was required at the date of the erection of the building, the local authority may by notice require the owner of the building to pull it down or to alter it in such manner as may be necessary.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.

**26 Local authority to afford facilities for factories to drain into public sewers.**

Subject to the provisions of this Act, a local authority shall give facilities for enabling manufacturers within their district to carry the liquids from their manufacturing processes into a public sewer vested in the authority:

Provided that nothing in this section shall be construed as requiring an authority—

- (a) where separate sewers are provided for foul water and for surface water, to admit any such liquid into a sewer provided for surface water only; or
- (b) to admit into their sewers any liquid which would prejudicially affect the sewers, or the treatment or disposal of the contents of the sewers, or would, from its temperature or otherwise, be prejudicial to health; or



- (c) to give such facilities as aforesaid where their sewers or sewage disposal works are only sufficient for the requirements of their district, or as affecting the provisions of the next succeeding section.

## **27 Certain matters not to be passed into public sewers.**

- (1) No person shall throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any drain or sewer communicating with a public sewer—
  - (a) any matter likely to injure the sewer or drain, or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or
  - (b) any chemical refuse or waste steam, or any liquid of a temperature higher than one hundred and ten degrees Fahrenheit, being refuse or steam which, or a liquid which when so heated, is, either alone or in combination with the contents of the sewer or drain, dangerous, or the cause of a nuisance, or prejudicial to health; or
  - (c) any petroleum spirit, or carbide of calcium.
- (2) A person who contravenes any of the provisions of this section shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.
- (3) In this section the expression " petroleum spirit " means any such—
  - (a) crude petroleum;
  - (b) oil made from petroleum, or from coal, shale, peat or other bituminous substances; or
  - (c) product of petroleum or mixture containing petroleum,as, when tested in the manner prescribed by or under the Petroleum (Consolidation) Act, 1928, gives off an inflammable vapour at a temperature of less than seventy-three degrees Fahrenheit.

## **28 Communication of sewers with sewers of another sewerage authority.**

- (1) A sewerage authority may, by agreement with another sewerage authority, and with the approval of the Minister, cause any sewer vested in them to communicate with a sewer of, or to discharge into sewage disposal works of, that other authority in such manner, and on such terms, as may be agreed between the authorities:

Provided that, where any sewer of a sewerage authority discharges, whether directly or indirectly, into the sewers or sewage disposal works of another sewerage authority, the first mentioned authority shall not, without the consent of that other authority, enter into any agreement under this section for admitting further sewage to the sewer in question.
- (2) This section extends to London so far as to enable agreements to be made thereunder between a sewerage authority in London and a sewerage authority outside London.

## **29 Powers of local authority as respects land held for treating sewage.**

A local authority who hold any land for the purpose of treating the contents of their sewers may themselves manage it in such manner as they think fit, or may let it on lease

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for a period not exceeding twenty-one years, but every lease so granted shall contain provisions for ensuring the effective disposal, without the creation of a nuisance, of all sewage brought to the land.

**30 Sewage, and &c, to be purified before discharge into streams, canals, and &c.**

Nothing in this Part of this Act shall authorise a local authority to construct or use any public or other sewer, or any drain or outfall, for the purpose of conveying foul water into any natural or artificial stream, watercourse, canal, pond or lake, until the water has been so treated as not to affect prejudicially the purity and quality of the water in the stream, watercourse, canal, pond or lake.

**31 Local authority not to create any nuisance.**

A local authority shall so discharge their functions under the foregoing provisions of this Part of this Act as not to create a nuisance.

**32 Duty of local authority to keep map showing public sewers, and &c.**

- (1) Subject to the provisions of subsection (3) of this section with respect to existing sewers, every local authority shall keep deposited at their offices, for inspection by any person at all reasonable hours free of charge, a map showing and distinguishing all sewers and drains within their district which are—
  - (a) public sewers;
  - (b) sewers with respect to which a declaration of vesting has been made under this Part of this Act but has not yet taken effect;
  - (c) sewers or drains with respect to which an agreement to make such a declaration in the future has been entered into.
- (2) Where some of the public sewers in the district are reserved for foul water only or for surface water only, the map referred to in this section shall show also the purposes which each such sewer is intended to serve.
- (3) Public sewers which were vested in the local authority before the commencement of this Act shall be shown on the said map if they are reserved for foul water only or for surface water only, but, save as aforesaid, it shall not be obligatory on the local authority to show on the map a public sewer which was vested in them before the commencement of this Act.

**33 Application of 27 and 28 Vict. c. 114 to works for supply of sewage.**

Works for the supply of sewage to land for agricultural purposes shall be deemed to be an improvement of land authorised by the Improvement of Land Act, 1864, and the provisions of that Act shall apply accordingly.

*Private sewers and drains and cesspools.*

**34 Right of owners and occupiers within district to drain into public sewers.**

- (1) Subject to the provisions of this section, the owner or occupier of any premises, or the owner of any private sewer, within the district of a local authority shall be entitled to have his drains or sewer made to communicate with the public sewers of that authority,

and thereby to discharge foul water and surface water from those premises or that private sewer:

Provided that nothing in this subsection shall entitle any person—

- (a) to discharge directly or indirectly into any public sewer—
    - (i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or
    - (ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any enactment (including any enactment in this Act); or
  - (b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—
    - (i) foul water into a sewer provided for surface water; or
    - (ii) except with the approval of the local authority, surface water into a sewer provided for foul water; or
  - (c) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.
- (2) Subject to the provisions of Part XII of this Act with respect to the breaking open of streets, the owner or occupier of any premises may break open any street for the purpose of exercising his rights under this section and for the purpose of examining, repairing and renewing any drain or private sewer draining his premises into a public sewer.
- (3) A person desirous of availing himself of the foregoing provisions of this section shall give to the local authority notice of his proposals, and at any time within twenty-one days after receipt thereof, the authority may by notice to him refuse to permit the communication to be made, if it appears to them that the mode of construction or condition of the drain or sewer is such that the making of the communication would be prejudicial to their sewerage system, and for the purpose of examining the mode of construction and condition of the drain or sewer they may, if necessary, require it to be laid open for inspection:

Provided that any question arising under this subsection between a local authority and a person proposing to make a communication as to the reasonableness of any such requirement of the local authority, or of their refusal to permit a communication to be made, may on the application of that person be determined by a court of summary jurisdiction.

- (4) Where the local authority do not under the next but one succeeding section elect themselves to make the communication, the person making it shall, before commencing the work, give reasonable notice to any person directed by the authority to superintend the execution of the work and afford him all reasonable facilities for superintending the execution thereof.
- (5) Any person causing a drain or sewer to communicate with a public sewer without complying with, or in contravention of, any of the provisions of this section, or before the expiration of the period mentioned in subsection (3) of this section, shall be liable to a fine not exceeding twenty pounds and, whether proceedings have or have not been taken by them in respect of that offence, the local authority may close any communication made in contravention of any of those provisions, and recover from the offender any expenses reasonably incurred by them in so doing.

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### **35 Use of public sewers by owners and occupiers without district.**

- (1) Subject as hereinafter provided, the owner or occupier of any premises and the owner of any private sewer without the district of a local authority shall have the like rights with respect to drainage into the public sewers of that authority as he would have under the last preceding section if his premises or sewer were situate within their district, and the provisions of that section shall apply accordingly:

Provided that, without prejudice to their right under the last preceding section to prohibit the discharge of certain liquids or other matters into their sewers or into some of their sewers, or to refuse to permit a communication to be made on the ground of the defective construction or condition of a drain or sewer, and to require the drain or sewer to be laid open for inspection, the local authority may, in the case of a drain or sewer from premises outside their district, refuse to permit a communication to be made except upon such reasonable terms and conditions, including the making to them of a reasonable payment or reasonable periodical payments, as they think fit.

- (2) If a person is aggrieved by any terms or conditions which a local authority seek to impose under the preceding subsection, the reasonableness thereof may on his application be determined by a court of summary jurisdiction, or he may require it to be referred to arbitration.
- (3) Where a person avails himself of the provisions of this section, the local authority of the district in which his premises or sewer are or is situate may, if they think fit, defray, or contribute towards, any expenses incurred by him for the purpose, or any payment which he is required under this section to make to the other local authority.

### **36 Right of local authority to undertake the making of communications with public sewers.**

- (1) Where under either of the two last preceding sections a person gives to a local authority notice of his proposal to have his drains or sewer made to communicate with a public sewer of that authority, the authority may, within fourteen days after the receipt of the notice or, if any question arising under the notice requires to be determined by a court of summary jurisdiction or by an arbitrator, within fourteen days after the decision of that question, give notice to that person that they intend themselves to make the communication and, if after such a notice has been given to him, he proceeds himself to make the communication, he shall be liable to a fine not exceeding fifty pounds.
- (2) Where a local authority have given such a notice as aforesaid, they shall have all such rights in respect of the making of the communication as the person desiring it to be made would have, but it shall not be obligatory on them to make the communication until the cost of the work, as estimated by their surveyor, has been paid to them, or security for payment has been given to their satisfaction.
- (3) If any payment so made to the local authority exceeds the expenses reasonably incurred by them in the execution of the work, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, if any, made to them, they may recover the expenses, or the balance thereof, from the person for whom the work was done.
- (4) For the purposes of this section, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

### **37 New buildings to be provided with any necessary drains, and &c.**

- (1) Where plans of a building or of an extension of a building are, in accordance with building byelaws, deposited with a local authority, the authority shall reject the plans unless either the plans show that satisfactory provision will be made for the drainage of the building or of the extension, as the case may be, or the authority are satisfied that in the case of the particular building or extension they may properly dispense with any provision for drainage.

In this section the expression " drainage " includes the conveyance, by means of a sink and any other necessary appliance, of refuse water and the conveyance of rain water from roofs.

- (2) Any question arising under the preceding subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether provision for drainage may properly be dispensed with, or whether any provision for drainage proposed to be provided ought to be accepted by the authority as satisfactory, may on the application of that person be determined by a court of summary jurisdiction.
- (3) A proposed drain shall not be deemed to be a satisfactory drain for the purposes of this section unless it is proposed to be made, as the local authority, or on appeal a court of summary jurisdiction, may require, either to connect with a sewer, or to discharge into a cesspool or into some other place :

Provided that, subject to the provisions of the next succeeding subsection, a drain shall not be required to be made to connect with a sewer unless—

- (a) that sewer is within one hundred feet of the site of the building or, in the case of an extension, the site either of the extension or of the original building, and is at a level which makes it reasonably practicable to construct a drain to communicate therewith, and, if it is not a public sewer, is a sewer which the person constructing the drain is entitled to use; and
  - (b) the intervening land is land through which that person is entitled to construct a drain.
- (4) Notwithstanding anything in proviso (a) to the last preceding subsection, a drain may be required to be made to connect with a sewer which is not within the distance mentioned in that proviso, but is otherwise such a sewer as is therein mentioned, if the authority undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, the drain as may be attributable to the fact that the distance of the sewer exceeds the distance so mentioned.

If any question arises as to the amount of any payment to be made to a person under this subsection, that question may on his application be determined by a court of summary jurisdiction, or he may require it to be referred to arbitration.

### **38 Drainage of buildings in combination.**

- (1) Where a local authority might under the last preceding section require each of two or more buildings to be drained separately into an existing sewer, but it appears to the authority that those buildings may be drained more economically or advantageously in combination, the authority may, when the drains of the buildings are first laid, require that the buildings be drained in combination into the existing sewer by means of a private sewer to be constructed either by the owners of the buildings in such manner as the authority may direct, or, if the authority so elect, by the authority on behalf of the owners :

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Provided that a local authority shall not, except by agreement with the owners concerned, exercise the powers conferred by this subsection in respect of any building for the drainage of which plans have been previously passed by them.

- (2) A local authority who make such a requirement as aforesaid shall fix the proportions in which the expenses of constructing, and of maintaining and repairing, the private sewer are to be borne by the owners concerned, or, in a case in which the distance of the existing sewer from the site of any of the buildings in question is or exceeds one hundred feet, the proportions in which those expenses are to be borne by the owners concerned and the local authority, and shall forthwith give notice of their decision to each owner affected.

An owner aggrieved by the decision of a local authority under this subsection may appeal to a court of summary jurisdiction; but, subject to any such appeal, any expenses reasonably incurred in constructing, or in maintaining or repairing, the private sewer shall be borne in the proportions so fixed, and those expenses, or, as the case may be, contributions thereto, may be recovered accordingly by the persons, whether the local authority or owners, by whom they were incurred in the first instance.

- (3) A sewer constructed by a local authority under this section shall not be deemed to be a public sewer by reason of the fact that the expenses of its construction are in the first instance defrayed by the authority, or by reason of the fact that some part of those expenses is borne by them.
- (4) So much of any local Act as empowers a local authority to require in certain cases the construction of a combined drain is hereby repealed.

### **39 Provisions as to drainage, and &c, of existing buildings.**

- (1) If it appears to a local authority that in the case of any building—
- (a) satisfactory provision has not been, and ought to be, made for drainage as defined in section thirty-seven of this Act; or
  - (b) any cesspool, private sewer, drain, soil pipe, rain water pipe, spout, sink or other necessary appliance provided for the building, is insufficient or, in the case of a private sewer or drain communicating directly or indirectly with a public sewer, is so defective as to admit subsoil water; or
  - (c) any cesspool or other such work or appliance as aforesaid provided for the building is in such a condition as to be prejudicial to health or a nuisance; or
  - (d) any cesspool, private sewer or drain formerly used for the drainage of the building, but no longer used therefor, is prejudicial to health or a nuisance,

they shall by notice require the owner of the building to make satisfactory provision for the drainage of the building, or, as the case may be, require either the owner or the occupier of the building to do such work as may be necessary for renewing, repairing or cleansing the existing cesspool, sewer, drain, pipe, spout, sink or other appliance, or for filling up, removing or otherwise rendering innocuous the disused cesspool, sewer or drain.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.

- (2) Subsections (3) and (4) of section thirty-seven of this Act shall apply in relation to any drain which a local authority require to be constructed under this section as they apply in relation to any such proposed drain as is mentioned in that section.
- (3) Subject as hereinafter provided, the provisions of subsection (1) of this section, so far as they empower a local authority to take action in such cases as are mentioned in paragraphs (a) and (6) of the subsection, shall not apply in relation to a building 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.

#### **40 Provisions as to soil pipes and ventilating shafts.**

- (1) No pipe for conveying rain water from a roof shall be used for the purpose of conveying the soil or drainage from any sanitary convenience.
- (2) The soil pipe from every watercloset shall be properly ventilated.
- (3) No pipe for conveying surface water from any premises shall be permitted to act as a ventilating shaft to any drain or sewer conveying foul water.
- (4) If it appears to the local authority that there is on any premises a contravention of any provision of this section, they may by notice require the owner or the occupier of those premises to execute such work as may be necessary to remedy the matter.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.

#### **41 In urban district notice to be given of intention to repair, reconstruct or alter underground drains.**

- (1) In a borough or urban district, and in a rural district or contributory place in which section thirty-nine of the Public Health Act, 1925, was in force immediately before the commencement of this Act, no person shall—
  - (a) except in case of emergency, repair, reconstruct, or alter the course of, any underground drain which communicates with a sewer, or with a cesspool or any other receptacle for drainage;
  - (b) where in a case of emergency any such works have been executed without notice, cover over the drain or sewer,without giving to the local authority at least twenty-four hours' notice of his intention so to do.
- (2) While any such work as aforesaid is being executed, all persons concerned shall permit the surveyor or sanitary inspector, or any other authorised officer, of the local authority to have free access to the work.
- (3) A person who fails to comply with any requirement of this section shall be liable to a fine not exceeding five pounds.
- (4) Nothing in this section shall apply in relation to

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- (a) so much of any drain or sewer constructed by, or belonging to, a railway company as runs under, across, or along their railway; or
- (b) so much of any drain or sewer constructed by, or belonging to, dock undertakers as is situate in or on land of the undertakers which is held or used by them for the purposes of their undertaking.

#### **42 Power of local authority to alter drainage system of premises.**

- (1) Where any premises have a drain or sewer communicating with a public sewer or a cesspool, but that system of drainage, though sufficient for the effectual drainage of the premises, is not adapted to the general sewerage system of the district, or is in the opinion of the local authority otherwise objectionable, the authority may, at their own expense and on condition that they first provide in a position equally convenient to the owner of the premises a drain or sewer equally effectual for the drainage thereof and communicating with a public sewer, close the existing drain or sewer and fill up the cesspool, if any, and do any work necessary for that purpose.
- (2) A local authority who propose to execute any work under this section shall give notice of their proposals to the owner of the premises in question and, if he is aggrieved thereby, as regards either the position or the sufficiency of the drain or sewer proposed to be provided for the drainage of the premises, he may appeal to a court of summary jurisdiction.

*Sanitary conveniences for buildings.*

#### **43 Closet accommodation to be provided for new buildings.**

- (1) Where plans of a building or of an extension of a building are, in accordance with building bye-laws, deposited with a local authority, the authority shall reject the plans unless either the plans show that sufficient and satisfactory closet accommodation consisting of one or more waterclosets or earthclosets, as the authority may approve, will be provided, or the authority are satisfied that in the case of the particular building or extension they may properly dispense with the provision of closet accommodation :  
Provided that—
  - (i) unless a sufficient water supply and sewer are available, the authority shall not reject the plans on the ground that the proposed accommodation consists of or includes an earthcloset or earthclosets; and
  - (ii) if the plans show that the proposed building or, as the case may be, extension is likely to be used as a factory, workshop or workplace in which persons of both sexes will be employed, or will be in attendance, the authority shall reject the plans, unless either the plans show that sufficient and satisfactory separate closet accommodation for persons of each sex will be provided, or the authority are satisfied that in the circumstances of the particular case they may properly dispense with the provision of such separate accommodation.
- (2) Any question arising under this section between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether—
  - (a) the provision of closet accommodation, or, as the case may be, the provision of separate closet accommodation for persons of each sex, may properly be dispensed with; or



- (b) the closet accommodation proposed to be provided is sufficient and satisfactory or, as the case may be, sufficient and satisfactory for persons of either sex; or
- (c) the provision of an earthcloset in lieu of a watercloset should in any particular instance be approved,

may on the application of that person be determined by a court of summary jurisdiction.

**44 Buildings having insufficient closet accommodation, or closets so defective as to require reconstruction.**

- (1) If it appears to a local authority—
  - (a) that any building is without sufficient closet accommodation; or
  - (b) that any closets provided for or in connection with a building are in such a state as to be prejudicial to health or a nuisance and cannot without reconstruction be put into a satisfactory condition,

the authority shall by notice to the owner of the building require him to provide the building with such closets or additional closets, or such substituted closets, being in each case either waterclosets or earthclosets, as may be necessary:

Provided that, unless a sufficient water supply and sewer are available, the authority shall not require the provision of a watercloset except in substitution for an existing watercloset.

- (2) The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this section.
- (3) This section shall not apply to a shop to which the Shops Act, 1934, applies, or to a factory or workshop to which section nine of the Factory and Workshop Act, 1901, applies, or to a building to which the next but one succeeding section applies.

**45 Buildings having defective closets capable of repair.**

- (1) If it appears to a local authority that any closets provided for or in connection with a building are in' such a state as to be prejudicial to health or a nuisance, but that they can without reconstruction be put into a satisfactory condition, the authority shall by notice require the owner or the occupier of the building to execute such works, or to take such steps by cleansing the closets or otherwise, as may be necessary for that purpose.
- (2) In so far as a notice under this section requires a person to execute works, the provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to the notice.
- (3) In so far as such a notice requires a person to take any steps other than the execution of works, he shall, if he fails to comply with the notice, be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the building.

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- (4) This section shall not apply to a shop to which the Shops Act, 1934, applies, or to a factory or workshop to which section nine of the Factory and Workshop Act, 1901, applies, or to a building to which the next succeeding section applies.

**46 Sanitary conveniences in factories, workshops and workplaces.**

- (1) In a borough or urban district, and in a rural district or contributory place in which section twenty-two of the Public Health Acts Amendment Act, 1890, was in force immediately before the commencement of this Act, every building which is used as a factory, workshop or workplace shall be provided with sufficient and satisfactory accommodation in the way of sanitary conveniences, regard being had to the number of persons employed in, or in attendance at, the building and also, where persons of both sexes are employed or in attendance, with sufficient and satisfactory separate accommodation for persons of each sex, unless the local authority are satisfied that in the circumstances of the particular case the provision of such separate accommodation is unnecessary.
- (2) If it appears to the local authority that the provisions of the preceding subsection are not complied with in the case of any building, they shall by notice require the owner or the occupier of the building to make such alterations in the existing conveniences, and to provide such additional conveniences, as may be necessary.
- (3) The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this section.
- (4) This section shall not apply to a shop to which the Shops Act, 1934, applies.
- (5) Section nine of the Factory and Workshop Act, 1901 (which relates to the provision of sanitary conveniences in factories and workshops), shall not apply to any borough or urban district, or to any rural district or contributory place to which either section twenty-two of the Public Health Acts Amendment Act, 1890, or this section has been applied by order.

**47 Replacement of earthclosets, and &c, by waterclosets at joint expense of owner and local authority.**

- (1) If a building has a sufficient water supply and sewer available, the local authority may, subject to the provisions of this section, by notice to the owner of the building require that any closets, other than waterclosets, provided for, or in connection with, the building shall be replaced by waterclosets, notwithstanding that the closets are not insufficient in number and are not prejudicial to health or a nuisance.
- (2) A notice under this section shall either require the owner to execute the necessary works, or require that the authority themselves shall be allowed to execute them, and shall state the effect of the next succeeding subsection.
- (3) Where under the preceding subsection a local authority require that they shall be allowed to execute the works, they shall be entitled to recover from the owner one-half of the expenses reasonably incurred by them in the execution of the works, and, where they require the owner to execute the works, the owner shall be entitled to recover from them one-half of the expenses reasonably incurred by him in the execution thereof.

- (4) Where the owner of a building proposes to provide it with a watercloset in substitution for a closet of any other type, the local authority may, if they think fit, agree to pay to him a part, not exceeding one-half, of the expenses reasonably incurred in effecting the replacement, notwithstanding that a notice has not been served by them under this section.
- (5) The provisions of Part XII of this Act 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 requiring a person either to execute works or to allow works to be executed, subject however to the modifications that no appeal shall be made on the ground that the works are unnecessary and that any reference in the said provisions to the expenses reasonably incurred in executing works shall be construed as a reference to one-half of those expenses.

*Supplemental provisions as to drains, sanitary conveniences, cesspools, &c.*

**48 Power of local authority to examine and test drains, and &c, believed to be defective.**

- (1) Where it appears to a local authority that there are reasonable grounds for believing that a sanitary convenience, drain, private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance, or that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water, they may examine its condition, and for that purpose may apply any test, other than a test by water under pressure, and, if they deem it necessary, open the ground.
- (2) If on examination the convenience, drain, sewer or cesspool is found to be in proper condition, the authority shall, as soon as possible, reinstate any ground which has been opened by them and make good any damage done by them.

**49 Rooms over closets of certain types, or over ashpits, and &c, not to be used as living, sleeping or work rooms.**

- (1) A room which, or any part of which, is immediately over a closet, other than a watercloset or earthcloset, or immediately over a cesspool, midden or ashpit, shall not be occupied as a living room, sleeping room or workroom.
- (2) Any person who, after seven days' notice from the local authority, occupies any room in contravention of the provisions of this section, or who permits any room to be so occupied, shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

**50 Overflowing and leaking cesspools.**

- (1) If the contents of any cesspool soak therefrom or overflow, the local authority may by notice require the person by whose act, default or sufferance the soakage or overflow occurred or continued to execute such works, or to take such steps by periodically emptying the cesspool or otherwise, as may be necessary for preventing the soakage or overflow :

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Provided that this subsection shall not apply in relation to the effluent from a properly constructed tank for the reception and treatment of sewage, if that effluent is of such a character, and is so conveyed away and disposed of, as not to be prejudicial to health or a nuisance.

- (2) In so far as a notice under this section requires a person to execute works, the provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to the notice.
- (3) In so far as such a notice requires a person to take any steps other than the execution of works, he shall, if he fails to comply with the notice, be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements.

#### **51 Care of closets.**

- (1) The occupier of every building in, or in connection with, which a watercloset or an earthcloset is provided shall, in the case of a watercloset, cause the flushing apparatus thereof to be kept supplied with water sufficient for flushing and where necessary to be properly protected against frost, and shall, in the case of an earthcloset, cause it to be kept supplied with dry earth or other suitable deodorising material.
- (2) A person who fails to comply with any of the provisions of this section shall be liable to a fine not exceeding forty shillings.

#### **52 Care of sanitary conveniences used in common.**

Where a sanitary convenience is used in common by the members of two or more families, the following provisions shall have effect:—

- (a) if any person injures or improperly fouls the convenience, or anything used in connection therewith, or wilfully or by negligence causes an obstruction in the drain therefrom, he shall be liable to a fine not exceeding ten shillings;
- (b) if the convenience, or the approach thereto, is, for want of proper cleansing or attention, in such a condition as to be insanitary, such of the persons having the use thereof in common as are in default, or, in the absence of satisfactory proof as to which of them is in default, each of them, shall be liable to a fine not exceeding ten shillings, and to a further fine not exceeding five shillings for each day on which the offence continues after conviction therefor.

*Provisions with respect to buildings.*

#### **53 Special provisions as to buildings constructed of materials which are short-lived, or otherwise unsuitable for use in permanent buildings.**

- (1) Where plans of a building are, in accordance with building byelaws, deposited with a local authority, and the plans show that it is proposed to construct a building of materials to which this section applies, or to place or assemble on the site a building constructed of such materials, the authority may, notwithstanding that the plans conform with the byelaws—

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- (i) reject the plans; or
  - (ii) in passing the plans fix a period on the expiration of which the building must be removed and impose with respect to the use of the building such reasonable conditions, if any, as having regard to the nature of the materials used in its construction they deem appropriate, so, however, that no condition shall be imposed which conflicts with any provision applicable to the building under a planning scheme.
- (2) If a building in respect of which plans ought under the building byelaws to have been deposited, but have not been deposited, appears to the authority to be constructed of such materials as aforesaid, the authority, without prejudice to their right to take proceedings in respect of any contravention of the byelaws, may fix a period on the expiration of which the building must be removed and, if they think fit, impose such conditions with respect to the use of the building as might have been imposed under the last preceding subsection upon the passing of plans for the building and, where they fix such a period, shall forthwith give notice thereof, and of any conditions imposed, to the owner of the building.
- (3) A local authority may from time to time extend any period fixed, or vary any conditions imposed, under this section:  
  
Provided that, unless an application in that behalf is made to them by the owner of the building in question, they shall not exercise their power of varying conditions except when granting an extension, or further extension, of the period fixed with respect to the building.
- (4) Any person aggrieved by the action of a local authority under this section in rejecting plans, or in fixing or refusing to extend any period, or in imposing or refusing to vary any conditions, may appeal to a court of summary jurisdiction.
- (5) The owner of any building in respect of which a period has been fixed under this section shall, on the expiration of that period or, as the case may be, of that period as extended, remove the building, and, if he fails to do so, the local authority shall remove it and may recover from him the expenses reasonably incurred by them in so doing, and, without prejudice to the right of the authority to exercise that power, he shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day during which the building is allowed to remain after the conviction.
- (6) A person who uses a building in contravention of any condition imposed under this section, or who permits a building to be so used, shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.
- (7) A local authority may by their building byelaws provide that the provisions of this section shall apply to any materials specified in the byelaws as being materials which are, in the absence of special care, liable to rapid deterioration, or are otherwise unsuitable for use in the construction of permanent buildings.
- (8) The provisions of this section shall apply in relation to any extension of an existing building as they apply in relation to a new building.

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**54 Power to prohibit erection of buildings on ground filled up with offensive material.**

- (1) Where plans for the erection or extension of a building are, in accordance with building byelaws, deposited with a local authority, and the site on which it is proposed to erect the building or the extension, as the case may be, is ground which has been filled up with any material impregnated with faecal or offensive animal or offensive vegetable matter, or is ground upon which any such material has been deposited, the authority shall reject the plans, unless they are satisfied that the material in question has been removed, or has become or been rendered innocuous.
- (2) Any question arising under this section between a local authority and the person by whom or on whose behalf plans are deposited as to whether the local authority ought to approve the erection of the building or of the extension, as the case may be, on the site in question may on the application of that person be determined by a court of summary jurisdiction.

**55 Means of access to houses for removal of refuse, and &c.**

- (1) Where plans for the erection or extension of a house are, in accordance with building byelaws, deposited with a local authority, the local authority shall reject the plans, unless it is shown to them that satisfactory means of access from the house to a street for the purpose of the removal of refuse and faecal matter can, and will, be provided:

Provided that this subsection shall not apply in relation to houses erected in accordance with plans and specifications approved by the Minister in connection with housing operations to which section ninety-nine of the Housing Act, 1925, applies.

Any question arising under this subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether any means of access proposed to be provided can be provided and ought to be accepted by the authority as satisfactory may on the application of that person be determined by a court of summary jurisdiction.

- (2) It shall be unlawful for any person except with the consent of the local authority to close or obstruct the means of access by which refuse or faecal matter is removed from any house, and the local authority in giving their consent may impose such conditions as they think fit with respect to the improvement of any alternative means of access, or the substitution of other means of access.

Any person who contravenes the provisions of this subsection shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

- (3) Any byelaws made by a local authority, whether under section twenty-three of the Public Health Acts Amendment Act, 1890, or under a local Act, with respect to the provision of means of access for the removal of house refuse shall cease to have effect, and so much of any local Act as authorises the making of such byelaws is hereby repealed.

**56 Yards and passages to be paved and drained.**

- (1) If any court or yard appurtenant to, or any passage giving access to, a house is not so formed, flagged, asphalted, or paved, or is not provided with such works on, above, or below its surface, as to allow of the satisfactory drainage of its surface or subsoil

to a proper outfall, the local authority may by notice require the owner of the house to execute all such works as may be necessary to remedy the defect.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.

- (2) The foregoing provisions of this section shall apply in relation to any court, yard or passage which is used in common by the occupiers of two or more houses, but is not a highway repairable by the inhabitants at large.
- (3) Any byelaws made by a local authority, whether under section twenty-three of the Public Health Acts Amendment Act, 1890, or under a local Act, with respect to the paving of yards and open spaces in connection with houses shall cease to have effect, and so much of any local Act as authorises the making of such byelaws is hereby repealed.

#### **57 Entrances to certain courts not to be closed or narrowed.**

- (1) Except with the consent of the local authority, no entrance to any court or yard on which two or more houses front or abut shall be closed, narrowed, reduced in height or otherwise altered so as to impede the free circulation of air through the entrance, nor, except with such consent, shall any permanent structure be erected so as to impede the free circulation of air through any entrance to any such court or yard.
- (2) A local authority in giving a consent under this section may impose such conditions as they think fit with respect to the provision of other openings or means of access, or other means for securing free circulation of air throughout the court or yard.
- (3) Any person aggrieved by the refusal of a local authority to give a consent under this section, or by any conditions imposed by them, may appeal to a court of summary jurisdiction.
- (4) Any person who contravenes the provisions of this section shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

#### **58 Dangerous or dilapidated buildings and structures.**

- (1) If it appears to a local authority that any building or structure, or part of a building or structure—
  - (a) is in such a condition or is used to carry such loads, as to be dangerous to persons in the building or any adjoining building, or on the premises on which the building or structure stands or any adjoining premises; or
  - (b) is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood,the authority may apply to a court of summary jurisdiction, and the court may—
  - (i) in the first mentioned case—
    - (a) where danger arises from the condition of the building or structure, make an order requiring the owner thereof to execute such work as may be necessary to obviate the danger or, if he so elects, to demolish the building or structure, or any dangerous part thereof, and remove any rubbish resulting from the demolition;

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- (b) where danger arises from overloading of the building or structure, make an order restricting the use thereof until a court of summary jurisdiction, being satisfied that any necessary works have been executed, withdraws or modifies the restriction;
  - (ii) in the second mentioned case, make an order requiring the owner of the building or structure to execute such works of repair or restoration or, if he so elects, to take such steps by demolishing the building or structure or any part thereof and removing any rubbish resulting from the demolition, as may be necessary for remedying the cause of complaint.
- (2) If the person on whom an order is made under subsection (1) of this section for the execution of works, or the demolition of a building or structure or of any part of a building or structure, and the removal of any rubbish resulting from the demolition, fails to comply with the order within the time therein specified, the local authority may execute the order in such manner as they think fit and may recover the expenses reasonably incurred by them in so doing from the person in default, and without prejudice to the right of the authority to exercise those powers, he shall be liable to a fine not exceeding ten pounds.
- (3) If a local authority are satisfied that any building or structure, or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous to persons in the building or any adjoining building, or on the premises on which the building or structure stands or any adjoining premises, and that immediate action should be taken for the protection of those persons or any of them, the authority may shore up or fence off the building or structure, and may recover from the owner thereof the expenses of any action reasonably taken by them under this subsection.

## **59 Exits, entrances, and &c, in the case of certain public, and other, buildings.**

- (1) Where plans of a building or of an extension of a building are, in accordance with building byelaws, deposited with a local authority, and the building or, as the case may be, the building as extended will be a building to which this section applies, the authority shall reject the plans unless they show that the building, or, as the case may be, the building as extended, will be provided with such means of ingress and egress and passages or gangways as the authority deem satisfactory, regard being had by them to the purposes for which the building is intended to be, or is, used and the number of persons likely to resort thereto at any one time :

Provided that any question arising under this subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether the means of ingress or egress or passages or gangways already existing, or proposed to be provided, ought to be accepted by the authority as satisfactory may on the application of that person be determined by a court of summary jurisdiction.

- (2) If it appears to a local authority that any building to which this section applies is not provided with such means of ingress and egress and passages or gangways as the authority deem satisfactory, regard being had by them to the purposes for which the building is used and the number of persons likely to resort thereto at any one time, the authority shall by notice require the owner of the building to execute such work and make such provision in regard to the matters aforesaid as may be necessary.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this subsection.



- (3) If the authority are satisfied that the safety of the public requires that immediate action should be taken in the case of any building as respects which they have given a notice under the last preceding subsection, they may apply to a court of summary jurisdiction and the court may make such temporary order as it thinks fit for the closing of the building to, or for restricting its use by, the public.
- (4) The person having the control of any building to which this section applies shall take steps to secure that the means of ingress and egress and the passages and gangways shall, while persons are assembled in the building, be kept free and unobstructed, except in so far as the local authority may otherwise approve, and, if he fails to do so, shall be liable to a fine not exceeding twenty pounds.
- (5) This section applies to—
  - (a) any theatre, and any hall or other building which is used as a place of public resort;
  - (b) any restaurant, shop, store or warehouse to which members of the public are admitted and in which more than twenty persons are employed;
  - (c) any club required to be registered under the provisions of the Licensing (Consolidation) Act, 1910;
  - (d) any school not exempted from the operation of building byelaws; and
  - (e) subject as hereinafter provided, any church, chapel or other place of public worship :

Provided that this section does not apply to a private house to which members of the public are admitted occasionally or exceptionally, or to a building which was used as a church, chapel or other place of public worship immediately before the date when section thirty-six of the Public Health Acts Amendment Act, 1890, or a corresponding provision in a local Act, came into operation in the district or contributory place, or which in a district or contributory place where neither that section, nor any such corresponding provision, ever came into operation was so used immediately before the commencement of this Act.

## **60 Means of escape from fire in the case of certain high buildings.**

- (1) If it appears to a local authority that any building or proposed building which is, or will be, a building to which this section applies is not, or will not be, provided with such means of escape in case of fire as the local authority deem necessary from each storey of which the floor is more than twenty feet above the surface of the street or ground on any side of the building, the authority shall by notice require the owner of the building, or, as the case may be, the person proposing to erect the building, to execute such work or make such other provision in regard to the matters aforesaid as may be necessary.
- (2) In so far notice under the preceding subsection requires a person to execute works, the provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to that notice.
- (3) In so far as such a notice requires a person to make provision otherwise than by the execution of works, he shall, if he fails to comply with the notice, be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction, therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements.

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- (4) This section applies to any building which exceeds two storeys in height and in which the floor of any upper storey is more than twenty feet above the surface of the street or ground on any side of the building and which—
- (a) is let in flats or tenement dwellings; or
  - (b) is used as an inn, hotel, boarding house, hospital, nursing home, boarding school, children's home or similar institution; or
  - (c) is used as a restaurant, shop, store or warehouse and has on any upper floor sleeping accommodation for persons employed on the premises.

*Byelaws with respect to buildings and sanitation.*

## **61 Byelaws as to buildings and sanitation.**

- (1) Every local authority may and, if required by the Minister, shall make byelaws for regulating all or any of the following matters :—
- (i) as regards buildings—
    - (a) the construction of buildings, and the materials to be used in the construction of buildings;
    - (b) the space about buildings, the lighting and ventilation of buildings, and the dimensions of rooms intended for human habitation;
    - (c) the height of buildings; the height of chimneys, not being separate buildings, above the roof of the building of which they form part;
  - (ii) as regards works and fittings—
    - (d) sanitary conveniences in connection with buildings; the drainage of buildings, including the means for conveying refuse water and water from roofs and from yards appurtenant to buildings; cesspools and other means for the reception or disposal of foul matter in connection with buildings;
    - (e) ashpits in connection with buildings;
    - (f) wells, tanks and cisterns for the supply of water for human consumption in connection with buildings;
    - (g) stoves and other fittings in buildings (not being electric stoves or fittings), in so far as byelaws with respect to such matters are required for the purposes of health and the prevention of fire;
    - (h) private sewers; communications between drains and sewers and between sewers.
- (2) Byelaws made under this section may include provisions as to—
- (a) the giving of notices and the deposit of plans, sections, specifications and written particulars; and
  - (b) the inspection of work; the testing of drains and sewers, and the taking by the local authority of samples of materials to be used in the construction of buildings, or in the execution of other works.
- (3) A local authority who propose to apply to the Minister for confirmation of any byelaws made under this section shall, in addition to complying with the requirements of section two hundred and fifty of the Local Government Act, 1933, publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation.

## **62 Application of certain byelaws to existing buildings.**

- (1) Byelaws under sub-paragraphs (a), (b) and (c) of subsection (1) of the last preceding section may be made with respect to—
- (a) structural alterations or extensions of buildings, and buildings so, far as affected by alterations or extensions;
  - (b) buildings or parts of buildings in cases where any material change, within the meaning of this section, takes place in the purposes for which a building or, as the case may be, a part of a building is used,
- and, so far as they relate to the matters mentioned in this subsection, may be made to apply to buildings erected before the date on which the byelaws came into force, but, save as aforesaid, shall not apply to buildings erected before that date.
- (2) For the purposes of this section, there shall be deemed to be a material change in the purposes for which a building, or a part of a building, is used if—
- (a) a building, or a part of a building, being a building or part which was not originally constructed for occupation as a house, or which though so constructed has been appropriated to other purposes, becomes used as a house; or
  - (b) a building, or a part of a building, being a building or part which was originally constructed for occupation as a house by one family only, becomes occupied by two or more families; or
  - (c) where byelaws contain special provisions with respect to buildings used for any particular purpose, a building or a part of a building, being a building or part not previously used for that purpose, becomes so used.

## **63 Power of local authority with consent of Minister to relax requirements of byelaws.**

Where a local authority consider that the operation of any building byelaw in force in their district would be unreasonable in relation to any particular case, they may with the consent of the Minister relax the requirements of the byelaw or dispense with compliance therewith:

Provided that the authority shall give notice of any such proposed relaxation or dispensation in such manner and to such persons, if any, as the Minister may direct, and the Minister shall not give his consent before the expiration of one month from the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him.

## **64 Passing or rejection of plans, and power to retain plans, and &c.**

- (1) Where plans of any proposed work are, in accordance with building byelaws, deposited with a local authority, the local authority shall, subject to the provisions of any other section of this Act which expressly requires or authorises them in certain cases to reject plans, pass the plans unless they either are defective, or show that the proposed work would contravene any of those byelaws, and, if the plans are defective or show that the proposed work would contravene any of those byelaws, they shall reject the plans.
- (2) The authority shall within the prescribed period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether or not they are passed, and—

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- (i) a notice of rejection shall specify the defects on account of which, or the byelaw or section of this Act for non-conformity with which, or under the authority of which, the plans have been rejected; and
  - (ii) a notice that plans have been passed shall state that the passing of the plans operates as an approval thereof only for the purposes of the requirements of the byelaws and of any such section of this Act as is referred to in the preceding subsection.
- (3) Any question arising under this section between a local authority and the person by whom or on whose behalf plans are deposited as to whether the plans are defective, or whether the proposed work would contravene any of the byelaws, may on the application of that person, be determined by a court of summary jurisdiction:  
  
Provided that no such application shall be entertained unless it is made before the proposed work has been substantially commenced.
- (4) For the purposes of this Part of this Act, the expression " the prescribed period " in relation to the passing or rejection of plans means one month, but building byelaws made by an authority whose meetings are normally held not more frequently than once a month may provide that in the case of plans deposited less than three clear days before a meeting of the authority the prescribed period shall be five weeks.
- (5) Building byelaws may require that plans and other documents to be deposited in pursuance of the byelaws shall be deposited in duplicate and, if the byelaws contain such a requirement, the local authority may retain one copy of any plans or other documents so deposited, whether or not the plans are passed.

**65 Power to require removal or alteration of work not in conformity with byelaws, or executed notwithstanding rejection of plans, and &c.**

- (1) If any work to which building byelaws are applicable contravenes any of those byelaws, the authority, without prejudice to their right to take proceedings for a fine in respect of the contravention, may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alterations therein as may be necessary to make it comply with the byelaws.
- (2) If, in a case where the local authority are by any section of this Act other than the last preceding section expressly required or authorised to reject plans, any work to which building byelaws are applicable is executed either without plans having been deposited, or notwithstanding the rejection of the plans, or otherwise than in accordance with any requirements subject to which the authority passed the plans, the authority may by notice to the owner either require him to pull down or remove the work, or require him either to pull down or remove the work or, if he so elects, to comply with any other requirements specified in the notice, being requirements which they might have made under the section in question as a condition of passing plans.
- (3) If a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiration of twenty-eight days, or such longer period as a court of summary jurisdiction may on his application allow, the local authority may pull down or remove the work in question, or effect such alterations therein as they deem necessary, and may recover from him the expenses reasonably incurred by them in so doing.
- (4) No such notice as is mentioned in subsection (1) or subsection (2) of this section shall be given after the expiration of twelve months from the date of the completion of

the work in question, and, in any case where plans were deposited, it shall not be open to the authority to give such a notice on the ground that the work contravenes any building byelaw or, as the case may be, does not comply with their requirements under any such section of this Act as aforesaid, if either the plans were passed by the authority, or notice of their rejection was not given within the prescribed period from the deposit thereof, and if the work has been executed in accordance with the plans and of any requirement made by the local authority as a condition of passing the plans.

- (5) Nothing in this section shall affect the right of a local authority, or of the Attorney-General, or any other person, to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any byelaw or any enactment in this Act, but if the work is one in respect of which plans were deposited and the plans were passed by the local authority, or notice of their rejection was not given within the prescribed period after the deposit thereof, and if the work has been executed in accordance with the plans, the court on granting an injunction shall have power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall in accordance with rules of court cause the local authority, if not a party to the proceedings, to be joined as a party thereto.

#### **66 Deposit of plans to be of no effect after certain interval.**

- (1) Where plans of any proposed work have, in accordance with building byelaws, been deposited with a local authority, and either the plans have been passed by the authority or notice of rejection of the plans has not been given within the prescribed period from the deposit thereof, and the work to which the plans relate has not been commenced—
- (a) in the case of plans deposited before the date of the commencement of this Act, within three years from that date; and
  - (b) in the case of plans deposited on or after that date, within three years from the deposit of the plans ;

the local authority may, at any time before the work is commenced, by notice to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the land to which the plans relate, declare that the deposit of the plans shall be of no effect, and when such a notice is given, this Act and the byelaws made thereunder shall as respects the proposed work have effect as if no plans had been deposited.

- (2) Nothing in this Act or in any repeal effected thereby shall affect the operation of section fifteen of the Public Health Acts Amendment Act, 1907, or of any corresponding provision in a local Act, as regards plans deposited before the commencement of this Act.
- (3) Where plans of any proposed work have been passed by a local authority before the date of the commencement of this Act, but the work has not been commenced before that date, the authority shall before the expiration of six months from that date give notice of the provisions of this section to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the lands to which the plans relate.

#### **67 Power to refer questions arising under building byelaws to the Minister.**

If any question arises between a local authority and a person who has executed, or proposes to execute, any work—

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- (a) as to the application to that work of any building byelaws; or
- (b) whether the plans of the work are in conformity with those byelaws; or
- (c) whether the work has been executed in accordance with the plans as passed by the authority,

the question may, on an application made jointly by him and the local authority, be referred to the Minister for determination and, the Minister's decision shall be final:

Provided that the Minister may at any stage of the proceedings on the reference and shall, if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in those proceedings.

### **68 Temporary operation of building byelaws.**

Subject as hereinafter provided—

- (a) any building byelaw made by a local authority under this Part of this Act shall cease to have effect on the expiration of ten years from the date on which it was made;
- (b) any building byelaw made by a local authority under the corresponding provisions of any enactment repealed by this Act, or under any such enactment as amended or extended by a local Act, shall cease to have effect on the expiration of three years from the passing of this Act :

Provided that the Minister may by order extend the period during which any byelaw mentioned in this section is to remain in force.

### **69 Power of the Minister to make building byelaws in case of default, and to revoke unreasonable byelaws.**

- (1) If a local authority, when required by the Minister to make building byelaws in relation to any of the matters with respect to which they are by this Part of this Act empowered to make such byelaws, do not within three months after such requisition make in relation to that matter byelaws satisfactory to him, the Minister may himself make byelaws in relation thereto.
- (2) If the Minister is satisfied that the erection of any buildings is, or is likely to be, unreasonably impeded in consequence of any building byelaws, he may for the purpose of removing the impediment require the local authority to revoke those byelaws and to make such new byelaws as he may consider necessary, and, if the authority do not within three months after such requisition comply therewith, the Minister may himself for that purpose revoke the byelaws, and make such new byelaws as he may consider necessary.
- (3) Any byelaws made by the Minister under this section shall have effect as if they had been made by the local authority and confirmed by the Minister.

### **70 Certain information, and copies of certain local enactments, to be appended to printed copies of building byelaws.**

- (1) The printed copies of building byelaws which are required by subsection (7) of section two hundred and fifty of the Local Government Act, 1933, to be kept open to public inspection and furnished to applicants therefor shall have appended thereto—

- (a) in a rural district, information as to the urban powers, if any, which the rural authority enjoy under any section of this Act by reason of some corresponding provision of an earlier Act having been in operation within their district immediately before the commencement of this Act, and as to the urban powers, if any, with which they have been invested by order of the Minister under section thirteen of this Act, and the date when any such order took effect;
  - (b) in any rural district in which, or in any part of which, section twenty-six of the Public Health Act, 1875, was in operation before the first day of September nineteen hundred and thirty-one, and in any district in which, or in any part of which, section thirty-six of the Public Health Acts Amendment Act, 1890, or section fifteen of the Public Health Acts Amendment Act, 1907, was in operation immediately before the commencement of this Act, information as to the date on which the section in question came into operation in the district or part of the district; and
  - (c) in a district in which there is in force a local Act containing provisions with respect to any matter with respect to which a local authority can under this Act make building byelaws, a copy of those provisions of the local Act.
- (2) Any question as to what provisions of a local Act are provisions of which a copy is to be so appended shall on the application of the local authority be determined by the Minister.

## **71 Exemption of certain buildings from building byelaws.**

Subject as hereinafter provided, nothing in the foregoing provisions of this Part of this Act with respect to building byelaws, or in any building byelaws made thereunder, shall apply in relation to—

- (a) any buildings, being school premises, erected or to be erected according to plans which are under any regulations relating to the payment of grants required to be, and have been, approved by the Board of Education; or
- (b) any buildings constructed by a county council or local authority in accordance with plans approved by the Minister of Agriculture and Fisheries under the Small Holdings and Allotments Acts, 1908 to 1931, or any Act amending those Acts or any of them; or
- (c) any buildings belonging to any statutory undertakers and held or used by them for the purposes of their undertaking :

Provided that the exemption conferred by paragraph (c) of this section 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.

*Removal of refuse, scavenging, keeping of animals, etc..*

## **72 Removal of house refuse, cleansing of ashpits, and &c.**

- (1) A local authority may, and if required by the Minister shall, undertake the performance of all or any of the following services, that is to say—
- (a) the removal of house refuse ;
  - (b) the cleansing of earthclosets, privies, ashpits and cesspools or any of them,
- in either case, as respects either the whole or any part of their district.

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- (2) If a local authority who, as respects their district or any part thereof, have undertaken the removal of house refuse, or the cleansing of earthclosets, privies, ashpits or cesspools, receive notice from the occupier of any premises within the district or, as the case may be, within that part of the district, requiring them to remove any house refuse from those premises or, as the case may be, to cleanse any earthcloset, privy, ashpit or cesspool belonging to or used by the occupants of those premises, and, without, reasonable excuse, fail to comply with the notice within seven days, the occupier of the premises may recover summarily as a civil debt from the authority the sum of five shillings for every day during which the default continues after the expiration of the said period.
- (3) A local authority who as respects their district or any part thereof have undertaken the removal of house refuse may make byelaws for the area to which their undertaking may for the time being extend—
  - (a) imposing on the occupiers of premises duties in connection with the removal in order to facilitate the work which the authority have undertaken;
  - (b) where a local authority themselves provide dustbins, requiring that those dustbins shall be used;
  - (c) prohibiting the deposit of liquid matter in dustbins;
  - (d) regulating the deposit of refuse in ashpits or dustbins; and
  - (e) prohibiting any person from removing any matter which the authority have undertaken to remove, not being matter produced on his own premises which he intends to remove for sale, or for his own use, and which is kept in the meantime so as not to be a nuisance.
- (4) A local authority who as respects any part of their district have not undertaken the performance of the service in question may make byelaws requiring the occupiers of premises in that part of the district to remove at specified intervals their house refuse or, as the case may be, to cleanse at specified intervals their earthclosets, privies, ashpits and cesspools,
- (5) A local authority who have under this section resolved to undertake the performance of any service shall not, if their resolution was passed in compliance with a requirement of the Minister, rescind it without his consent.

### **73 Removal of trade refuse and other matters.**

- (1) A local authority may undertake the removal of trade refuse, or any kind of trade refuse, from premises within their district or from premises within any part of their district, and an authority who have so undertaken shall at the request of the occupier of any premises within the district, or, as the case may be, within that part of the district, remove from his premises any trade refuse to which their undertaking relates and, if without reasonable excuse they fail to do so within seven days after the request, the occupier may recover from them summarily as a civil debt the sum of five shillings for every day during which the default continues after the expiration of the said period.
- (2) A local authority shall make reasonable charges for removing trade refuse under this section.
- (3) Any question arising under this section as to what is to be considered as trade refuse, or trade refuse to which the authority's undertaking relates, or as to the reasonableness of any charges made by them, may, on the application of either party, be determined by a court of summary jurisdiction.



**74 Power of local authority in certain cases to remove refuse or cleanse cesspools, and &c. on behalf of owner or occupier.**

- (1) A local authority may at the request of the owner or occupier of any premises remove therefrom any refuse or cleanse any earthcloset, privy, ashpit or cesspool belonging thereto, which they are under no obligation to remove or cleanse, or may carry out such removal or cleansing more frequently than they are under any obligation to do, and in either case may make such charge, if any, as they think fit:

Provided that nothing in this subsection shall be construed as empowering a local authority to undertake thereunder a general collection of trade refuse, or of any kind of trade refuse, from premises within their district, or from premises within any part of their district.

- (2) A local authority may at the request of the owner or occupier of any premises undertake to dispose of any refuse which he may deliver at a place appointed by them, and may make such charge, if any, for so doing as they think fit.

**75 Regulation dustbins.**

- (1) A local authority who, as respects their district or any part thereof, have undertaken the removal of house refuse may by notice require the owner or occupier of any building within the district, or, as the case may be, within that part of the district, to provide such number of covered dustbins for the reception of house refuse of such material, size and construction as the authority may approve:

Provided that this subsection shall not entitle an authority to require the replacement of any dustbin in use at the commencement of this Act so long as it is of suitable material, size and construction and properly covered and in proper condition.

Any person aggrieved by a requirement of the local authority under this subsection may appeal to a court of summary jurisdiction.

- (2) If a person fails to comply with a notice under the preceding subsection, or fails to maintain in good order and condition any dustbin which under that subsection he has been required to provide, or fails to replace any such dustbin when worn out by a new dustbin of a material, size and construction approved by the local authority, the authority may provide such dustbin, or such new dustbin, as may be required and may recover the expenses reasonably incurred by them in so doing from the person in default, and, without prejudice to the right of the authority to exercise that power, he shall be liable to a fine not exceeding twenty shillings.

- (3) A local authority may, as respects their district or any part thereof, in lieu of requiring the owners or occupiers of buildings to provide and maintain dustbins for the reception of house refuse, undertake themselves to provide and maintain such dustbins as may be necessary and, so long as such an undertaking is in force, the authority may make in respect of each dustbin provided by them such annual charge not exceeding two shillings and sixpence as they think proper.

Any such charge shall become due on the first day of April in each year and may be recovered as part of the general rate in respect of the premises for which the dustbin has been provided, but without prejudice to the rights of any person under any tenancy agreement:

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Provided that, if on the first day of April the premises are unoccupied, the charge shall not be recoverable until they become occupied and, if they remain unoccupied during the whole of the local financial year, the charge shall be treated as irrecoverable.

**76 Provisions as to deposit and disposal of refuse, and for prohibiting interference with dustbins and refuse tips.**

- (1) A local authority may provide—
  - (a) receptacles for refuse in streets and public places;
  - (b) places for the deposit of refuse;
  - (c) plant or apparatus for treating or disposing of refuse.
- (2) A local authority may sell refuse removed by them from any premises, including any street, under this Part of this Act.
- (3) It shall not be lawful for any person, other than a person employed by the local authority in connection with the removal and disposal of refuse—
  - (a) to sort over or disturb the contents of any dustbin when placed in any street or forecourt for the purpose of its contents being removed by the local authority; or
  - (b) to sort over or disturb the material deposited in any place provided by the authority for the deposit of refuse;and a person who contravenes any of the provisions of this subsection shall be liable to a penalty not exceeding five pounds.

**77 Sweeping and watering of streets.**

- (1) A local authority may, and if required by the Minister shall, undertake the cleansing, and may undertake the watering, of streets, as respects either the whole or any part of their district.
- (2) Where a local authority have under this section undertaken the cleansing or watering of any streets with respect to which they are not the highway authority—
  - (a) the local authority may arrange with the highway authority for that authority to carry out the work on such terms as may be agreed;
  - (b) if the local authority carry out the work, the highway authority shall make towards the expenses of the local authority such reasonable contribution, regard being had to the extent to which the work is or was necessary for the maintenance of the street and the safety of traffic thereon, as may be agreed or, in case of dispute, may be determined by the Minister.
- (3) A local authority who have under this section resolved to undertake the cleansing of streets shall not, if their resolution was passed in compliance with a requirement of the Minister, rescind it without his consent.

**78 Scavenging of common courts and passages.**

- (1) If any court, yard or passage which is used in common by the occupants of two or more buildings, but is not a highway repairable by the inhabitants at large, is not regularly swept and kept clean and free from rubbish or other accumulation to the satisfaction of the local authority, the authority may cause it to be swept and cleansed.

- (2) The local authority may recover any expenses reasonably incurred by them under this section from the occupiers of the buildings which front or abut on the court or yard, or to which the passage affords access, in such proportions as may be determined by the authority, or, in case of dispute, by a court of summary jurisdiction.

**79 Power to require removal of noxious matter by occupier of premises in urban district.**

- (1) If in a borough or urban district, or in a rural district or contributory place in which section forty-nine of the Public Health Act, 1875, was in force immediately before the commencement of this Act, it appears to the sanitary inspector that any accumulation of noxious matter ought to be removed, he shall serve notice on the owner thereof, or on the occupier of the premises on which it is found, requiring him to remove it, and, if the notice is not complied with within twenty-four hours after service thereof, the inspector may remove the matter referred to.
- (2) A local authority may recover the expenses of any action reasonably taken by their inspector under the preceding subsection from the owner or occupier in default.

**80 Power to require periodical removal of manure, and &c, from stables, and &c, in urban district.**

- (1) In a borough or urban district, and in a rural district or contributory place in which section fifty of the Public Health Act, 1875, was in force immediately before the commencement of this Act, the local authority may by public or other notice require the periodical removal, at such intervals as may be specified in the notice, of manure or refuse from mews, stables or other premises.
- (2) If a person on whom a notice has been served under this section fails to comply therewith, he shall be liable to a fine not exceeding twenty shillings.

**81 Byelaws for the prevention of certain nuisances.**

A local authority may make byelaws for preventing—

- (a) the occurrence of nuisances from snow, filth, dust, ashes and rubbish;
- (b) the keeping of animals so as to be prejudicial to health.

**82 Byelaws as to removal through streets of offensive matter or liquid.**

- (1) A local authority may make byelaws—
- (a) prescribing the times for the removal, or carriage through the streets, of any faecal or offensive or noxious matter or liquid, whether that matter or liquid is in course of removal or carriage from within, or from without, or through, their district;
  - (b) requiring that the receptacle or vehicle used for the removal or carriage of any such matter or liquid shall be properly constructed and covered so as to prevent the escape of any such matter or liquid;
  - (c) requiring the cleansing of any place whereon any such matter or liquid has been dropped or spilt in the course of removal or carriage.

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

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- (2) If and so far as a byelaw made under the preceding subsection is inconsistent with a regulation made under section ten of the London Traffic Act, 1924, the regulation shall prevail.

*Filthy or verminous premises or articles, and verminous persons.*

### **83 Cleansing of filthy or verminous premises.**

- (1) Where it appears to a local authority upon a certificate of the medical officer of health or the sanitary inspector that any premises used for human habitation—
- (a) are in such a filthy or unwholesome condition as to be prejudicial to health; or
  - (b) are verminous,

the authority shall give notice to the owner or occupier of the premises requiring him to take such steps to remedy the condition of the premises by cleansing, disinfecting and whitewashing them, as may be specified in the notice, and in the case of verminous premises the notice may require, among other things, the removal of the wallpaper or other covering on the walls, and the taking of such other steps as may be necessary for the purpose of destroying or removing vermin.

- (2) If a person on whom a notice under this section is served fails to comply with the requirements thereof, the authority may themselves carry out the requirements and recover from him the expenses reasonably incurred by them in so doing, and, without prejudice to the right of the authority to exercise that power, he shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the premises.

- (3) Where a local authority take action under paragraph (b) of subsection (1) of this section, their notice may require that they shall be allowed to employ gas for the purpose of destroying vermin on the premises, but in that case the notice shall be served both on the owner and on the occupier of the premises, and the authority shall bear the cost of their operations and may provide temporary shelter or house accommodation for any person compelled to leave the premises by reason of their operations.

### **84 Cleansing or destruction of filthy or verminous articles.**

Where it appears to a local authority upon a certificate of the medical officer of health or the sanitary inspector that any article in any premises—

- (a) is in so filthy a condition as to render its cleansing, purification or destruction necessary in order to prevent injury, or danger of injury, to the health of any person in the premises; or
- (b) is verminous, or by-reason of its having been used by, or having been in contact with, any verminous person is likely to be verminous,

the local authority shall cause that article to be cleansed, purified, disinfected or destroyed, as the case may require, at their expense and, if necessary for that purpose, to be removed from the premises.

**85      Cleansing of verminous persons and their clothing.**

- (1) Upon the application of any person, a county council or a local authority may take such measures as are, in their opinion, necessary to free him and his clothing from vermin.
- (2) Where it appears to a county council or a local authority, upon a report from their medical officer of health or, in the case of a local authority, from their sanitary inspector, that any person, or the clothing of any person, is verminous, then, if that person consents to be removed to a cleansing station, they may cause him to be removed to such a station, and, if he does not so consent, they may apply to a court of summary jurisdiction, and the court, if satisfied that it is necessary that he or his clothing should be cleansed, may make an order for his removal to such a station and for his detention therein for such period and subject to such conditions as may be specified in the order.
- (3) Where a person has been removed to a cleansing station in pursuance of the last preceding subsection, the county council or local authority shall take such measures as may, in their opinion, be necessary to free him and his clothing from vermin.
- (4) The cleansing of females under this section shall be carried out only by a registered medical practitioner, or by a woman duly authorised by the medical officer of health.
- (5) Any consent required to be given for the purposes of this section may, in the case of a person under the age of sixteen years, be given on his behalf by his parent or guardian.
- (6) No charge shall be made in respect of the cleansing of a person or his clothing, or in respect of his removal to, or maintenance in, a cleansing station under this section.
- (7) The powers conferred on a county council or local authority by this section shall be in addition to, and not in derogation of, any power in relation to the cleansing of children which may be exercisable by them as a local education authority.

**86      Provision of cleansing stations.**

A county council or local authority may provide such cleansing stations as may be necessary for the discharge of their functions under any of the three last preceding sections.

*Public sanitary conveniences.*

**87      Provision of public conveniences.**

- (1) A local authority may provide public sanitary conveniences in proper and convenient situations :

Provided that they shall not without the consent of the county council, which may be given upon such terms as the council think fit, provide such conveniences in or under any highway, or on or under any land forming the site of a proposed new highway, if that highway or new highway is, or is intended to be, a highway with respect to which the county council are, or will be, the highway authority.

- (2) A county council may themselves provide public sanitary conveniences in any situation in which such conveniences could not be provided by a local authority except with the consent of the county council.

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

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- (3) A county council or local authority who provide any public sanitary conveniences, may—
- (a) make byelaws as to the conduct of persons using or entering them;
  - (b) let them for such term, at such rent, and subject to such conditions as they think fit;
  - (c) charge such fees for the use of any such conveniences, other than urinals, as they think fit.
- (4) In this section the expression " sanitary conveniences " includes lavatories.

### **88 Control over conveniences in, or accessible from, streets.**

- (1) No person shall erect any public sanitary convenience in, or so as to be accessible from, any street without the consent of the local authority, who may give their consent upon such terms as to the use of the convenience or its removal at any time, if required by them, as they think fit, and, if any person contravenes the provisions of this subsection, he shall be liable to a fine not exceeding five pounds, without prejudice to the right of the authority under subsection (3) of this section to require the convenience to be removed :

Provided that this subsection shall not apply to any sanitary convenience erected by a railway company within their railway station, or the yard thereof, or the approaches thereto, or erected by dock undertakers in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

- (2) Any person aggrieved by the refusal of a local authority to give a consent under the preceding subsection, or by any terms imposed by them, may appeal to a court of summary jurisdiction.
- (3) The local authority may by notice require—
- (a) the owner of a sanitary convenience which has been erected in contravention of subsection (1) of this section, or the removal of which they are by virtue of the terms of a consent given under that subsection entitled to require, to remove it;
  - (b) the owner of a sanitary convenience which opens on a street and is so placed or constructed as to be a nuisance or offensive to public decency, to remove or permanently to close it.
- (4) The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this section.
- (5) Nothing in this section affects the powers of a county council under the last preceding section.

### **89 Power to require sanitary conveniences to be provided at inns, refreshment houses, and &c.**

- (1) A local authority may by notice require the owner or occupier of any inn, public-house, beerhouse, refreshment-house or place of public entertainment to provide and maintain in a suitable position such number of sanitary conveniences for the use of persons frequenting the premises as may be reasonable.

- (2) If any person fails to comply with a notice served upon him under this section, he shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements, or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the premises.

*General.*

## **90 Interpretation of Part II.**

- (1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say—

" cesspool " includes a settlement tank or other tank for the reception or disposal of foul matter from buildings;

" closet " includes privy;

" earthcloset " means a closet having a moveable receptacle for the reception of faecal matter and its deodorisation by the use of earth, ashes or chemicals, or by other methods;

" joint sewerage board " includes any authority or committee constituted for the purpose of collecting and dealing with the contents of sewers from the districts of two or more local authorities;

" sanitary conveniences " means closets and urinals;

" sewerage authority " means a local authority, the council of a metropolitan borough, a county council (including the London County Council) and a joint sewerage board;

" surface water " includes water from roofs;

" vermin, " in its application to insects and parasites, includes their eggs, larvae and pupae, and the expression " verminous " shall be construed accordingly; and

" watercloset " means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action.

- (2) For the purposes of this Part of this Act and, so far as byelaws made thereunder may provide, for the purposes of those byelaws, any of the following operations shall be deemed to be the erection of a building, that is to say—

(i) the re-erection of any building or part of a building when an outer wall of that building or, as the case may be, that part of a building has been pulled down, or burnt down, to within ten feet of the surface of the ground adjoining the lowest storey of the building or of that part of the building;

(ii) the re-erection of any frame building or part of a frame building when that building or part of a building has been so far pulled down, or burnt down, as to leave only the framework of the lowest storey of the building or of that part of the building;

(iii) the roofing over of any open space between walls or buildings;

and the word " erect " shall be construed accordingly.

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

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- (3) Any reference in this Part of this Act to plans deposited in accordance with building byelaws shall be construed as including a reference to any sections, specifications and written particulars deposited with the plans in accordance with the byelaws.
- (4) Any reference in this Part of this Act to a drain or to a sewer shall be construed as including a reference to any manholes, ventilating shafts, pumps or other accessories belonging to that drain or sewer, and any reference in this Part of this Act to sewage disposal works shall be construed as including a reference to the machinery and equipment of those works and any necessary pumping stations and outfall pipes.
- (5) Any reference in this Part of this Act to the construction of a sewer or sewage disposal works shall be construed as including a reference to the extension of an existing sewer or of existing works.
- (6) For the purposes of this Part of this Act, a building or proposed building shall not be deemed to have a sewer available unless—
  - (a) there is within one hundred feet of the site of the building or proposed building, and at a level which makes it reasonably practicable to construct a drain to communicate therewith, a public sewer or other sewer which the owner of the building or proposed building is, or will be, entitled to use, and
  - (b) the intervening land is land through which he is entitled to construct a drain;and shall not be deemed to have a sufficient water supply available unless it has a sufficient supply of water laid on, or unless such a supply can be laid on to it from a point within one hundred feet of the site of the building or proposed building, and the intervening land is land through which the owner of the building or proposed building is, or will be, entitled to lay a communication pipe:

Provided that, for the purposes of this definition, the limit of one hundred feet shall not apply, if the local authority undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, a drain to communicate with a sewer or, as the case may be, in laying, and in maintaining and repairing, a pipe for the purpose of obtaining a supply of water, as may be attributable to the fact that the distance of the sewer, or of the point from which a supply of water can be laid on, exceeds one hundred feet.