



CHAPTER 57.

An Act to amend the Public Health Acts in relation to A.D. 1892.
Private Street Improvement Expenses.

[28th June 1892.]

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

1. This Act may be cited as the Private Street Works Act, 1892, and shall be construed as one with the Public Health Acts, and shall extend only to England; and this Act and the Public Health Acts may be cited together as the Public Health Acts. Short title, construction, and extent.

2. This Act shall extend and apply to any urban sanitary district in which it is respectively adopted under the provisions of this Act. Adoption of Act.

3. The following provisions shall have effect with regard to the adoption of this Act by urban authorities: Adoption of Act by urban authorities.

(1.) The adoption shall be by a resolution passed at a meeting of the urban authority; and one calendar month at least before such meeting special notice of the meeting, and of the intention to propose such resolution, shall be given to every member of the authority, and the notice shall be deemed to have been duly given to a member of it if it is either—

(a.) Given in the mode in which notices to attend meetings of the authority are usually given; or

(b.) Where there is no such mode, then signed by the clerk of the authority, and delivered to the member or left at his usual or last known place of abode in England, or forwarded by post in a prepaid registered letter, addressed to the member at his usual or last known place of abode in England.

(2.) Such resolution shall be published by advertisement in some one or more newspapers circulating within the district of the authority, and by causing notice thereof to be affixed to the principal doors of every church and chapel in the place to which notices are usually fixed, and otherwise in such manner as the authority think sufficient for giving notice thereof to all persons interested, and shall come into operation at such time not less than one month after the first publication of the advertisement of the resolution as the

A. D. 1892. authority may by the resolution fix, and upon its coming into operation this Act shall extend to that district.

(3.) A copy of the resolution shall be sent to the Local Government Board.

(4.) A copy of the advertisement shall be conclusive evidence of the resolution having been passed, unless the contrary be shown; and no objection to the effect of the resolution on the ground that notice of the intention to propose the same was not duly given, or on the ground that the resolution was not sufficiently published, shall be made after three months from the date of the first publication of the advertisement.

Local Govern-
ment Board
may extend
Act to rural
districts.

4. The Local Government Board may declare that the provisions contained in this Act shall be in force in any rural sanitary district, or any part thereof, and may invest a rural sanitary authority with the powers, rights, duties, capacities, liabilities, and obligations which an urban authority may acquire by adoption of this Act, in like manner and subject to the same provisions as they are enabled to invest rural sanitary authorities with the powers of urban sanitary authorities under the provisions of section two hundred and seventy-six of the Public Health Act, 1875.

Interpretation.

5. In this Act, if not inconsistent with the context,—

The expression “urban authority” means an urban sanitary authority under the Public Health Acts.

The expressions “urban sanitary district” and “rural sanitary district” mean respectively an urban sanitary district and a rural sanitary district under the Public Health Acts, and “district” means the district of an urban sanitary authority or of a rural sanitary authority, as the case may require.

The expressions “surveyor,” “lands,” “premises,” “owner,” “drain,” “sewer,” have respectively the same meaning as in the Public Health Acts.

The expression “street” means (unless the context otherwise requires) a street as defined by the Public Health Acts, and not being a highway repairable by the inhabitants at large.

Words referring to “paving, metalling, and flagging” shall be construed as including macadamising, asphaltting, gravelling, kerbing, and every method of making a carriageway or footway.

Private street
works.

6.—(1.) Where any street or part of a street is not sewered, levelled, paved, metalled, flagged, channelled, made good, and lighted to the satisfaction of the urban authority, the urban authority may from time to time resolve with respect to such street or part of a street to do any one or more of the following works (in this Act called private street works); that is to say, to sewer, level, pave, metal, flag, channel, or make good, or to provide proper means for lighting such street or part of a street; and the expenses incurred by the urban authority in executing private street works shall be apportioned (subject as in this Act mentioned) on the premises fronting, adjoining, or abutting on such street or part of a street. Any such resolution may include several streets or parts of streets, or may be limited to any part or parts of a street.

(2.) The surveyor shall prepare, as respects each street or part of a street,— A.D. 1892.

- (a.) A specification of the private street works referred to in the resolution, with plans and sections (if applicable);
- (b.) An estimate of the probable expenses of the works;
- (c.) A provisional apportionment of the estimated expenses among the premises liable to be charged therewith under this Act.

Such specification, plans, sections, estimate, and provisional apportionment shall comprise the particulars prescribed in Part I. of the Schedule to this Act, and shall be submitted to the urban authority, who may by resolution approve the same respectively with or without modification or addition as they think fit.

(3.) The resolution approving the specifications, plans, and sections (if any), estimates, and provisional apportionments, shall be published in the manner prescribed in Part II. of the Schedule to this Act, and copies thereof shall be served on the owners of the premises shown as liable to be charged in the provisional apportionment within seven days after the date of the first publication. During one month from the date of the first publication the approved specifications, plans, and sections (if any), estimates, and provisional apportionments (or copies thereof certified by the surveyor), shall be kept deposited at the urban authority offices, and shall be open to inspection at all reasonable times.

7. During the said month any owner of any premises shown in a provisional apportionment as liable to be charged with any part of the expenses of executing the works may, by written notice served on the urban authority, object to the proposals of the urban authority on any of the following grounds; (that is to say,) Objections to proposed works.

- (a.) That an alleged street or part of a street is not or does not form part of a street within the meaning of this Act;
- (b.) That a street or part of a street is (in whole or in part) a highway repairable by the inhabitants at large;
- (c.) That there has been some material informality, defect, or error in or in respect of the resolution, notice, plans, sections, or estimate;
- (d.) That the proposed works are insufficient or unreasonable, or that the estimated expenses are excessive;
- (e.) That any premises ought to be excluded from or inserted in the provisional apportionment;
- (f.) That the provisional apportionment is incorrect in respect of some matter of fact to be specified in the objection or (where the provisional apportionment is made with regard to other considerations than frontage as herein-after provided) in respect of the degree of benefit to be derived by any persons, or the amount or value of any work already done by the owner or occupier of any premises.

For the purposes of this Act joint tenants or tenants in common may object through one of their number authorised in writing under the hands of the majority of such joint tenants or tenants in common.

A.D. 1892.
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 Hearing and
 determination
 of objections.

8.—(1.) The urban authority at any time after the expiration of the said month may apply to a court of summary jurisdiction to appoint a time for determining the matter of all objections made as in this Act mentioned, and shall publish a notice of the time and place appointed, and copies of such notice shall be served upon the objectors; and at the time and place so appointed any such court may proceed to hear and determine the matter of all such objections in the same manner as nearly as may be, and with the same powers and subject to the same provisions with respect to stating a case, as if the urban authority were proceeding summarily against the objectors to enforce payment of a sum of money summarily recoverable. The court may quash in whole or in part or may amend the resolution, plans, sections, estimates, and provisional apportionments, or any of them, on the application either of any objector or of the urban authority. The court may also, if it thinks fit, adjourn the hearing and direct any further notices to be given.

(2.) No objection which could be made under this Act shall be otherwise made or allowed in any court proceeding or manner whatsoever.

(3.) The costs of any proceedings before a court of summary jurisdiction in relation to objections under this Act shall be in the discretion of the court, and the court shall have power, if it thinks fit, to direct that the whole or any part of such costs ordered to be paid by an objector or objectors shall be paid in the first instance by the urban authority, and charged as part of the expenses of the works on the premises of the objector or objectors in such proportions as may appear just.

Incidental
 works.

9.—(1.) The urban authority may include in any works to be done under this Act with respect to any street or part of a street any works which they think necessary for bringing the street or part of a street, as regards sewerage, drainage, level, or other matters, into conformity with any other streets (whether repairable or not by the inhabitants at large), including the provision of separate sewers for the reception of sewage and of surface water respectively.

(2.) The urban authority in any estimate of the expenses of private street works may include a commission not exceeding five pounds per centum (in addition to the estimated actual cost) in respect of surveys, superintendence, and notices, and such commission when received shall be carried to the credit of the district fund.

Apportionment
 of expenses.

10. In a provisional apportionment of expenses of private street works the apportionment of expenses against the premises fronting, adjoining, or abutting on the street or part of a street in respect of which the expenses are to be incurred shall, unless the urban authority otherwise resolve, be apportioned according to the frontage of the respective premises; but the urban authority may, if they think just, resolve that in settling the apportionment regard shall be had to the following considerations; (that is to say,)

(a.) The greater or less degree of benefit to be derived by any premises from such works;

(b.) The amount and value of any work already done by the owners or occupiers of any such premises. A.D 1892.

They may also, if they think just, include any premises which do not front, adjoin, or abut on the street or part of a street, but access to which is obtained from the street through a court, passage, or otherwise, and which in their opinion will be benefited by the works, and may fix the sum or proportion to be charged against any such premises accordingly.

11. The urban authority may from time to time amend the specifications, plans, and sections (if any), estimates, and provisional apportionments for any private street works, but if the total amount of the estimate in respect of any street or part of a street is increased, such estimate and the provisional apportionment shall be published in the manner prescribed in Part II. of the Schedule to this Act, and shall be open to inspection at the urban authority offices at all reasonable times, and copies thereof shall be served on the owners of the premises affected thereby; and objections may be made to the increase and apportionment, and if made shall be dealt with and determined in like manner as objections to the original estimate and apportionment. Amendment of plan, &c.

12.—(1.) When any private street works have been completed, and the expenses thereof ascertained, the surveyor shall make a final apportionment by dividing the expenses in the same proportions in which the estimated expenses were divided in the original or amended provisional apportionment (as the case may be), and such final apportionment shall be conclusive for all purposes; and notice of such final apportionment shall be served upon the owners of the premises affected thereby; and the sums apportioned thereby shall be recoverable in manner provided by this Act, or in the same manner as private improvement expenses are recoverable under the Public Health Act, 1875, including the power to declare any such expenses to be payable by instalments. Final apportionment and recovery of expenses.

(2.) Within one month after such notice the owner of any premises charged with any expenses under such apportionment may, by a written notice to the urban authority, object to such final apportionment on the following grounds, or any of them:—

(a.) That the actual expenses have without sufficient reason exceeded the estimated expenses by more than fifteen per cent.

(b.) That the final apportionment has not been made in accordance with this section.

(c.) That there has been an unreasonable departure from the specification, plans, and sections.

(3.) Objections under this section shall be determined in the same manner as objections to the provisional apportionment.

13.—(1.) Any premises included in the final apportionment, and all estates and interests from time to time therein, shall stand and remain charged (to the like extent and effect as under section two hundred and fifty-seven of the Public Health Act, 1875) with the sum finally apportioned on them, or if objection has been made against the final apportionment with the sum determined to be due Charge on premises.

A.D. 1892. as from the date of the final apportionment, with interest at the rate of four pounds per centum per annum, and the urban authority shall, for the recovery of such sum and interest, have all the same powers and remedies under the Conveyancing and Law of Property Act, 1881, and otherwise as if they were mortgagees having powers of sale and lease and of appointing a receiver.

(2.) The urban authority shall keep a register of charges under this Act and of the payments made in satisfaction thereof, and the register shall be open to inspection to all persons at all reasonable times on payment of not exceeding one shilling in respect of each name or property searched for, and the urban authority shall furnish copies of any part of such register to any person applying for the same on payment of such reasonable sum as may be fixed by the urban authority.

Recovery of expenses summarily or by action.

14. The urban authority, if they think fit, may from time to time (in addition and without prejudice to any other remedy) recover summarily in a court of summary jurisdiction, or as a simple contract debt by action in any court of competent jurisdiction, from the owner for the time being of any premises in respect of which any sum is due for expenses of private street works the whole or any portion of such sum, together with interest at a rate not exceeding four pounds per centum per annum, from the date of the final apportionment till payment thereof.

Contribution by urban authority to expenses.

15. The urban authority, if they think fit, may at any time resolve to contribute the whole or a portion of the expenses of any private street works, and may pay the same out of the district fund or general district rate or other rate out of which the general expenses incurred under the Public Health Act, 1875, are payable.

Exemption from expenses of incumbent of church.

16. The incumbent or minister or trustee of any church, chapel, or place appropriated to public religious worship, which is for the time being by law exempt from rates for the relief of the poor, shall not be liable to any expenses of private street works as the owner of such church, chapel, or place, or of any churchyard or burial ground attached thereto, nor shall any such expenses be deemed to be a charge on such church, chapel, or other place, or on such churchyard or burial ground, or to subject the same to distress, execution, or other legal process, but the proportion of expenses in respect of which an exemption is allowed under this section shall be borne and paid by the urban authority.

Power for limited owners to borrow for expenses.

17. All owners of buildings or lands, being persons who under the Lands Clauses Acts are empowered to sell and convey or release lands, may charge such buildings or lands with such sum as may be necessary to defray the whole or any part of any expenses which the owners of or any persons in respect of such buildings or lands for the time being are liable to pay under this Act and the expenses of making such charge, and for securing the repayment of such sum with interest may mortgage such buildings or lands to any person advancing such sum, but so that the principal due on any such mortgage shall be repaid by equal yearly or half-yearly payments within twenty years.

18. The urban authority may from time to time, with the sanction of the Local Government Board, borrow, on the security of the district fund and general district rates or other rate out of which the general expenses incurred under the Public Health Act, 1875, are payable, moneys for the purpose of temporarily providing for expenses of private street works, and the powers of the urban authority to borrow under the Public Health Acts shall be available as if the execution of private street works under this Act were one of the purposes of the Public Health Act, 1875.

A.D. 1892.

Power for urban authority to borrow for private street works.

19. Whenever all or any of the private street works in this Act mentioned have been executed in a street or part of a street, and the urban authority are of opinion that such street or part of a street ought to become a highway repairable by the inhabitants at large, they may by notice to be fixed up in such street or part of a street declare the whole of such street or part of a street to be a highway repairable by the inhabitants at large, and thereupon such street or part of a street as defined in the notice shall become a highway repairable by the inhabitants at large.

Adoption of private streets.

20. If any street is now or shall hereafter be sewered, levelled, paved, metalled, flagged, channelled, and made good (all such works being done to the satisfaction of the urban authority), then, on the application in writing of the greater part in value of the owners of the houses and land in such street, the urban authority shall, within three months from the time of such application, by notice put up in such street declare the same to be a highway repairable by the inhabitants at large, and thereupon such street shall become a highway repairable by the inhabitants at large.

On street being paved, &c. urban authority to declare same public highway.

21.—(1.) The urban authority shall keep separate accounts of all moneys expended and recovered by them in the execution of the provisions of this Act relating to private street works.

Separate accounts of expenses of works.

(2.) All moneys recovered by the urban authority under this Act in respect of street works shall be applied in repayment of moneys borrowed for the purpose of executing private street works, or if there is no such loan outstanding then in such manner as may be directed by the Local Government Board.

22. No railway or canal company shall be deemed to be an owner or occupier for the purposes of this Act in respect of any land of such company upon which any street shall wholly or partially front or abut, and which shall at the time of the laying out of such street be used by such company solely as a part of their line of railway, canal, or siding, station, towing path, or works, and shall have no direct communication with such street; and the expenses incurred by the urban authority under the powers of this Act which, but for this provision, such company would be liable to pay, shall be repaid to the urban authority by the owners of the premises included in the apportionments, and in such proportion as shall be settled by the surveyor; and in the event of such company subsequently making a communication with such street they shall, notwithstanding such repayment as last aforesaid, pay to the urban authority the expenses which, but for the

Railways and canals abutting but not communicating with streets not to be chargeable with private street expenses.

A.D. 1892. — foregoiug provision, such company would in the first instance have been liable to pay, and the urban authority shall divide among the owners for the time being included in the apportionment the amount so paid by such company to the urban authority, less the costs and expenses attendant upon such division, in such proportion as shall be settled by the surveyor, whose decision shall be final and conclusive. This section shall not apply to any street existing at the date of the adoption of this Act.

Expenses of local authority. **23.** All expenses incurred or payable by an urban authority and a rural sanitary authority respectively in the execution of this Act, and not otherwise provided for, may be charged and defrayed as part of the expenses incurred by them respectively in the execution of the Public Health Acts.

Powers of Act cumulative. **24.** All powers given to a local authority under this Act shall be deemed to be in addition to and not in derogation of any other powers conferred upon such local authority by any Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not been passed.

Certain sections of Public Health Acts not to apply. **25.** Neither sections one hundred and fifty, one hundred and fifty-one, and one hundred and fifty-two of the Public Health Act, 1875, nor section forty-one of the Public Health Acts Amendment Act, 1890, shall apply to any district or part of a district in which this Act is in force.

For protection of Conservators of the River Thames. **26.** This Act shall not extend to prejudice or derogate from the estates, rights, and privileges of the Conservators of the River Thames, or render them liable to any charges or payments in respect of any of their works on or upon the shores of the River Thames.

THE SCHEDULE.

PRIVATE STREET WORKS.

PART I.

PARTICULARS TO BE STATED IN SPECIFICATIONS, PLANS AND SECTIONS, ESTIMATES, AND PROVISIONAL APPORTIONMENTS.

Specifications.—These shall describe generally the works and things to be done, and in the case of structural works shall specify as far as may be the foundation, form, material, and dimensions thereof.

Plans and Sections.—These shall show the constructive character of the works, and the connexions (if any) with existing streets, sewers, or other works, and the lines and levels of the works, subject to such limits of deviation (if any) as shall be indicated on the plans and sections respectively.

Estimates.—These shall show the particulars of the probable cost of the whole works, including the commission provided for by this Act.

Provisional Apportionments.—These shall state the amounts charged on the respective premises and the names of the respective owners, or reputed owners, and shall also state whether the apportionment is made according to the frontage of the respective premises or not, and the measurements of the frontages, and the other considerations (if any) on which the apportionment is based. A.D. 1892.

PART II.

PUBLICATION OF NOTICE.

Any resolution, notice, or other document required by this Act to be published in the manner prescribed by this schedule shall be published once in each of two successive weeks in some local newspaper circulating within the district, and shall be publicly posted in or near the street to which it relates once at least in each of three successive weeks.

Printed by EYRE and SPOTTISWOODE,

FOR

T. DIGBY PIGOTT, Esq., C.B., the Queen's Printer of Acts of Parliament.

ISBN 0 10 515986 7