

SCHEDULES

SCHEDULE 9

MODIFICATION AND RE-ENACTMENT AS FROM 1ST APRIL 1965 OF ENACTMENTS RELATING TO SEWERAGE AND DRAINAGE

PART III

PROVISIONS REPRODUCED FROM PART II OF PUBLIC HEALTH (LONDON) ACT 1936

Construction, maintenance and operation of sewers, etc.

- 1 (1) For the purpose of exercising their functions under the enactments mentioned in section 37 (1) of this Act, the Greater London Council may construct a public sewer—
- (a) in, under or over any street, or in or under any cellar or vault below any street;
 - (b) in, on or over any land not forming part of a street; and
 - (c) in, under or over the bed, banks or shores of the River Thames.
- (2) Where the Greater London Council propose in the exercise of their powers under this paragraph to construct a sewer which will cross or interfere with any watercourse or works vested in, or under the control of, a land drainage authority other than the Council or the council of a London borough or county district, they shall before adopting plans for the construction of the sewer give notice of their proposals to that authority; and if that authority within twenty-eight days of the giving of the notice to them serve on the Greater London Council notice of objection to the proposals, the Council shall not proceed with the proposals unless all objections so made are withdrawn or the Minister after a local inquiry has approved the proposals with or without modification.
- (3) Section 31 (2) of the Land Drainage Act 1961 (which requires the consent of a river authority to the erection, alteration or repair of structures in, over or under watercourses) shall not apply to any work executed under this paragraph.
- (4) The foregoing provisions of this paragraph shall not be construed as exempting the Council from compliance with any relevant requirement imposed by or by virtue of section 279 or any other provision of Part XII of the Public Health Act 1936 or by or by virtue of the Public Utilities Street Works Act 1950.
- (5) Except where notice has to be given by the Greater London Council in pursuance of sub-paragraph (2) of this paragraph or of any requirement mentioned in sub-paragraph (4) thereof, no notice need be given by them of any exercise of the powers conferred by this paragraph.
- 2 (1) Where any sewer or part of a sewage disposal works vested in the Greater London Council interrupts or will interrupt communications between any premises and any other land or between several parts of the same premises, the Greater London

Council may construct such bridges, arches, roads, passages or culverts as they think appropriate for restoring or preserving those communications or may instead pay such compensation to the owners and occupiers of the premises affected as may be agreed with them or as may be just.

- (2) Without prejudice to any duty imposed on them by any other enactment, any bridges, arches, roads, passages or culverts constructed in pursuance of this paragraph shall be maintained by the Greater London Council.
- 3 No works under or over the main navigable channel of the River Lee shall be executed by the Greater London Council in pursuance of the enactments mentioned in section 37 (1) of this Act or in pursuance of this Part of this Schedule, unless—
- (a) in the case of any work under the navigation, the top of the work is at least twelve feet below high water, Trinity standard, and
 - (b) in the case of any work over any part of the navigation, the soffit of the work is at least eight feet six inches above high water, Trinity standard, with a clear span over the river, inclusive of the towing path thereof, of at least fifty-four feet:

Provided that the British Waterways Board, upon the application of the Greater London Council, may allow a variation of the said dimensions or any of them.

- 4 (1) Notwithstanding anything in sections 30, 31 and 331 of the Public Health Act 1936, the Greater London Council—
- (a) may cause storm water to be discharged from any sewer or pumping station for the time being vested in them into Channelsea river or Abbey creek or both, at any point in the London borough numbered 17 in Part I of Schedule 1 to this Act south of the bridge carrying Abbey road over that river or, as the case may be, that creek ; and
 - (b) may permit any storm water discharged under this paragraph into the said river or creek to flow thence into Bow Creek and thence into the River Thames:

Provided that the Greater London Council—

- (i) shall cause the storm water to be discharged only at such times and in such manner as may be necessary to prevent the flooding of places and premises within the sewerage area of the Greater London Council; and
 - (ii) shall take all steps to avoid, so far as practicable, the creation of any nuisance in Channelsea river or Abbey creek by reason of the exercise of the powers of the Council under this paragraph.
- (2) The Greater London Council shall, at the request of the British Waterways Board, cause to be removed at the expense of the Council, by dredging or otherwise to the reasonable satisfaction of the engineer of the said Board, any deposit on the bed of Channelsea river or Abbey creek caused by, or arising from, the discharge by the Council of storm water into the said river or creek under this paragraph.

Any dispute arising under this sub-paragraph between the Greater London Council and the British Waterways Board shall be determined by an arbitrator, who shall, in default of agreement, be appointed by (the Minister of Transport on the application of either party to the dispute.

- (3) Save as otherwise agreed in writing between the Greater London Council and the Lee Conservancy Catchment Board, the Council, in exercise of their powers under this paragraph, shall not begin any such part of the works required for the purpose

of a storm outlet as may involve interference with any river, watercourse, sewer, drain, pipe, river wall or defence or other work which is under the management or control of the Board by virtue of the transfer to them under the Land Drainage Act 1930 of powers formerly exercisable by 'the council of the county borough of West Ham under the West Ham Corporation (Improvements) Act 1888, unless the Greater London Council have given to the Board at least one month's previous notice of the Council's intention to begin that part of the works aforesaid, together with a plan and section thereof; and in respect of that part of the works and the execution and maintenance thereof, the Council shall comply with all such reasonable requirements as may be communicated to them in writing by the Board within fourteen days after service of the said notice upon them, and that part of the works shall be executed to the reasonable satisfaction of the Board and the reasonable expenses incurred by the Board in connection therewith shall be paid by the Council.

Any dispute arising under this sub-paragraph between the Greater London Council and the said Board shall be determined by an arbitrator who shall, in default of agreement, be appointed by the President of the Institution of Civil Engineers on the application of either party to the dispute.

- 5 (1) For the purpose of securing the efficient maintenance of the main and general sewerage of their sewerage area, the Greater London Council shall make such orders as they think proper—
- (a) for the guidance, direction and control of councils of London boroughs and county districts in relation to the levels, construction, abandonment, alteration, maintenance and cleansing of sewers in their respective areas ;
 - (b) for securing that proper communications are made between the various sewers vested in the councils of London boroughs and county districts and between those sewers and the sewers vested in the Greater London Council;
 - (c) generally for the guidance, direction and control of councils of London boroughs and county districts in the discharge of their functions in relation to sewerage.
- (2) Orders under this paragraph may be so framed as to apply generally or to any particular case or class of case and may make different provision for different cases.
- (3) Where the Greater London Council propose to make an order under this paragraph they shall serve a copy of a draft of the order on such as will be affected of the councils of the boroughs and county districts wholly or partially situate within their sewerage area, and any council affected may within six weeks of the service on them of a copy of the draft order refer to the Minister the question whether the order or any provision thereof should be made or whether it should contain other provisions in addition to or in substitution for those contained in the draft order ; and on the determination of the reference the Minister may confirm or disallow the draft order and, if he confirms it, may make such modifications thereof as he thinks fit.
- (4) An order under this paragraph shall not be made until the expiration of six weeks beginning with the service of the last copy of the draft order to be served or, if it is referred to the Minister, until the Minister has determined the reference and confirmed the order with or without modifications.
- (5) On its coming into force, an order under this paragraph shall be binding on the councils of London boroughs and county districts.
- 6 (1) The Greater London Council may make byelaws—

- (a) for regulating the dimensions, form and mode of construction, and the maintenance, cleansing and repair, of pipes, drains and other means of communication with sewers, and the traps and apparatus connected therewith, and for prescribing the levels at which such means of communication, traps and apparatus as aforesaid are to be laid ;
- (b) for requiring persons who are about to construct, reconstruct, or alter pipes, drains or other means of communication with a sewer, or the traps or apparatus connected therewith, to deposit with the local authority such plans, sections and particulars of the proposed work as may be necessary for the purpose of ascertaining whether it will comply with the requirements of the enactments mentioned in section 37 (1) of this Act, of this Part of this Schedule and of any byelaws under this paragraph:

Provided that byelaws made under paragraph (b) of this sub-paragraph—

- (i) shall not require the deposit of plans or sections in the case of any repair which does not involve the alteration or entire reconstruction of any such means of communication as aforesaid or of the traps or apparatus connected with a sewer, and
- (ii) in a case where the alteration of a drain must be carried out at once, shall not require the deposit of plans, sections and particulars of the proposed work before it is begun, but may require the deposit thereof within such period after the commencement of the work as may be specified in the byelaws.

- (2) Byelaws under this paragraph shall only apply to the inner London boroughs.
- 7
- (1) Where the council of a London borough or county district propose to construct a public sewer or to make a communication between any sewer or drain of theirs and a sewer vested in the Greater London Council, they shall, before beginning any works for the purpose, give notice of the proposal to the Council and shall not proceed with a proposal to make any such communication except with the written approval and in accordance with the directions of the Council.
 - (2) Any notice under this paragraph shall be accompanied by—
 - (a) plans and sections of the sewer or communication, as the case may be, drawn to such convenient scale, and showing its location and such other matters, as the Council may direct, and
 - (b) such other particulars of the proposal as the Council may direct.
 - (3) Any dispute as to whether any approval under this paragraph has been unreasonably withheld or whether any directions thereunder are unreasonable shall, in default of agreement, be determined by the Minister.
- 8
- (1) Where proposals for the carrying out of any work have been finally approved under paragraph 7 of this Part of this Schedule, then, without the requisite approval—
 - (a) the proposals shall not be substantially departed from; and
 - (b) if the work is not completed within two years of the approval of the original proposals, it shall not be proceeded with.
 - (2) The said paragraph 7 shall apply in relation to an application for approval under this paragraph as it applies in relation to the original proposal, except that where it is proposed to depart in any respect from the original proposals, the plans, sections and any particulars required by that paragraph shall show the nature of the variation.

- (3) This paragraph shall apply in relation to proposals approved thereunder as it applies in relation to proposals originally approved under the said paragraph 7.

- 9 The Greater London Council or the council of an inner London borough may, so far as may be necessary for the execution in the sewerage area of the Council or in that borough, as the case may be, of any works by that council under the enactments mentioned in section 37 (1) of this Act or under this Part of this Schedule, close or stop up any street.

Transfer of sewerage responsibilities and of sewers

- 10 (1) If it appears to the Greater London Council that any part of a London borough or county district is so situate that it would be convenient for the purposes of sewerage and drainage that that part should be placed under the management of the council of an adjoining borough or district, the Greater London Council may by order direct that that part shall, for those purposes, be under the management of that borough or district council.

- (2) Where, by virtue of an order under this paragraph, any part of a London borough or county district is placed under the management of the council of an adjoining borough or district, the sums which that council require for defraying the expenses incurred by them in the discharge of their functions relating to sewerage in the said part of the first-mentioned borough or district shall be paid, upon the order of that council, by the council of the first-mentioned borough or district.

- 11 Where—

- (a) a street or line of street is situate in (two or more boroughs or county districts, or
(b) the whole of a street is situate in one borough or county district, but the whole or any part of the buildings abutting on that street is situate in another borough or county district,

the Greater London Council may order that the street or line of street shall, for the purposes of sewerage or drainage or both, be under the exclusive management of the council of one of the said boroughs or districts, and may by order direct in what proportions the costs of constructing and maintaining any new sewer or drain in the street or line of street, or of reconstructing, repairing or maintaining any sewer or drain therein, are to be borne and defrayed respectively by the councils of those boroughs or districts, and the decision of the Greater London Council with respect thereto shall be final.

- 12 (1) The Greater London Council may by order declare that any sewer vested in them shall as from such date as may be specified in the order vest in the council of the London borough or county district in which the sewer is situated.

- (2) The transfer of a sewer under this paragraph shall not be made without the consent of the council to whom it is to be transferred and shall be made on such terms and conditions as may be agreed between that council and the Greater London Council:

Provided that the foregoing requirement shall not apply if the Minister on the application of the Greater London Council and after consultation with the other council dispenses with the requirement.

- (3) Any dispensation granted by the Minister under the last foregoing sub-paragraph may be given either unconditionally or subject to conditions (including conditions

requiring the Greater London Council to make payments to the other council in respect of the expenses of repairing or renewing the sewer to be transferred).

- (4) Where a sewer transferred under this paragraph is situated in a part of a London borough or county district or in a street to which an order under paragraph 10 or 11 of this Part of this Schedule applies, the Greater London Council may make such amendments of that order as appear to them to be appropriate in consequence of the transfer.
- (5) In this paragraph " sewer " includes a part of a sewer.

Control of drainage work

- 13 (1) It shall not be lawful in an inner London borough—
- (a) to erect any house or other building, or
 - (b) to rebuild any house or other building Which has been pulled down to, or to a level below, the floor commonly called the ground floor,
- unless there are provided to the satisfaction of the borough council drains conforming with the requirements of this paragraph and all such drains and all works and apparatus in connection therewith are constructed to the satisfaction of the council and, in particular, are constructed of such materials and size, at such level and with such fall, as are approved by the council and are provided with a water supply.
- (2) In an inner London borough it shall not be lawful to occupy any house or other building which has been erected or rebuilt in contravention of the foregoing sub-paragraph or of section 37 of the Public Health (London) Act 1936.
- (3) In order to conform with the requirements of this paragraph a drain must provide for the drainage of the house or building in connection with which it is required—
- (a) into such sewer, situate or intended to be constructed near the house, building or site, as the borough council may direct; or
 - (b) if no sewer is or will be available for the drainage of the house or building, into such covered cesspool or other place, not being under any house or other building, as the council may direct;
- and the drains must secure efficient drainage by gravitation at all times and under all conditions of all parts of the house or building including any areas, water-closets, privies and offices belonging to the house or building.
- (4) In rebuilding in an inner London borough any house or building which has been pulled down to, or to a level below, the floor commonly called the ground floor, the level of the lowest floor of the house or building shall, subject to the provisions of the next following sub-paragraph, be raised so far as may be necessary to allow of the construction of such works as are required by this paragraph, and for that purpose levels shall be taken and determined under the direction of the borough council.
- (5) Notwithstanding anything in the foregoing provisions of this paragraph, where it is proposed to erect or rebuild in an inner London borough any house or building at such a level as will not allow of the drainage of all parts of the house or building by gravitation as aforesaid, the borough council may, as respects any part of the house or building which cannot be so drained, either—
- (a) allow that part to be constructed so as not to require drainage therefrom; or
 - (b) allow that part to be drained by means of such pumping or lifting apparatus as may be provided to the satisfaction of the council.

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

Any pumping or lifting apparatus provided under this sub-paragraph shall be deemed to be a drain.

- (6) Where separate sewers for the reception of surface water and sewage respectively have been, or are intended to be, provided in any street, the borough council may, in the discharge of their functions under this paragraph in relation to any house or other building which is to be drained into the sewers in that street, require that the house or building be provided with separate drains for discharging surface water and sewage respectively into the appropriate sewers.
- (7) Any person aggrieved by any order, direction, requirement or other decision of a borough council under the foregoing provisions of this paragraph may appeal to a magistrates' court.
- 14 (1) Where in an inner London borough—
- (a) any house or other building, whether erected before or after 1st April 1965, is not drained, to the satisfaction of the borough council, by means of a sufficient drain communicating with, and emptying itself into, a sewer, and
 - (b) a sewer is or will be available for the drainage of the house or building,
- the council may, by notice served on the owner of the house or building, impose such requirements as are mentioned in the next following sub-paragraph.
- (2) The requirements which may be imposed by notice under this paragraph are requirements—
- (a) to construct a covered drain from the house or building into the said sewer and such connections to the drain as are adequate for the purposes of draining the house or building, including any areas, water-closets, privies and offices belonging to the house or building and of conveying the sewage therefrom into the sewer ;
 - (b) to construct the drain and the connections of such materials and size, at such level and with such fall, as are adequate for the said purposes ;
 - (c) to provide proper paved or impermeable sloping surfaces for carrying surface water into the drain or any connections thereto ;
 - (d) to provide proper sinks, and proper inlets and outlets, syphoned or otherwise trapped, for preventing the emission of effluvia from the drain or any connections thereto ;
 - (e) to provide a proper water supply and water-supplying pipes, cisterns and apparatus for scouring the drain and any connections thereto, and for causing the drain and any connections thereto to convey away the soil;
 - (f) to provide proper sand traps, expanding inlets and other apparatus for preventing the entry of improper substances into the drain or any connections thereto ; and
 - (g) to provide all such other proper works and arrangements as appear to the council or their officers necessary to secure the safe and proper working of the drain and to prevent it from obstructing or otherwise injuring, or impeding the action of, the sewer into which it leads.
- (3) Where—
- (a) any house or other building in an inner London borough, whether erected before or after 1st April 1965, is without sufficient drainage ; and
 - (b) there is no proper sewer within two hundred feet of any part of the house or building,

the borough council may, with a view to making temporary provision for the drainage of the house or building and for the abatement of any nuisance existing therein or caused thereby, serve on the owner of the house or building a written notice requiring him—

- (i) to construct, elsewhere than under a house and not nearer to any house than the council may direct, a covered watertight cesspool or tank or other suitable receptacle ; and
- (ii) to construct and lay a covered drain leading from the first-mentioned house or building into that cesspool, tank or other receptacle.

(4) Where a borough council have required any works to be executed under the foregoing provisions of this paragraph, the council may, from time to time during the execution of the works, cause them to be inspected and may by further notice served on the owner of the house or building require such reasonable alterations thereof, additions thereto or abandonment of parts thereof as the council or their officers, with the fuller knowledge afforded by the opening of the ground, consider necessary to secure that the works will be thoroughly effective for their purpose.

(5) Where—

- (a) it appears to the council of an inner London borough that a group or block of contiguous houses, or of adjacent detached or semi-detached houses, can more economically or advantageously be drained and improved in combination than separately ; and
- (b) a sewer of sufficient size is situate, or about to be constructed, within one hundred feet of any part of the group or block,

the council may by order require that the group or block be drained by a combined operation complying with such of the requirements mentioned in sub-paragraph (2) of this paragraph as may be specified in the order.

(6) Any person aggrieved by an order made by a borough council under (the last foregoing sub-paragraph may appeal to a magistrates' court.

15 (1) No person shall—

- (a) begin to lay or to dig out the foundations of any house or building in an inner London borough, or to rebuild any house or building therein; or
- (b) begin to make any drain for the purpose of draining directly or indirectly into a sewer under the control of the council of such a borough,

unless, at least seven days previously, he has given to the borough council notice of his intention so to do, and if any person begins to lay or dig out the foundations of any such house or building, or to make any drain for the purpose aforesaid, in contravention of this paragraph, he shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for every day thereafter until the notice is given.

(2) If any house or building, or any drain for draining directly or indirectly into a sewer under the control of the council of a London borough, or any connections to such a drain, or any works, apparatus or water supply in connection with such a drain, is or are begun, erected, made or provided in an inner London borough in contravention of the provisions of this Part of this Schedule or of the corresponding provisions of any enactment repealed by this Act, the council of the borough at their option may either—

- (a) serve upon the owner of the house or building or of the drain (as the case may be) a notice requiring him to cause the house or building to be demolished or

altered or to cause the drain or the connections or other works and apparatus in connection therewith or the water supply to be relaid, remade, altered or added to, as the case may require ; or

- (b) recover from the person in default, as a debt due from him to the council, a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day on which the contravention continues.

Miscellaneous

- 16 It shall be the duty of the council of a London borough or county district, the Common Council, the Sub-Treasurer or the Under-Treasurer, as the case may be, to cleanse every grating and gully in the borough, district, City, Inner Temple or Middle Temple, as the case may be, which satisfies all the following conditions, that is to say—
- (a) it is vested in, or under the control of, the Greater London Council; and
 - (b) it is situate in a street which is not a metropolitan road ; and
 - (c) it communicates with a sewer vested in the Greater London Council.
- 17 (1) The council of a London borough or county district may serve on the owner or occupier of any land abutting on a street vested in, or repairable by, the council a notice requiring him within the period of twenty-eight days beginning with the service of the notice to carry out such works on the land as may be (specified in the notice for preventing soil or refuse from the land from entering any sewer or gully in the street in such quantities as to choke up the sewer or gully.
- (2) If any person fails to comply with the requirements of a notice under this paragraph, he shall be liable to a fine not exceeding five pounds and to a further fine not exceeding twenty shillings for every day on which the failure continues after conviction.
- (3) Any person aggrieved by the requirements of any such notice may appeal to a magistrates' court.
- 18 (1) If any person—
- (a) knowingly erects or places any building, wall, bridge, fence, obstruction or encroachment in, on, over or under any sewer vested in the Greater London Council or in the council of an inner London borough ; or
 - (b) obstructs, fills in or diverts any sewer or drain vested in or under the control of, the Greater London Council or the council of an inner London borough, without the previous consent in writing of the council in whom the sewer or drain is vested or by whom it is controlled, then, without prejudice to any other proceedings which may be taken against him, that council—
 - (i) may recover from him, as a debt due from him to the council, a penalty not exceeding twenty pounds, and a further penalty not exceeding five pounds for every day on which the contravention continues after notice thereof has been served on him by the council; and
 - (ii) may demolish and remove the building, wall, bridge, fence, obstruction or encroachment, and execute any works necessary for re-opening, restoring, repairing or reinstating the sewer or drain, as the case may be, and may recover from the offender the expenses incurred by the council in so doing.

- (2) Nothing in this paragraph shall prevent or impede the maintenance, repair or renewal of any building or works under which a sewer or drain has been constructed, so however that the building or works shall not injure or obstruct the sewer or drain.
- 19 If any person—
- (a) removes, demolishes or otherwise interferes with any sewer or part of a sewer vested in the Greater London Council or in the council of a London borough or county district, without the previous consent in writing of the council concerned ; or
 - (b) wilfully damages any sewer, bank, defence, wall, penstock, grating, gully, side entrance, tide valve, flap, work or thing vested in the Greater London Council or in the council of a London borough or county district; or
 - (c) does anything by reason of which the drainage of the sewerage area of the Greater London Council or any part thereof may be obstructed or damaged, the council concerned may, without prejudice to any other proceedings which may be taken against that person, recover from him, as a debt due from him to the council, a penalty not exceeding twenty pounds, and also the amount of the expenses incurred by that council in repairing, restoring or reinstating the sewer or other work or thing removed, demolished, interfered with, damaged or obstructed, as the case may be.
- 20 (1) Every person found in, or attempting to enter, any sewer vested in the Greater London Council or in the council of a London borough or county district without the permission of the council in whom the sewer is vested, shall be liable to a fine not exceeding forty shillings.
- (2) Any person found in, or attempting to enter, any such sewer as aforesaid without the permission of the council in whom it is vested may be removed from the sewer by an officer of that council, and in the event of the name and address of that person not being known the officer may detain him and hand him over to a police constable.
- 21 Without prejudice to the generality of the enactments relating to the acquisition of land by local authorities, the Greater London Council and the council of a London borough or county district may—
- (a) purchase, or procure the removal of the whole or any part of, any structure, apparatus or other thing which interrupts or impedes sewerage or drainage, and purchase any land which it may be necessary or expedient to purchase for the purpose of preventing the obstruction of sewerage or drainage ;
 - (b) purchase or take on lease the whole or any part of any stream or spring of water or any rights therein which it appears to them necessary to acquire and use for the purpose of cleansing sewers and drains or for any other purposes of Part II of the Public Health Act 1936 or this Part of this Schedule ;
 - (c) purchase or take on lease any land which the council consider it advisable to purchase or take on lease for the purpose of drawing or obtaining water from springs or by sinking of wells, and for making and providing reservoirs, tanks, aqueducts, water-courses and other works, or for any other purpose connected with the works for obtaining such supply of water as aforesaid:

Provided that nothing in this paragraph shall authorise any council to use any works executed by them under Part II of the Public Health Act 1936 or this Part of this Schedule, or permit such works to be used, for the purpose of carrying water by

supply pipes into any house or factory for domestic manufacturing or commercial purposes.