



# Public Health Act 1961

1961 CHAPTER 64 9 and 10 Eliz 2

## PART II

### SANITATION AND BUILDINGS

#### Modifications etc. (not altering text)

- C1 Pt. II amended by Health and Safety at Work etc. Act 1974 (c. 37), s. 76(1)(2)
- C2 Pt. II (ss. 4–37) amended by Housing and Building Control Act 1984 (c. 29, SIF 61), ss. 41(1), 52(1) and 60(2)(c)

#### *Building regulations*

4—11. .... F1

#### Textual Amendments

- F1 Ss. 4–11 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), Sch. 7

#### *Sewers, drains and sanitary conveniences*

12— ..... F2  
14.

#### Textual Amendments

- F2 Ss. 12–14 repealed by Water Act 1989 (c. 15, SIF 130), ss. 69, 190(3), Sch. 8 para. 4(1), Sch. 27 Pt. I (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 13(2), 17, 40(4), 41(1), 57(6), 58)

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*Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1961, Part II. (See end of Document for details)*

15 ..... F3

**Textual Amendments**

**F3** S. 15 repealed by [Water Act 1973 \(c. 37\)](#), [Sch. 9](#)

16 ..... F4

**Textual Amendments**

**F4** S. 16 repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

**[<sup>F5</sup>17 Powers to repair drains etc. and to remedy stopped-up drains etc.**

- (1) If it appears to a local authority that a drain, private sewer, water-closet, waste pipe or soil pipe—
  - (a) is not sufficiently maintained and kept in good repair, and
  - (b) can be sufficiently repaired at a cost not exceeding £250,
 the local authority may, after giving not less than seven days notice to the person or persons concerned, cause the drain, private sewer, water-closet or pipe to be repaired and, subject to subsections (7) and (8) below, recover the expenses reasonably incurred in so doing, so far as they do not exceed £250, from the person or persons concerned, in such proportions, if there is more than one such person, as the local authority may determine.
- (2) In subsection (1) above “person concerned” means—
  - (a) in relation to a water-closet, waste pipe or soil pipe, the owner or occupier of the premises on which it is situated, and
  - (b) in relation to a drain or private sewer, any person owning any premises drained by means of it and also, in the case of a sewer, the owner of the sewer.
- (3) If it appears to a local authority that on any premises a drain, private sewer, water-closet, waste pipe or soil pipe is stopped up, they may by notice in writing require the owner or occupier of the premises to remedy the defect within forty-eight hours from the service of the notice.
- (4) If a notice under subsection (3) of this section is not complied with, the local authority may themselves carry out the work necessary to remedy the defect and, subject to subsections (7) and (8) below, may recover the expenses reasonably incurred in so doing from the person on whom the notice was served.
- (5) Where the expenses recoverable by a local authority under sub-section (1) or (4) of this section do not exceed £10, the local authority may, if they think fit, remit the payment of the expenses.
- (6) In proceedings to recover expenses under this section—
  - (a) where the expenses were incurred under subsection (1) of this section, the court—

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- (i) shall inquire whether the local authority were justified in concluding that the drain, private sewer, water-closet, waste pipe or soil pipe was not sufficiently maintained and kept in good repair; and
    - (ii) may inquire whether any apportionment of expenses by the local authority under that subsection was fair;
  - (b) where the expenses were incurred under subsection (4) of this section, the court may inquire—
    - (i) whether any requirement contained in a notice served under subsection (3) of this section was reasonable; and
    - (ii) whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings.
- (7) Subject to subsection (8) below, the court may make such order concerning the expenses or their apportionment as appears to the court to be just.
- (8) Where the court determines that the local authority were not justified in concluding that a drain, private sewer, water-closet, waste pipe or soil pipe was not sufficiently maintained and kept in good repair, the local authority shall not recover expenses incurred by them under subsection (1) of this section.
- (9) The court shall not revise an apportionment unless it is satisfied that all persons affected by the apportionment or by an order made by virtue of subsection (6)(b)(ii) above have had notice of the proceedings and an opportunity of being heard.
- (10) Subject to subsection (11) of this section, the provisions of subsection (1) of this section shall not authorise a local authority to carry out works on land which belongs to any statutory undertakers and is held or used by them for the purposes of their undertaking.
- (11) Subsection (10) of this section does not apply to houses, or to buildings used as offices or showrooms, other than buildings so used which form part of a railway station.
- (12) The Secretary of State may by order made by statutory instrument increase any amount specified in this section.
- (13) Nothing in an order made under subsection (12) of this section shall apply to a notice given under this section before the commencement of the order.
- (14) A statutory instrument containing an order under subsection (12) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (15) The provisions of this section shall be without prejudice to [<sup>F6</sup>section 59 of the <sup>M1</sup>Building Act 1984] (which empowers a local authority to serve notices as regards defective drains).]

#### Textual Amendments

- F5** S. 17 substituted for sections 17 and 18 by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), **s. 27(1)**
- F6** Words substituted by virtue of [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(1), **Sch. 6 para. 8**

#### Modifications etc. (not altering text)

- C3** S. 17(10) extended (1.3.1996) by [1995 c. 45, s. 16\(1\)](#), **Sch. 4 para. 2(1)(x)**; S.I. 1996/218, **art. 2**
- C4** S. 17(10) extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 2\(1\)\(xii\)](#), **Sch. 8 para. 33**, [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 1\(2\)\(ix\)](#) (with ss. 58(7), 101(1),

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141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58** and Electricity Act 1989 (c. 29, SIF 44), s. 112(1)(3), Sch. 16 para. 1(1)(xii), Sch. 17 paras. 33, **35(1)**

#### Marginal Citations

**M1** 1984 c.55 (15).

19— ..... **F7**  
21.

#### Textual Amendments

**F7** Ss. 19–21, 23–33 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

### 22 Power to cleanse or repair drains.

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

23— ..... **F8**  
33.

#### Textual Amendments

**F8** Ss. 19–21, 23–33 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

### *Accumulations of rubbish*

### 34 Accumulations of rubbish.

- (1) If it appears to a local authority that there is [<sup>F9</sup>on any land in the open air in their area any rubbish] which is seriously detrimental to the amenities of the neighbourhood, the local authority may, subject to the provisions of this section, take such steps for removing the rubbish as they may consider necessary in the interests of amenity.
- (2) Not less than twenty-eight days before taking any action under this section, the local authority shall serve on the owner and occupier of the [<sup>F9</sup>land] a notice stating the steps which they propose to take and giving particulars of the following provisions of this subsection; and a person on whom the notice is served and any other person having an interest in the land may within twenty-eight days from the service of the notice—
  - (a) serve a counter-notice on the local authority stating that he intends to take those steps himself; or
  - (b) appeal to a magistrates' court on the ground that the local authority were not justified in concluding that action should be taken under this section, or that the steps proposed to be taken are unreasonable.

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- (3) If a counter-notice is served under the last foregoing subsection, the local authority shall take no further action in the matter under this section unless the person who served the counter-notice either—
- (a) fails within what seems to the local authority a reasonable time to begin to take the steps stated in the notice, or
  - (b) having begun to take those steps fails to make such progress towards their completion as seems to the local authority reasonable.
- (4) If an appeal is brought under subsection (2) of this section, the local authority shall take no further action in the matter under this section until the appeal is finally determined or withdrawn; and on the hearing of the appeal the court may direct the local authority to take no further action or may permit the local authority to take such steps as the court may direct or may dismiss the appeal.
- (5) In this section “rubbish” means rubble, waste paper, crockery and metal, and any other kind of refuse (including organic matter), but does not include any material accumulated for, or in the course of, any business<sup>F10</sup>...

#### Textual Amendments

**F9** Words substituted by [Civic Amenities Act 1967 \(c. 69\), s. 26](#)

**F10** Words in s. 34(5) repealed (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), Sch. 21 para. 1, **Sch. 23** (with reg. 72, Sch. 4)

#### Modifications etc. (not altering text)

**C5** S. 34 amended by [Local Government Act 1972 \(c. 70\), Sch. 14 para. 37](#)

### *Filthy or verminous premises or articles*

## **35 Filthy or verminous premises.**

- (1) Section eighty-three of the Public Health Act, 1936 (which relates to the cleansing of filthy or verminous premises), shall be amended as follows.
- (2) For subsection (1) of the said section eighty-three there shall be substituted the following subsections—

“(1) Where a local authority, upon consideration of a report from any of their officers, or other information in their possession, are satisfied that any premises—

- (a) are in such a filthy or unwholesome condition as to be prejudicial to health, or
- (b) are verminous,

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

- (1A) A notice under the foregoing subsection may require—

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- (a) the interior surface of premises used for human habitation or as shops or offices to be papered, painted or distempered, and
- (b) The interior surface of any other premises to be painted, distempered, or whitewashed,

and shall allow the person on whom the notice is served, or the local authority acting in his default, to choose, in a case under paragraph (a) of this subsection, between papering, painting and distempering and, in a case under paragraph (b) of this subsection, between painting, distempering and whitewashing.”

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

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

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

**Modifications etc. (not altering text)**

- C6** The text of s. 35 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**36 Power to require vacation of premises during fumigation.**

- (1) If a local authority serve a notice under subsection (3) of section eighty-three of the <sup>M2</sup>Public Health Act 1936 as amended by the last foregoing section, on the owner and occupier of any premises requiring that they shall be allowed to employ gas for the purpose of destroying vermin on the premises—
- (a) the notice to the occupier may also require that the premises shall, as from such date as may be specified in the notice, be vacated until the local authority give the occupier further notice that the premises can safely be reoccupied; and
  - (b) the local authority may also serve notice on the occupiers of any other premises having any floor, wall or ceiling contiguous with the first-mentioned premises, or into which there is reason to apprehend that the gas may penetrate, requiring that those other premises shall be vacated as aforesaid.
- (2) No person shall be required under this section to vacate any premises used for human habitation for any period unless alternative shelter or other accommodation has been provided for him by the local authority free of charge for that period; and any notice given under this section shall specify the alternative shelter or other accommodation so provided.
- (3) A person on whom a notice is served under this section may within the period of seven days from the date on which the notice was served on him appeal to a magistrates’ court, and the requirements included in the notice in pursuance of this section shall not take effect until the expiration of that period or, where an appeal is brought within that period, before the appeal is disposed of or withdrawn.

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The provisions of this subsection as to the period within which an appeal shall be brought shall have effect notwithstanding anything in subsection (2) of section three hundred of the <sup>M3</sup>Public Health Act 1936 as applied to this Part of this Act.

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

**Modifications etc. (not altering text)**

- C7** Power to apply conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), **s. 68(1)(a)**
- C8** S. 36: Certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), Sch. 2.  
S. 36 modified (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**.  
s. 36 modified (10.1.1992) by S.I. 1991/2913, art. 8, **Sch.2**

**Marginal Citations**

- M2** 1936 c. 49.  
**M3** 1936 c. 49.

**37 Prohibition of sale of verminous articles.**

- (1) No dealer shall—
  - (a) prepare for sale, or
  - (b) sell or offer or expose for sale, or
  - (c) deposit with any person for sale or preparation for sale,any household article if it is to his knowledge verminous, or if by taking reasonable precautions he could have known it to be verminous.
- (2) If a household article which is verminous is on any premises—
  - (a) being prepared by a dealer for sale, or
  - (b) offered or exposed by a dealer for sale, or
  - (c) deposited by a dealer with any person for sale or preparation for sale.the medical officer of health or public health inspector may cause the article to be disinfested or destroyed as the case may require, and if necessary for that purpose to be removed from the premises; and the local authority may recover from the dealer the expenses reasonably incurred by the local authority in taking any action under this subsection.
- (3) If any person contravenes the provisions of subsection (1) of this section he shall be liable to a fine not exceeding [<sup>F11</sup>level 1 on the standard scale].
- (4) In this section—
  - (a) “dealer” means a person who trades or deals in any household articles;
  - (b) “household article” means an article of furniture, bedding or clothing or any similar article;
  - (c) references to preparation for sale do not include references to disinfestation.

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### **Textual Amendments**

**F11** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **ss. 38, 46**



**Status:**

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**Changes to legislation:**

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