



# Public Health Act 1961

## 1961 CHAPTER 64

### PART IV

#### STREETS AND PUBLIC PLACES

##### *Streets*

#### **43 Guard rails in private streets**

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

#### **44 Barriers in streets**

- (1) Subject to the provisions of this section, for the purpose of securing public order or public safety or preventing congestion of traffic a local authority may, in any case of emergency or on any occasion on which it is likely by reason of some special attraction that any street will be thronged or obstructed, cause barriers to be erected in any street and kept in position for so long as may be necessary for that purpose.

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- (2) For the purpose of erecting barriers in a street under this section the local authority may provide and maintain sockets or slots in or under the surface of the street.
- (3) A local authority shall not exercise the powers conferred by this section in such a way as to deprive pedestrians of reasonable access to any premises.
- (4) The Third Schedule to this Act shall apply to the powers conferred on local authorities by this section.
- (5) If a person wilfully removes or damages a barrier, socket or slot erected or provided under this section, he shall be liable on summary conviction to a fine not exceeding five pounds.

#### **45 Attachment of street lamps to buildings**

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

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

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

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

- (4) Where any attachments have been affixed to a building under this section, the owner of the building may give the street lighting authority by whom they were affixed not less than fourteen days notice requiring them at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building.
- (5) Where attachments are affixed to a building under this section, the street lighting authority shall have the right as against any person having an interest in the building to alter or remove them, or to repair or maintain them.
- (6) If the owner of a building suffers damage by, or in consequence of, the affixing to the building of any attachments under this section, or by or in consequence of the exercise of the rights conferred by subsection (5) of this section, he shall be entitled to be paid

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by the street lighting authority compensation to be determined in case of dispute by the Lands Tribunal, and, so far as the compensation is properly to be calculated by reference to the depreciation of the value of his interest in the building, Rules 2 to 4 of the Rules set out in section five of the Land Compensation Act, 1961, shall apply.

- (7) A street lighting authority shall not do anything under this section which would, to their knowledge, be in contravention of a building preservation order under section twenty-nine of the Town and Country Planning Act, 1947.
- (8) In this section " appropriate authority " means a magistrates' court, except that in relation to buildings of the descriptions in the Fourth Schedule to this Act it has the meaning there given.

- (9) In this section—

" building " includes a structure and a bridge or aqueduct over a street;

" owner "—

- (a) in relation to a building occupied under a tenancy for a term of years whereof five years or more remain unexpired, means the occupier of the building, and

- (b) in relation to any other building, has the same meaning as in the Public Health Act, 1936, and

" owned " shall be construed accordingly ;

" street lighting " includes the lighting of markets and public buildings under section one hundred and sixty-one of the Public Health Act, 1875 (which relates to the powers conferred on urban authorities within the meaning of that Act), and the lighting of public places under section three of the Parish Councils Act, 1957,

and the definitions in this section shall apply for the purposes of the Fourth Schedule to this Act.

- (10) Section five of the Parish Councils Act, 1957 (which contains provisions as to the consents required for the exercise of the powers of street lighting conferred by that Act), shall not apply in relation to the affixing after the commencement of this Act of any attachments to a building within the meaning of this section but those powers shall not be taken to authorise anything to be done without consent for which consent is required by this section.

#### **46 Forecourts abutting on streets**

- (1) If it appears to a local authority that the forecourt of premises abutting on a street, or any steps or projection or goods (whether for sale or not) placed in such a forecourt, is or are a source of danger, obstruction or inconvenience to the public, the local authority may by notice require the owner or occupier of the forecourt to fence the forecourt from the street or, if he so elects, to take such other steps as may be specified in the notice to obviate the danger, obstruction or inconvenience to the public.
- (2) If it appears to a local authority that a stall or other erection on a forecourt of premises abutting on a street is by reason of its character injurious to the amenities of the street, the local authority may by notice require the owner or occupier of the forecourt to make such alterations in the stall or other erection as may be necessary to prevent its being injurious to the amenities of the street or, if he so elects, to remove it:

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

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

#### **47 Urgent repairs to private streets**

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

#### **48 Pavement lights and ventilators**

- (1) It shall not be lawful after the commencement of this Act to carry out any works in a street to provide means for the admission of air or light to premises situated under, or abutting on, the street without the consent of the local authority, and the local authority in giving any consent under this subsection may impose any requirement as to the construction of the works.
- (2) A person who has applied for consent under subsection (1) of this section may appeal to a magistrates' court against the refusal of consent or against any requirement imposed by the local authority under that subsection.
- (3) A person who carries out any works in contravention of subsection (1) of this section, or fails to comply with a requirement of a local authority imposed on him under that subsection, shall, subject to any order made on appeal, be guilty of an offence and shall, without prejudice to any other liability to which he may be subject, be liable in respect thereof to a fine not exceeding five pounds.

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- (4) As soon as may be after a local authority give a consent under this section they shall give notice thereof to any public utility undertakers having any apparatus under the street.
- (5) This section shall be construed as one with the Highways Act, 1959, and subsection (4) of section one of this Act shall not apply to this section.

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

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

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

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

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

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

#### **51 Refuse and litter bins**

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

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

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- (2) It shall be the duty of a county council, local authority or parish council to make arrangements for the regular emptying and cleansing of any receptacles for refuse or litter provided or maintained by them under this section or under section one hundred and fifty-six of the Highways Act, 1959; and a county council, local authority or parish council shall have power to cleanse and empty receptacles for refuse or litter provided in any street or public place by them or any other person.
- (3) The regular emptying mentioned in the last preceding subsection shall be sufficiently frequent to ensure that no such receptacle or the contents thereof shall become a nuisance or give reasonable ground for complaint.
- (4) In any place where a receptacle for refuse or litter may be provided or maintained under this section or under section one hundred and fifty-six of the Highways Act, 1959, a county council, local authority or parish council may put up notices about the leaving of refuse and litter, and for that purpose may, subject to the provisions of this section, erect and maintain notice boards.
- (5) No authority shall have power under this section to place any receptacle for refuse or litter or any notice board—
  - (a) on any land forming part of an open space as defined in the Open Spaces Act, 1906, which is provided by or under the management and control of some other authority (being a county council, local authority or parish council or parish meeting) without the consent of that other authority, or
  - (b) on any other land not forming part of a street without the consent of the owner and of the occupier of that land,and the Third Schedule to this Act (which makes it necessary to obtain certain consents before carrying out works in streets) shall also apply to the powers conferred by this section.
- (6) A county council may if they think fit make a contribution to any expenditure incurred by a parish council under this section.
- (7) A parish council may contribute towards—
  - (a) the reasonable expenses incurred by any person in doing anything which the parish council have power to do under this section, and
  - (b) the expenses incurred by any other parish council in exercising their powers under this section,and two or more parish councils may by agreement combine for the purpose of exercising their powers under this section.
- (8) A county council, local authority or parish council may sell refuse or litter removed by them from any receptacles for refuse or litter.
- (9) Paragraph (a) of subsection (1) of section seventy-six of the Public Health Act, 1936 (which authorises a local authority to provide receptacles for refuse), shall cease to have effect, and this section shall apply to any such receptacle provided under that section as if it had been provided under this section.
- (10) A reference to the said section seventy-six in any order made before the commencement of this Act under subsection (3) of section one hundred and ninety of the Local Government Act, 1933 (under which expenses incurred by a rural district council may be made special expenses separately chargeable in specified parts of the district), shall include a reference to this section.

- (11) Any person who wilfully removes or otherwise interferes with any receptacle or notice board provided or erected under this section or section one hundred and fifty-six of the Highways Act, 1959, shall be liable on summary conviction to a fine not exceeding five pounds; and the court by which that person is convicted may order him to pay a sum not exceeding twenty pounds as compensation to the county council, local authority or parish council concerned and any such order shall be enforceable in the same way as an order for costs to be paid by the offender.

### *Parks and open spaces*

## **52 Management of parks and pleasure grounds**

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

## **53 Closing of parks and pleasure grounds**

- (1) Subsection (1) of section forty-four of the Public Health Acts Amendment Act, 1890 (which empowers a local authority to close their parks and pleasure-grounds or to allow their use for a show or other special purposes), shall be amended as follows.
- (2) That subsection shall be in force throughout the district of every local authority, and sections three and five of the said Act (which relate to the adoption or bringing into force of provisions in that Act) shall not apply to that subsection.

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

#### **54 Boating pools and lakes**

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

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

- (3) The local authority or parish council may either—
  - (a) themselves manage a boating pool provided under this section, making such reasonable charges for its use, or for admission, as they think fit, or
  - (b) let it, or any part of it, for such consideration, and on such terms and conditions, as they think fit.
- (4) Where the existence of a boating pool is likely to interfere with any water flowing directly or indirectly out of or into any watercourse which is vested in or controlled by a river board, catchment board or internal drainage board, the local authority or parish council shall before providing a boating pool under this section consult with the board.
- (5) No power given by this section shall be exercised in such a manner as to contravene any covenant or condition subject to which a gift or lease of a park or pleasure-ground has been accepted or made without the consent of the donor, grantor, lessor or other person or persons entitled in law to the benefit of the covenant or condition.
- (6) Subsection (2) of section forty-four of the Public Health Acts Amendment Act, 1890 (which gives a local authority certain powers as regards lakes and water in parks and pleasure-grounds)—



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- (a) shall apply in relation to a park or pleasure-ground under the management and control of a local authority as it applies in relation to a park or pleasure-ground provided by them, and
  - (b) shall be in force throughout the district of every local authority;
- and sections three and five of the said Act shall not apply to that subsection.
- (7) Section two hundred and seventy-eight of the Public Health Act, 1936 (under which compensation may be paid for damage incurred in consequence of the exercise by the local authority of their powers under that Act), shall apply as if this section were contained in that Act.
- (8) In the First Schedule to the Parish Councils Act, 1957 (which lists the expenses of parish councils which are not subject to the limit imposed by section one hundred and ninety-three of the Local Government Act, 1933), there shall be added at the end of paragraph 3 (which relates to expenditure on recreation grounds) the following words—
- “or in exercising any powers under section fifty-four of the Public Health Act, 1961”.
- (9) Sections three hundred and thirty-one and three hundred and thirty-four of the Public Health Act, 1936 (which contain savings for water rights and for the works of land drainage authorities), shall apply as if this section were contained in that Act and as if references in those sections to a local authority included references to a parish council.
- (10) It is hereby declared that this section does not authorise a local authority or parish council to do anything in contravention of byelaws made under section forty-seven of the Land Drainage Act, 1930 (under which byelaws may be made, among other things, for regulating the use of watercourses).