



# Public Health Act 1961

## 1961 CHAPTER 64

### PART V

#### TRADE EFFLUENTS

##### *Exemptions under Act of 1937*

#### **55 Charges in cases exempted under s. 4 of Act of 1937**

- (1) This section shall apply in relation to the discharge of trade effluents into public sewers where by virtue of subsection (1) or subsection (2) of section four of the Public Health (Drainage of Trade Premises) Act, 1937 (which concern cases where a discharge of trade effluents was made before the coming into force of that Act, or before a change in the sewerage system), the restrictions imposed by sections one and two of that Act (hereafter referred to as the Act of 1937) do not apply.
- (2) A local authority may direct that where trade effluents are discharged from any trade premises specified in the direction, and this section applies in relation to the discharge of those trade effluents, the occupier for the time being of the trade premises shall pay such charges to the local authority as the local authority may specify in the direction, regard being had to the nature and composition and to the volume and rate of discharge of the trade effluent, to any additional expense incurred or likely to be incurred by a sewerage authority in connection with its reception or disposal, and to any revenue likely to be derived by a sewerage authority from the trade effluent; and a local authority may from time to time vary or annul a direction given under this section by a further direction.
- (3) No further direction shall be given under subsection (2) of this section within two years from the date on which notice was given of the previous direction, but this subsection shall not prevent a further direction being given before that time with the written consent of the owner and occupier of the trade premises, and any direction given with such consent shall not affect the time at which any subsequent direction may be given
- (4) A local authority shall not have power to give a direction under this section without the approval of any body which is an interested body as defined in subsection (1) of

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section fourteen of the Act of 1937, unless in any particular case the Minister by a notice to the local authority dispenses with the requirements of this subsection.

- (5) The local authority shall give notice of any direction under this section to the owner and occupier of the trade premises to which the direction relates, and the notice shall include information as to the right of appeal conferred by the next following subsection.
- (6) The owner or occupier of the trade premises may within two months of the giving of the notice to him, or with the written permission of the local authority at any later time, appeal to the Minister against the direction.
- (7) On an appeal against a direction under this section the Minister shall have power to annul the direction or to substitute for it any other direction under this section, whether more or less favourable to the appellant, and any direction given by the Minister may include provision as to the charges to be made for any period between the giving of the notice by the local authority and the determination of the appeal.
- (8) If charges are payable under this section for the discharge of trade effluents for any period, no charges shall be payable under paragraph (c) of subsection (1) of section four of the Act of 1937 (which, in a case where before the coming into force of the Act of 1937 any sum was payable for the discharge of trade effluents, makes it a condition of the exercise of the right under the said subsection that an equivalent payment is made) for the discharge of those trade effluents for that period.
- (9) If, under any agreement to which the local authority and the owner or occupier of the trade premises are parties, any charges are payable to the local authority for the discharge of trade effluents for any period, no charges shall be payable under this section for the discharge of those trade effluents for that period.

## **56 Withdrawal of exemptions after two years' disuse**

- (1) If after subsection (1) or subsection (2) of section four of the Act of 1937 has operated to exempt any discharge of trade effluents from any trade premises there has been a period of two years or more during which no trade effluents of the nature or composition so exempted were discharged from those premises, that exemption shall no longer apply to those trade premises.
- (2) This section shall apply whether or not the said period of two years or more, or any part of it, falls after the commencement of this Act, but shall not apply in relation to a period falling wholly before the commencement of this Act if the discharge of trade effluents in question from the premises was resumed before the commencement of this Act.

## **57 Installation of inspection chambers and meters on exempted premises**

- (1) A local authority may direct that the discharge of trade effluents from any trade premises specified in the direction, in any case where subsection (1) or subsection (2) of section four of the Act of 1937 has operated to exempt the discharge of the trade effluents, shall be subject to conditions as regards all or any of the following matters—
  - (a) the temperature of the trade effluent at the time when it is discharged into the sewer, and its acidity or alkalinity at that time,

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- (b) the provision and maintenance of such an inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into the sewer from the trade premises,
- (c) the provision and maintenance of such meters as may be required to measure the volume and rate of discharge of any trade effluent being discharged from the trade premises into the sewer, and for the testing of such meters,
- (d) the keeping of records of the volume and rate of discharge of any trade effluent being so discharged, and in particular the keeping of records of readings of meters provided in compliance with any other condition imposed under this section, and
- (e) the making of returns and giving of other information to the local authority concerning the volume, rate of discharge, nature and composition of any trade effluent so discharged,

and a local authority may from time to time vary or annul a direction given under this section by a further direction.

- (2) No further direction shall be given under subsection (1) of this section within two years from the date on which notice was given of the previous direction, but this subsection shall not prevent a further direction being given before that time with the written consent of the owner and occupier of the trade premises, and any direction given with such consent shall not affect the time at which any subsequent direction may be given.
- (3) A local authority shall not have power to give a direction under this section without the approval of any body which is an interested body as defined in subsection (1) of section fourteen of the Act of 1937, unless in any particular case the Minister by a notice to the local authority dispenses with the requirements of this subsection.
- (4) A local authority shall give notice of any direction under this section to the owner and occupier of the trade premises to which the direction relates, and the notice shall include information as to the right of appeal conferred by the next following subsection.
- (5) The owner or occupier of the trade premises may within two months of the giving of the notice to him, or with the written permission of the local authority at any later time, appeal to the Minister against the direction.
- (6) The notice shall state the date on which the direction is to take effect, being a date not less than two months after the giving of the notice, and if an appeal is brought under this section before that date, the direction shall not take effect until the appeal is withdrawn or finally disposed of.
- (7) On an appeal against a direction under this section the Minister shall have power to annul the direction or to substitute for it any other direction under this section, whether more or less favourable to the appellant.
- (8) If there is a failure to comply with a condition imposed under this section, and any trade effluent has been discharged from the trade premises into a sewer to which the condition relates at any time since the imposition of the condition, the occupier of the trade premises shall be guilty of an offence under the Act of 1937.

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*Trade effluents byelaws*

**58 Withdrawal of power to make byelaws under Act of 1937**

Section five of the Act of 1937 (under which local authorities may make trade effluents byelaws) shall cease to have effect.

*Conditions attached to consents*

**59 Conditions which may be attached to consents under Act of 1937**

- (1) Paragraph (e) of subsection (3) of section two of the Act of 1937 (under which conditions may be attached to a consent under that Act with respect to the matters set out in subsection (1) of the said section five) shall cease to have effect but conditions may be so attached under the said subsection (3) with respect to all or any of the following matters (which correspond, subject to minor variations, to the matters set out in subsection (1) of the said section five)—
- (a) the period or periods of the day during which the trade effluent may be discharged from the trade premises into the sewer,
  - (b) the exclusion from the trade effluent of all condensing water,
  - (c) the elimination or diminution of any specified constituent of the trade effluent, before it enters the sewer, where the local authority are satisfied that that constituent would, either alone or in combination with any matter with which it is likely to come into contact while passing through any sewers—
    - (i) injure or obstruct those sewers, or make specially difficult or expensive the treatment or disposal of the sewage from those sewers, or
    - (ii) (where the trade effluent is to be, or is, discharged into a sewer having an outfall in any harbour or tidal water or into a sewer which connects directly or indirectly with a sewer or sewage disposal works having such an outfall) cause or tend to cause injury or obstruction to the navigation on, or the use of, the said harbour or tidal water,
  - (d) the temperature of the trade effluent at the time when it is discharged into the sewer, and its acidity or alkalinity at that time,
  - (e) the payment by the occupier of the trade premises to the local authority of charges for the reception of the trade effluent into the sewer, and for the disposal thereof, regard being had to the nature and composition and to the volume and rate of discharge of the trade effluent so discharged, to any additional expense incurred or likely to be incurred by a sewerage authority in connection with the reception or disposal of the trade effluent, and to any revenue likely to be derived by a sewerage authority from the trade effluent,
  - (f) the provision and maintenance of such an inspection chamber or manhole as will enable a person readily to take at any time samples of what is passing into the sewer from the trade premises, and
  - (g) the provision and maintenance of such meters as may be required to measure the volume and rate of discharge of any trade effluent being discharged from the trade premises into the sewer, and for the testing of such meters.
- (2) Conditions may also be imposed under the said subsection (3) with respect to all or any of the following matters—

- (a) the provision and maintenance of apparatus for determining the nature and composition of any trade effluent being discharged from the premises into the sewer, and for the testing of the apparatus,
- (b) the keeping of records of the volume, rate of discharge, nature and composition of any trade effluent being so discharged, and in particular the keeping of records of readings of meters and other recording apparatus provided in compliance with any other condition attached to the consent, and
- (c) the making of returns and giving of other information to the local authority concerning the volume, rate of discharge, nature and composition of any trade effluent so discharged.

## **60 Power to vary conditions**

- (1) A local authority may from time to time under subsection (3) of section two of the Act of 1937 give a direction varying the conditions which have been attached to their consent to the discharge of trade effluent into a public sewer.
- (2) No direction shall be given under subsection (1) of this section within two years from the date of the consent or, where a previous direction has been given under that subsection, within two years from the date on which notice was given of that direction, but this subsection shall not prevent a direction being given before that time with the written consent of the owner and occupier of the trade premises, and any direction given with such consent shall not affect the time at which any subsequent direction may be given.
- (3) A local authority shall not have power to give a direction under subsection (1) of this section without the approval of any body which is an interested body as defined in subsection (1) of section fourteen of the Act of 1937 unless in any particular case the Minister by a notice to the local authority dispenses with the requirements of this subsection.
- (4) The local authority shall give to the owner and occupier of the trade premises to which the consent relates notice of any direction under subsection (1) of this section, and the notice shall include information as to the right of appeal conferred by the next following subsection.
- (5) The owner or occupier of the trade premises may within two months of the giving of the notice to him, or with the written permission of the local authority at any later time, appeal to the Minister against the direction.
- (6) The notice shall state the date on which the direction is to take effect, being a date not less than two months after the giving of the notice, and if an appeal is brought under this section before that date, the direction shall not take effect until the appeal is withdrawn or finally disposed of:  
  
Provided that so far as a direction relates to the making of charges payable by the occupier of the trade premises, it may take effect on any date after the giving of the notice.
- (7) On an appeal under this section the Minister shall have power to annul the direction given by the local authority or to substitute for it any other direction, whether more or less favourable to the appellant, and any direction given by the Minister may include provision as to the charges to be made for any period between the giving of the notice by the local authority and the determination of the appeal.

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- (8) References in this section to the variation of conditions include references to the addition or annulment of a condition, or to the attachment of a condition to a consent to which no condition was previously attached.

## **61 Appeals under s. 3 of Act of 1937**

- (1) This section shall have effect as respects any appeal under section three of the Act of 1937 (under which an appeal may be brought by a person aggrieved by a direction prohibiting the discharge of trade effluent until a specified date, or by refusal or failure to give a consent under that Act, or by a condition attached to a consent).
- (2) Where the appeal is in respect of a refusal to give a consent under the Act of 1937, or failure to give such a consent, the Minister may give the necessary consent, either unconditionally or subject to such conditions as the Minister thinks fit to impose for determining any of the matters as respects which the local authority have power to impose conditions under subsection (3) of section two of the Act of 1937.
- (3) Where the appeal is in respect of a condition attached to a consent the Minister may take into review all the conditions attached to the consent, whether appealed against or not, and may substitute for them any other set of conditions, whether more or less favourable to the appellant, or may annul any of the conditions.
- (4) The Minister may under the last foregoing subsection include provision as to the charges to be made in pursuance of any condition attached to a consent for any period before the determination of the appeal.
- (5) On any appeal the Minister may give a direction that no trade effluent shall be discharged in pursuance of the trade effluent notice in question until a specified date, or vary such a direction given by the local authority by substituting either an earlier or a later date for the date specified in the direction.

This subsection shall apply whether or not any direction given by the local authority is appealed against.

- (6) This section shall not apply to an appeal instituted before the commencement of this Act.

## **62 Postponement of right to discharge trade effluents in special cases**

- (1) If, after a direction has under the Act of 1937 or this Part of this Act been given requiring that no trade effluent shall be discharged in pursuance of a trade effluent notice until a specified date, it appears to the local authority that in consequence of a failure to complete any works required in connection with the reception and disposal of the trade effluent, or in consequence of any other exceptional circumstances, a later date ought to be substituted for the date so specified in the direction, they may apply to the Minister and the Minister shall have power to vary the direction so as to extend the period during which the trade effluent may not be discharged until the date specified in the application or, if he thinks fit, any earlier date.
- (2) Not less than one month before making an application under this section the local authority shall give notice of their intention to the owner and occupier of the trade premises to which the trade effluent notice relates and the Minister before varying the direction shall take into account any representations made to him by the owner or occupier of those trade premises.

*Farming, scientific research and other special cases*

**63 Effluents from farms and premises used for scientific research**

- (1) For the purposes of the definition of " trade premises" in subsection (1) of section fourteen of the Act of 1937, any land or premises used or intended to be used (in whole or in part and whether for profit or not)—
- (a) for agricultural or horticultural purposes, or
  - (b) for scientific research or experiment,
- shall be deemed to be premises used for carrying on a trade or industry, and for the purposes of the definition in that subsection of " trade effluent" the expression " trade or industry " shall include agriculture, horticulture and scientific research or experiment.
- (2) Subject to the provisions of this section, if at the commencement of this Act, or at any earlier time not more than one year before the commencement of this Act, there was being discharged from any premises any quantity of effluent which would fall within the definition of trade effluent as amended by this section (but not as unamended), none of the restrictions imposed by sections one and two of the Act of 1937 shall by virtue of subsection (1) of this section apply in relation to the discharge from those premises of trade effluent of the same nature and composition—
- (a) during the period of twelve months beginning with the commencement of this Act, and
  - (b) if before the end of the said period of twelve months a trade effluent notice is duly served under section two of the Act of 1937 regarding the discharge from those premises of trade effluent of that nature and composition, either during the said period of twelve months or at any later time permitted under the next following subsection.
- (3) Where such a trade effluent notice has been served before the end of the said period of twelve months, the exemption conferred by subsection (2) of this section shall continue—
- (a) until the local authority give their consent under the Act of 1937, or give notice to the owner or occupier of the trade premises that they refuse to give their consent, and
  - (b) for a further three months beginning with the giving of the consent, or of notice refusing the consent,
- and if before the expiration of the said period of three months an appeal is brought under section three of the Act of 1937 by reference to the trade effluent notice, the exemption shall continue until the appeal is withdrawn or finally disposed of.
- (4) The exemptions conferred by subsection (2) and subsection (3) of this section shall apply only if and so long as the quantity of the trade effluent in question discharged from the premises into the sewer on any one day does not exceed the maximum quantity thereof so discharged on any one day during the period of twelve months ending immediately before the commencement of this Act, and the exemption conferred by virtue of subsection (3) of this section shall apply only in relation to the discharge of trade effluent in accordance with the trade effluent notice.
- (5) The amendments made by subsection (1) of this section shall not apply for the purposes of subsection (1) of section four of the Act of 1937 and those amendments shall not

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apply for the purposes of subsection (2) of the said section four except in relation to the closing of a drain or sewer after the commencement of this Act.

- (6) The owner or occupier of any trade premises from which any effluent which falls within the definition of trade effluent by virtue of subsection (1) of this section is discharged into a sewer shall, if requested by the local authority in writing so to do, furnish to the local authority such information specified in the request as he can reasonably be expected to supply with respect to the discharge of any effluent from those premises during the period of one year ending with the commencement of this Act.
- (7) A person who fails to comply with a request for information under the last foregoing subsection shall be liable to a fine not exceeding five pounds.
- (8) Nothing in this Part of this Act shall affect any agreement duly made before the commencement of this Act between a local authority and the owner or occupier of any premises with respect to the discharge from those premises of any effluent which would fall within the definition of trade effluent as amended by subsection (1) of this section (but not as unamended).

#### **64 Power to extend Act of 1937 to other effluents**

- (1) The Minister may by order provide that the Act of 1937 and this Part of this Act shall apply in relation to liquid or other matter of any description specified in the order which is discharged from any premises into public sewers as they apply in relation to trade effluents, but subject to such modifications, if any, as may be specified in the order, and in particular subject to any modification of the definition of trade premises in the Act of 1937 which may be so specified.
- (2) The Minister may include in an order under this section such provisions as appear to him expedient for modifying any enactment relating to sewage as that enactment applies in relation to the discharge into sewers of any liquid or other matter to which any provisions of the Act of 1937 are applied by an order under this section.
- (3) The Minister may include in an order under this section such transitional, supplemental and incidental provisions as appear to him to be expedient.
- (4) An order made under this section may be varied or revoked by a subsequent order.
- (5) An order under this section shall be made by statutory instrument and the Minister shall not make an order under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

#### **65 Laundries**

- (1) If a local authority apply to the Minister and satisfy him that the discharge of trade effluent under the exemption conferred by subsection (4) of section four of the Act of 1937 (which exempts laundries from certain requirements contained in that Act) is likely to overload any sewers, or to make the treatment or disposal of sewage from any sewers specially difficult or expensive, or that there are other exceptional circumstances, the Minister may by order provide that the said subsection (4) shall not apply to premises specified in the order.



- (2) An order under this section may designate particular premises in the district of the local authority, or may be made to apply to premises throughout the district, or to premises in any part of the district specified in the order.
- (3) A local authority shall take such steps as appear to them to be appropriate for bringing any application under this section to the attention of those who may be affected and affording them an opportunity of making representations to the Minister.
- (4) After an order is made under this section the local authority shall publish a notice of the order on at least two occasions in a local newspaper circulating in their district.
- (5) On the coming into force of an order under this section the local authority shall treat any trade effluent notice served on them before the coming into force of the order as regards any premises affected by the order as being an application for consent under subsection (1) of section one of the Act of 1937 to the discharge of trade effluents in accordance with the trade effluent notice and, if the local authority fail to give that consent within two months from the coming into force of the order the occupier of the premises may appeal to the Minister under section three of the Act of 1937.
- (6) No consent under subsection (1) of section one of the Act of 1937 shall be required by virtue of the making of an order under this section for the discharge of trade effluents in accordance with a trade effluent notice served on the local authority before the coming into force of the order for the period of three months beginning with the date on which the order comes into force, and if within that period an appeal is brought under section three of the Act of 1937 by reference to the trade effluent notice, no consent shall be so required until the appeal is withdrawn or finally disposed of.  
  
Provided that this subsection shall only apply if and so long as the quantity of trade effluent discharged from the premises in pursuance of the trade effluent notice on any one day does not exceed the maximum quantity so discharged on any one day during the period of twelve months ending with the coming into force of the order.
- (7) Nothing in section fifty-five or section fifty-seven of this Act shall authorise the imposition of any charge or condition in relation to the discharge of a trade effluent to which the exemption conferred by subsection (4) of section four of the Act of 1937 for the time being applies.
- (8) An order made under this section may be varied or revoked by a subsequent order.

### *Supplemental*

## **66 Appeals to the Minister**

- (1) At any stage of the proceedings on an appeal or reference to the Minister under section three, or subsection (5) of section four, of the Act of 1937, or under any provision of this Part of this Act, the Minister may, and if so directed by the High Court shall, state in the form of a special case for the decision of the High Court any question of law arising in those proceedings ; and the decision of the High Court on the special case shall be deemed to be a judgment of the Court within the meaning of section twenty-seven of the Supreme Court of Judicature (Consolidation) Act, 1925 (which relates to the jurisdiction of the Court of Appeal to hear and determine appeals on any judgment of the High Court), but no appeal to the Court of Appeal shall be brought by virtue of this subsection except with the leave of the High Court or the Court of Appeal.

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- (2) The Act of 1937 and this Part of this Act shall apply in relation to any consent or direction given, or condition imposed, by the Minister on an appeal concerning the exercise of the powers of a local authority under any provision of the Act of 1937 or this Part of this Act as if the consent or direction had been given or, as the case may be, the condition had been imposed by the local authority under that provision.

#### **67 Recording and testing of trade effluents**

- (1) Any meter or apparatus provided in pursuance of the Act of 1937 or this Part of this Act in any trade premises for the purpose of measuring, recording or determining the volume, rate of discharge, nature or composition of trade effluent discharged from those premises shall in any proceedings be presumed to register accurately until the contrary is shown.
- (2) The powers of entry conferred by section two hundred and eighty-seven of the Public Health Act, 1936, as applied to this Part of this Act, shall extend to entry for the purpose of reading any meter or other recording apparatus provided in any premises in pursuance of the Act of 1937 or this Part of this Act for the purpose of assessing any charge.
- (3) In subsection (2) of section ten of the Act of 1937 (which provides that the result of an analysis of a sample of trade effluent taken under that section shall not be admissible as evidence unless certain requirements have been complied with) references to an analysis shall include references to any test of whatever kind and " analysed " and " analyst" in that subsection shall be construed accordingly.

#### **68 Restriction of disclosure of information**

- (1) If any person discloses any information which has been furnished to him under the Act of 1937 or this Part of this Act he shall be guilty of an offence, unless the disclosure is made—
- (a) with the consent of the person by whom the information was furnished; or
  - (b) in connection with the execution of the Act of 1937 or this Part of this Act; or
  - (c) for the purposes of any proceedings arising out of the Act of 1937 or this Part of this Act (including appeals and applications to the Minister and arbitrations) or of any criminal proceedings whether so arising or not, or for the purpose of any report of any such, proceedings.
- (2) A person guilty of an offence under the foregoing subsection shall be liable on summary conviction to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months or to both.

#### **69 Explanation of Act of 1937**

- (1) It is hereby declared that nothing in the Act of 1937 or this Part of this Act authorises the discharge of any effluent into a public sewer otherwise than by means of a drain or sewer as defined in the Public Health Act, 1936.
- (2) It is hereby declared that the power of the Minister to amend or adapt local Acts under subsection (1) of section twelve of the Act of 1937, as applied to this Part of this Act, applies to local Acts coming into force after, as well as before, that Act.

**70 Copies of directions by local authorities to be available to the public**

A copy of every direction given by a local authority under this Part of this Act, certified by the clerk of the local authority, shall be kept by the local authority at their offices so as to be available at all reasonable times for inspection and copying by any person, upon payment of a fee of sixpence for each inspection.

**71 Amendment of s. 22 of London County Council (General Powers) Act, 1953**

In section twenty-two of the London County Council (General Powers) Act, 1953, references to the Act of 1937 shall include references to this Part of this Act, and the Minister in exercising his power of making orders under that section may apply this Part of this Act subject to such modifications as appear to him expedient.