



Public Health Act 1936

1936 CHAPTER 49 26 Geo 5 and 1 Edw 8

PART II **E+W**

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. 14–90) amended by Housing and Building Control Act 1984 (c. 29, SIF 61), ss. 41(1), 52(1) and 60(2)(a)

Sewerage and sewage disposal

14^{F1} **E+W**

Textual Amendments

- F1 Ss. 14, 16 repealed by Water Act 1973 (c. 37), Sch. 9

15^{F2} **E+W**

Textual Amendments

- F2 S. 15 repealed by Water Act 1989 (c. 15, SIF 130), s. 190(3), Sch. 27 Pt.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(3), 17, 40(4), 41(1), 57(6), 58)

16^{F3} **E+W**

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

Textual Amendments

F3 Ss. 14, 16 repealed by [Water Act 1973 \(c. 37\)](#), [Sch. 9](#)

17 †Adoption by local authority of sewers and sewage disposal works. E+W

- (1) Subject to the provisions of this section, a [^{F4}water authority] may at any time declare that any sewer or sewage disposal works situate within [^{F4}their area], or serving [^{F4}their area] or any part of [^{F4}their area], being a sewer or works the construction of which was not completed before the commencement of this Act, shall, as from such date as may be specified in the declaration, become vested in them:

Provided that an authority who propose to make a declaration under this subsection shall give notice of their proposal to the owner or owners of the sewer or works in question, and shall take no further action in the matter until either two months have elapsed without an appeal against their proposal being lodged under subsection (3) of this section, or, as the case may be, until any appeal so lodged has been determined.

- (2) Subject as aforesaid, the owner, or any of the owners, of any sewer or sewage disposal works with respect to which a [^{F4}water authority] might have made a declaration under the preceding subsection may make an application to that authority requesting them to make such a declaration with respect thereto.
- (3) An owner aggrieved by the proposal of a [^{F4}water authority] to make a declaration under this section may appeal to the Minister within two months after notice of the proposal is served upon him, and an owner aggrieved by the refusal of a [^{F4}water authority] to make such a declaration may appeal to the Minister at any time after receipt of notice of their refusal, or if no such notice is given to him, at any time after the expiration of two months from the making of his application.

On the hearing of an appeal under this subsection, the Minister may allow or disallow the proposal of the [^{F4}water authority] or, as the case may be, make any declaration which the [^{F4}water authority] might have made, and any declaration so made shall have the same effect as if it had been made by the authority:

Provided that the Minister may, if he thinks fit, specify conditions, including conditions as to the payment of compensation by the [^{F4}water authority] and direct that his declaration shall not take effect unless any conditions so specified are accepted.

- (4) A [^{F4}water authority] and, on an appeal, the Minister, in deciding whether a declaration should be made under this section, shall have regard to all the circumstances of the case and, in particular, to the following considerations:—
- (a) whether the sewer or works in question is or are adapted to, or required for, any general system of sewerage or sewage disposal which the authority have provided, or propose to provide, for their district or any part thereof;
 - (b) whether the sewer is constructed under a highway, or under land reserved by a planning scheme for a street;
 - (c) the number of buildings which the sewer is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;
 - (d) the method of construction and state of repair of the sewer or works; and
 - (e) in a case where an owner objects, whether the making of the proposed declaration would be seriously detrimental to him.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

- (5) Any person who immediately before the making of a declaration under this section was entitled to use the sewer in question shall be entitled to use it, or any sewer substituted therefor, to the same extent as if the declaration had not been made.
- (6) A declaration or an application under this section may be made with respect to a part only of a sewer.
- (7) Where a [^{F4}water authority] are about to take into consideration the question of making a declaration under this section with respect to a sewer or sewage disposal works situate within [^{F4}the area] of another [^{F4}water authority], or situate within their own [^{F4}area], but serving [^{F4}the area], or any part of [^{F4}the area], of another [^{F4}water authority], they shall give notice to that other authority, and no declaration shall be made by them until either that other authority have consented thereto, or the Minister, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.
- ...^{F5}
- (8) Where a local authority have made a declaration under this section with respect to a sewer or sewage disposal works situate within [^{F4}the area] of another local authority ...^{F5} they shall forthwith give notice of the fact to that other authority ...^{F5}.
- (9) A local authority shall not, except on the application of the authority, council, board or statutory undertakers concerned, make a declaration under this section with respect to any sewer or any part of a sewer, or any works, if that sewer or part of a sewer, or those works—
- (a) is or are vested in another local authority, ...^{F5}, a county council ...^{F5}, or a joint sewerage board; or
 - (b) is or are vested in a railway company or dock undertakers and situate in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

Textual Amendments

F4 Words substituted by virtue of [Water Act 1973 \(c. 37\), s. 14\(2\)](#)

F5 Words repealed by [London Government Act 1963 \(c. 33\), Sch. 18 Pt. II](#)

Modifications etc. (not altering text)

C3 Unreliable marginal note

C4 [Ss. 17, 18](#) amended by [Water Act 1989 \(c. 15, SIF 130\), s. 69, Sch. 8 para. 1\(2\)\(a\)](#) (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\(2\)\(3\), 17, 40\(4\), 57\(6\), 58](#))

18 †Power of local authority to agree to adopt sewer or drain, or sewage disposal works, at future date. **E+W**

- (1) A [^{F6}water authority] may agree with any person constructing, or proposing to construct, a sewer or sewage disposal works that, if the sewer or works is or are constructed in accordance with the terms of the agreement, they will upon the completion of the work, or at some specified date, or on the happening of some future event, declare the sewer or works to be vested in them, and any such agreement shall

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

be enforceable against the authority by the owner or occupier for the time being of any premises served by the sewer or works.

- (2) The foregoing provisions of this section shall apply also in relation to drains, but it shall be a condition of any agreement made under those provisions with respect to a drain that the declaration shall not be made before the drain has become a sewer.
- (3) A [^{F6}water authority] shall not make an agreement under this section with respect to a sewer or drain or sewage disposal works situate within [^{F6}the area] of another [^{F6}water authority] . . . ^{F7}, until that other authority . . . ^{F7} have consented thereto, or the Minister, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

[^{F8}(4) Where—

- (a) a person constructing or proposing to construct a drain or sewer or any sewage disposal works has made an application to a sewerage undertaker requesting the undertaker to enter into an agreement under this section;
- (b) that application has been accompanied or supplemented by all such information as the undertaker may have reasonably required; and
- (c) the undertaker refuses the application, offers to grant it on terms to which that person objects or fails before the expiration of two months from the making of the application either to refuse the application or to give notice to the applicant of the terms on which it is prepared to grant the application,

that person may appeal to the Minister under this subsection.

- (5) On the hearing of an appeal under the preceding subsection, the Minister may uphold the refusal of the undertaker to grant the application or to modify the terms offered or may, on behalf of the undertaker—
- (a) refuse the application; or
 - (b) enter into any agreement into which the undertaker might have entered on the application;

and where under this subsection the Minister enters into any agreement on behalf of a sewerage undertaker, he may do so on such terms as he considers reasonable or, as the case may be, on the terms offered by the undertaker subject to such modifications as he considers appropriate for ensuring that the terms of the agreement are reasonable.

- (6) Subsection (4) of the preceding section shall apply with the necessary modifications in relation to an appeal under subsection (4) of this section as it applies in relation to an appeal under subsection (3) of that section.]

Textual Amendments

- F6** Words substituted by virtue of [Water Act 1973 \(c. 37\), s. 14\(2\)](#)
- F7** Words repealed by [London Government Act 1963 \(c. 33\), Sch. 18 Pt. II](#)
- F8** [S. 18\(4\)–\(6\)](#) inserted by [Water Act 1989 \(c. 15, SIF 130\), s. 69, Sch. 8 para. 2\(1\)](#) (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)(3), 17, 40(4), 57(6), 58)

Modifications etc. (not altering text)

- C5** Unreliable marginal note

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

C6 Ss. 17, 18 amended by Water Act 1989 (c. 15, SIF 130), s. 69, **Sch. 8 para. 1(2)(a)** (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)(3), 17, 40(4), 57(6), 58)

19 †Power of local authority to require proposed sewer or drain to be so constructed as to form part of general system. E+W

- (1) Where a person proposes to construct a drain or sewer, the [^{F9}water authority] may, if they consider that the proposed drain or sewer is, or is likely to be, needed to form part of a general sewerage system which they have provided or propose to provide, require him to construct the drain or sewer in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall, or otherwise, from the manner in which he proposes, or could otherwise be required by them, to construct it, and it shall be his duty to comply with the requirements of the [^{F9}water authority]:
Provided that, if he is aggrieved by the requirements of the authority, he may within twenty-eight days appeal to the Minister who may either disallow the requirements or allow them with or without modification.
- (2) An authority who exercise the powers conferred upon them by this section shall repay to the person constructing the drain or sewer the extra expenses reasonably incurred by him in complying with their requirements and, until the drain or sewer becomes a public sewer, they shall also from time to time repay to him so much of any expenses reasonably incurred by him in repairing or maintaining it as may be attributable to their requirements having been made and complied with, . . . ^{F10}
- [^{F11}(3) The duty under this section to comply with the requirements of a sewerage undertaker shall be owed to the undertaker; and any breach of that duty which causes the undertaker to sustain loss or damage shall be actionable at the suit of the undertaker.]
- (4) Nothing in this section shall apply in relation to so much of any drain or sewer as is proposed to be constructed by a railway company or dock undertakers in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

Textual Amendments

- F9** Words substituted by virtue of Water Act 1973 (c. 37), s. 14(2)
- F10** Words repealed by Water Act 1989 (c. 15, SIF 130), ss. 69, 190(3), Sch. 8 para. 2(2)(a), **Sch. 27 Pt. I** (with ss. 58(7), 69, 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 13(2)(3), 17, 40(4), 41(1), 57(6), 58)
- F11** S. 19(3) substituted by Water Act 1989 (c. 15, SIF 130), s. 69, **Sch. 8 para. 2(2)(b)** (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)(3), 17, 40(4), 57(6), 58)

Modifications etc. (not altering text)

- C7** Unreliable marginal note
- C8** S. 19 amended by Water Act 1989 (c. 15, SIF 130), s. 69, **Sch. 8 para. 1(2)(a)** (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)(3), 17, 40(4), 57(6), 58)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

Modifications etc. (not altering text)

- C9** S. 20 repealed by [Water Act 1989](#) (c. 15, SIF 130), s. 190(3), **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(3), 17, 40(4), 41(1), 57(6), 58)

21 Agreements with county council for use of highway drains and sewers for sanitary purposes, or to allow public sewers to be used for drainage of highways.

E+W

- (1) Subject to the provisions of this section, a county council [^{F12}, metropolitan district council or London borough council] and a [^{F13}water authority] may agree that—
- any drain or sewer which is vested in the county council [^{F12}, metropolitan district council or London borough council] in their capacity of highway authority may, upon such terms as may be agreed, be used by the [^{F13}water authority] for the purpose of conveying surface water from premises or streets;
 - any public sewer vested in the [^{F13}water authority] may, upon such terms as may be agreed, be used by the county council [^{F12}, metropolitan district council or London borough council] for conveying surface water from roads repairable by the county council [^{F12}, metropolitan district council or London borough council].
- (2) Where a sewer or drain with respect to which a county council [^{F12}, metropolitan district council or London borough council] and a [^{F13}water authority] propose to make an agreement under this section discharges, whether directly or indirectly, into the sewers or sewage disposal works of another [^{F13}water authority], the agreement shall not be made without the consent of that other [^{F13}water authority], who may give their consent upon such terms as they think fit.
- (3) A county council [^{F12}, metropolitan district council or London borough council] or [^{F13}water authority] shall not unreasonably refuse to enter into an agreement for the purposes of this section or insist unreasonably upon terms unacceptable to the other party, and a [^{F13}water authority] shall not unreasonably refuse to consent to the making of such an agreement or insist unreasonably upon terms unacceptable to either party thereto, and any question arising under this section as to whether or not any authority or council are acting unreasonably shall be referred to the Minister, whose decision shall be final.
- [^{F14}(4) Nothing in this section shall be construed as limiting the rights of a county council [^{F12}, metropolitan district council or London borough council] under section 264 of the Highways Act 1980.]
- [^{F15}(5) In this section references to a London borough council include references to the Common Council of the City of London.]

Textual Amendments

- F12** Words inserted by [Local Government Act 1985](#) (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 47**
- F13** Words substituted by virtue of [Water Act 1973](#) (c. 37), **s. 14(2)**
- F14** S. 21(4) substituted by [Highways Act 1980](#) (c. 66, SIF 59), s. 343(2), **Sch. 24 para. 4(b)**
- F15** S. 21(5) inserted by [Local Government Act 1985](#) (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 47**

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

Modifications etc. (not altering text)

- C10** S. 21 amended by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 69, **Sch. 8 para. 1(2)(a)** (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)(3), 17, 40(4), 57(6), 58)
- C11** S. 21(1)(a) amended by [Water Act 1973 \(c. 37\)](#), **s. 14(3)**

22 †Power of local authority to alter, or close, public sewers. E+W

[^{F16}A sewerage undertaker may discontinue and prohibit the use of any public sewer vested in the undertaker], either entirely, or for the purpose of foul water drainage, or for the purpose of surface water drainage, but, before any person who is lawfully using the sewer for any purpose is deprived by the authority of the use of the sewer for that purpose, they shall provide a sewer equally effective for his use for that purpose and shall at their expense carry out any work necessary to make his drains or sewers communicate with the sewer so provided.

Textual Amendments

- F16** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 69, **Sch. 8 para. 2(4)** (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)(3), 17, 40(4), 57(6), 58)

Modifications etc. (not altering text)

- C12** Unreliable marginal note
- C13** S. 22 amended by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 69, **Sch. 8 para. 1(2)(a)** (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)(3), 17, 40(4), 57(6), 58)

23, 24. ^{F17} E+W

Textual Amendments

- F17** Ss. 23, 24 repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 69, 190(3), Sch. 8 para. 2(5), **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)(3), 17, 40(4), 41(1), 57(6), 58)

25. ^{F18} E+W

Textual Amendments

- F18** S. 25 repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), **Sch. 7**

26. ^{F19} E+W

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

Textual Amendments

F19 S. 26 repealed by [Public Health \(Drainage of Trade Premises\) Act 1937 \(c. 40\), s. 1\(3\)](#)

27 **Certain matters not to be passed into public sewers.** **E+W**

- (1) No person shall throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any drain or sewer communicating with a public sewer—
- (a) any matter likely to injure the sewer or drain, or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or
 - (b) any chemical refuse or waste steam, or any liquid of a temperature higher than one hundred and ten degrees Fahrenheit, being refuse or steam which, or a liquid which when so heated, is, either alone or in combination with the contents of the sewer or drain, dangerous, or the cause of a nuisance, or prejudicial to health; or
 - (c) any petroleum spirit, or carbide of calcium.
- (2) A person who contravenes any of the provisions of this section shall be liable;
- ^{F20}(a) on summary conviction, to a fine not exceeding £400 and to a further fine not exceeding £50 for each day on which the offence continues after conviction thereof;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both].
- (3) In this section the expression “petroleum spirit” means any such—
- (a) crude petroleum;
 - (b) oil made from petroleum, or from coal, shale, peat or other bituminous substances; or
 - (c) product of petroleum or mixture containing petroleum,
- as, when tested in the manner prescribed by or under the ^{M1}Petroleum (Consolidation) Act 1928, gives off an inflammable vapour at a temperature of less than seventy-three degrees Fahrenheit.

Textual Amendments

F20 Words substituted by [Control of Pollution Act 1974 \(c. 40\), Sch. 2 para. 7](#)

Modifications etc. (not altering text)

C14 S. 27 amended by [Radioactive Substances Act 1960 \(c. 34\), s. 9, Sch. 1 para. 3](#)

C15 S. 27(1)(a)(b) excluded by [Public Health \(Drainage of Trade Premises\) Act 1937 \(c. 40\), s. 1\(2\)](#)

Marginal Citations

M1 1928 c. 32.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

Textual Amendments

F21 Ss. 28, 35 repealed by [Water Act 1973 \(c. 37\)](#), [Sch. 9](#)

29 **F22** **E+W**

Textual Amendments

F22 S. 29 repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1)(3), [Sch. 25 para. 1\(2\)](#), [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\(3\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#))

30 **Sewage, &c. to be purified before discharge into streams, canals, &c.** **E+W**

Nothing in this Part of this Act shall authorise a [^{F23}water authority] to construct or use any public or other sewer, or any drain or outfall, for the purpose of conveying foul water into any natural or artificial stream, watercourse, canal, pond or lake, until the water has been so treated as not to affect prejudicially the purity and quality of the water in the stream, watercourse, canal, pond or lake.

Textual Amendments

F23 Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), [s. 14\(2\)](#)

Modifications etc. (not altering text)

C16 S. 30 extended by [London Government Act 1963 \(c. 33\)](#), [Sch. 9 Pt. II para. 11](#); excluded by that 1963 Act, Pt. III para. 4

C17 Ss. 30, 31 amended by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 69, [Sch. 8 para. 1\(2\)\(a\)](#) (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\(2\)\(3\), 17, 40\(4\), 57\(6\), 58](#))

31 †**Local authority not to create any nuisance.** **E+W**

A [^{F24}water authority] shall so discharge their functions under the foregoing provisions of this Part of this Act as not to create a nuisance.

Textual Amendments

F24 Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), [s. 14\(2\)](#)

Modifications etc. (not altering text)

C18 Unreliable marginal note

C19 S. 31 extended by [London Government Act 1963 \(c. 33\)](#), [Sch. 9 Pt. II para. 11](#); excluded by that 1963 Act, Pt. III para. 4

C20 Ss. 30, 31 amended by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 69, [Sch. 8 para. 1\(2\)\(a\)](#) (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\(2\)\(3\), 17, 40\(4\), 57\(6\), 58](#))

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

32^{F25} **E+W**

Textual Amendments

F25 S. 32 repealed by Water Act 1989 (c. 15, SIF 130), s. 190, Sch. 25 para. 1(2), Sch. 27 Pt. I (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 8 para. 2(5), Sch. 26 paras. 3(1)(2), 13(2)(3), 17, 40(4), 41(1), 57(6), 58)

33 **Application of 27 & 28 Vict. c. 114 to works for supply of sewage.** **E+W**

Works for the supply of sewage to land for agricultural purposes shall be deemed to be an improvement of land authorised by the ^{M2}Improvement of Land Act 1864 and the provisions of that Act shall apply accordingly.

Marginal Citations

M2 1864 c. 114.

Private sewers and drains and cesspools

34 **Right of owners and occupiers within district to drain into public sewers.** **E+W**

- (1) [^{F26}Subject to the provisions of this section, the owner or occupier of any premises [^{F27}in the area of a sewerage undertaker or the owner of any private sewer draining premises in the area of such an undertaker shall be entitled to have his drains or sewer communicate with the public sewers of that undertaker and thereby] to discharge foul water and surface water from those premises or that private sewer]:
Provided that nothing in this subsection shall entitle any person—
- (a) to discharge directly or indirectly into any public sewer—
 - (i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or
 - (ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any enactment (including any enactment in this Act); or
 - (b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—
 - (i) foul water into a sewer provided for surface water; or
 - (ii) except with the approval of the [^{F28}water authority], surface water into a sewer provided for foul water; or
 - (c) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.

[^{F29}(2) For the purpose of exercising his rights under this section or of examining, repairing or renewing any drain or private sewer draining his premises into a public sewer, the owner or occupier of any premises shall be entitled to exercise the same powers as, for the purpose of carrying out its functions, are conferred on a sewerage undertaker by paragraph 2 of Schedule 19 to the Water Act 1989 (street works); and the provisions of that Act shall apply, with the necessary modifications, in relation to the power

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

conferred by this subsection as they apply in relation to the power conferred by that paragraph.]

- (3) A person desirous of availing himself of the foregoing provisions of this section shall give to the [F28 water authority] notice of his proposals, and at any time within twenty-one days after receipt thereof, the authority may by notice to him refuse to permit the communication to be made, if it appears to them that the mode of construction or condition of the drain or sewer is such that the making of the communication would be prejudicial to their sewerage system, and for the purpose of examining the mode of construction and condition of the drain or sewer they may, if necessary, require it to be laid open for inspection:

Provided that any question arising under this subsection between a [F28 water authority] and a person proposing to make a communication as to the reasonableness of any such requirement of the [F28 water authority], or of their refusal to permit a communication to be made, may on the application of that person be determined by a court of summary jurisdiction.

- (4) Where the [F28 water authority] do not under the next but one succeeding section elect themselves to make the communication, the person making it shall, before commencing the work, give reasonable notice to any person directed by the authority to superintend the execution of the work and afford him all reasonable facilities for superintending the execution thereof.
- (5) Any person causing a drain or sewer to communicate with a public sewer without complying with, or in contravention of, any of the provisions of this section, or before the expiration of the period mentioned in subsection (3) of this section, shall be liable to a fine not exceeding [F30 level 4 on the standard scale] and, whether proceedings have or have not been taken by them in respect of that offence, the local authority may close any communication made in contravention of any of those provisions, and recover from the offender any expenses reasonably incurred by them in so doing.

Textual Amendments

- F26** Words substituted by [Water Act 1973 \(c. 37\), s. 14\(4\)](#)
- F27** Words substituted by [Water Act 1989 \(c. 15, SIF 130\), s. 69, Sch. 8 para. 2\(6\)\(a\)](#) (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), 17, 40(4), 57(6), 58)
- F28** Words substituted by virtue of [Water Act 1973 \(c. 37\), s. 14\(2\)](#)
- F29** [S. 34\(2\)](#) substituted by [Water Act 1989 \(c. 15, SIF 130\), s. 69, Sch. 8 para. 2\(6\)\(b\)](#) (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), 57(6), 58)
- F30** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#)

Modifications etc. (not altering text)

- C21** [S. 34](#) amended by [Water Act 1973 \(c. 37\), Sch. 8 para. 37](#)
- C22** [S. 34](#) restricted by [Channel Tunnel Act 1987 \(c. 53, SIF 102\), s. 45, Sch. 7 Pt. VI para. 2, Pt. VIII para. 3](#)
- C23** [S. 34](#) amended by [Water Act 1989 \(c. 15, SIF 130\), s. 69, Sch. 8 para. 1\(2\)\(a\)](#) (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)(3), 17, 40(4), 57(6), 58)
- C24** [S. 34\(1\)](#) proviso (a) excluded by [Public Health \(Drainage of Trade Premises\) Act 1937 \(c. 40\), s. 1\(1\)](#)
- C25** [S. 34\(2\)–\(5\)](#) extended by [Public Health \(Drainage of Trade Premises\) Act 1937 \(c. 40\), s. 1\(2\)](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

35^{F31} **E+W**

Textual Amendments

F31 Ss. 28, 35 repealed by [Water Act 1973 \(c. 37\)](#), [Sch. 9](#)

36 †**Right of local authority to undertake the making of communications with public sewers.** **E+W**

- (1) Where under either of the two last preceding sections a person gives to a [^{F32}water authority] notice of his proposal to have his drains or sewer made to communicate with a public sewer of that authority, the authority may, within fourteen days after the receipt of the notice or, if any question arising under the notice requires to be determined by a court of summary jurisdiction . . .^{F33}, within fourteen days after the decision of that question, give notice to that person that they intend themselves to make the communication and, if after such a notice has been given to him, he proceeds himself to make the communication, he shall be liable to a fine not exceeding [^{F34}level 4 on the standard scale].
- (2) Where a [^{F32}water authority] have given such a notice as aforesaid, they shall have all such rights in respect of the making of the communication as the person desiring it to be made would have, but it shall not be obligatory on them to make the communication [^{F35}until either—
 - (a) there has been paid to the sewerage undertaker any such sum, not exceeding the undertaker's reasonable estimate of the cost of the work, as the undertaker may have required to be paid to it; or
 - (b) there has been given to the undertaker such security for the payment of the cost of the work as it may reasonably have required.]
- (3) If any payment so made to the [^{F32}water authority] exceeds the expenses reasonably incurred by them in the execution of the work, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, if any, made to them, they may recover the expenses, or the balance thereof, from the person for whom the work was done.
- (4) For the purposes of this section, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

Textual Amendments

F32 Words substituted by virtue of [Water Act 1973 \(c. 37\)](#), [s. 14\(2\)](#)

F33 Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 1\(2\)](#), [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\(3\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#))

F34 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [ss. 38, 46](#)

F35 Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 69, [Sch. 8 para. 2\(7\)](#) (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\(2\)\(3\), 17, 40\(4\), 57\(6\), 58](#))

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

Modifications etc. (not altering text)

C26 Unreliable marginal note

C27 S. 36 amended by Water Act 1989 (c. 15, SIF 130), s. 69, Sch. 8 para. 1(2)(a) (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), 57(6), 58)

37—^{F36} **E+W**
41.

Textual Amendments

F36 Ss. 37–41 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), Sch. 7

42 †**Power of local authority to alter drainage system of premises.** **E+W**

- (1) Where any premises have a drain or sewer communicating with a public sewer or a cesspool, but that system of drainage, though sufficient for the effectual drainage of the premises, is not adapted to the general sewerage system of the district, or is in the opinion of the [^{F37}water authority] otherwise objectionable, the authority may, at their own expense and on condition that they first provide in a position equally convenient to the owner of the premises a drain or sewer equally effectual for the drainage thereof and communicating with a public sewer, close the existing drain or sewer and fill up the cesspool, if any, and do any work necessary for that purpose.
- (2) A [^{F37}water authority] who propose to execute any work under this section shall give notice of their proposals to the owner of the premises in question and, if he is aggrieved thereby, as regards either the position or the sufficiency of the drain or sewer proposed to be provided for the drainage of the premises, he may appeal to a court of summary jurisdiction.

Textual Amendments

F37 Words substituted by virtue of Water Act 1973 (c. 37), s. 14(2)

Modifications etc. (not altering text)

C28 Unreliable marginal note

C29 S. 42 amended by Water Act 1989 (c. 15, SIF 130), s. 69, Sch. 8 para. 1(2)(a) (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)(3), 17, 40(4), 57(6), 58)

Sanitary conveniences for buildings

43, 44.^{F38} **E+W**

Textual Amendments

F38 Ss. 43, 44 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), Sch. 7

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

45 **Buildings having defective closets capable of repair.** **E+W**

- (1) If it appears to a local authority that any closets provided for or in connection with a building are in such a state as to be prejudicial to health or a nuisance, but that they can without reconstruction be put into a satisfactory condition, the authority shall by notice require the owner or the occupier of the building to execute such works, or to take such steps by cleansing the closets or otherwise, as may be necessary for that purpose.
- (2) In so far as a notice under this section requires a person to execute works, the provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to the notice.
- (3) In so far as such a notice requires a person to take any steps other than the execution of works, he shall, if he fails to comply with the notice, be liable to a fine not exceeding [^{F39}level 1 on the standard scale] and to a further fine not exceeding [^{F40}£2] for each day on which the offence continues after conviction therefor:
Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the building.
- (4) This section shall not apply . . . ^{F41} to a factory or workshop . . . ^{F42} or to a building to which the next succeeding section applies.

Textual Amendments

- F39** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**
F40 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), **s. 10(1)**
F41 Words repealed by [Offices, Shops and Railway Premises Act 1963 \(c. 41\)](#), **Sch. 2**
F42 Words repealed by [Factories Act 1937 \(c. 67\)](#), **Sch. 4**

Modifications etc. (not altering text)

- C30** [S. 45](#) excluded by [Offices, Shops and Railway Premises Act 1963 \(c. 41\)](#), **s. 9(6)**

46, 47. ^{F43} **E+W**

Textual Amendments

- F43** [Ss. 46, 47](#) repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), **s. 133(2)**, **Sch. 7**

Supplemental provisions as to drains, sanitary conveniences, cesspools, &c.

48 **Power of local authority to examine and test drains, &c., believed to be defective.** **E+W**

- (1) Where it appears to a [^{F44}relevant] authority that there are reasonable grounds for believing that a sanitary convenience, drain, private sewer or cesspool is in such a condition as to be prejudicial to health or a nuisance, or that a drain or private sewer communicating directly or indirectly with a public sewer is so defective as to admit subsoil water, they may examine its condition, and for that purpose may apply any

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

test, other than a test by water under pressure, and, if they deem it necessary, open the ground.

[^{F45}(1A) In subsection (1) above “relevant authority” means, in relation to a drain or private sewer connecting with a public sewer, the water authority for the area, and in any other case the local authority.]

(2) If on examination the convenience, drain, sewer or cesspool is found to be in proper condition, the authority shall, as soon as possible, reinstate any ground which has been opened by them and make good any damage done by them.

Textual Amendments

F44 Word substituted by [Water Act 1973 \(c. 37\), Sch. 8 para. 39\(1\)](#)

F45 [S. 48\(1A\)](#) inserted by [Water Act 1973 \(c. 37\), Sch. 8 para 39\(2\)](#)

Modifications etc. (not altering text)

C31 [S. 48](#) amended by [Radioactive Substances Act 1960 \(c. 34\), s. 9, Sch. 1 Pt. I para. 3](#)

C32 [S. 48](#) modified (7.8.1991) by [S.I. 1991/1773, art. 8, Sch.2](#).

49 **Rooms over closets of certain types, or over ashpits, &c., not to be used as living, sleeping or workrooms.** **E+W**

(1) A room which, or any part of which, is immediately over a closet, other than a watercloset or earthcloset, or immediately over a cesspool, midden or ashpit, shall not be occupied as a living room, sleeping room or workroom.

(2) Any person who, after seven days’ notice from the local authority, occupies any room in contravention of the provisions of this section, or who permits any room to be so occupied, shall be liable to a fine not exceeding [^{F46}level 1 on the standard scale], and to a further fine not exceeding [^{F47}£2] for each day on which the offence continues after conviction therefor.

Textual Amendments

F46 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#)

F47 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

50 **Overflowing and leaking cesspools.** **E+W**

(1) If the contents of any cesspool soak therefrom or overflow, the local authority . . .
^{F48} may by notice require the person by whose act, default or sufferance the soakage or overflow occurred or continued to execute such works, or to take such steps by periodically emptying the cesspool or otherwise, as may be necessary for preventing the soakage or overflow:

Provided that this subsection shall not apply in relation to the effluent from a properly constructed tank for the reception and treatment of sewage, if that effluent is of such a character, and is so conveyed away and disposed of, as not to be prejudicial to health or a nuisance.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

- (2) In so far as a notice under this section requires a person to execute works, the provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to the notice.
- (3) In so far as such a notice requires a person to take any steps other than the execution of works, he shall, if he fails to comply with the notice, be liable to a fine not exceeding [^{F49}level 1 on the standard scale], and to a further fine not exceeding [^{F50}£2] for each day on which the offence continues after conviction therefor:
Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements.

Textual Amendments

- F48** Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 69, 190(3), [Sch. 8 para. 2\(8\)](#), [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\(2\)\(3\), 17, 40\(4\), 41\(1\), 57\(6\), 58](#))
- F49** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)
- F50** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), [s. 10\(1\)](#)

Modifications etc. (not altering text)

- C33** S. 50 modified (7.8.1991) by [S.I. 1991/1773](#), [art. 8](#), [Sch.2](#).
- C34** S. 50 modified (10.1.1992) by [S.I. 1991/2913](#), [art. 8](#), [Sch.2](#).

51 Care of closets. **E+W**

- (1) The occupier of every building in, or in connection with, which a watercloset or an earthcloset is provided shall, in the case of a watercloset, cause the flushing apparatus thereof to be kept supplied with water sufficient for flushing and where necessary to be properly protected against frost, and shall, in the case of an earthcloset, cause it to be kept supplied with dry earth or other suitable deodorising material.
- (2) A person who fails to comply with any of the provisions of this section shall be liable to a fine not exceeding [^{F51}level 1 on the standard scale]

Textual Amendments

- F51** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 46](#)

Modifications etc. (not altering text)

- C35** S. 51 amended (Greater London) by [London Government Act 1963 \(c. 33\)](#), [Sch. 11 Pt. I para. 13](#)
- C36** Ss. 51-52 modified (7.8.1991) by [S.I. 1991/1773](#), [art. 8](#), [Sch.2](#).
- C37** Ss. 51-52 modified (10.1.1992) by [S.I. 1991/2913](#), [art. 8](#), [Sch.2](#).

52 Care of sanitary conveniences used in common. **E+W**

Where a sanitary convenience is used in common by the members of two or more families, the following provisions shall have effect:—

- (a) if any person injures or improperly fouls the convenience, or anything used in connection therewith, or wilfully or by negligence causes an obstruction in

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

the drain therefrom, he shall be liable to a fine not exceeding [^{F52}level 1 on the standard scale];

- (b) if the convenience, or the approach thereto, is, for want of proper cleansing or attention, in such a condition as to be insanitary, such of the persons having the use thereof in common as are in default, or, in the absence of satisfactory proof as to which of them is in default, each of them, shall be liable to a fine not exceeding [^{F52}level 1 on the standard scale], and to a further fine not exceeding [^{F53}£2] for each day on which the offence continues after conviction therefor.

Textual Amendments

F52 Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

F53 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), s. 10(1)

Modifications etc. (not altering text)

C38 Ss. 51-52 modified (7.8.1991) by [S.I. 1991/1773](#), art. 8, [Sch.2](#).

C39 Ss. 51-52 modified (10.1.1992) by [S.I. 1991/2913](#), art. 8, [Sch.2](#).

53— ^{F54} **E+W**
62.

Textual Amendments

F54 Ss. 53–62 repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), [Sch. 7](#)

63 ^{F55} **E+W**

Textual Amendments

F55 S. 63 repealed by [Public Health Act 1961 \(c. 64\)](#), [Sch. 5 Pt. 1](#)

64 ^{F56} **E+W**

Textual Amendments

F56 S. 64 repealed (with saving for s. 64(5)) by [Building Act 1984 \(c. 55, SIF 15\)](#), ss. 132, 133(2), [Sch. 5 para. 4\(1\)](#), [Sch. 7](#)

65— ^{F57} **E+W**
67.

Textual Amendments

F57 Ss. 65–67 repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), [Sch. 7](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

68, 69. ^{F58} **E+W**

Textual Amendments

F58 Ss. 68, 69 repealed by Public Health Act 1961 (c. 64), **Sch. 5 Pt. 1**

70, 71. ^{F59} **E+W**

Textual Amendments

F59 Ss. 70, 71 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

Removal of refuse, scavenging, keeping of animals, &c.

72— ^{F60} **E+W**
76.

Textual Amendments

F60 Ss. 72–76 repealed by Control of Pollution Act 1974 (c. 40, SIF 46:4), s. 109(2), **Sch. 4**

77 ^{F61} **E+W**

Textual Amendments

F61 S. 77 repealed by Control of Pollution Act 1974 (c. 40), **Sch. 4**

78 Scavenging of common courts and passages. **E+W**

- (1) If any court, yard or passage which is used in common by the occupants of two or more buildings, but is not a highway repairable by the inhabitants at large, is not regularly swept and kept clean and free from rubbish or other accumulation to the satisfaction of the local authority, the authority may cause it to be swept and cleansed.
- (2) The local authority may recover any expenses reasonably incurred by them under this section from the occupiers of the buildings which front or abut on the court or yard, or to which the passage affords access, in such proportions as may be determined by the authority, or, in case of dispute, by a court of summary jurisdiction.

79 [^{F62}**Power to require removal of noxious matter by occupier of premises in urban district.** **E+W**

- (1) If in a borough or [^{F63}district,] or in a rural district or contributory place in which section forty-nine of the ^{M3}Public Health Act 1875, was in force immediately before the commencement of this Act, it appears to the [^{F64}proper officer of the authority]

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

that any accumulation of noxious matter ought to be removed, he shall serve notice on the owner thereof, or on the occupier of the premises on which it is found, requiring him to remove it, and, if the notice is not complied with within twenty-four hours after service thereof, the inspector may remove the matter referred to.

- (2) A local authority may recover the expenses of any action reasonably taken by their inspector under the preceding sub-section from the owner or occupier in default.]

Textual Amendments

- F62** S. 79 repealed (*prosp.*) by Control of Pollution Act 1974 (c. 40), ss. 108, 109(2), **Sch. 4**
F63 Words substituted by virtue of Local Government Act 1972 (c. 70), s. 179(3)
F64 Words substituted by virtue of Local Government Act 1972 (c. 70), **Sch. 29 Pt. I para. 4(1)(a)**

Modifications etc. (not altering text)

- C40** S. 79 amended by Radioactive Substances Act 1960 (c. 34), s. 9, **Sch. 1 Pt. I para. 3**; applied by Local Government Act 1972 (c. 70), **Sch. 14 para. 4**
S. 79 amended (temp.) (27.8.1993) by 1993 c. 12, ss. 40, 49(2), 51(2), Sch. 3 Pt. I para. 1, **Sch. 5 Pt. II para. 9(3)**

Marginal Citations

- M3** 1875 c. 55.

80 ^[F65]Power to require periodical removal of manure, &c. from stables, &c. in urban district. **E+W**

- (1) In a borough or ^[F66]district,] and in a rural district or contributory place in which section fifty of the ^{M4}Public Health Act 1875 was in force immediately before the commencement of this Act, the local authority may by public or other notice require the periodical removal, at such intervals as may be specified in the notice, of manure or refuse from mews, stables or other premises.
- (2) If a person on whom a notice has been served under this section fails to comply therewith, he shall be liable to a fine not exceeding ^[F67]level 1 on the standard scale.]

Textual Amendments

- F65** S. 80 repealed (*prosp.*) by Control of Pollution Act 1974 (c. 70), s. 109(2), **Sch. 4**
F66 Words substituted by virtue of Local Government Act 1972 (c. 70), s. 179(3)
F67 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 46

Modifications etc. (not altering text)

- C41** S. 80 applied by Local Government Act 1972 (c. 70), **Sch. 14 para. 4**

Marginal Citations

- M4** 1875 c. 55.

81 Byelaws for the prevention of certain nuisances. **E+W**

A local authority may make byelaws for preventing—

- (a) the occurrence of nuisances from snow, filth, dust, ashes and rubbish;

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

- (b) the keeping of animals so as to be prejudicial to health.

Modifications etc. (not altering text)

C42 S. 81 amended by [Radioactive Substances Act 1960 \(c. 34\)](#), s. 9, [Sch. 1 Pt. I para. 3](#); extended (Greater London) by [London Government Act 1963 \(c. 33\)](#), [Sch. 11 Pt. I para. 17](#)
S. 81 amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(2\)](#), [Sch. 3 Pt. I para. 1](#)

82 Byelaws as to removal through streets of offensive matter or liquid. **E+W**

- (1) A local authority may make byelaws—
- (a) prescribing the times for the removal, or carriage through the streets, of any faecal or offensive or noxious matter or liquid, whether that matter or liquid is in course of removal or carriage from within, or from without, or through, their district;
 - (b) requiring that the receptacle or vehicle used for the removal or carriage of any such matter or liquid shall be properly constructed and covered so as to prevent the escape of any such matter or liquid;
 - (c) requiring the cleansing of any place whereon any such matter or liquid has been dropped or split in the course of removal or carriage.
- (2) If and so far as a byelaw made under the preceding sub-section is inconsistent with [^{F68}an order under section [^{F69}6 of the ^{M5}Road Traffic Regulation Act 1967]] the order shall prevail].

Textual Amendments

F68 Words substituted by [London Government Act 1963 \(c. 33\)](#), [Sch. 11 Pt. I para. 18\(2\)](#)

F69 Words substituted by virtue of [Road Traffic Regulations Act 1967 \(c. 76\)](#), [Sch. 8 para. 2](#)

Modifications etc. (not altering text)

C43 S. 82 amended by [Radioactive Substances Act 1960 \(c. 34\)](#), s. 9, [Sch. 1 Pt. I para. 3](#); extended (Greater London) by [London Government Act 1963 \(c. 33\)](#), [Sch. 11 Pt. I para. 18\(1\)](#)

S. 82 amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(2\)](#), [Sch. 3 Pt. I para. 1](#)

C44 S. 82 modified (7.8.1991) by [S.I. 1991/1773](#), art. 8, [Sch.2](#).

C45 S. 82 modified (10.1.1992) by [S.I. 1991/2913](#), art. 8, [Sch.2](#).

Marginal Citations

M5 [1967 c. 76](#).

Filthy or verminous premises or articles, and verminous persons.

83 Cleansing of filthy or verminous premises. **E+W**

- [^{F70}(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,

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

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 the 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—
- (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.]

- (2) If a person on whom a notice under this section is served fails to comply with the requirements thereof, the authority may themselves carry out the requirements and recover from him the expenses reasonably incurred by them in so doing, and, without prejudice to the right of the authority to exercise that power, he shall be liable to a fine not exceeding [^{F71}level 1 on the standard scale] and to a further fine not exceeding [^{F72}£2] for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements or of their decision to address their notice to him and not to the occupier or, as the case may be, the owner of the premises.

- (3) Where a local authority take action under paragraph (b) of subsection (1) of this section, their notice may require that they shall be allowed to employ gas for the purpose of destroying vermin on the premises, but in that case the notice shall be served both on the owner and on the occupier of the premises, and the authority shall bear the cost of their operations and may provide temporary shelter or house accommodation for any person compelled to leave the premises by reason of their operations.

[^{F73}(4) This section shall not apply to any premises forming part of a factory or of a mine or quarry within the meaning of the ^{M6}Mines and Quarries Act 1954.]

Textual Amendments

- F70** S. 83(1)(1A) substituted for s. 83(1) by [Public Health Act 1961 \(c. 64\), s. 35\(2\)](#) with saving for notices given under s. 83 before 3.10.1961
- F71** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#)
- F72** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
- F73** S. 83(4) added by [Public Health Act 1961 \(c. 64\), s. 35\(3\)](#) with saving for notices given under s. 83 before 3.10.1961

Modifications etc. (not altering text)

- C46** S. 83 amended by [Public Health Act 1961 \(c. 64\), s. 36](#)
- C47** Power to apply conferred by [Housing Act 1988 \(c. 50, SIF 61\), s. 68\(1\)\(a\)](#)
- C48** Ss. 83-86 modified (7.8.1991) by [S.I. 1991/1773, art. 8, Sch.2](#).
- C49** Ss. 83-86 modified (10.1.1992) by [S.I. 1991/2913, art. 8, Sch.2](#).

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

Marginal Citations

M6 1954 c. 70.

84 Cleansing or destruction of filthy or verminous articles. **E+W**

Where it appears to a local authority upon a certificate of [^{F74}the proper officer of the authority] that any article in any premises—

- (a) is in so filthy a condition as to render its cleansing, purification or destruction necessary in order to prevent injury, or danger of injury, to the health of any person in the premises; or
- (b) is verminous, or by reason of its having been used by, or having been in contact with, any verminous person is likely to be verminous,

the local authority shall cause that article to be cleansed, purified, disinfected or destroyed, as the case may require, at their expense and, if necessary for that purpose, to be removed from the premises.

Textual Amendments

F74 Words substituted by virtue of [Local Government Act 1972 \(c. 70\)](#), [Sch. 29 Pt. I para. 4\(1\)\(a\)](#)

Modifications etc. (not altering text)

C50 Power to apply conferred by [Housing Act 1988 \(c. 50, SIF 61\)](#), [s. 68\(1\)\(a\)](#)

C51 [Ss. 83-86](#) modified (7.8.1991) by [S.I. 1991/1773](#), [art. 8](#), [Sch.2](#).

C52 [Ss. 83-86](#) modified (10.1.1992) by [S.I. 1991/2913](#), [art. 8](#), [Sch.2](#).

85 Cleansing of verminous persons and their clothing. **E+W**

- (1) Upon the application of any person, a county council or a local authority may take such measures as are, in their opinion, necessary to free him and his clothing from vermin.
- (2) Where it appears to a county council or a local authority, upon a report from [^{F75}the proper officer of the authority], that any person, or the clothing of any person, is verminous, then, if that person consents to be removed to a cleansing station, they may cause him to be removed to such a station, and, if he does not so consent, they may apply to a court of summary jurisdiction, and the court, if satisfied that it is necessary that he or his clothing should be cleansed, may make an order for his removal to such a station and for his detention therein for such period and subject to such conditions as may be specified in the order.
- (3) Where a person has been removed to a cleansing station in pursuance of the last preceding subsection, the county council or local authority shall take such measures as may, in their opinion, be necessary to free him and his clothing from vermin.
- (4) The cleansing of females under this section shall be carried out only by a registered medical practitioner, or by a woman duly authorised by the [^{F75}proper officer of the authority].
- (5) Any consent required to be given for the purposes of this section may, in the case of a person under the age of sixteen years, be given on his behalf by his parent or guardian.
- (6) No charge shall be made in respect of the cleansing of a person or his clothing, or in respect of his removal to, or maintenance in, a cleansing station under this section.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

- (7) The powers conferred on a county council or local authority by this section shall be in addition to, and not in derogation of, any power in relation to the cleansing of children which may be exercisable by them as a local education authority.

Textual Amendments

F75 Words substituted by virtue of [Local Government Act 1972 \(c. 70\)](#), **Sch. 29 Pt. I para. 4(1)(a)**

Modifications etc. (not altering text)

C53 Ss. 83-86 modified (7.8.1991) by [S.I. 1991/1773](#), art. 8, **Sch.2**.

C54 Ss. 83-86 modified (10.1.1992) by [S.I. 1991/2913](#), art. 8, **Sch.2**.

C55 “Authority” where substituted in s. 85(2)(4) includes County Council: [Local Government Act 1972 \(c. 70\)](#), **s. 270(1)**

86 Provision of cleansing stations. **E+W**

A county council or local authority may provide such cleansing stations as may be necessary for the discharge of their functions under any of the three last preceding sections.

Modifications etc. (not altering text)

C56 Ss. 83-86 modified (7.8.1991) by [S.I. 1991/1773](#), art. 8, **Sch.2**.

C57 Ss. 83-86 modified (10.1.1992) by [S.I. 1991/2913](#), art. 8, **Sch.2**.

Public sanitary conveniences

87 Provision of public conveniences. **E+W**

[^{F76}(1) A county council, . . . ^{F77}, a local authority or a parish or community council may, subject to subsection (2) of this section, provide sanitary conveniences in proper and convenient situations.

(2) Any such council or authority shall not provide any such convenience in or under a highway or proposed highway for which they are not the highway authority without the consent of the highway authority.]

(3) [^{F78}Any such council or] authority who provide any public sanitary conveniences, may—

- (a) make byelaws as to the conduct of persons using or entering them;
- (b) let them for such term, at such rent, and subject to such conditions as they think fit;
- (c) charge such fees for the use of any such conveniences, other than urinals, as they think fit.

(4) In this section the expression “sanitary conveniences” includes lavatories.

Textual Amendments

F76 S. 87(1)(2) substituted by [Local Government Act 1972 \(c. 70\)](#), **Sch. 14 para. 9(1)**

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

F77 Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

F78 Words substituted by [Local Government Act 1972 \(c. 70\)](#), [Sch. 14 para. 9\(2\)](#)

Modifications etc. (not altering text)

C58 S. 87 modified by [S.I. 1973/686, art. 3\(1\)](#), [Sch. 3](#)

C59 Functions of Minister of Transport under s. 87(1) in relation to Wales now exercisable by Secretary of State: [S.I. 1965/319, art. 3](#), [Sch. 2 Pt. I](#)

88 ^{F79} **E+W**

Textual Amendments

F79 S. 88 repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), [Sch. 7](#)

89 ^{F80} **E+W**

Textual Amendments

F80 S. 89 repealed by [Local Government \(Miscellaneous Provisions\) Act 1976 \(c. 57\)](#), [Sch. 2](#)

General

90 Interpretation of Part II. **E+W**

(1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say—

“cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings;

“closet” includes privy;

“earthcloset” means a closet having a moveable receptacle for the reception of faecal matter and its deodorisation by the use of earth, ashes or chemicals, or by other methods;

“joint sewerage board” includes any authority or committee constituted for the purpose of collecting and dealing with the contents of sewers from the districts of two or more local authorities;

“sanitary conveniences” means closets and urinals;

... ^{F81}

“surface water” includes water from roofs;

“vermin,” in its application to insects and parasites, includes their eggs, larvæ and pupæ, and the expression “verminous” shall be construed accordingly; and

“watercloset” means a closet which has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action.

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936, Part II. (See end of Document for details)

- (2) For the purposes of this Part of this Act [^{F82}except sections 61 to 71 and any other enactment to which section 74(1) of the ^{M7}Health and Safety at Work etc. Act 1974 applies], any of the following operations shall be deemed to be the erection of a building, that is to say—
- (i) the re-erection of any building or part of a building when an outer wall of that building or, as the case may be, that part of a building has been pulled down, or burnt down, to within ten feet of the surface of the ground adjoining the lowest storey of the building or of that part of the building;
 - (ii) the re-erection of any frame building or part of a frame building when that building or part of a building has been so far pulled down, or burnt down, as to leave only the framework of the lowest storey of the building or of that part of the building.
 - (iii) the roofing over of any open space between walls or buildings;
- and the word “erect” shall be construed accordingly.
- (3) ^{F83}
- (4) Any reference in this Part of this Act to a drain or to a sewer shall be construed as including a reference to any manholes, ventilating shafts, pumps or other accessories belonging to that drain or sewer, and any reference in this Part of this Act to sewage disposal works shall be construed as including a reference to the machinery and equipment of those works and any necessary pumping stations and outfall pipes.
- (5) Any reference in this Part of this Act to the construction of a sewer or sewage disposal works shall be construed as including a reference to the extension of an existing sewer or of existing works.
- (6) ^{F83}

Textual Amendments

- F81** Definition of “sewerage authority” repealed by [Water Act 1973 \(c. 37\)](#), [Sch. 9](#)
F82 Words substituted by Health and Safety at [Work etc. Act 1974 \(c. 37\)](#), [Sch. 6 Pt. I para. 3\(a\)](#)
F83 [S. 90\(3\)\(6\)](#) repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), [Sch. 7](#)

Modifications etc. (not altering text)

- C60** [S. 90\(2\)](#) excluded by [Public Health Act 1961 \(c. 64\)](#), [Sch. 2 para. 6](#)

Marginal Citations

- M7** [1974 c. 37](#).

Status:

Point in time view as at 01/02/1991.

Changes to legislation:

There are currently no known outstanding effects for the Public Health Act 1936, Part II.