



# Public Health Act 1936

1936 CHAPTER 49 26 Geo 5 and 1 Edw 8

## PART II **E+W**

### SANITATION AND BUILDINGS

*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 [<sup>F1</sup>local] 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 . . . 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 test, other than a test by water under pressure, and, if they deem it necessary, open the ground.

(1A) . . . . .

(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

**F1** Word in s. 48(1) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60\), ss. 2, 4\(2\), Sch. 1 para. 2\(1\)](#) (by virtue of which provision s. 48 ceased to have effect (1.12.1991) in relation to a drain or private sewer connecting with a public sewer).

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

**C1** S. 48 amended by [Radioactive Substances Act 1960 \(c. 34\), s. 9, Sch. 1 Pt. I para. 3](#)  
S. 48 amended (27.8.1993) by [1993 c. 12, ss. 40, 51\(2\), Sch. 3 Pt. I para.1](#)

**C2** S. 48 modified (7.8.1991) by [S.I. 1991/1773, art. 8, Sch.2](#).

**Changes to legislation:** There are currently no known outstanding effects for the Public Health Act 1936, Cross  
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- C3** S. 48 repealed (in relation to a drain or private sewer connecting with a public sewer) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60\), ss. 2, 4\(2\), Sch. 1 para. 2\(1\)](#).
- C4** s. 48 modified (10.1.1992) by [S.I. 1991/2913, art 8, Sch.2](#).
- C5** S. 48 modified (E.) (6.4.2010) by [The Southampton Port Health Authority Order 2010 \(S.I. 2010/1218\), arts. 1\(1\), 4, Sch.](#)
- C6** S. 48 modified (E.) (6.4.2010) by [The Portsmouth Port Health Authority Order 2010 \(S.I. 2010/1217\), arts. 1\(1\), 4, Sch.](#)
- C7** S. 48 modified (E.) (6.4.2010) by [The Cornwall Port Health Authority Order 2010 \(S.I. 2010/1215\), arts. 1\(1\), 4, Sch. \(with art. 2\)](#)
- C8** S. 48 modified (E.) (6.4.2010) by [The Cowes Port Health Authority Order 2010 \(S.I. 2010/1216\), arts. 1\(1\), 4, Sch.](#)
- C9** S. 48 modified (E.) (6.4.2010) by [The Bristol Port Health Authority Order 2010 \(S.I. 2010/1214\), arts. 1, 4, Sch.](#)
- C10** S. 48 modified (24.3.2011) by [The Hull and Goole Port Health Authority Order 2011 \(S.I. 2011/939\), arts. 1\(1\), 9, Sch. 2](#)
- C11** S. 48 modified by [SI 2010/675 Sch. 23 Pt. 8 para. 3 Table 9 \(as substituted \(1.10.2011\) by The Environmental Permitting \(England and Wales\) \(Amendment\) Regulations 2011 \(S.I. 2011/2043\), reg. 1\(b\), Sch. 1\)](#)
- C12** S. 48 functions transferred and modified (E.) (14.6.2016) by [The River Tees Port Health Authority Order 2016 \(S.I. 2016/644\), arts. 1\(1\), 9, Sch. 2](#)
- C13** S. 48 modified (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\), reg. 1\(1\), Sch. 23 paras. 1\(3\), 2 Table 9 \(with regs. 1\(3\), 77-79, Sch. 4\)](#)
- C14** S. 48 functions transferred and modified (E.) (31.3.2017) by [The Weymouth Port Health Authority Order 2017 \(S.I. 2017/558\), arts. 1\(1\), 9, Sch. 2 \(with art. 9\(3\)\)](#)

#### 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 [<sup>F2</sup>level 1 on the standard scale], and to a further fine not exceeding [<sup>F3</sup>£2] for each day on which the offence continues after conviction therefor.

#### Textual Amendments

- F2** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#)
- F3** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

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

- C15** S. 49 modified (E.) (24.3.2011) by [The Hull and Goole Port Health Authority Order 2011 \(S.I. 2011/939\), arts. 1\(1\), 9, Sch. 2](#)
- C16** S. 49 functions transferred and modified (E.) (14.6.2016) by [The River Tees Port Health Authority Order 2016 \(S.I. 2016/644\), arts. 1\(1\), 9, Sch. 2](#)
- C17** S. 49 functions transferred and modified (E.) (31.3.2017) by [The Weymouth Port Health Authority Order 2017 \(S.I. 2017/558\), arts. 1\(1\), 9, Sch. 2 \(with art. 9\(3\)\)](#)

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

- (1) If the contents of any cesspool soak therefrom or overflow, the local authority . . .  
<sup>F4</sup> 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.
- (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 [<sup>F5</sup>level 1 on the standard scale], and to a further fine not exceeding [<sup>F6</sup>£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

- F4** 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)
- F5** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46
- F6** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), s. 10(1)

### Modifications etc. (not altering text)

- C18** S. 50 modified (7.8.1991) by [S.I. 1991/1773](#), art. 8, **Sch.2**.
- C19** S. 50 modified (10.1.1992) by [S.I. 1991/2913](#), art. 8, **Sch.2**.
- C20** S. 50 modified (E.) (6.4.2010) by [The Portsmouth Port Health Authority Order 2010 \(S.I. 2010/1217\)](#), arts. 1(1), 4, **Sch.**
- C21** S. 50 functions transferred and modified (E.) (14.6.2016) by [The River Tees Port Health Authority Order 2016 \(S.I. 2016/644\)](#), arts. 1(1), 9, **Sch. 2**
- C22** S. 50 functions transferred and modified (E.) (31.3.2017) by [The Weymouth Port Health Authority Order 2017 \(S.I. 2017/558\)](#), arts. 1(1), 9, **Sch. 2** (with art. 9(3))

## 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 [<sup>F7</sup>level 1 on the standard scale]

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### Textual Amendments

**F7** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**

### Modifications etc. (not altering text)

- C23** S. 51 amended (Greater London) by [London Government Act 1963 \(c. 33\)](#), **Sch. 11 Pt. I para. 13**
- C24** Ss. 51-52 modified (7.8.1991) by [S.I. 1991/1773](#), art. 8, **Sch.2**.
- C25** Ss. 51-52 modified (10.1.1992) by [S.I. 1991/2913](#), art. 8, **Sch.2**.
- C26** S. 51 modified (E.) (6.4.2010) by [The Cowes Port Health Authority Order 2010 \(S.I. 2010/1216\)](#), arts. 1(1), 4, **Sch.**
- C27** S. 51 modified (E.) (6.4.2010) by [The Cornwall Port Health Authority Order 2010 \(S.I. 2010/1215\)](#), arts. 1(1), 4, **Sch.** (with art. 2)
- C28** S. 51 modified (E.) (6.4.2010) by [The Bristol Port Health Authority Order 2010 \(S.I. 2010/1214\)](#), arts. 1, 4, **Sch.**
- C29** S. 51 modified (E.) (6.4.2010) by [The Southampton Port Health Authority Order 2010 \(S.I. 2010/1218\)](#), arts. 1(1), 4, **Sch.**
- C30** S. 51 modified (E.) (6.4.2010) by [The Portsmouth Port Health Authority Order 2010 \(S.I. 2010/1217\)](#), arts. 1(1), 4, **Sch.**
- C31** Ss. 51 52 modified (24.3.2011) by [The Hull and Goole Port Health Authority Order 2011 \(S.I. 2011/939\)](#), arts. 1(1), 9, **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 the drain therefrom, he shall be liable to a fine not exceeding [<sup>F8</sup>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 [<sup>F8</sup>level 1 on the standard scale], and to a further fine not exceeding [<sup>F9</sup>£2] for each day on which the offence continues after conviction therefor.

### Textual Amendments

**F8** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **s. 46**

**F9** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), **s. 10(1)**

### Modifications etc. (not altering text)

- C31** Ss. 51 52 modified (24.3.2011) by [The Hull and Goole Port Health Authority Order 2011 \(S.I. 2011/939\)](#), arts. 1(1), 9, **Sch. 2**
- C32** Ss. 51-52 modified (7.8.1991) by [S.I. 1991/1773](#), art. 8, **Sch.2**.
- C33** Ss. 51-52 modified (10.1.1992) by [S.I. 1991/2913](#), art. 8, **Sch.2**.
- C34** S. 52 modified (E.) (6.4.2010) by [The Bristol Port Health Authority Order 2010 \(S.I. 2010/1214\)](#), arts. 1, 4, **Sch.**
- C35** S. 52 modified (E.) (6.4.2010) by [The Cowes Port Health Authority Order 2010 \(S.I. 2010/1216\)](#), arts. 1(1), 4, **Sch.**

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- C36** S. 52 modified (E.) (6.4.2010) by The Southampton Port Health Authority Order 2010 (S.I. 2010/1218), arts. 1(1), 4, **Sch.**
- C37** S. 52 modified (E.) (6.4.2010) by The Portsmouth Port Health Authority Order 2010 (S.I. 2010/1217), arts. 1(1), 4, **Sch.**
- C38** S. 52 modified (E.) (6.4.2010) by The Cornwall Port Health Authority Order 2010 (S.I. 2010/1215), arts. 1(1), 4, **Sch.** (with art. 2)

**53—** ..... <sup>F10</sup> **E+W**  
**62.**

**Textual Amendments**

**F10** Ss. 53–62 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

**63** ..... <sup>F11</sup> **E+W**

**Textual Amendments**

**F11** S. 63 repealed by Public Health Act 1961 (c. 64), **Sch. 5 Pt. 1**

**64** ..... <sup>F12</sup> **E+W**

**Textual Amendments**

**F12** 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—** ..... <sup>F13</sup> **E+W**  
**67.**

**Textual Amendments**

**F13** Ss. 65–67 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

**68, 69.** ..... <sup>F14</sup> **E+W**

**Textual Amendments**

**F14** Ss. 68, 69 repealed by Public Health Act 1961 (c. 64), **Sch. 5 Pt. 1**

**70, 71.** ..... <sup>F15</sup> **E+W**

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### Textual Amendments

**F15** Ss. 70, 71 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

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