



Metropolis Management Act 1855

1855 CHAPTER 120

Miscellaneous Clauses

CCXV Where Two or more Persons are to do any Act or pay any Sum of Money, Vestry or District Board may apportion the same.

Where, under the Authority of this Act, Two or more Persons are or may be directed by any Vestry or District Board to do or join in doing any Act, or to pay or join in paying any Sum of Money, Costs, or Expenses, or where any Vestry or District Board are authorized or think proper to permit Two or more Persons to join together in doing any Act, or paying any Sum of Money, Costs, or Expenses, it shall be lawful for the Vestry or District Board to apportion the Matter to be done, or the Sum of Money, Costs, or Expenses to be paid, between such Persons, in such Manner as the Vestry or Board consider just and reasonable.

CCXVI Power to Vestries and District Boards to spread Repayment of Expenses over a Period not exceeding Twenty Years.

In all Cases where any Vestry or District Board is authorized to order any Costs, Charges, or Expenses to be paid by private Parties it shall be lawful for such Vestry or District Board to order and accept Payment, of such Costs, Charges, Expenses, together with Interest thereon after a Rate not exceeding Five Pounds for the Hundred by the Year, by Instalments, within such Period, not exceeding Twenty Years in each Case, as they may determine, the Amount thereof to be recoverable in the same Manner as other Expenses are to be recovered under this Act.

CCXVII Occupiers to pay Expenses for which Owners are liable, and to be reimbursed out of the Rent.

It shall be lawful for any Vestry or District Board to require the Payment of any Costs or Expenses which the Owner of any Premises may be liable to pay under this Act from any Person who then or at any Time thereafter occupies such Premises; and the Owner shall allow every such Occupier to deduct all Sums of Money which he so pays, or which are levied by Distress, out of the Rent from Time to Time becoming due

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in respect of the said Premises, as if the same had been actually paid to such Owner as Part of such Rent.

CCXVII Occupier not to be required to pay more than the Amount of Rent owing by him.

Provided always, That no such Occupier shall be required to pay any further Sum, than the Amount of Rent for the Time being due from him, or which, after such Demand of such Costs or Expenses from such Occupier, and after Notice not to pay his Landlord any Rent without first deducting the Amount of such Costs or Expenses, becomes payable by such Occupier, unless he refuse, on Application being made to him for that Purpose by or on behalf of the Vestry or District Board, truly to disclose the Amount of his Rent, and the Name and Address of the Person to whom such Rent is payable; but the Burden of Proof that the Sum demanded from any such Occupier is greater than the Rent due by him at the Time of such Notice, or which has since accrued, shall lie upon such Occupier.

CCXIX Agreements between Landlord and Tenant not to be affected.

Provided also, That nothing herein contained shall be taken to affect any Contract made or to be made between any Owner and Occupier of any House, Building, or other Property whereof it is or may be agreed that the Occupier shall pay and discharge all Rates, Dues, and Sums of Money payable in respect of such House, Building, or other Property, or to affect any Contract whatsoever between Landlord and Tenant.

CCXX As to Service of Notices, &c. on Metropolitan and District Boards and Vestries.

Any Summons or Notice, or any Writ or other Process at Law or in Equity, or any other Matter or Thing whatsoever, required to be served upon the Metropolitan Board of Works or any District Board or Vestry, may, unless herein otherwise provided, lawfully be served by delivering the same personally to the Clerk of such respective Board or Vestry, or by leaving the same at the principal Office of such Board or Vestry.

CCXXI As to Service of Notices on Owners and Occupiers and other Persons.

All Notices by this Act required to be given to the Owner or Occupier of any Land or Premises, or other Person, may be served personally on such Owner, Occupier, or Person, or left with some Inmate of his Place of Abode, and any Notice required to be given to any such Owner or Occupier may, if there be no Occupier, be affixed to some conspicuous Part of the Land or Premises, and it shall not be necessary in any Notice to any Owner or Occupier of any Land or Premises to name such Owner or Occupier: Provided always, that where there is no Occupier, and the Owner of any such Land or Premises, and his Place of Abode or that of his Agent is known to the Vestry or Board by or on behalf of whom such Notice is given, or any of their Officers, such Notice shall be served on such Owner personally, or left with some Inmate of his Place of Abode, or transmitted to such Owner through the Post Office, addressed to him at his Place of Abode Or last known Place of Abode in the United Kingdom, or served on his Agent as aforesaid.

CCXXII Authentication of Documents.

Every Notice, Demand, or like Document given by or on behalf of the Metropolitan Board of Works, or any Vestry or District Board, under this Act, may be in Writing or

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Print, or partly in Writing and partly in Print, and shall be sufficiently authenticated if Signed by their- Clerk or by the Officer by whom the same is given.

CCXXII Proof of Debts in Bankruptcy.

If any Person against whom the Metropolitan Board of Works, or any District Board or Vestry, have any Claim or Demand, become bankrupt, or take the Benefit of any Act for the Relief of Insolvent Debtors, it shall be lawful for the Clerk or Collector, in all Proceedings under the Bankruptcy or Insolvency, to represent such Board or Vestry, and act in their Behalf in all respects as if such Claim or Demand were the Claim or Demand of the Clerk or Collector, and not of such Board or Vestry.

CCXXIII Tender of Amends.

If any Party have committed any Irregularity, Trespass, or other wrongful Proceeding in the Execution of this Act, or any Act incorporated therewith, or by virtue of any Power or Authority given by this Act or such other Act as aforesaid, and if before Action brought in respect thereof such Party make Tender of sufficient Amends to the Party injured, such last-mentioned Party shall not recover in any such Action.

CCXXIV Compensation, Damage, and Expenses how to be ascertained and recovered.

In every Case where the Amount of any Damage, Costs, or Expenses is by this Act directed to be ascertained or recovered in a summary Manner, or the Amount of any Damage, Costs, or Expenses is by this Act directed to be paid, and the Method of ascertaining the Amount or enforcing the Payment thereof is not provided for, such Amount shall, in case of Dispute, be ascertained and determined by and shall be recovered before Two Justices; and the Amount of any Compensation to be made under this Act by the said Metropolitan Board, or any Vestry or District Board, shall, unless herein otherwise provided, be settled, in case of Dispute, by and shall be recovered before Two Justices, unless the Amount of Compensation claimed exceed Fifty Pounds, in which Case the Amount thereof shall be settled by Arbitration, according to the Provisions contained in the Lands Clauses Consolidation Act, 1845, which are applicable where Questions of disputed Compensation are authorized or required to be settled by Arbitration.

CCXXV Method of proceeding before Justices in Questions of Damages, &c.

Where the Amount of any Compensation, or of any Damage, Costs, or Expenses, is to be determined by or to be recovered before Two Justices, it shall be lawful for any Justice, upon the Application of either Party, to summon the other Party to appear before Two Justices, at a Time and Place to be named in such Summons; and upon the Appearance of such Parties, or, in the Absence of either of them, upon Proof of due Service of the Summons, it shall be lawful for such Two Justices to hear and determine the Matter, and for that Purpose to examine such Parties, or any of them, and their Witnesses, on Oath, and make such Order, as well as to Costs as otherwise, as to them may seem just.

CCXXVI Penalties, &c. to be recovered as provided by 11 & 12 Vict. c.43.

Every Penalty or Forfeiture imposed by this Act, or by any Byelaw made in pursuance thereof, the Recovery of which is not otherwise provided for, may be recovered by

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summary Proceedings before any Justice in manner provided by the Act of the Session holden in the Eleventh and Twelfth Years of Her Majesty, Chapter Forty-three, " to facilitate the Performance of the Duties of Justices " of the Peace out of Sessions within *England and Wales* with " respect to summary Convictions and Orders."

CCXXVIII Images to be made good in addition to Penalty.

If, through any Act, Neglect, or Default on account whereof any Person has incurred any Penalty imposed by this Act, any Damage to the Property of the said Metropolitan Board, or any Vestry or District Board, has been committed by such Person, he shall be liable to make good such Damage, as well as to pay such Penalty; and the Amount of such Damage, in case of Dispute, shall be determined by the Justices by whom the Party incurring such Penalty is convicted, and the Payment of the Amount of such Damage may be enforced in all respects as such Penalty.

CCXXIX Transient Offenders.

It shall be lawful for any Officer or Servant of the said Metropolitan Board, or any Vestry or District Board, and for any Police Constable, and all Persons called by him to his Assistance, to seize and detain any Person who has committed any Offence against the Provisions of this Act, or any Byelaw made in pursuance thereof, and whose Name and Residence shall be unknown to such Officer or Servant or Police Constable, and convey him with all convenient Despatch before some Justice, without any Warrant or other Authority than this Act; and such Justice shall proceed with all convenient Despatch to the hearing and determining of the Complaint against such Offender.

CCXXX Proceedings not to be quashed for Want of Form.

No Act, Order, or Proceeding in pursuance of this Act, or in relation to the Execution thereof, shall be quashed or vacated for Want of Form, nor shall the same be removed by Certiorari or otherwise into any of the Superior Courts, except as herein specially provided,

CCXXXI Parties allowed to appeal to Quarter Sessions, on giving Security.

If any Person feel aggrieved by any Adjudication or Determination of any Justice or Justices with respect to any Penalty or Forfeiture under the Provisions of this Act, such Party may appeal to the General or Quarter Sessions; but no such Appeal shall be entertained unless it be made within Four Months next after the making such Determination or Adjudication, nor unless Ten Days Notice in "Writing of such Appeal, stating the Nature and Grounds thereof, be given to the Party against whom the Appeal is brought, nor unless the Appellant forthwith after such Notice enter into Recognizances, with Two Sureties, before Two Justices, conditioned duly to prosecute such Appeal, and to abide the Order of the Court thereon.

CCXXXII Court to make such Order as they think reasonable.

At the General or Quarter Sessions for which such Notice is given the Court shall proceed to hear and determine the Appeal in a summary Way, or they may, if they think fit, adjourn it to the following Sessions; and upon the hearing of such Appeal the Court may, if they think fit, mitigate any Penalty or Forfeiture, or they may confirm or quash the Adjudication, and order any Money paid to the Appellant, or levied by Distress

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upon his Goods, to be returned to him, and may also order such further Satisfaction to be made to the Party injured as they may judge reasonable, and they may make such Order concerning the Costs, both of the Adjudication and of the Appeal, as they may think reasonable.

CCXXXII Penalties to be sued for within Six Months.

No Person shall be liable to the Payment of any Penalty or Forfeiture under this Act, or any Byelaw made by virtue thereof, for any Offence made cognizable before a Justice, unless the Complaint respecting such Offence have been made before such Justice within Three Months next after the Commission or Discovery of such Offence.

CCXXXIII Application of Penalties.

If the Application of any Penalty or Forfeiture be not otherwise provided for, One Half thereof shall go to the Informer, and the Remainder shall go to the Vestry or District Board of the Parish or District in which the Offence was committed, or if such Vestry or Board be the Informers, the whole of the Penalty recovered shall go to them ; and all Sums which shall go to or be recovered by any such Vestry or Board on account of any such Penalty or Forfeiture shall be paid to their Treasurer, or otherwise into such Bank, to their Account, as they may direct, and shall be applicable to the general Expenses of the Vestry or Board; provided that in every Case where any Vestry or Board are liable to any Penalty or Forfeiture the whole of such Penalty or Forfeiture shall go to the Informer.