



# Public Health Act 1936

## 1936 CHAPTER 49

### PART XII

#### GENERAL.

*Interpretation, transitory provisions, repeals, dec.*

#### **342 Application of portions of Act to London.**

- (1) In any Part or section of this Act which is declared to extend to London any reference to a local authority shall be construed as including a reference to the Common Council of the City of London and the council of a metropolitan borough, and any reference to the district of a local authority shall be construed as including a reference to the City of London and to a metropolitan borough.
- (2) For the purposes of their functions under any such Part or section of this Act as aforesaid, the Common Council of the City of London and the council of a metropolitan borough may borrow—
  - (i) in the case of the Common Council of the City of London, under and in accordance with the City of London Sewers Acts, 1848 to 1897, as amended by any subsequent enactment;
  - (ii) in the case of the council of a metropolitan borough, in the like manner, and subject to the like conditions, as for the purposes of the Metropolis Management Acts, 1855 to 1893.
- (3) The provisions of those sections of this Part of this Act which are specified in the Second Schedule to this Act shall extend to London in so far as they are material for the purposes of any other provisions of this Act which so extend.

#### **343 Interpretation.**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

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" authorised officer " means, as respects any council, an officer of the council authorised by them in writing, either generally or specially, to act in matters of any specified kind, or in any specified matter:

Provided that the medical officer of health, surveyor and sanitary inspector of a council shall, by virtue of their appointments, be deemed to be authorised officers for the purpose of matters within their respective provinces;

" bridge authority " means—

- (i) in the case of a county bridge the county council;
- (ii) in the case of a bridge which carries a highway repairable by the inhabitants at large but is not a county bridge, the council who are the highway authority in respect of that highway; and
- (iii) in the case of any other bridge, the authority or person responsible for the maintenance thereof;

" building byelaws " means byelaws made under Part II of this Act with respect to buildings, works and fittings, and includes also byelaws made with respect to those matters under any corresponding enactment repealed by this Act, or under any such enactment as amended or extended by a local Act;

" clerk, " in relation to a local authority being the council of a borough, means the town clerk;

" coastal waters " means waters within a distance of three nautical miles from any point on the coast measured from low-water mark of ordinary spring tides;

" contributory place " means—

- (a) a rural parish no part of which is included in a special purpose area formed under this Act or under any Act repealed by this Act or by the Public Health Act, 1875;
- (b) a special purpose area so formed; and
- (c) in the case of a rural parish part of which forms or is included in a special purpose area formed as aforesaid, such part of the parish as is not comprised within that area;

" county " means an administrative county;

" county district " means a non-county borough, urban district or rural district;

" dock undertakers " means persons who are statutory undertakers in respect of a dock, harbour, canal, or inland navigation;

" drain " means a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage ;

" dustbin " means a movable receptacle for the deposit of ashes or refuse;

" emoluments " has the same meaning as it has in the Local Government Act, 1933;

" enactment " includes any enactment in a provisional order confirmed by Parliament;

" factory " means a factory within the meaning of the Factory and Workshop Acts, 1901 to 1929; " functions " includes powers and duties ;

" highway authority " means, in the case of a highway repairable by the inhabitants at large, the council in whom that highway is vested;

" hospital " includes any premises for the reception of the sick;

" house " means a dwelling-house, whether a private dwelling-house or not;

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- " inland waters " includes rivers, harbours and creeks;
- " joint board " means a joint board constituted under this Act or under any Act repealed by this Act, and includes such a board acting as a port health authority;
- " land " includes any interest in land and any easement or right in, to or over land;
- " land drainage authority " means a drainage authority within the meaning of the Land Drainage Act, 1930;
- " local Act " includes a provisional order confirmed by Parliament and the confirming Act so far as it relates to that order;
- " local authority " has the meaning assigned to it in section one of this Act;
- " London " means the administrative county of London;
- " Minister " means the Minister of Health;
- " notifiable disease " means any of the following diseases, namely, small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric or relapsing, and includes, as respects any particular district, any infectious disease to which Part V of this Act or any corresponding enactment repealed by this Act has been applied by the local authority of the district in manner provided by that Part or that enactment;
- " officer " includes servant;
- " owner " means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if those premises were let at a rackrent;
- " planning scheme " means a scheme made under the Town Planning Act, 1925, or the Town and Country Planning Act, 1932, or any enactment repealed by either of those Acts;
- " prejudicial to health " means injurious, or likely to cause injury, to health;
- " premises " includes messuages, buildings, lands, easements and hereditaments of any tenure;
- " private sewer " means a sewer which is not a public sewer;
- " public sewer " has the meaning assigned to it in section twenty of this Act;
- " rackrent " in relation to any property means a rent which is not less than two-thirds of the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe rentcharge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the same in a state to command such rent;
- " railway company " means persons who are statutory undertakers in respect of a railway undertaking;
- " school " includes a Sunday school or a Sabbath school;
- " sewer " does not include a drain as defined in this section but, save as aforesaid, includes all sewers and drains used for the drainage of buildings and yards appurtenant to buildings;
- " statutory order " means an order, rule or regulation made under any enactment;
- " statutory scheme " means a scheme made under any enactment;

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" statutory undertakers " means any persons authorised by an enactment or statutory order to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking;

" street " includes any highway, including a highway over any bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

" vessel " has the same meaning as in the Merchant Shipping Act, 1894;

" waterworks " includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines and all machinery, lands, buildings and things for supplying, or used for supplying, water, or used for protecting sources of water supply;

" workplace " does not include a factory or workshop, but save as aforesaid includes any place in which persons are employed otherwise than in domestic service;

" workshop " means a workshop within the meaning of the Factory and Workshop Act, 1901.

- (2) In the construction of any enactment incorporated with this Act, the expressions " the undertakers " and " the special Act " shall be construed as meaning respectively the local authority and this Act.
- (3) Nothing in this section shall affect the interpretation of expressions which are used in any local Act, statutory order or scheme passed or made before the commencement of this Act and are denned as having for the purposes thereof the same meaning as in some enactment repealed by this Act.

#### **344 Transitional provisions as to existing temporary buildings.**

- (1) Where at the commencement of this Act there is in existence a building to the erection of which a local authority have given their consent either under section twenty-seven of the Public Health Acts Amendment Act, 1907, or under section twenty-five of the Housing, Town Planning, &c, Act, 1919, the local authority may under this section extend the period fixed by them, either originally or by way of extension, as the period during which the building may be allowed to stand or, as the case may be, may be allowed to be used for human habitation, and any person aggrieved by their refusal to extend any such period may appeal to a court of summary jurisdiction.
- (2) The owner of any such building shall, on the expiration of the period fixed, or, as the case may be, of that period as extended, remove the building if it was erected under the said Act of 1907 or discontinue its use for human habitation if it was erected under the said Act of 1919, and, if he fails to do so, the local authority shall remove the building and may 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 ten pounds and to a further fine not exceeding five pounds for each day during which the building is allowed to remain, or, as the case may be, is allowed to be used for human habitation after the conviction.

#### **345 Transitional provisions as to offences and notices.**

- (1) Where an offence (being an offence for the continuance of which a penalty was provided) has been committed under any enactment repealed by this Act, proceedings

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may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provisions of this Act.

(2) Where an enactment repealed and re-enacted, with or without modifications, by this Act relates to the giving of notices—

- (i) not less than a specified period before; or
- (ii) within a specified period after,

the doing of some act or the happening of some event, and the commencement of this Act falls within the period applicable under that enactment to any particular act done or to any particular event, the repeal and re-enactment shall be deemed to have taken effect in relation to that act or event, in the first-mentioned case, at a date sufficiently early to enable the required notice to be given under the corresponding provisions of this Act, and, in the secondly mentioned case immediately before the doing of the act or the happening of the event in question.

### **346 Repeals.**

(1) The following Acts are hereby repealed to the following extent:—

- (a) the Public Health Act, 1875, the Public Health Acts Amendment Act, 1890, the Public Health Acts Amendment Act, 1907, and the Public Health Act, 1925, to the extent specified in the First, Second, Third and Fourth Parts respectively of the Third Schedule to this Act ;
- (b) the Acts mentioned in the second column of the Fifth Part of that Schedule, to the extent specified in the third column of that Part of that Schedule,

and the said repeal shall as respects the Acts mentioned in the second column of the Sixth and Seventh Parts of that Schedule, to the extent specified in the third column of those Parts, extend to London and to Northern Ireland, the Isle of Man and the Channel Islands respectively :

Provided that—

- (a) save as expressly provided in this Act, nothing in this repeal shall affect any byelaw in force at the commencement of this Act, and, while such a byelaw continues in force by virtue of this proviso, any question as to its application or interpretation shall be determined as if this Act had not been passed ;
- (b) nothing in this repeal shall affect the constitution of any authority, board or committee constituted for any district or area under any enactment repealed by this Act, and any such authority, board or committee shall continue to act for that district or area as if they and it had been constituted under the corresponding provisions of this Act;
- (c) in so far as any appointment, agreement, scheme, order, rule, regulation, requirement, apportionment or representation made, or any resolution passed, or any notice, direction, consent, sanction, approval, exemption or certificate given under any enactment repealed by this Act, or any charge conferred by, or any conditions imposed, or any proceeding instituted, or any other thing done, under any such enactment, could have been made, passed, given, conferred, imposed, instituted or done under or by a corresponding provision of this Act, it shall not be invalidated by this repeal, but shall have effect as if it had been made, passed, given, conferred, imposed, instituted or done under or by that corresponding provision and, in the case of any legal proceeding, may be continued and appealed against as if this Act had not been passed;

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- (d) where immediately before the commencement of this Act a local authority were recovering any expenses by means of private improvement rates they may continue to recover the unpaid balance of those expenses by means of such rates as if this Act had not been passed;
  - (e) the repeal of section twenty-seven of the Public Health Acts Amendment Act, 1907, shall not take effect in the district of a local authority until the date on which building byelaws made by that authority under this Act come into force in the district, or until the expiration of one year from the commencement of this Act, whichever date may first occur;
  - (f) the repeal of the Isolation Hospitals Acts, 1893 and 1901, shall not take effect until the expiration of two years from the commencement of this Act.
- (2) If any enactments or words mentioned in the Third Schedule to this Act are, wholly or partly, re-enacted in a Consolidation Act of the present session of Parliament, the references in the said Schedule to those enactments or words shall be construed as including references to such enactments or words in the Consolidation Act as His Majesty in Council may declare to be corresponding enactments or words, and accordingly any enactments and words to which such declaration extends shall also be repealed by this section.
- (3) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment, if any, in this Act.
- (4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

**347 Short title, date of commencement, and extent.**

- (1) This Act may be cited as the Public Health Act, 1936, and shall come into operation on the first day of October, nineteen hundred and thirty-seven.
- (2) This Act shall not extend to Scotland nor, except as otherwise expressly provided, to Northern Ireland or London.