



Public Health Act 1875

1875 CHAPTER 55

PART V

GENERAL PROVISIONS.

CONTRACTS.

173 Power of local authorities to contract.

Any local authority may enter into any contracts necessary for carrying this Act into execution.

174 Provisions to contracts by urban authority.

With respect to contracts made by an urban authority under this Act, the following regulations shall be observed ; (namely,)

- (1) Every contract made by an urban authority whereof the value or amount exceeds fifty pounds shall be in writing and sealed with the common seal of such authority :
- (2) Every such contract shall specify the work materials matters or things to be furnished had or done, the price to be paid, and the time or times within which the contract is to be performed, and shall specify some pecuniary penalty to be paid in case the terms of the contract are not duly performed :
- (3) Before contracting for the execution of any works under the provisions of this Act, an urban authority shall obtain from their surveyor an estimate in writing, as well of the probable expense of executing the work in a substantial manner as of the annual expense of repairing the same ; also a report as to the most advantageous mode of contracting, that is to say, whether by contracting only for the execution of the work, or for executing and also maintaining the same in repair during a term of years or otherwise :
- (4) Before any contract of the value or amount of one hundred pounds or upwards is entered into by an urban authority ten days public notice at the least shall be given,

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expressing the nature and purpose thereof and inviting tenders for the execution of the same ; and such authority shall require and take sufficient security for the due performance of the same :

- (5) Every contract entered into by an urban authority in conformity with the provisions of this section, and duly executed by the other parties thereto, shall be binding on the authority by whom the same is executed and their successors and on all other parties thereto and their executors administrators successors or assigns to all intents and purposes : Provided that an urban authority may compound with any contractor or other person in respect of any penalty incurred by reason of the nonperformance of any contract entered into as aforesaid, whether such penalty is mentioned in any such contract, or in any bond or otherwise, for such sums of money or other recompense as to such authority may seem proper.

PURCHASE OF LANDS.

175 Power to purchase lands.

Any local authority may for the purposes and subject to the provisions of this Act purchase or take on lease sell or exchange any lands, whether situated within or without their district ; they may also buy up any water-mill dam or weir which interferes with the proper drainage of or the supply of water to their

Any lands acquired by a local authority in pursuance of any powers in this Act contained and not required for the purpose for which they were required shall, (unless the Local Government Board otherwise direct) be sold at the best price that can be gotten for the same, and the proceeds of such sale shall be applied towards discharge, by means of a sinking fund or otherwise, of any principal moneys which have been borrowed by such authority on the security of the fund or rate applicable by them for the general purposes of this Act, or if no such principal moneys are outstanding shall be carried to the account of such fund or rate.

176 Regulations as to purchase of land.

With respect to the purchase of lands by a local authority for the purposes of this Act, the following regulations shall be observed ; (that is to say,)

- (1) The Lands Clauses Consolidation Acts, 1845, 1860, and 1869, shall be incorporated with this Act, except the provisions relating to access to the special Act, and except section one hundred and twenty-seven of the Lands Clauses Consolidation Act, 1845 :
- (2) The local authority, before putting in force any of the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, shall

Publish once at the least in each of three consecutive weeks in the month of November, in some local newspaper circulated in their district, an advertisement describing shortly the nature of the undertaking in respect of which the lands are proposed to be taken, naming a place where a plan of the proposed undertaking may be seen at all reasonable hours, and stating the quantity of lands that they require ; and shall further

Serve a notice in the month of December on every owner or reputed owner, lessee or reputed lessee, and occupier of such lands, defining in each case the particular

lands intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such lands :

- (3) On compliance with the provisions of this section with respect to advertisements and notices, the local authority may, if they think fit, present a petition under their seal to the Local Government Board. The petition shall state the lands intended to be taken, and the purposes for which they are required, and the names of the owners lessees and occupiers of lands who have assented dissented or are neuter in respect of the taking such lands, or who have returned no answer to the notice ; it shall pray that the local authority may, with reference to such lands, be allowed to put in force the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, and such prayer shall be supported by such evidence as the Local Government Board requires :
- (4) On the receipt of such -petition and on due proof of the proper advertisements having been published and notices served the Local Government Board shall take such petition into consideration, and may either dismiss the same, or direct a local inquiry as to the propriety of assenting to the prayer of such petition ; but until such inquiry has been made no provisional order shall be made affecting any lands without the consent of the owners lessees and occupiers thereof :
- (5) After the completion of such inquiry the Local Government Board may, by provisional order, empower the local authority to put in force, with reference to the lands referred to in such order, the powers of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as the Board may think fit, and it shall be the duty of the local authority to serve a copy of any order so made in the manner and on the person in which and on whom notices in respect of such lands are required to be served :

Provided that the notices by this section required to be given in the months of November and December may be given in the months of September and October or of October and November, but in either of such last-mentioned cases an inquiry preliminary to the provisional order to which such notices refer shall not be held until the expiration of one month from the last day of the second of the two months in which the notices are given ; and any notices or orders by this section required to be served on a number of persons having any right in over or on lands in common may be served on any three or more of such persons on behalf of all such persons.

177 Power to let lands.

Any local authority may, with the consent of the Local Government Board, let for any term any lands which they may possess, as and when they can conveniently spare the same.

178 Provision for lands belonging to the Duchy of Lancaster.

The Chancellor and Council of the Duchy of Lancaster for the "time being may, if they think fit, (but subject and without prejudice to the rights of any lessee tenant or occupier,) from time to time contract with any local authority for the sale of, and may (subject as aforesaid) absolutely sell and dispose of, for such sum as to the said Chancellor and Council may appear sufficient consideration, the whole or any part of any lands belonging to Her" Majesty her heirs or successors in right of the said duchy, or any right interest or easement in through over or on any such lands which

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for the purposes of this Act such local authority from time to time deem it expedient to purchase ; and on payment of the purchase money, as provided by the Duchy of Lancaster Lands Act, 1855, the said Chancellor and Council may grant and assure to the said authority, under the seal of the said duchy, in the name of Her Majesty her heirs or successors the subject of such contract or sale, and such money shall be dealt with as if such subject had been sold under the authority of the Duchy of Lancaster Lands Act, 1855.

ARBITRATION.

179 Mode of reference to arbitration.

In case of dispute as to the amount of any compensation to be made under the provisions of this Act (except where the mode of determining the same is specially provided for), and in case of any matter which by this Act is authorised or directed to be settled by arbitration, then, unless both parties concur in the appointment of a single arbitrator, each party shall appoint an arbitrator to whom the matter shall be referred.

180 Regulations as to arbitration.

With respect to arbitrations under this Act, the following regulations shall be observed ; (that is to say,)

- (1) Every appointment of an arbitrator under this Act when made on behalf of the local authority shall be under their common seal, and on behalf of any other party under his hand, or if such party be a corporation aggregate under their common seal :
- (2) Every such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration by the parties making the same :
- (3) After the making of any such appointment the same shall not be revoked without the consent of both parties, nor shall the death of either party operate as a revocation :
- (4) If for the space of fourteen days after any matter by this Act authorised or directed to be settled by arbitration has arisen, and notice in writing by one party who has duly appointed an arbitrator has been given to the other party stating the matter to be referred, and accompanied by a copy of such appointment, the party to whom notice is given fails to appoint an arbitrator, the arbitrator appointed by the party giving the notice shall be deemed to be appointed by and shall act on behalf of both parties :
- (5) If before the determination of any matter so referred any arbitrator dies or refuses or becomes incapable to act, the party by whom such arbitrator was appointed may appoint in writing another person in his stead ; and if such party fails so to do for the space of seven days after notice in writing from the other party in that behalf, the remaining arbitrator may proceed ex parte ; and every arbitrator so appointed shall have the same powers and authorities as were vested in the arbitrator in whose stead the appointment is made :
- (6) If a single arbitrator dies or becomes incapable to act before the making of his award, or fails to make his award within twenty-one days after his appointment, or within such extended time, if any, as may have been duly appointed by him for that purpose, the matters referred to him shall be again referred to arbitration under the provisions of this Act, as if no former reference had been made :

- (7) Where there is more than one arbitrator, the arbitrators shall, before they enter on the reference, appoint by writing under their hands an umpire, and if the person appointed to be umpire dies or becomes incapable to act, the arbitrators shall forthwith appoint another person in his stead ; and if the arbitrators neglect or refuse to appoint an umpire for seven days after being requested so to do by any party to the arbitration, the Local Government Board shall, on the application of any such party, appoint an umpire :
- (8) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as may have been duly appointed by them for that purpose, the matters referred shall be determined by the umpire:
- (9) The time for making an award by arbitrators under this Act shall not in any case be extended beyond the period of two months from the date of the submission, and the time for making an award by an umpire under this Act shall not in any case be extended beyond the period of two months from the date of the reference of the matters to him:
- (10) Before any arbitrator or umpire enters on a reference under this Act he shall make and subscribe the following declaration before a justice of the peace ; (that is to say,)
- “I *A.B.* do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the Public Health Act, 1875.
- A.B.*”
- (11) Such declaration shall be annexed to the award when made ; and any arbitrator or umpire who wilfully acts contrary to such declaration shall be guilty of a misdemeanour :
- (12) Any arbitrator or arbitrators or umpire appointed by virtue of this Act may require the production of such documents in the possession or power of either party as they or he may think necessary for determining the matters referred, and may examine the parties or their witnesses on oath :
- (13) The costs of and consequent upon the reference shall be in the discretion of the arbitrator or arbitrators, or (in case the matters referred are determined by an umpire) of the umpire :
- (14) Any submission to arbitration under the provisions of this Act may be made a rule of any of the superior courts, on the application of any party thereto :
- (15) The award of arbitrators or of an umpire under this Act shall be final and binding on all parties to the reference.

181 Claims under twenty pounds may be referred to court of summary jurisdiction.

All questions referable to arbitration under this Act may, when the amount in dispute is less than twenty pounds, be determined at the option of either party before a court of summary jurisdiction, but the court may, if it thinks fit, require that any work in respect of which the claim of the local authority is made and the particulars of the claim be reported on to them by any competent surveyor, not being the surveyor of the local authority ; and the court may determine the amount of costs incurred in that behalf, and by whom such costs or any part of them shall be paid.

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182 Authentication and alteration of byelaws.

All byelaws made by a local authority under and for the purposes of this Act shall be under their common seal ; and any such byelaw may be altered or repealed by a subsequent byelaw made pursuant to the provisions of this Act: Provided that no byelaw made under this Act by a local authority shall be of any effect if repugnant to the laws of England or to the provisions of this Act.

183 Power to impose penalties on breach of byelaws.

Any local authority may, by any byelaws made by them under this Act, impose on offenders against the same such reasonable penalties as they think fit, not exceeding the sum of five pounds for each offence, and in the case of a continuing offence a further penalty not exceeding forty shillings for each day after written notice of the offence from the local authority ; but all such byelaws imposing any penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty.

Nothing in the provisions of any Act incorporated herewith shall authorise the imposition or recovery under any byelaws made in pursuance of such provisions of any greater penalty than the penalties in this section specified.

184 Confirmation of byelaws.

Byelaws made by a local authority under this Act shall not take effect unless and until they have been submitted to and confirmed by the Local Government Board, which Board is hereby empowered to allow or disallow the same as it may think proper ; nor shall any such byelaws be confirmed—

Unless notice of intention to apply for confirmation of the same has been given in one or more of the local newspapers circulated within the district to which such byelaws relate, one month at least before the making of such application ; and

Unless for one month at least before any such application a copy of the proposed byelaws has been kept at the office of the local authority, and has been open during office hours thereat to the inspection of the ratepayers of the district to which such byelaws relate, without fee or reward.

The clerk of the local authority shall, on the application of any such ratepayer, furnish him with a copy of such proposed byelaws or any part thereof, on payment of sixpence for every hundred words contained in such copy.

A byelaw required to be confirmed by the Local Government Board shall not require confirmation allowance or approval by any other authority.

185 Byelaws to be printed, &c.

All byelaws made by a local authority under this Act, or for purposes the same as or similar to those of this Act under any local Act, shall be printed and hung up in the office of such authority ; and a copy thereof shall be delivered to any ratepayer of the district to which such byelaws relate, on his application for the same ; a copy of any byelaws made by a rural authority shall also be transmitted to the overseers of every parish to which such byelaws relate, to be deposited with the public documents of the parish, and to be open to the inspection of any ratepayer of the parish at all reasonable hours.

186 Evidence of byelaws.

A copy of any byelaws made under this Act by a local authority (not being the council of a borough), signed and certified by the clerk of such authority to be a true copy and to have been duly confirmed, shall be evidence until the contrary is proved in all legal proceedings of the due making confirmation and existence of such byelaws without further or other proof.

187 Byelaws made under s. 90 of 5 & 6 W. 4 c. 76 to be submitted to Local Government Board.

Byelaws made by the council of any borough under the provisions of section ninety of the Act of the sixth year of King William the Fourth, chapter seventy-six, for the prevention and suppression of certain nuisances, shall not be required to be sent to a Secretary of State, nor shall they be subject to the disallowance in that section mentioned ; but all the provisions of this Act relating to byelaws shall apply to the byelaws so made as if they were made under this Act.

188 As to regulations of local authority.

The provisions of this Act relating to byelaws shall not apply to any regulations which a local authority is by this Act authorised to make ; nevertheless, any local authority may cause any regulations made by them under this Act to be published in such manner as they see fit.

OFFICERS AND CONDUCT OF BUSINESS OF LOCAL AUTHORITIES.

Officers of Local Authorities.

189 Appointment of officers of urban authority.

Every urban authority shall from time to time appoint fit and proper persons to be medical officer of health, surveyor, inspector of nuisances, clerk, and treasurer : Provided that if any such authority is empowered by any other Act in force within their district to appoint any such officer, this enactment shall be deemed to be satisfied by the employment under this Act of the officer so appointed, with such additional remuneration as they think fit, and no second appointment shall be made under this Act. Every urban authority shall also appoint or employ such assistants collectors and other officers and servants as may be necessary and proper for the efficient execution of this Act, and may make regulations with respect to the duties and conduct of the officers and servants so appointed or employed.

Subject, in the case of officers any portion of whose salary is paid out of moneys voted by Parliament, to the powers of the Local Government Board under this Act, the urban authority may pay to the officers and servants so appointed or employed such reasonable salaries wages or allowances as the urban authority may think proper ; and, subject as aforesaid, every such officer and servant appointed under this Act shall be removable by the urban authority at their pleasure.

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190 Appointment of officers of rural authority.

Every rural authority shall from time to time appoint fit and proper persons to be medical officer or officers of health, and inspector or inspectors of nuisances ; they shall also appoint such assistants and other officers and servants as may be necessary and proper for the efficient execution of this Act.

There may be awarded to the clerk and treasurer of the guardians of any union, in respect of the additional duties of such officers under this Act, such remuneration as the rural authority may, with the approval of the Local Government Board, determine. If the clerk of the union is unable or unwilling to undertake such additional duties, the assistant clerk of the union shall be appointed to discharge the same, with such remuneration as aforesaid.

191 As to medical officer of health, &c.

A person shall not be appointed medical officer of health under this Act unless he is a legally qualified medical practitioner ; and the Local Government Board shall have the same powers as it has in the case of a district medical officer of a union with regard to the qualification appointment duties salary and tenure of office of a medical officer of health or other officer of a local authority any portion of whose salary is paid out of moneys voted by Parliament, and may by order prescribe the qualification and duties of other medical officers of health appointed under this Act.

The same person may, with the sanction of the Local Government Board, be appointed medical officer of health or inspector of nuisances for two or more districts, by the local authorities of such districts; and the Local Government Board shall by order prescribe the mode of such appointment, and the proportions in which the expenses of such appointment and the salary and charges of such officer shall be borne by such authorities.

Any district medical officer of a union may, with the sanction of the Local Government Board and subject to such conditions as the said Board may prescribe, be appointed a medical officer of health ; and a medical officer of health may exercise any of the powers with which an inspector of nuisances is invested by this Act.

In case of illness or incapacity of the medical officer of health a local authority may appoint and pay a deputy medical officer, subject to the approval of the Local Government Board.

192 Offices tenable by same persons.

The same person may be both surveyor and inspector of nuisances ; but neither the person holding the office of treasurer, nor his partner, nor any person in the service or employ of them or either of them, shall be eligible to hold or shall in any manner assist or officiate in the office of clerk ; and neither the person holding the office of clerk, nor his partner, nor any person in the service or employ of them or either of them, shall be eligible to hold or shall in any manner assist or officiate in the office of treasurer.

Any person offending against this enactment shall forfeit and pay the sum of one hundred pounds, which may be recovered by any person, with full costs of suit, by action of debt.

193 Officers not to contract with local authority.

Officers or servants appointed or employed under this Act by the local authority shall not in anywise be concerned or interested in any bargain or contract made with such authority for any of the purposes of this Act.

If any such officer or servant is so concerned or interested, or, under colour of his office or employment, exacts or accepts any fee or reward whatsoever other than his proper salary wages and allowances, he shall be incapable of afterwards holding or continuing in any office or employment under this Act, and shall forfeit and pay the sum of fifty pounds, which may be recovered by any person, with full costs of suit, by action of debt.

194 Officers entrusted with money to give security.

Before any officer or servant of a local authority enters on any office or employment under this Act by reason whereof he will or may be intrusted with the custody or control of money, the local authority by whom he is appointed shall take from him sufficient security for the faithful execution of such office or employment, and for duly accounting for all moneys which may be intrusted to him by reason thereof.

195 Officers to account.

Every officer and servant appointed or employed under this Act by a local authority shall, when and in such manner as may be required by such authority, make out and deliver to them a true and perfect account in writing of all moneys received by him for the purposes of this Act, stating how, and to whom, and for what purpose such moneys have been disposed of, and shall, together with such account, deliver the vouchers or receipts for all payments made by him, and pay over to the treasurer all moneys owing by him on the balance of accounts.

And every such officer or servant employed in the collection of any rate made under this Act shall, within seven days after he has received any moneys on account of any such rate, pay over the same to the treasurer, and shall, as and when the local authority may direct, deliver a list signed by him and containing the names of all persons who have neglected or refused to pay any such rate, and the sums respectively due from them.

196 Summary proceedings against defaulting officers.

If any officer or servant appointed or employed under this Act by a local authority—
Fails to render accounts, or to produce and deliver up vouchers and receipts, or to pay over any moneys, as and when required by this Act, or

Fails within five days after written notice in that behalf from the local authority to deliver up to the local authority all books papers writings property and things in his possession or power, relating to the execution of this Act, or belonging to such authority,

the local authority may complain to any justice, and such justice shall thereupon summon the party charged to appear before a court of summary jurisdiction.

On the appearance of the party charged, or on proof that the summons was personally served on him, or left at his last known place of abode or business, if it appears to the court that he has failed to render any such accounts, or to pay over such moneys

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or to produce and deliver up any such vouchers or receipts books papers writings property or things as aforesaid in accordance with the provisions of this Act, and that he still fails or refuses so to do, the court may commit the offender to goal, there to remain without bail until he has rendered such accounts, paid over such moneys, and produced and delivered up all such vouchers receipts books papers writings property and things in respect of which the charge was made : Provided that a person shall not be imprisoned under this section for a period exceeding six months.

No proceeding under this section shall be construed to relieve or discharge any surety of the offender from any liability whatever.

Mode of conducting Business.

197 Urban authority to provide offices.

Every urban authority shall from time to time provide and maintain such offices as may be necessary for transacting their business, and that of their officers and servants under this Act.

198 Proceedings, &c. of urban authority being the council of a borough.

Where an urban authority are the council of a borough they shall, subject to the provisions of this Act, exercise and execute their powers authorities and duties under this Act according to the laws for the time being in force with respect to municipal corporations in England.

199 Meetings, &c. of urban authority not being the council of a borough.

Every urban authority (not being the council of a borough) shall hold an annual meeting and other meetings for the transaction of business under this Act once at least in each month, and at such other times as may be necessary for properly executing their powers and duties under this Act.

Meetings of local boards shall be held and the proceedings thereat shall be conducted in accordance with the rules as to meetings and proceedings contained in schedule I. to this Act; and any improvement commissioners may, if they think fit, adopt all or any of such rules.

200 Power of urban authority to appoint committees.

Every urban authority may from time to time appoint out of their own number so many persons as they may think fit, for any purposes of this Act which in the opinion of such authority would be better regulated and managed by means of a committee : Provided that a committee so appointed shall in no case be authorised to borrow any money, to make any rate, or to enter into any contract, and shall be subject to any regulations and restrictions which may be imposed by the authority that formed it.

201 Power of rural authority to delegate their powers and duties to a committee.

A rural authority may, at any meeting specially convened for the purpose, delegate for the current year of their office all their powers to a committee consisting wholly of their own members ; provided that one third at least of such committee shall consist

of ex-officio guardians, but in case an adequate number of such ex-officio guardians does not exist, then the number deficient shall be made up of elected guardians ; and any such committee shall have the powers by this Act vested in the rural authority by which it was formed, and shall be deemed to be during such year of office as aforesaid the rural authority of the district.

202 Power of rural authority to form parochial committee.

A rural authority (including any committee so formed as aforesaid) may, at any meeting specially convened for the purpose form for any contributory place within their district a parochial committee consisting wholly of members of such authority or committee, or partly of such members and partly of such other persons liable to contribute to the rate levied for the relief of the poor in such contributory place, and qualified in such other manner (if any) as the authority forming such parochial committee may determine.

A rural authority (including any committee so formed as aforesaid) may from time to time add to or diminish the number of the members, or otherwise alter the constitution of any parochial committee formed by it, or dissolve any parochial committee.

A parochial committee shall be subject to any regulations and restrictions which may be imposed by the authority which formed it: Provided that no jurisdiction shall be given to a parochial committee beyond the limits of the contributory place for which it is formed, and that no powers shall be delegated to a parochial committee except powers which the rural authority could exercise within such contributory place.

A parochial committee shall be deemed to be the agents of the authority which formed it, and the appointment of such committee shall not relieve that authority from any obligation imposed on it by Act of Parliament or otherwise.

A parochial committee may be empowered by the authority which formed it to incur expenses to an amount not exceeding such amount as may be prescribed by such authority; it shall report its expenditure to such authority as and when directed by such authority, and the amount so reported, if legally incurred, shall be discharged by such authority.

203 Casual vacancies in committees may be filled.

Any casual vacancy occurring by death resignation disqualification, or otherwise in any committee may be filled up within six weeks, by the authority which formed such committee, out of qualified persons.

204 Meetings and proceedings of committees.

Meetings of any committee appointed under this Act shall be held, and the proceedings thereat shall be conducted (so far as such meetings and proceedings are not regulated by the authority appointing the committee), in accordance with the rules as to meetings and proceedings contained in schedule I. to this Act.

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205 Inspectors may attend meetings of certain authorities.

Inspectors of the Local Government Board may attend any meetings of a rural authority or of an urban authority (being a local board) when and as directed by the Local Government Board.

The local authority of the district of Oxford shall not, for the purposes of this section, be deemed to be a local board.

206 Local authority to report.

Every local authority shall make an annual report, in such form and at such time as the Local Government Board may from time to time direct, of all works executed, and of all sums received and disbursements made by them under and for the purposes of this Act during the preceding year, and shall send a copy to the Local Government Board : An urban authority shall also publish a copy in some local newspaper circulating in their district.