

SCHEDULES

SCHEDULE 8

SEWERAGE FUNCTIONS

The Public Health Act 1936 (c. 49)

- 2 (1) In section 18 of the 1936 Act (agreements to adopt sewers), after subsection (3) there shall be inserted the following subsections—
- “(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.”
- (2) In section 19 of the 1936 Act (power to require sewer or drain to be constructed so as to form part of the general system)—
- (a) the words in subsection (2) from “and if” onwards (which confer jurisdiction on magistrates' courts with respect to the recovery of expenses incurred by virtue of that section) shall be omitted; and

Status: This is the original version (as it was originally enacted).

- (b) for subsection (3) (which makes it an offence not to comply with requirements imposed under that section) there shall be substituted the following subsection—

“(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.”

- (3) The power conferred by section 21(1)(a) of the 1936 Act (use of certain drains and sewers for conveying surface water) on local authorities, within the meaning of that Act, shall continue to be exercisable by those authorities, as well as, by virtue of paragraph 1 above, by sewerage undertakers.
- (4) In section 22 of the 1936 Act (power to alter or close public sewers), for the words from the beginning to “such public sewer” there shall be substituted the words “A sewerage undertaker may discontinue and prohibit the use of any public sewer vested in the undertaker”.
- (5) Section 24 of the 1936 Act (power to recover cost of maintaining certain lengths of sewer) shall cease to have effect.
- (6) In section 34 of the 1936 Act (right of owners and occupiers to drain into public sewers)—
- (a) in subsection (1), for the words from “or the owner” to “thereby” there shall be substituted the words “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”; and
- (b) for subsection (2) (power of owner or occupier to break open any streets) there shall be substituted the following subsection—
- “(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 conferred by this subsection as they apply in relation to the power conferred by that paragraph.”
- (7) In section 36(2) of the 1936 Act (right to demand security for costs of carrying out connection works), for the words from “until” onwards there shall be substituted the words “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.”
- (8) In section 50(1) of the 1936 Act (overflowing and leaking cesspools), the words “or the water authority for the area” shall be omitted.

Status: This is the original version (as it was originally enacted).

- (9) Section 287 of the 1936 Act (powers of entry) shall apply in relation to a sewerage undertaker for the purposes of the provisions of that Act to which paragraph 1(1) above applies and of section 27 of that Act as it applies in relation to a local authority for the purposes of the other provisions of that Act but as if—
- (a) the reference in that section to an authorised officer of a local authority were a reference to a person designated in writing for the purposes of that section by a sewerage undertaker; and
 - (b) the words “if so required,” were omitted.
- (10) Section 181 of this Act shall apply in relation to a local inquiry held by virtue of this Schedule under section 318 of the 1936 Act (local inquiries) as it applies to local inquiries under this Act.
- (11) Without prejudice to the powers conferred by virtue of Chapter IV of Part II of this Act, no liability shall arise at any time on or after the transfer date to make a payment by virtue of section 337 of the 1936 Act (saving for certain yearly payments).
- (12) In section 343 of the 1936 Act (interpretation), for the definition of “public sewer” there shall be substituted the following definition—
- ““public sewer” means a sewer for the time being vested in a sewerage undertaker in its capacity as such, whether vested in that undertaker by virtue of a scheme under Schedule 2 or 5 to the Water Act 1989 or under section 153 of that Act or otherwise;”.