

# Public Health Act 1961

## 1961 CHAPTER 64 9 and 10 Eliz 2

### PART II

#### SANITATION AND BUILDINGS

##### *Sewers, drains and sanitary conveniences*

12— ..... F1  
14.

#### Textual Amendments

**F1** Ss. 12–14 repealed by [Water Act 1989](#) (c. 15, SIF 130), ss. 69, 190(3), Sch. 8 para. 4(1), **Sch. 27 Pt.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), 17, 40(4), 41(1), 57(6), 58)

15 ..... F2

#### Textual Amendments

**F2** S. 15 repealed by [Water Act 1973](#) (c. 37), **Sch. 9**

16 ..... F3

#### Textual Amendments

**F3** S. 16 repealed by [Local Government Act 1972](#) (c. 70), **Sch. 30**

*Status: Point in time view as at 01/02/1991.*

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**[<sup>F4</sup>17 Powers to repair drains etc. and to remedy stopped-up drains etc.**

- (1) If it appears to a local authority that a drain, private sewer, water-closet, waste pipe or soil pipe—
  - (a) is not sufficiently maintained and kept in good repair, and
  - (b) can be sufficiently repaired at a cost not exceeding £250,
 the local authority may, after giving not less than seven days notice to the person or persons concerned, cause the drain, private sewer, water-closet or pipe to be repaired and, subject to subsections (7) and (8) below, recover the expenses reasonably incurred in so doing, so far as they do not exceed £250, from the person or persons concerned, in such proportions, if there is more than one such person, as the local authority may determine.
- (2) In subsection (1) above “person concerned” means—
  - (a) in relation to a water-closet, waste pipe or soil pipe, the owner or occupier of the premises on which it is situated, and
  - (b) in relation to a drain or private sewer, any person owning any premises drained by means of it and also, in the case of a sewer, the owner of the sewer.
- (3) If it appears to a local authority that on any premises a drain, private sewer, water-closet, waste pipe or soil pipe is stopped up, they may by notice in writing require the owner or occupier of the premises to remedy the defect within forty-eight hours from the service of the notice.
- (4) If a notice under subsection (3) of this section is not complied with, the local authority may themselves carry out the work necessary to remedy the defect and, subject to subsections (7) and (8) below, may recover the expenses reasonably incurred in so doing from the person on whom the notice was served.
- (5) Where the expenses recoverable by a local authority under sub-section (1) or (4) of this section do not exceed £10, the local authority may, if they think fit, remit the payment of the expenses.
- (6) In proceedings to recover expenses under this section—
  - (a) where the expenses were incurred under subsection (1) of this section, the court—
    - (i) shall inquire whether the local authority were justified in concluding that the drain, private sewer, water-closet, waste pipe or soil pipe was not sufficiently maintained and kept in good repair; and
    - (ii) may inquire whether any apportionment of expenses by the local authority under that subsection was fair;
  - (b) where the expenses were incurred under subsection (4) of this section, the court may inquire—
    - (i) whether any requirement contained in a notice served under subsection (3) of this section was reasonable; and
    - (ii) whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings.
- (7) Subject to subsection (8) below, the court may make such order concerning the expenses or their apportionment as appears to the court to be just.
- (8) Where the court determines that the local authority were not justified in concluding that a drain, private sewer, water-closet, waste pipe or soil pipe was not sufficiently

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maintained and kept in good repair, the local authority shall not recover expenses incurred by them under subsection (1) of this section.

- (9) The court shall not revise an apportionment unless it is satisfied that all persons affected by the apportionment or by an order made by virtue of subsection (6)(b)(ii) above have had notice of the proceedings and an opportunity of being heard.
- (10) Subject to subsection (11) of this section, the provisions of subsection (1) of this section shall not authorise a local authority to carry out works on land which belongs to any statutory undertakers and is held or used by them for the purposes of their undertaking.
- (11) Subsection (10) of this section does not apply to houses, or to buildings used as offices or showrooms, other than buildings so used which form part of a railway station.
- (12) The Secretary of State may by order made by statutory instrument increase any amount specified in this section.
- (13) Nothing in an order made under subsection (12) of this section shall apply to a notice given under this section before the commencement of the order.
- (14) A statutory instrument containing an order under subsection (12) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (15) The provisions of this section shall be without prejudice to [<sup>F5</sup>section 59 of the <sup>M1</sup>Building Act 1984] (which empowers a local authority to serve notices as regards defective drains).]

#### Textual Amendments

- F4** S. 17 substituted for sections 17 and 18 by [Local Government \(Miscellaneous Provisions\) Act 1982 \(c. 30, SIF 81:1\)](#), **s. 27(1)**
- F5** Words substituted by virtue of [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(1), **Sch. 6 para. 8**

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

- C1** S. 17(10) extended (1.3.1996) by [1995 c. 45, s. 16\(1\)](#), **Sch. 4 para. 2(1)(x)**; S.I. 1996/218, **art. 2**
- C2** S. 17(10) extended by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), [Sch. 7 para. 2\(1\)\(xii\)](#), **Sch. 8 para. 33**, [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190(1), [Sch. 25 para. 1\(2\)\(ix\)](#) (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\)](#), 17, 40(4), 57(6), **58**) and [Electricity Act 1989 \(c. 29, SIF 44\)](#), s. 112(1)(3), [Sch. 16 para. 1\(1\)\(xii\)](#), [Sch. 17 paras. 33, 35\(1\)](#)

#### Marginal Citations

- M1** [1984 c.55 \(15\)](#).

19— ..... <sup>F6</sup>  
21.

#### Textual Amendments

- F6** Ss. 19–21, 23–33 repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), **Sch. 7**

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**22 Power to cleanse or repair drains.**

A local authority may, on the application of the owner or occupier of any premises, undertake the cleansing or repair of any drains, waterclosets, sinks or gullies in or connected with the premises, and may recover from the applicant such reasonable charge, if any, for so doing as they think fit.

**23**— ..... **F7**  
**33.**

**Textual Amendments**

**F7** Ss. 19–21, 23–33 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), **Sch. 7**

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