



Public Health Act 1961

1961 CHAPTER 64 9 and 10 Eliz 2

PART IV

STREETS AND PUBLIC PLACES

Streets

43, 44.^{F1}

Textual Amendments

F1 Ss. 43, 44 repealed by [Highways Act 1980 \(c. 66, SIF 59\)](#) s. 343(3), Sch. 25

45 Attachment of street lamps to buildings.

- (1) Subject to the provisions of this section, a county council, local authority or parish council or parish meeting (hereafter in this section referred to as a “street lighting authority”) may affix to any building such lamps, brackets, pipes, electric lines and apparatus (hereafter in this section referred to as “attachments”) as may be required for the purposes of street lighting.
- (2) A street lighting authority shall not under this section affix attachments to a building without the consent of the owner of the building:
Provided that, where in the opinion of the street lighting authority any consent required under this subsection is unreasonably withheld, they may apply to the appropriate authority, who may either allow the attachments subject to such conditions, if any, as to rent or otherwise as the appropriate authority thinks fit, or disallow the attachments.
- (3) Where any attachments have been affixed to a building under this section and the person who gave his consent under subsection (2) of this section, or who was the owner of the building when the attachments were allowed by the appropriate authority, ceases to be the owner of the building, the subsequent owner may give to the street

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lighting authority notice requiring them to remove the attachments; and, subject to the provisions of this subsection, the street lighting authority shall comply with the requirements within three months after the service of the notice:

Provided that, where in the opinion of the street lighting authority any such requirement is unreasonable, they may apply to the appropriate authority, who may either annul the notice subject to such conditions, if any, as to rent or otherwise as the appropriate authority thinks fit or confirm the notice subject to such extension, if any, of the said period of three months as the appropriate authority thinks fit.

- (4) Where any attachments have been affixed to a building under this section, the owner of the building may give the street lighting authority by whom they were affixed not less than fourteen days notice requiring them at their own expense temporarily to remove the attachments where necessary during any reconstruction or repair of the building.
- (5) Where attachments are affixed to a building under this section, the street lighting authority shall have the right as against any person having an interest in the building to alter or remove them, or to repair or maintain them.
- (6) If the owner of a building suffers damage by, or in consequence of, the affixing to the building of any attachments under this section, or by or in consequence of the exercise of the rights conferred by subsection (5) of this section, he shall be entitled to be paid by the street lighting authority compensation to be determined in case of dispute by the [^{F2}Upper Tribunal], and, so far as the compensation is properly to be calculated by reference to the depreciation of the value of his interest in the building, Rules 2 to 4 of the Rules set out in section five of the ^{M1}Land Compensation Act 1961 shall apply.
- (7) A street lighting authority shall not do anything under this section which would, to their knowledge, be in contravention of a building preservation order under section twenty-nine of the ^{M2}Town and Country Planning Act 1947.
- (8) In this section “appropriate authority” means a magistrates’ court, except that in relation to buildings of the descriptions in the Fourth Schedule to this Act it has the meaning there given.
- (9) In this section—
 - “building” includes a structure and a bridge or aqueduct over a street;
 - “owner—
 - (a) in relation to a building occupied under a tenancy for a term of years whereof five years or more remain unexpired, means the occupier of the building, and
 - (b) in relation to any other building, has the same meaning as in the ^{M3}Public Health Act 1936 and
 - “owned” shall be construed accordingly;
 - “street lighting” includes the lighting of markets and public buildings under section one hundred and sixty-one of the ^{M4}Public Health Act 1875 (which relates to the powers conferred on urban authorities within the meaning of that Act), and the lighting of public places under section three of the ^{M5}Parish Councils Act 1957

and the definitions in this section shall apply for the purposes of the Fourth Schedule to this Act.

- (10) Section five of the ^{M6}Parish Councils Act 1957 (which contains provisions as to the consents required for the exercise of the powers of street lighting conferred by that Act), shall not apply in relation to the affixing after the commencement of this Act of any attachments to a building within the meaning of this section but those powers

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shall not be taken to authorise anything to be done without consent for which consent is required by this section.

Textual Amendments

F2 Words in s. 45(6) substituted (1.6.2009) by [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 1, **Sch. 1 para. 45** (with Sch. 5)

Modifications etc. (not altering text)

- C1** S. 45 modified by [S.I. 1973/686](#), art. 3(1), **Sch. 3**
- C2** S. 45 extended by [Local Government Act 1966 \(c. 42\)](#) s. 28(4) and [Highways Act 1980 \(c. 66, SIF 59\)](#), s. 97(4)
- C3** S. 45: functions of the Secretary of State for Transport may be exercised by, or by employees of, such person as may be authorised in that behalf by the Secretary of State for Transport (25.7.1995) by [S.I. 1995/1986](#), art. 2, **Sch. 3 para. 5**
- C4** S. 45 functions made exercisable as specified (24.3.2009) by [The Contracting Out \(Highway Functions\) Order 2009 \(S.I. 2009/721\)](#), arts. 1, 3, **Sch. 3 paras. 5(a)**
- C5** S. 45 modified (18.12.2013) by [London Local Authorities and Transport for London Act 2013 \(c. v\)](#), ss. 1(3), 3, 4(1)
- C6** S. 45(2)(4)-(6)(8)(9) applied (with modifications) (27.7.1993) by [1993 c. xv](#), s. 23.
S. 45(2)(4)-(6)(8)(9) applied (with modifications) (21.7.1994) by [1994 c. xi](#), s. 25
S. 45(2)(4)-(6)(8)(9) applied (with modifications) (21.7.1994) by [1994 c. xv](#), s. 24(1)(a)(b)
S. 45: functions of a local highway authority made exercisable by, or by employees of, such person as may be authorised in that behalf by the local highway authority whose function it is (23.7.1999) by [S.I. 1999/2106](#), art. 2 **Sch. 3 para. 5(a)**

Marginal Citations

- M1** 1961 c. 33
- M2** 1947 c. 51.
- M3** 1936 c. 49.
- M4** 1875 c. 55.
- M5** 1957 c. 42.
- M6** 1957 c. 42.

46— F3
50.

Textual Amendments

F3 Ss. 46–50 repealed by [Highways Act 1980 \(c. 66, SIF 59\)](#), s. 78, **Sch. 25**

51 F4

Textual Amendments

F4 S. 51 repealed by [Litter Act 1983 \(c. 35, SIF 100:3\)](#), s. 12(3), **Sch. 2**

Changes to legislation:

There are currently no known outstanding effects for the Public Health Act 1961, Cross Heading: Streets.