



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F1 Ss. 43, 44 repealed by [Highways Act 1980 \(c. 66, SIF 59\)](#) s. 343(3), Sch. 25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

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Parks and open spaces

52 Management of parks and pleasure-grounds.

- (1) Sections seventy-six and seventy-seven of the ^{M7}Public Health Acts Amendment Act 1907 (which give a local authority certain powers as regards their parks and pleasure-grounds), together with Part VI of the ^{M8}Public Health Act 1925 (which extends the said section seventy-six), shall be in force throughout the district of every local authority . . . ^{F5}
- (2) When any part of a park or pleasure-ground is set apart by a local authority under paragraph (b) of subsection (1) of the said section seventy-six for the purpose of cricket, football or any other game or recreation, the local authority may, subject to the restrictions or conditions, if any, prescribed by rules made under that section, permit the exclusive use by any club or other body of persons of—
- (a) any portion of the part set apart as aforesaid, and
 - (b) the whole or any part of any pavilion, convenience, refreshment room or other building provided under that section,
- subject to such charges and conditions as the local authority think fit.
- (3) Subsection (2) of this section shall not empower a local authority to permit at one and the same time the exclusive use of—
- (a) more than one-third of the area of any park or pleasure-ground, or
 - (b) more than one-quarter of the total area of all the parks and pleasure-grounds provided by them or under their management and control,
- and in exercising their powers under paragraph (a) of that subsection, the local authority must satisfy themselves that they have not unfairly restricted the space available to the public for games and recreations.
- (4) Subsections (2) and (3) of this section shall be read as one with the said section seventy-six.

Textual Amendments

F5 Words repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. IV](#)

Modifications etc. (not altering text)

C7 [S. 52](#) amended by [S.I. 1966/1305, art. 5\(1\)](#) and [Local Government Act 1972 \(c. 70\), Sch. 14 para. 42](#)

Marginal Citations

M7 1907 c. 53.

M8 1925 c. 71.

53 Closing of parks and pleasure-grounds.

- (1) Subsection (1) of section forty-four of the ^{M9}Public Health Acts Amendment Act 1890 (which empowers a local authority to close their parks and pleasure-grounds or to allow their use for a show or other special purposes), shall be amended as follows.
- (2) That subsection shall be in force throughout the district of every local authority, . . . ^{F6}

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- (3) So much of the said subsection as restricts the power of closing parks or pleasure-grounds shall have effect as if for the reference to four consecutive days there were substituted a reference to six consecutive days (excluding Sunday) and in computing any such period of six consecutive days a Saturday and the following Monday shall be regarded as consecutive days.
- (4) The proviso to the said subsection (which prohibits the closing of a park or pleasure ground on a Sunday or public holiday) shall cease to apply to a public holiday, but on any bank holiday, or on Christmas Day or Good Friday, or on a day appointed for public thanksgiving or mourning, a local authority shall not have power under the subsection to close any park or pleasure-ground, or any part thereof, if the area so closed, together with any other area so closed, exceeds one-quarter of the total area of all the parks or pleasure-grounds provided by the local authority.
- (5) F7

Textual Amendments

- F6 Words repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. IV](#)
- F7 [S. 53\(5\)](#) repealed by [Statute Law \(Repeals\) Act 1989 \(c. 43\), s. 1\(1\), Sch. 1 Pt. IV](#)

Modifications etc. (not altering text)

- C8 [S. 53](#) amended by [S.I. 1966/1305, art. 5\(1\)](#) and [Local Government Act 1972 \(c. 70\), Sch. 14 para. 42](#)

Marginal Citations

- M9 [1890 c. 59.](#)

54 Boating pools and lakes.

- (1) Subject to the provisions of this section, a local authority or parish council may in any park or pleasure-ground provided by them, or under their management and control, provide a boating pool.
- (2) The local authority or parish council may provide such buildings and execute such work as may be necessary or expedient in connection with the provision of a boating pool under this section, and may also provide boats for the boating pool and such other equipment as may be reasonably required in connection with the use of the boating pool and buildings.

References in this section to a boating pool so provided shall include references to anything else provided under this subsection.

- (3) The local authority or parish council may either—
 - (a) themselves manage a boating pool provided under this section, making such reasonable charges for its use, or for admission, as they think fit, or
 - (b) let it, or any part of it, for such consideration, and on such terms and conditions, as they think fit.
- (4) Where the existence of a boating pool is likely to interfere with any water flowing directly or indirectly out of or into any watercourse which is vested in or [F8 controlled [F9 by the Environment Agency, the Natural Resources Body for Wales or any] internal drainage board], the local authority or parish council shall before providing a boating

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pool under this section consult [^{F10}with that Agency, Body or board (as the case may be)].

- (5) No power given by this section shall be exercised in such a manner as to contravene any covenant or condition subject to which a gift or lease of a park or pleasure-ground has been accepted or made without the consent of the donor, grantor, lessor or other person or persons entitled in law to the benefit of the covenant or condition.
- (6) Subsection (2) of section forty-four of the ^{M10}Public Health Acts Amendment Act 1890 (which gives a local authority certain powers as regards lakes and water in parks and pleasure-grounds)—
- (a) shall apply in relation to a park or pleasure-ground under the management and control of a local authority as it applies in relation to a park or pleasure-ground provided by them, and
 - (b) shall be in force throughout the district of every local authority;
- ^{F11}
- (7) Section two hundred and seventy-eight of the ^{M11}Public Health Act 1936 (under which compensation may be paid for damage incurred in consequence of the exercise by the local authority of their powers under that Act), shall apply as if this section were contained in that Act.
- (8) ^{F12}
- (9) Sections three hundred and thirty-one and three hundred and thirty-four of the Public Health Act 1936 (which contain savings for water rights and for the works of land drainage authorities), shall apply as if this section were contained in that Act and as if references in those sections to a local authority included references to a parish council.
- (10) It is hereby declared that this section does not authorise a local authority or parish council to do anything in contravention of [^{F13}byelaws made by virtue of paragraph 5 of Schedule 25 to the Water Resources Act 1991 or section 66 of the Land Drainage Act 1991].

Textual Amendments

- F8** Words in s. 54(4) substituted (1.12.1991) by [Water Consolidation \(Consequential provisions\) Act 1991](#) (c. 60, SIF: 130), ss. 2(1), 4(2), **Sch. 1 para. 11(a)**
- F9** Words in s. 54(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (No. 755), art. 1(2), **Sch. 2 para. 27(2)** (with Sch. 7)
- F10** Words in s. 54(4) substituted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (No. 755), art. 1(2), **Sch. 2 para. 27(3)** (with Sch. 7)
- F11** Words repealed by [Statute Law \(Repeals\) Act 1989](#) (c. 43), s. 1(1), **Sch. 1 Pt. IV**
- F12** S. 54(8) repealed by [Local Government Act 1972](#) (c. 70), **Sch. 30**
- F13** Words in s. 54(10) substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991](#) (c. 60, SIF: 130), ss. 2(1), 4(2), **Sch. 1 para. 11(b)**

Modifications etc. (not altering text)

- C9** S. 54 amended by [S.I. 1966/1305](#), **art. 5(1)** and [Local Government Act 1972](#) (c. 70), **Sch. 14 para. 42**

Marginal Citations

- M10** 1890 c. 59.
M11 1936 c. 49.

Changes to legislation:

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