



Public Health Act 1936

1936 CHAPTER 49

PART II

SANITATION AND BUILDINGS.

Byelaws with respect to buildings and sanitation.

61 Byelaws as to buildings and sanitation.

- (1) Every local authority may and, if required by the Minister, shall make byelaws for regulating all or any of the following matters :—
- (i) as regards buildings—
 - (a) the construction of buildings, and the materials to be used in the construction of buildings;
 - (b) the space about buildings, the lighting and ventilation of buildings, and the dimensions of rooms intended for human habitation;
 - (c) the height of buildings; the height of chimneys, not being separate buildings, above the roof of the building of which they form part;
 - (ii) as regards works and fittings—
 - (d) sanitary conveniences in connection with buildings; the drainage of buildings, including the means for conveying refuse water and water from roofs and from yards appurtenant to buildings; cesspools and other means for the reception or disposal of foul matter in connection with buildings;
 - (e) ashpits in connection with buildings;
 - (f) wells, tanks and cisterns for the supply of water for human consumption in connection with buildings;
 - (g) stoves and other fittings in buildings (not being electric stoves or fittings), in so far as byelaws with respect to such matters are required for the purposes of health and the prevention of fire;
 - (h) private sewers; communications between drains and sewers and between sewers.

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- (2) Byelaws made under this section may include provisions as to—
- (a) the giving of notices and the deposit of plans, sections, specifications and written particulars; and
 - (b) the inspection of work; the testing of drains and sewers, and the taking by the local authority of samples of materials to be used in the construction of buildings, or in the execution of other works.
- (3) A local authority who propose to apply to the Minister for confirmation of any byelaws made under this section shall, in addition to complying with the requirements of section two hundred and fifty of the Local Government Act, 1933, publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation.

62 Application of certain byelaws to existing buildings.

- (1) Byelaws under sub-paragraphs (a), (b) and (c) of subsection (1) of the last preceding section may be made with respect to—
- (a) structural alterations or extensions of buildings, and buildings so, far as affected by alterations or extensions;
 - (b) buildings or parts of buildings in cases where any material change, within the meaning of this section, takes place in the purposes for which a building or, as the case may be, a part of a building is used,
- and, so far as they relate to the matters mentioned in this subsection, may be made to apply to buildings erected before the date on which the byelaws came into force, but, save as aforesaid, shall not apply to buildings erected before that date.
- (2) For the purposes of this section, there shall be deemed to be a material change in the purposes for which a building, or a part of a building, is used if—
- (a) a building, or a part of a building, being a building or part which was not originally constructed for occupation as a house, or which though so constructed has been appropriated to other purposes, becomes used as a house; or
 - (b) a building, or a part of a building, being a building or part which was originally constructed for occupation as a house by one family only, becomes occupied by two or more families; or
 - (c) where byelaws contain special provisions with respect to buildings used for any particular purpose, a building or a part of a building, being a building or part not previously used for that purpose, becomes so used.

63 Power of local authority with consent of Minister to relax requirements of byelaws.

Where a local authority consider that the operation of any building byelaw in force in their district would be unreasonable in relation to any particular case, they may with the consent of the Minister relax the requirements of the byelaw or dispense with compliance therewith:

Provided that the authority shall give notice of any such proposed relaxation or dispensation in such manner and to such persons, if any, as the Minister may direct, and the Minister shall not give his consent before the expiration of one month from

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the giving of the notice and, before giving his consent, shall take into consideration any objection which may have been received by him.

64 Passing or rejection of plans, and power to retain plans, and &c.

- (1) Where plans of any proposed work are, in accordance with building byelaws, deposited with a local authority, the local authority shall, subject to the provisions of any other section of this Act which expressly requires or authorises them in certain cases to reject plans, pass the plans unless they either are defective, or show that the proposed work would contravene any of those byelaws, and, if the plans are defective or show that the proposed work would contravene any of those byelaws, they shall reject the plans.
- (2) The authority shall within the prescribed period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether or not they are passed, and—
 - (i) a notice of rejection shall specify the defects on account of which, or the byelaw or section of this Act for non-conformity with which, or under the authority of which, the plans have been rejected; and
 - (ii) a notice that plans have been passed shall state that the passing of the plans operates as an approval thereof only for the purposes of the requirements of the byelaws and of any such section of this Act as is referred to in the preceding subsection.
- (3) Any question arising under this section between a local authority and the person by whom or on whose behalf plans are deposited as to whether the plans are defective, or whether the proposed work would contravene any of the byelaws, may on the application of that person, be determined by a court of summary jurisdiction:

Provided that no such application shall be entertained unless it is made before the proposed work has been substantially commenced.
- (4) For the purposes of this Part of this Act, the expression " the prescribed period " in relation to the passing or rejection of plans means one month, but building byelaws made by an authority whose meetings are normally held not more frequently than once a month may provide that in the case of plans deposited less than three clear days before a meeting of the authority the prescribed period shall be five weeks.
- (5) Building byelaws may require that plans and other documents to be deposited in pursuance of the byelaws shall be deposited in duplicate and, if the byelaws contain such a requirement, the local authority may retain one copy of any plans or other documents so deposited, whether or not the plans are passed.

65 Power to require removal or alteration of work not in conformity with byelaws, or executed notwithstanding rejection of plans, and &c.

- (1) If any work to which building byelaws are applicable contravenes any of those byelaws, the authority, without prejudice to their right to take proceedings for a fine in respect of the contravention, may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alterations therein as may be necessary to make it comply with the byelaws.
- (2) If, in a case where the local authority are by any section of this Act other than the last preceding section expressly required or authorised to reject plans, any work

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to which building byelaws are applicable is executed either without plans having been deposited, or notwithstanding the rejection of the plans, or otherwise than in accordance with any requirements subject to which the authority passed the plans, the authority may by notice to the owner either require him to pull down or remove the work, or require him either to pull down or remove the work or, if he so elects, to comply with any other requirements specified in the notice, being requirements which they might have made under the section in question as a condition of passing plans.

- (3) If a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiration of twenty-eight days, or such longer period as a court of summary jurisdiction may on his application allow, the local authority may pull down or remove the work in question, or effect such alterations therein as they deem necessary, and may recover from him the expenses reasonably incurred by them in so doing.
- (4) No such notice as is mentioned in subsection (1) or subsection (2) of this section shall be given after the expiration of twelve months from the date of the completion of the work in question, and, in any case where plans were deposited, it shall not be open to the authority to give such a notice on the ground that the work contravenes any building byelaw or, as the case may be, does not comply with their requirements under any such section of this Act as aforesaid, if either the plans were passed by the authority, or notice of their rejection was not given within the prescribed period from the deposit thereof, and if the work has been executed in accordance with the plans and of any requirement made by the local authority as a condition of passing the plans.
- (5) Nothing in this section shall affect the right of a local authority, or of the Attorney-General, or any other person, to apply for an injunction for the removal or alteration of any work on the ground that it contravenes any byelaw or any enactment in this Act, but if the work is one in respect of which plans were deposited and the plans were passed by the local authority, or notice of their rejection was not given within the prescribed period after the deposit thereof, and if the work has been executed in accordance with the plans, the court on granting an injunction shall have power to order the local authority to pay to the owner of the work such compensation as the court thinks just, but before making any such order the court shall in accordance with rules of court cause the local authority, if not a party to the proceedings, to be joined as a party thereto.

66 Deposit of plans to be of no effect after certain interval.

- (1) Where plans of any proposed work have, in accordance with building byelaws, been deposited with a local authority, and either the plans have been passed by the authority or notice of rejection of the plans has not been given within the prescribed period from the deposit thereof, and the work to which the plans relate has not been commenced—
 - (a) in the case of plans deposited before the date of the commencement of this Act, within three years from that date; and
 - (b) in the case of plans deposited on or after that date, within three years from the deposit of the plans ;

the local authority may, at any time before the work is commenced, by notice to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the land to which the plans relate, declare that the deposit of the plans shall be of no effect, and when such a notice is given, this Act and the byelaws made thereunder shall as respects the proposed work have effect as if no plans had been deposited.

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- (2) Nothing in this Act or in any repeal effected thereby shall affect the operation of section fifteen of the Public Health Acts Amendment Act, 1907, or of any corresponding provision in a local Act, as regards plans deposited before the commencement of this Act.
- (3) Where plans of any proposed work have been passed by a local authority before the date of the commencement of this Act, but the work has not been commenced before that date, the authority shall before the expiration of six months from that date give notice of the provisions of this section to the person by whom or on whose behalf the plans were deposited, or other the owner for the time being of the lands to which the plans relate.

67 Power to refer questions arising under building byelaws to the Minister.

If any question arises between a local authority and a person who has executed, or proposes to execute, any work—

- (a) as to the application to that work of any building byelaws; or
- (b) whether the plans of the work are in conformity with those byelaws; or
- (c) whether the work has been executed in accordance with the plans as passed by the authority,

the question may, on an application made jointly by him and the local authority, be referred to the Minister for determination and, the Minister's decision shall be final:

Provided that the Minister may at any stage of the proceedings on the reference and shall, if so directed by the High Court, state in the form of a special case for the opinion of the High Court any question of law arising in those proceedings.

68 Temporary operation of building byelaws.

Subject as hereinafter provided—

- (a) any building byelaw made by a local authority under this Part of this Act shall cease to have effect on the expiration of ten years from the date on which it was made;
- (b) any building byelaw made by a local authority under the corresponding provisions of any enactment repealed by this Act, or under any such enactment as amended or extended by a local Act, shall cease to have effect on the expiration of three years from the passing of this Act :

Provided that the Minister may by order extend the period during which any byelaw mentioned in this section is to remain in force.

69 Power of the Minister to make building byelaws in case of default, and to revoke unreasonable byelaws.

- (1) If a local authority, when required by the Minister to make building byelaws in relation to any of the matters with respect to which they are by this Part of this Act empowered to make such byelaws, do not within three months after such requisition make in relation to that matter byelaws satisfactory to him, the Minister may himself make byelaws in relation thereto.
- (2) If the Minister is satisfied that the erection of any buildings is, or is likely to be, unreasonably impeded in consequence of any building byelaws, he may for the

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purpose of removing the impediment require the local authority to revoke those byelaws and to make such new byelaws as he may consider necessary, and, if the authority do not within three months after such requisition comply therewith, the Minister may himself for that purpose revoke the byelaws, and make such new byelaws as he may consider necessary.

- (3) Any byelaws made by the Minister under this section shall have effect as if they had been made by the local authority and confirmed by the Minister.

70 Certain information, and copies of certain local enactments, to be appended to printed copies of building byelaws.

- (1) The printed copies of building byelaws which are required by subsection (7) of section two hundred and fifty of the Local Government Act, 1933, to be kept open to public inspection and furnished to applicants therefor shall have appended thereto—
- (a) in a rural district, information as to the urban powers, if any, which the rural authority enjoy under any section of this Act by reason of some corresponding provision of an earlier Act having been in operation within their district immediately before the commencement of this Act, and as to the urban powers, if any, with which they have been invested by order of the Minister under section thirteen of this Act, and the date when any such order took effect;
 - (b) in any rural district in which, or in any part of which, section twenty-six of the Public Health Act, 1875, was in operation before the first day of September nineteen hundred and thirty-one, and in any district in which, or in any part of which, section thirty-six of the Public Health Acts Amendment Act, 1890, or section fifteen of the Public Health Acts Amendment Act, 1907, was in operation immediately before the commencement of this Act, information as to the date on which the section in question came into operation in the district or part of the district; and
 - (c) in a district in which there is in force a local Act containing provisions with respect to any matter with respect to which a local authority can under this Act make building byelaws, a copy of those provisions of the local Act.
- (2) Any question as to what provisions of a local Act are provisions of which a copy is to be so appended shall on the application of the local authority be determined by the Minister.

71 Exemption of certain buildings from building byelaws.

Subject as hereinafter provided, nothing in the foregoing provisions of this Part of this Act with respect to building byelaws, or in any building byelaws made thereunder, shall apply in relation to—

- (a) any buildings, being school premises, erected or to be erected according to plans which are under any regulations relating to the payment of grants required to be, and have been, approved by the Board of Education; or
- (b) any buildings constructed by a county council or local authority in accordance with plans approved by the Minister of Agriculture and Fisheries under the Small Holdings and Allotments Acts, 1908 to 1931, or any Act amending those Acts or any of them; or
- (c) any buildings belonging to any statutory undertakers and held or used by them for the purposes of their undertaking :

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Provided that the exemption conferred by paragraph (c) of this section shall not extend to houses, or to buildings used as offices or showrooms, other than buildings so used which form part of a railway station.