Public Health Act 1936

1936 CHAPTER 49 26 Geo 5 and 1 Edw 8

PART XI

MISCELLANEOUS

Watercourses, ditches, ponds, &c.

259 Nuisances in connection with water-courses, ditches, ponds, &c.

(1) The following matters shall be statutory nuisances for the purposes of **[**[F1]Part III of the Environmental Protection Act 1990**]**, that is to say—

(a) any pond, pool, ditch, gutter or watercourse which is so foul or in such a state as to be prejudicial to health or a nuisance;

(b) any part of a watercourse, not being a part ordinarily navigated by vessels employed in the carriage of goods by water, which is so choked or silted up as to obstruct or impede the proper flow of water and thereby to cause a nuisance, or give rise to conditions prejudicial to health:

Provided that in the case of an alleged nuisance under paragraph (b) nothing in this subsection shall be deemed to impose any liability on any person other than the person by whose act of default the nuisance arises or continues.

(2) . . . . . [F2]

Textual Amendments

F1 Words substituted by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15**, para. 4(3)

F2 S. 259(2) repealed by Control of Pollution Act 1974 (c. 40), s. 109(2), **Sch. 4**

Modifications etc. (not altering text)

C1 S. 259 amended by Radioactive Substances Act 1960 (c. 34), s. 9, **Sch. 1 Pt. I para. 3**; extended by that 1960 Act, s. 108(1)

S. 259 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 1**

C2 Power to apply s. 259 conferred by Transport Act 1968 (c. 73), **s. 112(3)**

C3 S. 259 modified by SI 2010/675 Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043), reg. 1(b), **Sch. 1**)

260 Power of parish council, or local authority, to deal with ponds, ditches, &c.

(1) A parish council may—

(a) deal with any pond, pool, ditch, gutter or place containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudical to health, by draining, cleansing or covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right, or with any public drainage, sewerage or sewage disposal works;

(b) execute any works, including works of maintenance or improvement, incidental to or consequential on any exercise of the oregoing power;

(c) contribute towards the expenses incurred by any other person in doing anything mentioned in this subsection.

(2) Without prejudice to their right to take action in respect of any statutory nuisance, a local authority may exercise any powers which a parish council may exercise under this section.

Modifications etc. (not altering text)

C4 S. 260 restricted by S.I. 1965/654, **art. 3(10)**

C5 S. 260 modified (E.) (24.3.2011) by The Hull and Goole Port Health Authority Order 2011 (S.I. 2011/939), arts. 1(1), 9, **Sch. 2**

C6 S. 260 functions transferred and modified (E.) (14.6.2016) by The River Tees Port Health Authority Order 2016 (S.I. 2016/644), arts. 1(1), 9, **Sch. 2**

261 Provision for obtaining order for cleansing offensive ditches lying near to, or forming, boundary of district.

Upon a complaint by a local authority against the local authority of an adjoining district that a watercourse or ditch which forms the boundary between their districts, or which lies in the adjoining district but near to that boundary, is so foul and offensive as injuriously to affect the district of the complainants, a court of summary jurisdiction having jurisdiction in the place where the watercourse or ditch is situate may make such order as it deems reasonable with respect to the cleansing of the watercourse or ditch and the execution of any work appearing to the court to be necessary, and with respect to the person by whom the work is to be executed, and the persons by whom, and the proportions in which, the costs of the work are to be paid.

Modifications etc. (not altering text)

C7 S. 261 amended by Radioactive Substances Act 1960 (c. 34), s. 9, **Sch. 1 Pt. I para. 3**; restricted by S.I. 1965/654, **art. 3(10)**
S. 261 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para.1**

C8 S. 261 modified by SI 2010/675 Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043), reg. 1(b), **Sch. 1**)

[F3]262 Power of local authority to require culverting of watercourses and ditches where building operations in prospect.

. . . . . .

Textual Amendments

F3 S. 262 repealed (14.7.2014) by Water Act 2014 (c. 21), **ss. 63(a)**, 94(2)(o)

[F4]263 Watercourses in urban district not to be culverted except in accordance with approved plans.

. . . . . .

Textual Amendments

F4 S. 263 repealed (14.7.2014) by Water Act 2014 (c. 21), **ss. 63(b)**, 94(2)(o)

264 Urban authority may require repair and cleansing of culverts.

The owner or occupier of any land [F5]... shall repair, maintain and cleanse any culvert in, on or under that land, and, if it appears to the local authority that any person has failed to fulfil his obligations under this section, they may by notice require him to execute such works of repair, maintenance or cleansing as may be necessary.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this section.

Textual Amendments

F5 Words in s. 264 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 13**

Modifications etc. (not altering text)

C9 S. 264 restricted by S.I. 1965/654, **art. 3(10)**; applied by Local Government Act 1972 (c. 70), **Sch. 14 para. 4**

C10 Ss. 264, 265 modified (E.) (24.3.2011) by The Hull and Goole Port Health Authority Order 2011 (S.I. 2011/939), arts. 1(1), 9, **Sch. 2**

C11 Ss. 264, 265 functions transferred and modified (E.) (14.6.2016) by The River Tees Port Health Authority Order 2016 (S.I. 2016/644), arts. 1(1), 9, **Sch. 2**

265 Power of local authority to defray cost of, or execute, works relating to watercourses.

A local authority may, if they think fit, contribute the whole or a part of the expenses of the execution of works for any of the purposes mentioned in the foregoing provisions of this Part of this Act, or may be agreement with any owner or occupier themselves execute any such works which he may be required, or is entitled, to execute.

Modifications etc. (not altering text)

C10 Ss. 264, 265 modified (E.) (24.3.2011) by The Hull and Goole Port Health Authority Order 2011 (S.I. 2011/939), arts. 1(1), 9, **Sch. 2**

C11 Ss. 264, 265 functions transferred and modified (E.) (14.6.2016) by The River Tees Port Health Authority Order 2016 (S.I. 2016/644), arts. 1(1), 9, **Sch. 2**

C12 S. 265 restricted by S.I. 1965/654, **art. 3(10)**

266 †Saving for land drainage authorities, the London County Council, railway companies and dock undertakers.

(1) The powers conferred by the foregoing provisions of this Part of this Act shall not be exercised—

(i) with respect to any stream, watercourse, ditch or culvert within the jurisdiction of a land drainage authority, except after consultation with that authority;

(ii) . . . [F6]

Provided that nothing in this subsection shall apply in relation to the taking of proceedings in respect of a statutory nuisance.

(2) Nothing in the foregoing provisions of this Part of this Act shall prejudice or affect the powers of any railway company or dock undertakers to culvert or cover in any stream or watercourse, or, without the consent of the railway company or dock undertakers concerned, extend to any culvert or covering of a stream or watercourse constructed by a railway company and used by them for the purposes of their railway, or constructed by dock undertakers and used by them for the purposes of their undertaking.

Textual Amendments

F6 S. 266(1)(ii) repealed by London Government Act 1963 (c. 33), **Sch. 18 Pt. II**

Modifications etc. (not altering text)

C13 Unreliable marginal note

C14 S. 266(1)(i) extended (Greater London) by London Government Act 1963 (c. 33), **Sch. 11 Pt. I para. 23**

Status:
Point in time view as at 14/06/2016.

Changes to legislation:
There are currently no known outstanding effects for the Public Health Act 1936, Cross Heading: Watercourses, ditches, ponds, &c..