



Building Act 1984

1984 CHAPTER 55

PART IV

GENERAL

Duties of local authorities

91 Duties of local authorities.

- (1) It is the duty of local authorities to carry this Act into execution in their areas, subject to—
- (a) the provisions of this Act relating to certain other authorities or persons,
 - (b) the provisions of Part I of the ^{M1}Public Health Act 1936 relating to united districts and joint boards,
 - (c) section 151 of the ^{M2}Local Government, Planning and Land Act 1980 (urban development areas), and
 - (d) section 1(3) of the ^{M3}Public Health (Control of Disease) Act 1984 (port health authorities).
- (2) It is the function of local authorities to enforce building regulations in their areas, subject to sections 5(3), 48(1) and 53(2) above . . . ^{F1}.

Textual Amendments

- F1** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

Marginal Citations

- M1** 1936 c. 49.
M2 1980 c. 65.
M3 1984 c. 22.

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Changes to legislation: Building Act 1984, Part IV is up to date with all changes known to be in force on or before 19 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F2}91A Registers to be kept by local authorities

- (1) A local authority shall keep in a register such information and documents as may be prescribed in connection with their functions, powers and duties conferred or imposed by or under this Act.
- (2) The information and documents that may be prescribed for the purposes of subsection (1) above include, in particular—
 - (a) documents that are given or issued to, or deposited with, a local authority in accordance with provision made by or under this Act, or copies of such documents;
 - (b) copies of documents that are given, made or issued by a local authority in accordance with provision so made;
 - (c) information with respect to documents of the kind mentioned in paragraph (a) or (b);
 - (d) information with respect to matters to which such documents relate.
- (3) Information and documents that are required to be kept in a register under subsection (1) above shall be so kept for the prescribed period.
- (4) A local authority—
 - (a) shall maintain the register required under subsection (1) above in the prescribed manner;
 - (b) shall ensure that the register is available for inspection by members of the public during prescribed periods;
 - (c) shall, in prescribed circumstances, provide to members of the public, on request, copies of information and documents kept in the register;
 - (d) may, in prescribed circumstances, charge a member of the public to whom they provide such copies a fee calculated in the prescribed manner.
- (5) In this section—

“documents” includes notices, certificates, orders, consents, demands and plans;

“prescribed” means prescribed by regulations made by the Secretary of State under this section.
- (6) Regulations under this section may—
 - (a) provide for a provision thereof to apply generally, or in a particular area;
 - (b) make different provision for different areas and generally different provision for different circumstances or cases;
 - (c) include such supplemental, transitional and incidental provisions as appear to the Secretary of State to be expedient.
- (7) The transitional provision that may be included in regulations under this section includes transitional provision in relation to information that, immediately before the coming into force of the regulations, was contained in registers kept by local authorities under section 56.
- (8) The power to make regulations under this section is exercisable by statutory instrument, which is subject to annulment in pursuance of a resolution of either House of Parliament.]

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Textual Amendments

- F2** S. 91A inserted (1.2.2006 for specified purposes) by [Sustainable and Secure Buildings Act 2004](#) (c. 22), [ss. 7, 11\(3\)](#); S.I. 2006/224, [art. 2\(b\)](#)

Documents

92 Form of documents.

- (1) All—
- (a) notices, orders, consents, demands and other documents authorised or required by or under this Act to be given, made or issued by a local authority, and
 - (b) notices and applications authorised or required by or under this Act to be given or made to, or to any officer of, a local authority,
- shall be in writing.
- (2) The Secretary of State may, by regulations made by statutory instrument, prescribe the form of any notice, advertisement, certificate or other document to be used for any of the purposes of this Act, and if forms are so prescribed those forms or forms to the like effect may be used in all cases to which those forms are applicable.

93 Authentication of documents.

- (1) A notice, order, consent, demand or other document that a local authority are authorised or required by or under this Act to give, make or issue may be signed on behalf of the authority—
- (a) by the proper officer of the authority or the district surveyor, as respects documents relating to matters within his province, or
 - (b) by an officer of the authority authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document.
- (2) A document purporting to bear the signature of an officer—
- (a) expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or
 - (b) expressed to be authorised by the local authority to sign such a document or the particular document,
- is deemed, for the purposes of this Act and of any building regulations and orders made under it, to have been duly given, made or issued by authority of the local authority, until the contrary is proved.
- (3) In subsection (2) above, “signature” includes a facsimile of a signature by whatever process reproduced.

94 Service of documents.

A notice, order, consent, demand or other document that is authorised or required by or under this Act to be given to or served on a person may, in any case for which no other provision is made by this Act, be given or served either—

- (a) by delivering it to that person,

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- (b) in the case of an officer of a local authority, by leaving it, or sending it in a prepaid letter addressed to him, at his office,
- (c) in the case of any other person, by leaving it, or sending it in a prepaid letter addressed to him, at his usual or last known residence,
- (d) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office,
- (e) in the case of a document to be given to or served on a person as being the owner of any premises by virtue of the fact that he receives the rackrent thereof as agent for another, or would so receive it if the premises were let at a rackrent, by leaving it, or sending it in a prepaid letter addressed to him, at his place of business,
- (f) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of “owner” or “occupier” of the premises (naming them) to which it relates, and delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

[F³94A. Electronic service of documents

- (1) This section applies where—
 - (a) section 94 authorises the giving or serving of a document by its delivery to a particular person (“the recipient”), and
 - (b) the document is of a kind mentioned in subsection (7).
- (2) Transmission of the document to the recipient by means of an electronic communication has effect for the purposes of section 94 as delivery of the document to the recipient if, and only if, the conditions in subsection (3) are met.
- (3) The conditions are—
 - (a) that the recipient has stated a willingness to receive the document by means of an electronic communication,
 - (b) that the statement has not been withdrawn, and
 - (c) that the document was transmitted to an electronic address specified by the recipient.
- (4) A statement may be limited to documents of a specified description.
- (5) A statement may require a document to be in a specified electronic form.
- (6) A statement may be modified or withdrawn—
 - (a) in a case where the statement was made by being published, by publishing the modification or withdrawal in the same or in a similar manner;
 - (b) in any other case, by giving a notice to the person to whom the statement was made.
- (7) The documents are—
 - (a) a notice under section 16(6), 47, 50(7) or (8), 51A, 51C, 52, 54 or paragraph 1(1) or 2(5) or (6) of Schedule 4;

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- (b) a document containing plans or evidence which accompanies a notice under section 47(1), 51A(2) or 54(1);
 - (c) a certificate under section 50(1), 51(1) or paragraph 2(1) or 3(1) of Schedule 4;
 - (d) a combined notice and certificate under section 50(4) or paragraph 2(2) of Schedule 4.
- (8) In this section—
- “electronic address” includes any number or address used for the purposes of receiving electronic communications;
 - “electronic communication” means an electronic communication within the meaning of the Electronic Communications Act 2000;
 - “specified” means specified in a statement made for the purposes of subsection (3)(a).]

Textual Amendments

- F3** S. 94A inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 2

Modifications etc. (not altering text)

- C1** S. 94A modified by SI 2000/2531, reg. 22B (as inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 3)
- C2** S. 94A modified by SI 2000/2532, reg. 31A (as inserted (1.10.2008) by [Building \(Electronic Communications\) Order 2008 \(S.I. 2008/2334\)](#), arts. 1, 4)
- C3** S. 94A modified (1.10.2010) by [The Building \(Approved Inspectors etc.\) Regulations 2010 \(S.I. 2010/2215\)](#), regs. 1, 32 (as amended (W.) (17.6.2016) by [The Building Regulations c. \(Amendment\) \(Wales\) Regulations 2016 \(S.I. 2016/611\)](#), regs. 1(4), 3(4)(b) (with reg. 1(3))
- C4** S. 94A modified (1.10.2010) by [The Building Regulations 2010 \(S.I. 2010/2214\)](#), regs. 1, 48(1) (with reg. 9)

Entry on premises

95 Power to enter premises.

- (1) Subject to this section, an authorised officer of a local authority, on producing, if so required, some duly authenticated document showing his authority, has a right to enter any premises at all reasonable hours—
- (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises, a contravention of this Act, or of any building regulations, that it is the duty of the local authority to enforce,
 - (b) for the purpose of ascertaining whether or not circumstances exist that would authorise or require the local authority to take any action, or execute any work, under this Act or under building regulations,
 - (c) for the purpose of taking any action, or executing any work, authorised or required by this Act, or by building regulations, or by an order made under this Act, to be taken, or executed, by the local authority, or
 - (d) generally for the purpose of the performance by the local authority of their functions under this Act or under building regulations.

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- (2) Admission to premises, other than a factory or workplace, shall not be demanded as of right unless 24 hours' notice of the intended entry has been given to the occupier.
- (3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing that—
 - (a) admission to any premises has been refused, or refusal is apprehended, or the premises are unoccupied, or the occupier is temporarily absent, or the case is one of urgency, or an application for admission would defeat the object of the entry, and
 - (b) there is reasonable ground for entry into the premises for any of the purposes mentioned in subsection (1) above,
 the justice may by warrant under his hand authorise the local authority by any authorised officer to enter the premises, if need be by force.
- (4) A warrant shall not be issued under subsection (3) above unless the justice is satisfied that—
 - (a) notice of the intention to apply for a warrant has been given to the occupier, or
 - (b) the premises are unoccupied, or the occupier is temporarily absent, or the case is one of urgency, or the giving of the notice would defeat the object of the entry.

96 Supplementary provisions as to entry.

- (1) An authorised officer entering premises by virtue of section 95 above, or of a warrant issued under it, may take with him such other persons as may be necessary, and on leaving unoccupied premises that he has entered by virtue of such a warrant he shall leave them as effectually secured against trespassers as he found them.
- (2) A warrant issued under that section shall continue in force until the purpose for which the entry is necessary has been satisfied.
- (3) A person who—
 - (a) is admitted into a factory or workplace in compliance with that section or a warrant issued under it, and
 - (b) discloses to another person information obtained by him in the factory or workplace with regard to a manufacturing process or trade secret,
 is liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding three months, unless the disclosure was made in the performance of his duty.

Execution of works

97 Power to execute work.

A local authority may, by agreement with the owner or occupier of any premises, themselves execute at his expense—

- (a) any work that they have under this Act required him to execute, or
- (b) any work in connection with the construction, laying, alteration or repair of a sewer or drain that he is entitled to execute,

and for that purpose they have all the rights that he would have.

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98 Power to require occupier to permit work.

If, on a complaint made by the owner of premises, it appears to a magistrates' court that the occupier of those premises prevents the owner from executing any work that he is by or under this Act required to execute, the court may order the occupier to permit the execution of the work.

99 Content and enforcement of notice requiring works.

- (1) A notice in relation to which it is declared by any provision of this Act that this section applies shall indicate the nature of the works to be executed and state the time within which they are to be executed.
- (2) Subject to any right of appeal conferred by section 102 below, if the person required by such a notice to execute works fails to execute them within the time limited by the notice—
 - (a) the local authority may themselves execute the works and recover from that person the expenses reasonably incurred by them in doing so, and
 - (b) without prejudice to that power, he is liable on summary conviction to a fine not exceeding level 4 on the standard scale and to a further fine not exceeding £2 for each day on which the default continues after he is convicted.
- (3) This section has effect subject to any modification specified in the provision under which the notice is given.

100 Sale of materials.

- (1) A local authority may sell any materials that—
 - (a) have been removed by them from any premises, including a street, when executing works under this Act or otherwise carrying this Act into effect, and
 - (b) are not before the expiration of three days from the date of their removal claimed by the owner and taken away by him.
- (2) Where a local authority sell materials under this section, they shall pay the proceeds to the person to whom the materials belonged, after deducting the amount of any expenses recoverable by them from him.
- (3) This section does not apply to refuse removed by a local authority.

101 Breaking open of streets.

- (1) For the purposes of any section of this Act that confers powers on local authorities to construct, lay or maintain sewers, drains or pipes, ^[F4]^[F5]section 158 of the Water Industry Act 1991] (street works) shall apply, with the necessary modifications, as ^[F6]it applies] for the purpose of conferring power on a water undertaker or sewerage undertaker to lay a relevant pipe, within the meaning of ^[F7]that section] .]
- ^[F8](2) ^[F9]That section] shall also so apply so far as necessary for the purposes of any power to lay or maintain a sewer or drain which is conferred by this Act on a person other than a local authority.]

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Textual Amendments

- F4** Words in s. 101(1) substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(3)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F5** words in s. 101(1) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(5)(a)**.
- F6** Words in s. 101(1) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(5)(a)**.
- F7** Words in s. 101(1) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(5)(a)**.
- F8** S. 101(2) substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(3)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F9** Words in s. 101(2) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(5)(b)**.

Appeal against notice requiring works

102 Appeal against notice requiring works.

- (1) Where a person is given a notice in relation to which it is declared by any provision of this Act that this section applies, he may appeal to a magistrates' court on any of the following grounds that are appropriate in the circumstances of the particular case—
- (a) that the notice or requirement is not justified by the terms of the provision under which it purports to have been given,
 - (b) that there has been some informality, defect or error in, or in connection with, the notice,
 - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary,
 - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose,
 - (e) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served,
 - (f) where the works are works for the common benefit of the premises in question and other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute towards the expenses of executing any works required.
- (2) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice, the court shall dismiss the appeal, if it is satisfied that the informality, defect or error was not a material one.
- (3) The appellant—
- (a) shall, where the grounds upon which the appeal is brought include a ground specified in subsection (1)(e) or (f) above, serve a copy of his notice of appeal on each other person referred to, and
 - (b) may, in the case of any appeal under this section, serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question,

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and on the hearing of the appeal the court may make such order as it thinks fit with respect to—

- (i) the person by whom any works are to be executed and the contribution to be made by any other person towards the cost of the works, or
 - (ii) the proportions in which any expenses that may become recoverable by the local authority are to be borne by the appellant and such other person.
- (4) In exercising its powers under subsection (3) above, the court shall have regard—
- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required, and
 - (b) in any case, to the degree of benefit to be derived by the different persons concerned.
- (5) This section has effect subject to any modification specified in the provision under which the notice is given.

General provisions about appeals and applications

103 Procedure on appeal or application to magistrates' court.

- (1) Where this Act provides—
- (a) for an appeal to a magistrates' court against a requirement, refusal or other decision of a local authority, or
 - (b) for a matter to be determined by, or for an application in respect of a matter to be made to, a magistrates' court,
- the procedure shall be by way of complaint for an order.
- (2) The time within which such an appeal may be brought is 21 days from the date on which notice of the local authority's requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint is deemed to be the bringing of the appeal.
- (3) In a case where such an appeal lies, the document notifying to the person concerned the local authority's decision in the matter shall state the right of appeal to a magistrates' court and the time within such an appeal may be brought.

104 Local authority to give effect to appeal.

Where upon an appeal under this Act a court varies or reverses a decision of a local authority, it is the duty of the local authority to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

105 Judge not disqualified by liability to rates.

A judge of a court or a justice of the peace is not disqualified from acting in cases arising under this Act by reason only of his being, as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or be benefited by, a rate or fund out of which expenses of a local authority are to be defrayed.

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Compensation, and recovery of sums

106 Compensation for damage.

- (1) A local authority shall make full compensation to a person who has sustained damage by reason of the exercise by the authority, in relation to a matter as to which he has not himself been in default, of any of their powers under this Act.
- (2) Subject to subsection (3) below, any dispute arising under this section as to the fact of damage, or as to the amount of compensation, shall be determined by arbitration.
- (3) If the compensation claimed does not exceed £50, all questions as to the fact of damage, liability to pay compensation and the amount of compensation may on the application of either party be determined by, and any compensation awarded may be recovered before, a magistrates' court.

107 Recovery of expenses etc.

- (1) Where a local authority have incurred expenses for whose repayment the owner of the premises in respect of which the expenses were incurred is liable, either under this Act or by agreement with the authority, those expenses, together with interest from the date of service of a demand for the expenses, may be recovered by the authority—
 - (a) from the person who is the owner of the premises at the date on which the works are completed, or
 - (b) if he has ceased to be the owner of the premises before the date on which a demand for the expenses is served, either from him or from the person who is the owner at the date on which the demand is served,
 and, as from the date of the completion of the works, the expenses and interest accrued due thereon are, until recovered, a charge on the premises and on all estates and interests in them.
- (2) A local authority, for the purpose of enforcing a charge under subsection (1) above, have all the same powers and remedies under the ^{M4}Law of Property Act 1925 and otherwise as if they were mortgagees by deed having powers of sale and lease, or accepting surrenders of leases and appointing a receiver.
- (3) The rate of interest chargeable under subsection (1) above is such reasonable rate as the authority may determine.
- (4) A sum that a local authority are entitled to recover under this Act, and with respect to whose recovery provision is not made by any other section of this Act, may be recovered as a simple contract debt in any court of competent jurisdiction.
- (5) Where—
 - (a) a person has been given a notice in relation to which section 102 above applies, and
 - (b) the local authority take proceedings against him for the recovery of expenses that they are entitled to recover from him,
 it is not open to him to raise any question that he could have raised on an appeal under that section.

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Modifications etc. (not altering text)

C5 Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), [s. 10\(3\)-\(5\)](#)

Marginal Citations

M4 1925 c. 20.

108 Payment by instalments.

- (1) A local authority may by order declare any expenses recoverable by them under section 107(1) above to be payable with interest by instalments within a period not exceeding 30 years, until the whole amount is paid.
- (2) An order may be made under subsection (1) above at any time with respect to an unpaid balance of expenses and accrued interest, but the period for repayment shall not in any case extend beyond 30 years from the service of the first demand for the expenses.
- (3) Any such instalments and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred, and if recovered from the occupier, may be deducted by him from the rent of the premises; but an occupier shall not be required to pay at any one time a sum in excess of the amount that—
 - (a) was due from him on account of rent at, or
 - (b) has become due from him on account of rent since,the date on which he received a demand from the local authority together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.
- (4) The rate of interest chargeable under subsection (1) above is such reasonable rate as the authority may determine.

Modifications etc. (not altering text)

C5 Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), [s. 10\(3\)-\(5\)](#)

F10 109

Textual Amendments

F10 S. 109 repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt.1](#) Group 4.

110 Liability of agent or trustee.

Where a local authority claim to recover expenses under this Act from a person as being the owner of the premises in respect of which the expenses were incurred, and that person proves that—

- (a) he is receiving the rent of those premises merely as agent or trustee for some other person, and

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- (b) he has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability is limited to the total amount of the money that he has or has had in his hands as aforesaid, but a local authority who are, or would be, debarred by the foregoing provisions of this section from recovering the whole of any such expenses from an agent or trustee may recover the whole or any unpaid balance thereof from the person on whose behalf the agent or trustee receives the rent.

Modifications etc. (not altering text)

- C5 Ss. 107-110 applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), s. 10(3)-(5)

111 Arbitration.

In an arbitration under this Act, the reference shall be to a single arbitrator appointed by agreement between the parties, or in default of agreement by the Secretary of State.

Obstruction

112 Obstruction

A person who wilfully obstructs a person acting in the execution of this Act, or of building regulations, or of an order or warrant made or issued under this Act, is in a case for which no other provision is made by this Act, liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Prosecutions

113 Prosecution of offences.

Proceedings in respect of an offence created by or under this Act shall not, without the written consent of the Attorney General, be taken by any person other than—

- (a) a party aggrieved, or
- (b) a local authority or a body whose function it is to enforce the provision in question.

114 Continuing offences.

Where provision is made by or under this Act for the imposition of a daily penalty in respect of a continuing offence—

- (a) the court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for the defendant to comply with any directions given by the court, and
- (b) where the court has fixed such a period, the daily penalty is not recoverable in respect of any day before the period expires.

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Protection of members etc. of authorities

115 Protection of members etc. of authorities.

- (1) Nothing done, and no contract entered into by a local authority, port health authority or joint board, and nothing done by a member or officer of, or person acting under the direction of, such an authority or board, shall subject them or him personally to any action, liability, claim or demand whatsoever, if it is done or entered into bona fide for the purpose of executing this Act.
- (2) Any expense incurred by such an authority, board member, officer or other person acting bona fide for the purpose aforesaid shall be borne and repaid out of the fund or rate applicable by the authority or board for the general purposes of this Act.
- (3) Subsections (1) and (2) above do not exempt a member of such an authority or board from liability to make a payment in pursuance of [^{F11}section 17 or 18 of the ^{M5}Audit Commission Act 1998](unlawful expenditure).

Textual Amendments

F11 Words in s. 115(3) substituted (11.9.1998) by 1998 c. 18, s. 54(1), Sch. 3 para.9

Marginal Citations

M5 1998 c. 18

Default powers

116 Default powers of Secretary of State.

- (1) If the Secretary of State is satisfied that a local authority or joint board have failed to discharge their functions under this Act in a case in which they ought to have discharged them, he may make an order declaring them to be in default and directing them for the purpose of removing the default to discharge such of their functions, in such manner and within such time or times, as may be specified in the order.
- (2) If a local authority or joint board with respect to whom an order has been made under subsection (1) above fail to comply with a requirement of the order within the time limited by the order for compliance with that requirement, the Secretary of State, in lieu of enforcing the order by mandamus or otherwise, may make an order transferring to himself such of the functions of the body in default as may be specified in his order.

117 Expenses of Secretary of State.

- (1) Where the Secretary of State has by order under section 116(2) above transferred functions to himself, any expenses incurred by him in discharging those functions shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Secretary of State—
 - (a) shall be paid to him by the body in default on demand, and
 - (b) is recoverable by him from it as a debt due to the Crown,and that body has the like power of raising the money required as it has of raising money for defraying expenses incurred directly by it.

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- (2) The payment of such expenses as aforesaid is, to such extent as may be sanctioned by the Secretary of State, a purpose for which a local authority or joint board may borrow money in accordance with the statutory provisions relating to borrowing by such an authority or board.

118 Variations or revocation of order transferring powers.

- (1) Where the Secretary of State has made an order under section 116(2) above, he may at any time by a subsequent order vary or revoke that order, but without prejudice to the validity of anything previously done.
- (2) Where an order is so revoked, the Secretary of State may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to the transfer, vesting and discharge of any property or liabilities acquired or incurred by him in discharging functions to which the revoked order related.

Local inquiries

119 Local inquiries.

The Secretary of State may cause a local inquiry to be held in a case where he is authorised by this Act to determine a difference, to make an order, to give a consent or approval or otherwise to act under such a provision.

Orders

120 Orders.

- (1) The power to make an order under section 16(13), 30(3) or (4), 42(7), 69(6) or 134(1) above, or under paragraph 5(2) of Schedule 1 to this Act, is exercisable by statutory instrument, and different days may be appointed by such an order for different provisions or for different purposes.
- (2) An order under section 30(3) above or 134(1) (a), (b) or (c) below may contain such transitional provisions and savings as appear to the Secretary of State to be necessary or expedient in connection with the provisions thereby brought into force, including such adaptations of those provisions as appear to him necessary or expedient in consequence of the partial operation of this Act (whether before or after the day appointed by the order).

Interpretation

121 Meaning of “building”.

- (1) The word “building”, for the purposes of—
- (a) Part I of this Act, and
 - (b) any other enactment (whether or not contained in this Act) that relates to building regulations, or that mentions “buildings” or “a building” in a context from which it appears that those expressions are there intended to have the same meaning as in Part I of this Act,

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means any permanent or temporary building, and, unless the context otherwise requires, it includes any other structure or erection of whatever kind or nature (whether permanent or temporary).

- (2) In subsection (1) above, “structure or erection” includes a vehicle, vessel, hovercraft, aircraft or other movable object of any kind in such circumstances as may be prescribed (being circumstances that in the opinion of the Secretary of State justify treating it for those purposes as a building).
- (3) For the purposes mentioned in subsection (1) above, unless the context otherwise requires—
 - (a) a reference to a building includes a reference to part of a building and
 - (b) a reference to the provision of services, fittings and equipment in or in connection with buildings, or to services, fittings and equipment so provided, includes a reference to the affixing of things to buildings or, as the case may be, to things so affixed.

122 Meaning of “building regulations”.

In this Act—

- (a) “building regulations” means, subject to paragraph (b) below, regulations made under section 1 above;
- (b) a reference to building regulations, in a particular case in relation to which a requirement of building regulations is for the time being dispensed with, waived, relaxed or modified by virtue of section 8 or 11 above or any other enactment, is a reference to building regulations as they apply in that case, unless the context otherwise requires.

123 Meaning of “construct” and “erect”.

- (1) For the purposes of—
 - (a) Part I of this Act, and
 - (b) any other enactment (whether or not contained in this Act) that relates to building regulations, or that mentions “buildings” or “a building” in a context from which it appears that those expressions are there intended to have the same meaning as in the said Part I,

references to the construction or erection of a building include references to—

- (i) the carrying out of such operations (whether for the reconstruction of a building, the roofing over of an open space between walls or buildings, or otherwise) as may be designated in building regulations as operations falling to be treated for those purposes as the construction or erection of a building, and
- (ii) the conversion of a movable object into what is by virtue of section 121(1) and (2) above a building.

and “construct” and “erect” shall be construed accordingly.

- (2) For the purposes of Part III of this Act, each of the following operations is deemed to be the erection of a building—
 - (a) the re-erection of a building or part of a building when an outer wall of that building or, as the case may be, that part of a building has been pulled down,

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or burnt down, to within 10 feet of the surface of the ground adjoining the lowest storey of the building or of that part of the building,

- (b) the re-erection of a frame building or part of a frame building when that building or part of a building has been so far pulled down, or burnt down, as to leave only the framework of the lowest storey of the building or of that part of the building,
 - (c) the roofing over of an open space between walls or buildings,
- and “erect” shall be construed accordingly.

124 Meaning of deposit of plans

In this Act, a reference to the deposit of plans in accordance with building regulations is a reference to the deposit of plans in accordance with building regulations for the purposes of section 16 above, unless the context otherwise requires.

125 Construction and availability of sewers.

- (1) A reference in Part I of this Act to the construction of a sewer includes a reference to the extension of an existing sewer.
- (2) For the purposes of sections 64(2) and 66(1) above, a building or proposed building—
 - (a) is not deemed to have a sufficient water supply available unless—
 - (i) it has a sufficient supply of water laid on, or
 - (ii) such a supply can be laid on to it from a point within 100 feet of the site of the building or proposed building, and the intervening land is land through which the owner of the building or proposed building is, or will be, entitled to lay a communication pipe, and
 - (b) is not deemed to have a sewer available unless—
 - (i) there is within 100 feet of the site of the building or proposed building, and at a level that makes it reasonably practicable to construct a drain to communicate with it, a public sewer or other sewer that the owner of the building or proposed building is, or will be, entitled to use, and
 - (ii) the intervening land is land through which he is entitled to construct a drain.
- (3) The limit of 100 feet does not apply, for the purposes of subsection (2) above, if the local authority undertake to bear so much of the expenses reasonably incurred in—
 - (a) constructing, and maintaining and repairing, a drain to communicate with a sewer, or
 - (b) laying, and maintaining and repairing, a pipe for the purpose of obtaining a supply of water,

as the case may be, as is attributable of the fact that the distance of the sewer, or of the point from which a supply of water can be laid on, exceeds 100 feet.

126 General interpretation.

In this Act, unless the context otherwise requires—

“Act” includes an enactment contained in a local Act;

“approved inspector” has the meaning given by section 49(1) above;

“authorised officer”, in relation to a local authority, means—

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- (a) an officer of the local authority authorised by them in writing, either generally or specially, to act in matters of a specified kind or in a specified matter, or
- (b) by virtue of his appointment and for the purpose of matters within his province, a proper officer of the local authority . . . ^{F12};

“cesspool” includes a settlement tank or other tank for the reception or disposal of foul matter from buildings;

“closet” includes privy;

“contravention” includes failure to comply, and “contravene” has a corresponding meaning;

F13

“drain” means a drain used for the drainage of one building or of buildings or yards appurtenant to buildings within the same curtilage, and includes any manholes, ventilating shafts, pumps or other accessories belonging to the drain;

“earth-closet” means a closet having a movable receptacle for the reception of faecal matter and its deodorisation by the use of earth, ashes or chemicals, or by other methods;

“enactment” includes an enactment contained in a local Act;

“factory” has the meaning given by section 175 of the ^{M6}Factories Act 1961;

[^{F14}“fire and rescue authority” in relation to any premises or proposed premises, means—

- (a) where the Regulatory Reform (Fire Safety) Order 2005 applies to the premises or proposed premises, the enforcing authority within the meaning given by article 25 of that Order;
- (b) in any other case, the fire and rescue authority under the Fire and Rescue Services Act 2004 for the area in which the premises are or are to be situated ;]

“functions” includes powers and duties;

“highway authority” means, in the case of a highway repairable by the inhabitants at large, the council in whom the highway is vested;

“house” means a dwelling-house, whether a private dwelling-house or not;

“inner London” means the area comprising the inner London boroughs, the City of London, the Inner Temple and the Middle Temple;

“joint board” has the meaning given by section 343(1) of the ^{M7}Public Health Act 1936;

F15

“local Act” includes a provisional order confirmed by Parliament, and the confirming Act so far as it relates to that order;

[^{F16} “ local authority ” means the council of a district or London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple, the Under Treasurer of the Middle Temple or, for the purposes of Parts I and II above and of this Part so far as it relates to them, the Council of the Isles of Scilly [^{F17} but, in relation to Wales, means the council of a county or county borough;] ;]

“modifications” includes additions, omissions and amendments, and related expressions shall be construed accordingly;

“officer” includes servant;

“owner” means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own

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account or as agent or trustee for another person, or who would so receive it if those premises were let at a rackrent;

“plans” includes drawings of any other description, and also specifications or other information in any form;

“prejudicial to health” means injurious, or likely to cause injury, to health;

“premises” includes buildings, land, easements and hereditaments of any tenure;

“prescribed” means prescribed by building regulations;

“private sewer” means a sewer that is not a public sewer;

“proper officer”, in relation to a purpose and to a local authority, means an officer appointed for that purpose by that authority;

[^{F18} “ public sewer ” has the same meaning as in the [^{F19} Water Industry Act 1991] ;]

“rackrent”, in relation to property, means a rent that is not less than two-thirds of the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant’s rates and taxes, and deducting from it the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the property in a state to command such rent;

“rating district” has the meaning given by section 115(1) of the ^{M8}General Rate Act 1967;

“relevant period” has the meaning given by section 16(12) or 81(4) above, as the case may require;

“sanitary convenience” means closet or urinal;

“school” includes a Sunday school or a Sabbath school;

“sewer” does not include a drain as defined in this section, but otherwise it includes all sewers and drains used for the drainage of buildings and yards appurtenant to buildings, and any manholes, ventilating shafts, pumps or other accessories belonging to the sewer;

^{F20}

...

^{F20}

...

“statutory undertakers” means persons authorised by an enactment or statutory order to construct, work or carry on a railway, canal, inland navigation, dock, harbour, tramway, . . . ^{F21} . . . ^{F22} . . . ^{F23} or other public undertaking; [^{F24}but does not include a universal service provider (within the meaning of the Postal Services Act 2000), the Post Office company (within the meaning of Part IV of that Act) or any subsidiary or wholly-owned subsidiary (within the meanings given by [^{F25}section 1159 of the Companies Act 2006]) of the Post Office company;]

^{F26}

.....
“street” includes a highway, including a highway over a bridge, and a road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

“substantive requirements”, in relation to building regulations, means the requirements of building regulations with respect to the [^{F27}matters mentioned in section 1(1A) above] (including requirements imposed by virtue of section 2(1) or (2)(a) or (b) above) [^{F28}and requirements that are of a kind mentioned in subsection (2)(a), (b) or (c) of section 2A above and are imposed by virtue of subsection (1) of that section], as distinct from procedural requirements;

“surface water” includes water from roofs;

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“water-closet” means a closet that has a separate fixed receptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

“workplace” does not include a factory, but otherwise it includes any place in which persons are employed otherwise than in domestic service.

Textual Amendments

- F12** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F13** Definition of “district surveyor” repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F14** Definition “fire and rescue authority” in s. 126 substituted (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), **Sch. 2 para. 33(8)** (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), **arts. 1(1), 2**)
- F15** Definition of “limits of supply” repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), 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), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F16** Definition of “local authority” substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 8 para. 14(4)(a)**
- F17** Words in s. 126 inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 15(3)** (with ss. 54(5)(7), 55(5) Sch. 17 paras. 22(1), 23(2); [S.I. 1996/396](#), art. 3, **Sch. 1**)
- F18** Definition of “public sewer” substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(4), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F19** Words in s. 126 substituted (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 39(6)**.
- F20** Definitions in s. 126 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group 2.
- F21** Word repealed by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), ss. 67(3)(4), Sch. 8 para. 17, **Sch. 9 Pt. I**
- F22** Word repealed by [Electricity Act 1989 \(c. 29, SIF 44:1\)](#), s. 112(4), **Sch. 18**
- F23** Word repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), 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), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F24** Words in s. 126 inserted (26.3.2001) by [The Postal Services Act 2000 \(Consequential Modifications No. 1\) Order 2001 \(S.I. 2001/1149\)](#), art. 3(1), **Sch. 1 para. 61**
- F25** Words in s. 126 substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 55** (with art. 10)
- F26** Definition of “statutory water undertakers” repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), 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), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F27** Words in s. 126 substituted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), **ss. 1(4), 11(4)**
- F28** Words in s. 126 inserted (16.11.2004) by [Sustainable and Secure Buildings Act 2004 \(c. 22\)](#), **ss. 4(5), 11(4)**

Marginal Citations

- M6** 1961 c. 34.
M7 1936 c. 49.
M8 1967 c. 9.

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127 Construction of certain references concerning Temples.

In relation to the Inner Temple and the Middle Temple, a reference in a provision of this Part of this Act to the proper officer or an officer or authorised officer of a local authority is a reference to an officer authorised by the Sub-Treasurer or the Under Treasurer, as the case may be, to act for the purposes of that provision.

Savings

128 Protection for dock and railway undertakings.

Section 333 of the ^{M9}Public Health Act 1936 applies in relation to local authorities acting under this Act as it applies in relation to local authorities acting under that Act.

Marginal Citations

M9 1936 c. 49.

129 Saving for Local Land Charges Act 1975.

Nothing in this Act about the recovery of expenses from owners of premises affects the ^{M10}Local Land Charges Act 1975.

Marginal Citations

M10 1975 c. 76.

130 Saving for other laws.

All powers and duties conferred or imposed by this Act are in addition to, and not in derogation of, any other powers and duties conferred or imposed by Act, law or custom, and subject to any express provision of this Act, all such other powers and duties may be exercised and shall be performed in the same manner as if this Act had not been passed.

131 Restriction of application of Part IV to Schedule 3.

This Part has effect subject to paragraph 13 of Schedule 3 to this Act.

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