



Public Health Act 1936

1936 CHAPTER 49

PART II

SANITATION AND BUILDINGS.

Private sewers and drains and cesspools.

34 Right of owners and occupiers within district to drain into public sewers.

- (1) Subject to the provisions of this section, the owner or occupier of any premises, or the owner of any private sewer, within the district of a local authority shall be entitled to have his drains or sewer made to communicate with the public sewers of that authority, and thereby to discharge foul water and surface water from those premises or that private sewer:

Provided that nothing in this subsection shall entitle any person—

- (a) to discharge directly or indirectly into any public sewer—
- (i) any liquid from a factory, other than domestic sewage or surface or storm water, or any liquid from a manufacturing process; or
 - (ii) any liquid or other matter the discharge of which into public sewers is prohibited by or under any enactment (including any enactment in this Act); or
- (b) where separate public sewers are provided for foul water and for surface water, to discharge directly or indirectly—
- (i) foul water into a sewer provided for surface water; or
 - (ii) except with the approval of the local authority, surface water into a sewer provided for foul water; or
- (c) to have his drains or sewer made to communicate directly with a storm-water overflow sewer.
- (2) Subject to the provisions of Part XII of this Act with respect to the breaking open of streets, the owner or occupier of any premises may break open any street for the purpose of exercising his rights under this section and for the purpose of examining,

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repairing and renewing any drain or private sewer draining his premises into a public sewer.

- (3) A person desirous of availing himself of the foregoing provisions of this section shall give to the local authority notice of his proposals, and at any time within twenty-one days after receipt thereof, the authority may by notice to him refuse to permit the communication to be made, if it appears to them that the mode of construction or condition of the drain or sewer is such that the making of the communication would be prejudicial to their sewerage system, and for the purpose of examining the mode of construction and condition of the drain or sewer they may, if necessary, require it to be laid open for inspection:

Provided that any question arising under this subsection between a local authority and a person proposing to make a communication as to the reasonableness of any such requirement of the local authority, or of their refusal to permit a communication to be made, may on the application of that person be determined by a court of summary jurisdiction.

- (4) Where the local authority do not under the next but one succeeding section elect themselves to make the communication, the person making it shall, before commencing the work, give reasonable notice to any person directed by the authority to superintend the execution of the work and afford him all reasonable facilities for superintending the execution thereof.
- (5) Any person causing a drain or sewer to communicate with a public sewer without complying with, or in contravention of, any of the provisions of this section, or before the expiration of the period mentioned in subsection (3) of this section, shall be liable to a fine not exceeding twenty pounds and, whether proceedings have or have not been taken by them in respect of that offence, the local authority may close any communication made in contravention of any of those provisions, and recover from the offender any expenses reasonably incurred by them in so doing.

35 Use of public sewers by owners and occupiers without district.

- (1) Subject as hereinafter provided, the owner or occupier of any premises and the owner of any private sewer without the district of a local authority shall have the like rights with respect to drainage into the public sewers of that authority as he would have under the last preceding section if his premises or sewer were situate within their district, and the provisions of that section shall apply accordingly:

Provided that, without prejudice to their right under the last preceding section to prohibit the discharge of certain liquids or other matters into their sewers or into some of their sewers, or to refuse to permit a communication to be made on the ground of the defective construction or condition of a drain or sewer, and to require the drain or sewer to be laid open for inspection, the local authority may, in the case of a drain or sewer from premises outside their district, refuse to permit a communication to be made except upon such reasonable terms and conditions, including the making to them of a reasonable payment or reasonable periodical payments, as they think fit.

- (2) If a person is aggrieved by any terms or conditions which a local authority seek to impose under the preceding subsection, the reasonableness thereof may on his application be determined by a court of summary jurisdiction, or he may require it to be referred to arbitration.

- (3) Where a person avails himself of the provisions of this section, the local authority of the district in which his premises or sewer are or is situate may, if they think fit, defray, or contribute towards, any expenses incurred by him for the purpose, or any payment which he is required under this section to make to the other local authority.

36 Right of local authority to undertake the making of communications with public sewers.

- (1) Where under either of the two last preceding sections a person gives to a local authority notice of his proposal to have his drains or sewer made to communicate with a public sewer of that authority, the authority may, within fourteen days after the receipt of the notice or, if any question arising under the notice requires to be determined by a court of summary jurisdiction or by an arbitrator, within fourteen days after the decision of that question, give notice to that person that they intend themselves to make the communication and, if after such a notice has been given to him, he proceeds himself to make the communication, he shall be liable to a fine not exceeding fifty pounds.
- (2) Where a local authority have given such a notice as aforesaid, they shall have all such rights in respect of the making of the communication as the person desiring it to be made would have, but it shall not be obligatory on them to make the communication until the cost of the work, as estimated by their surveyor, has been paid to them, or security for payment has been given to their satisfaction.
- (3) If any payment so made to the local authority exceeds the expenses reasonably incurred by them in the execution of the work, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, if any, made to them, they may recover the expenses, or the balance thereof, from the person for whom the work was done.
- (4) For the purposes of this section, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street.

37 New buildings to be provided with any necessary drains, and &c.

- (1) Where plans of a building or of an extension of a building are, in accordance with building byelaws, deposited with a local authority, the authority shall reject the plans unless either the plans show that satisfactory provision will be made for the drainage of the building or of the extension, as the case may be, or the authority are satisfied that in the case of the particular building or extension they may properly dispense with any provision for drainage.

In this section the expression " drainage " includes the conveyance, by means of a sink and any other necessary appliance, of refuse water and the conveyance of rain water from roofs.

- (2) Any question arising under the preceding subsection between a local authority and the person by whom, or on whose behalf, plans are deposited as to whether provision for drainage may properly be dispensed with, or whether any provision for drainage proposed to be provided ought to be accepted by the authority as satisfactory, may on the application of that person be determined by a court of summary jurisdiction.
- (3) A proposed drain shall not be deemed to be a satisfactory drain for the purposes of this section unless it is proposed to be made, as the local authority, or on appeal a court

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of summary jurisdiction, may require, either to connect with a sewer, or to discharge into a cesspool or into some other place :

Provided that, subject to the provisions of the next succeeding subsection, a drain shall not be required to be made to connect with a sewer unless—

- (a) that sewer is within one hundred feet of the site of the building or, in the case of an extension, the site either of the extension or of the original building, and is at a level which makes it reasonably practicable to construct a drain to communicate therewith, and, if it is not a public sewer, is a sewer which the person constructing the drain is entitled to use; and
 - (b) the intervening land is land through which that person is entitled to construct a drain.
- (4) Notwithstanding anything in proviso (a) to the last preceding subsection, a drain may be required to be made to connect with a sewer which is not within the distance mentioned in that proviso, but is otherwise such a sewer as is therein mentioned, if the authority undertake to bear so much of the expenses reasonably incurred in constructing, and in maintaining and repairing, the drain as may be attributable to the fact that the distance of the sewer exceeds the distance so mentioned.

If any question arises as to the amount of any payment to be made to a person under this subsection, that question may on his application be determined by a court of summary jurisdiction, or he may require it to be referred to arbitration.

38 Drainage of buildings in combination.

- (1) Where a local authority might under the last preceding section require each of two or more buildings to be drained separately into an existing sewer, but it appears to the authority that those buildings may be drained more economically or advantageously in combination, the authority may, when the drains of the buildings are first laid, require that the buildings be drained in combination into the existing sewer by means of a private sewer to be constructed either by the owners of the buildings in such manner as the authority may direct, or, if the authority so elect, by the authority on behalf of the owners :

Provided that a local authority shall not, except by agreement with the owners concerned, exercise the powers conferred by this subsection in respect of any building for the drainage of which plans have been previously passed by them.

- (2) A local authority who make such a requirement as aforesaid shall fix the proportions in which the expenses of constructing, and of maintaining and repairing, the private sewer are to be borne by the owners concerned, or, in a case in which the distance of the existing sewer from the site of any of the buildings in question is or exceeds one hundred feet, the proportions in which those expenses are to be borne by the owners concerned and the local authority, and shall forthwith give notice of their decision to each owner affected.

An owner aggrieved by the decision of a local authority under this subsection may appeal to a court of summary jurisdiction; but, subject to any such appeal, any expenses reasonably incurred in constructing, or in maintaining or repairing, the private sewer shall be borne in the proportions so fixed, and those expenses, or, as the case may be, contributions thereto, may be recovered accordingly by the persons, whether the local authority or owners, by whom they were incurred in the first instance.

- (3) A sewer constructed by a local authority under this section shall not be deemed to be a public sewer by reason of the fact that the expenses of its construction are in the first instance defrayed by the authority, or by reason of the fact that some part of those expenses is borne by them.
- (4) So much of any local Act as empowers a local authority to require in certain cases the construction of a combined drain is hereby repealed.

39 Provisions as to drainage, and &c, of existing buildings.

- (1) If it appears to a local authority that in the case of any building—
 - (a) satisfactory provision has not been, and ought to be, made for drainage as defined in section thirty-seven of this Act; or
 - (b) any cesspool, private sewer, drain, soil pipe, rain water pipe, spout, sink or other necessary appliance provided for the building, is insufficient or, in the case of a private sewer or drain communicating directly or indirectly with a public sewer, is so defective as to admit subsoil water; or
 - (c) any cesspool or other such work or appliance as aforesaid provided for the building is in such a condition as to be prejudicial to health or a nuisance; or
 - (d) any cesspool, private sewer or drain formerly used for the drainage of the building, but no longer used therefor, is prejudicial to health or a nuisance,

they shall by notice require the owner of the building to make satisfactory provision for the drainage of the building, or, as the case may be, require either the owner or the occupier of the building to do such work as may be necessary for renewing, repairing or cleansing the existing cesspool, sewer, drain, pipe, spout, sink or other appliance, or for filling up, removing or otherwise rendering innocuous the disused cesspool, sewer or drain.

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 subsection.

- (2) Subsections (3) and (4) of section thirty-seven of this Act shall apply in relation to any drain which a local authority require to be constructed under this section as they apply in relation to any such proposed drain as is mentioned in that section.
- (3) Subject as hereinafter provided, the provisions of subsection (1) of this section, so far as they empower a local authority to take action in such cases as are mentioned in paragraphs (a) and (6) of the subsection, shall not apply in relation to a building which belongs to any statutory undertakers and is held or used by them for the purposes of their undertaking :

Provided that the exemption conferred by this subsection 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.

40 Provisions as to soil pipes and ventilating shafts.

- (1) No pipe for conveying rain water from a roof shall be used for the purpose of conveying the soil or drainage from any sanitary convenience.
- (2) The soil pipe from every watercloset shall be properly ventilated.

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- (3) No pipe for conveying surface water from any premises shall be permitted to act as a ventilating shaft to any drain or sewer conveying foul water.
- (4) If it appears to the local authority that there is on any premises a contravention of any provision of this section, they may by notice require the owner or the occupier of those premises to execute such work as may be necessary to remedy the matter.

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 subsection.

41 In urban district notice to be given of intention to repair, reconstruct or alter underground drains.

- (1) In a borough or urban district, and in a rural district or contributory place in which section thirty-nine of the Public Health Act, 1925, was in force immediately before the commencement of this Act, no person shall—
 - (a) except in case of emergency, repair, reconstruct, or alter the course of, any underground drain which communicates with a sewer, or with a cesspool or any other receptacle for drainage;
 - (b) where in a case of emergency any such works have been executed without notice, cover over the drain or sewer,
 without giving to the local authority at least twenty-four hours' notice of his intention so to do.
- (2) While any such work as aforesaid is being executed, all persons concerned shall permit the surveyor or sanitary inspector, or any other authorised officer, of the local authority to have free access to the work.
- (3) A person who fails to comply with any requirement of this section shall be liable to a fine not exceeding five pounds.
- (4) Nothing in this section shall apply in relation to
 - (a) so much of any drain or sewer constructed by, or belonging to, a railway company as runs under, across, or along their railway; or
 - (b) so much of any drain or sewer constructed by, or belonging to, dock undertakers as is situate in or on land of the undertakers which is held or used by them for the purposes of their undertaking.

42 Power of local authority to alter drainage system of premises.

- (1) Where any premises have a drain or sewer communicating with a public sewer or a cesspool, but that system of drainage, though sufficient for the effectual drainage of the premises, is not adapted to the general sewerage system of the district, or is in the opinion of the local authority otherwise objectionable, the authority may, at their own expense and on condition that they first provide in a position equally convenient to the owner of the premises a drain or sewer equally effectual for the drainage thereof and communicating with a public sewer, close the existing drain or sewer and fill up the cesspool, if any, and do any work necessary for that purpose.
- (2) A local authority who propose to execute any work under this section shall give notice of their proposals to the owner of the premises in question and, if he is aggrieved thereby, as regards either the position or the sufficiency of the drain or sewer proposed

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to be provided for the drainage of the premises, he may appeal to a court of summary jurisdiction.