



Public Health Act 1936

1936 CHAPTER 49

PART II

SANITATION AND BUILDINGS.

Sewerage and sewage disposal.

14 General duty of local authority to provide for sewerage of their district.

It shall be the duty of every local authority to provide such public sewers as may be necessary for effectually draining their district for the purposes of this Act, and to make such provision, by means of sewage disposal works or otherwise, as may be necessary for effectually dealing with the contents of their sewers.

15 Provision of public sewers and sewage disposal works.

(1) A local authority may within their district and also, subject to the provisions of the next succeeding section, without their district—

(1) construct a public sewer—

(a) in, under or over any street, or under any cellar or vault below any street, subject, however, to the provisions of Part XII of this Act with respect to the breaking open of streets; and

(b) in, on or over any land not forming part of a street, after giving reasonable notice to every owner and occupier of that land;

(ii) construct sewage disposal works on any land acquired, or lawfully appropriated, for the purpose;

(iii) by agreement acquire, whether by way of purchase, lease or otherwise, any sewer or sewage disposal works, or the right to use any sewer or sewage disposal works.

(2) Where a local authority propose in the exercise of their powers under this section to construct a sewer which will cross or interfere with any watercourse or works vested

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in, or under the control of, a land drainage authority, they shall before adopting plans for the construction of the sewer give notice of their proposals to that authority.

- (3) If a land drainage authority to whom notice has been given under the last preceding subsection, serve within twenty-eight days on the local authority notice of objection to their proposals, the local authority shall not proceed with their proposals unless all objections so made are withdrawn, or the Minister after a local inquiry "has approved the proposals either with or without modification.
- (4) Where a rural authority propose to carry out works for the sewerage of any part of their district, they shall, before adopting plans for the works, give notice of their proposals to the parish council of each parish to be served by the works, or, in the case of a parish not under a parish council, to the parish meeting.

16 Notices to be given before constructing public sewers, or sewage disposal Works, outside district.

- (1) Where a local authority, in the exercise of their powers under the last preceding section, propose to construct any public sewer or sewage disposal works outside their district, the provisions of that section with respect to notices and appeals shall apply, and the authority shall, in addition to giving any notice required by that section—
 - (a) publish by advertisement in a local newspaper circulating in the district in which the proposed work is to be executed a notice describing the nature of their proposals and specifying the land in or on which they propose to execute any work, and naming a place where a plan illustrative of their proposals may be inspected at all reasonable hours by any person free of charge; and
 - (b) serve, not later than the date of the publication of the advertisement, a copy of the notice on the local authority of the district in which the proposed work is to be executed.
- (2) If, within twenty-eight days after the publication of the notice referred to in the preceding subsection, notice of objection to their proposals is served on the local authority either by the local authority of the district in which the proposed work is to be executed or by any owner or occupier of land directly affected by the proposals, they shall not proceed with their proposals, unless all objections so made are withdrawn, or the Minister, after a local inquiry, has approved the proposals, either with or without modification.
- (3) The foregoing provisions of this section with respect to the publication and service of, and appeals against, such additional notices as are therein referred to shall not apply where the work which a local authority propose to carry out in the district of another local authority consists only of the construction of a public sewer in a highway repairable by the inhabitants at large and they have obtained the consent of that other local authority.

17 Adoption by local authority of sewers and sewage disposal works.

- (1) Subject to the provisions of this section, a local authority may at any time declare that any sewer or sewage disposal works situate within their district, or serving their district or any part of their district, being a sewer or works the construction of which was not completed before the commencement of this Act, shall, as from such date as may be specified in the declaration, become vested in them :

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Provided that an authority who propose to make a declaration under this subsection shall give notice of their proposal to the owner or owners of the sewer or works in question, and shall take no further action in the matter until either two months have elapsed without an appeal against their proposal being lodged under subsection (3) of this section, or, as the case may be, until any appeal so lodged has been determined.

- (2) Subject as aforesaid, the owner, or any of the owners, of any sewer or sewage disposal works with respect to which a local authority might have made a declaration under the preceding subsection may make an application to that authority requesting them to make such a declaration with respect thereto.
- (3) An owner aggrieved by the proposal of a local authority to make a declaration under this section may appeal to the Minister within two months after notice of the proposal is served upon him, and an owner aggrieved by the refusal of a local authority to make such a declaration may appeal to the Minister at any time after receipt of notice of their refusal, or if no such notice is given to him, at any time after the expiration of two months from the making of his application.

On the hearing of an appeal under this subsection, the Minister may allow or disallow the proposal of the local authority or, as the case may be, make any declaration which the local authority might have made, and any declaration so made shall have the same effect as if it had been made by the authority:

Provided that the Minister may, if he thinks fit, specify conditions, including conditions as to the payment of compensation by the local authority, and direct that his declaration shall not take effect unless any conditions so specified are accepted.

- (4) A local authority and, on an appeal, the Minister, in deciding whether a declaration should be made under this section, shall have regard to all the circumstances of the case and, in particular, to the following considerations:—
 - (a) whether the sewer or works in question is or are adapted to, or required for, any general system of sewerage or sewage disposal which the authority have provided, or propose to provide, for their district or any part thereof;
 - (b) whether the sewer is constructed under a highway, or under land reserved by a planning scheme for a street;
 - (c) the number of buildings which the sewer is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;
 - (d) the method of construction and state of repair of the sewer or works; and
 - (e) in a case where an owner objects, whether the making of the proposed declaration would be seriously detrimental to him.
- (5) Any person who immediately before the making of a declaration under this section was entitled to use the sewer in question shall be entitled to use it, or any sewer substituted therefor, to the same extent as if the declaration had not been made.
- (6) A declaration or an application under this section may be made with respect to a part only of a sewer.
- (7) Where a local authority are about to take into consideration the question of making a declaration under this section with respect to a sewer or sewage disposal works situate within the district of another local authority, or situate within their own district but serving the district, or any part of the district, of another local authority, they shall give notice to that other authority, and no declaration shall be made by them until either

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that other authority have consented thereto, or the Minister, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

In this subsection references to another local authority and their district include references to the council of a metropolitan borough and that borough.

- (8) Where a local authority have made a declaration under this section with respect to a sewer or sewage disposal works situate within the district of another local authority or within a metropolitan borough, they shall forthwith give notice of the fact to that other authority or, as the case may be, to the council of that borough.
- (9) A local authority shall not, except on the application of the authority, council, board or statutory undertakers concerned, make a declaration under this section with respect to any sewer or any part of a sewer, or any works, if that sewer or part of a sewer, or those works—
 - (a) is or are vested in another local authority, the council of a metropolitan borough, a county council (including the London County Council), or a joint sewerage board; or
 - (b) is or are vested in a railway company or dock undertakers and situate in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

18 Power of local authority to agree to adopt sewer or drain, or sewage disposal works, at future date.

- (1) A local authority may agree with any person constructing, or proposing to construct, a sewer or sewage disposal works that, if the sewer or works is or are constructed in accordance with the terms of the agreement, they will upon the completion of the work, or at some specified date, or on the happening of some future event, declare the sewer or works to be vested in them, and any such agreement shall be enforceable against the authority by the owner or occupier for the time being of any premises served by the sewer Or works.
- (2) The foregoing provisions of this section shall apply also in relation to drains, but it shall be a condition of any agreement made under those provisions with respect to a drain that the declaration shall not be made before the drain has become a sewer.
- (3) A local authority shall not make an agreement under this section with respect to a sewer or drain or sewage disposal works situate within the district of another local authority or within a metropolitan borough, until that other authority or, as the case may be, the council of that borough have consented thereto, or the Minister, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.

19 Power of local authority to require proposed sewer or drain to be so constructed, as to form part of general system.

- (1) Where a person proposes to construct a drain or sewer, the local authority may, if they consider that the proposed drain or sewer is, or is likely to be, needed to form part of a general sewerage system which they have provided or propose to provide, require him to construct the drain or sewer in a manner differing, as regards material or size of pipes, depth, fall, direction or outfall, or otherwise, from the manner in which he

proposes, or could otherwise be required by them, to construct it, and it shall be his duty to comply with the requirements of the local authority :

Provided that, if he is aggrieved by the requirements of the authority, he may within twenty-eight days appeal to the Minister who may either disallow the requirements or allow them with or without modification.

- (2) An authority who exercise the powers conferred upon them by this section shall repay to the person constructing the drain or sewer the extra expenses reasonably incurred by him in complying with their requirements and, until the drain or sewer becomes a public sewer, they shall also from time to time repay to him so much of any expenses reasonably incurred by him in repairing or maintaining it as may be attributable to their requirements having been made and complied with, and, if any question arises as to the amount of any payment to be made to him 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.
- (3) If any person who under this section has been required by a local authority to construct a drain or sewer in a particular manner constructs it otherwise than in accordance with the requirements of the authority, he shall be liable to a fine not exceeding fifty pounds, but without prejudice to the right of the authority to avail themselves of any other remedy.
- (4) Nothing in this section shall apply in relation to so much of any drain or sewer as is proposed to be constructed by a railway company or dock undertakers in or on land which belongs to them and is held or used by them for the purposes of their undertaking.

20 Vesting of public sewers and sewage disposal works in local authority.

- (1) All sewers within the meaning of the Public Health Act, 1875, and sewage disposal works which, by virtue of the provisions of that Act, were immediately before the commencement of this Act vested in a local authority, shall continue to be vested in them, and there shall also vest in them—
 - (a) all combined drains constructed before the commencement of this Act which, by virtue of the provisions of the Public Health Act, 1875, would immediately before the commencement of this Act have been vested in the local authority as sewers but for the provisions of some enactment or statutory scheme relating to the construction of combined drains, or of an order made under such an enactment or scheme;
 - (b) all sewers and sewage disposal works constructed by them at their expense, or acquired by them;
 - (c) all sewers constructed under any enactment relating to the sewerage of private streets to the satisfaction of the council carrying that enactment into execution, except any such sewer which by virtue of section twenty-nine of the Local Government Act, 1929, will vest in the county council; and
 - (d) all sewers and sewage disposal works with respect to which a declaration of vesting made under the foregoing provisions of this Part of this Act has taken effect.
- (2) Sewers which by virtue of this section continue to be, or become, vested in a local authority shall be known as, and are in this Act referred to as, " public sewers " :

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Provided that a sewer constructed by a local authority after the commencement of this Act for the purpose only of draining property belonging to them shall not be deemed to be a public sewer for the purposes of this Act until it has been declared to be a public sewer.

21 Agreements with county council for use of highway drains and sewers for sanitary purposes, or to allow public sewers to be used for drainage of highways.

- (1) Subject to the provisions of this section, a county council and a local authority may agree that—
 - (a) any drain or sewer which is vested in the county council in their capacity of highway authority may, upon such terms as may be agreed, be used by the local authority for the purpose of conveying surface water from premises or streets ;
 - (b) any public sewer vested in the local authority may, upon such terms as may be agreed, be used by the county council for conveying surface water from roads repairable by the county council.
- (2) Where a sewer or drain with respect to which a county council and a local authority propose to make an agreement under this section discharges, whether directly or indirectly, into the sewers or sewage disposal works of another sewerage authority, the agreement shall not be made without the consent of that other sewerage authority, who may give their consent upon such terms as they think fit.
- (3) A county council or local authority shall not unreasonably refuse to enter into an agreement for the purposes of this section or insist unreasonably upon terms unacceptable to the other party, and a sewerage authority shall not unreasonably refuse to consent to the making of such an agreement or insist unreasonably upon terms unacceptable to either party thereto, and any question arising under this section as to whether or not any authority or council are acting unreasonably shall be referred to the Minister, whose decision shall be final.
- (4) Nothing in this section shall be construed as limiting the rights of a county council under subsection (2) of section twenty-nine of the Local Government Act, 1929.

22 Power of local authority to alter, or close, public sewers.

A local authority may alter the size or course of any public sewer vested in them, or may discontinue and prohibit the use of any such public sewer, either entirely, or for the purpose of foul water drainage, or for the purpose of surface water drainage, but, before any person who is lawfully using the sewer for any purpose is deprived by the authority of the use of the sewer for that purpose, they shall provide a sewer equally effective for his use for that purpose and shall at their expense carry out any work necessary to make his drains or sewers communicate with the sewer so provided.

23 General duty of local authority to maintain public sewers.

It shall be the duty of every local authority to maintain, cleanse and empty all public sewers vested in them, subject, however, to their right under the next succeeding section to recover in certain cases the expenses, or a part of the expenses, incurred by them in maintaining a length of a public sewer.

24 Power of local authority to recover cost of maintaining certain lengths of public sewers.

- (1) Where a local authority have carried out work for the maintenance of any length of a public sewer, being a length to which this section applies, they may, subject to the provisions of this section, recover the expenses reasonably incurred by them in so doing from the owners for the time being of the premises served by that length of sewer in such proportions as the authority deem it fair to fix, regard being had by them to all the circumstances of the case, including the benefit derived by each owner from that length of sewer, the distance for which it is laid in land belonging to each owner, the point at which any work was necessary and the responsibility for any act or default which rendered the work necessary:

Provided that, unless in the opinion of the local authority immediate action is necessary, they shall, not less than seven days before commencing the work, give notice of the work which they propose to undertake to the owners of any premises known by them to be served by the length of sewer in question and consider any representations as to the need for, and reasonableness of, the proposed work which may be made to them by any of those owners within seven days of the service of the notice.

The expression " maintenance " in relation to any length of a public sewer to which this section applies includes repair, renewal and improvement, but in the case of improvement includes only such improvement as may be necessary to make that length of sewer adequate for draining the premises served by it immediately before the improvement was undertaken.

- (2) If a local authority, in lieu of executing works of maintenance only to any length of a public sewer to which this section applies, improve or enlarge that length of sewer for the purpose of enabling it to serve additional premises, they shall be entitled to recover under the last preceding subsection from the owners of the premises served by the existing sewer such sum only as they might reasonably have expended in executing works of maintenance necessary to make that length of sewer adequate for draining the premises served by it immediately before the improvement or enlargement was undertaken, and for the purposes of any future works of maintenance that length of sewer shall cease to be a length of sewer to which this section applies.
- (3) Any question arising under this section as to whether any length of sewer is one to which this section applies, as to the necessity for any work carried out by a local authority, as to the amount, or the reasonableness, of the expenses incurred by them, or as to the fairness of any division or apportionment of expenses made by them, may be determined by a court of summary jurisdiction either in proceedings taken by the local authority for the recovery of expenses incurred by them, or on the application of any owner concerned.
- (4) This section applies to any length of a public sewer, being either—
- (a) a length for the maintenance of which persons other than the local authority were, immediately before the commencement of this Act, responsible by virtue either of some enactment or statutory scheme relating to combined drains or of an order made under such an enactment or scheme, or of an agreement, being an enactment, scheme, order or agreement whereby the authority were entitled to require those persons to maintain that length of the sewer, or to abate any nuisance therein, or to contribute in proportions to, or indemnify the authority against, any expenses incurred by the authority in maintaining it; or

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- (b) a length which was vested in the local authority immediately before the commencement of this Act, but was not constructed at their expense or at the expense of any authority whose successors they are, and which lies in a garden, court or yard belonging to any of the premises served by the sewer or common to any two or more of them, or lies under a building comprised in any of those premises, or lies in a roadway, footway, passage or alley which is used solely or mainly as a means of access to those premises or any of them, but is not a highway repairable by the inhabitants at large.
- (5) So much of any local Act as relates to the liability for the repair of a single private drain connecting two or more houses with a public sewer is hereby repealed.

25 Buildings not to be erected without consent over sewer or drain shown on deposited map.

- (1) Where plans of a building or of an extension of a building are, in accordance with building byelaws, deposited with a local authority, and it is proposed to erect the building or extension, as the case may be, over any sewer or drain which is shown on the map of sewers required by this Part of this Act to be kept deposited at the offices of the authority, the authority shall reject the plans, unless they are satisfied that in the circumstances of the particular case they may properly consent to the erection of the proposed building or extension, either unconditionally or subject to compliance with any requirements specified in their consent.
- (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 the site on which it is proposed to erect a building or an extension of a building is over any such sewer or drain as aforesaid, or whether, and if so upon what conditions, a consent ought to be given by the local authority, may on the application of that person be determined by a court of summary jurisdiction.
- (3) If before the commencement of this Act a building has been erected over a sewer without such consent, if any, as under section twenty-six of the Public Health Act, 1875, was required at the date of the erection of the building, the local authority may by notice require the owner of the building to pull it down or to alter it in such manner 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 subsection.

26 Local authority to afford facilities for factories to drain into public sewers.

Subject to the provisions of this Act, a local authority shall give facilities for enabling manufacturers within their district to carry the liquids from their manufacturing processes into a public sewer vested in the authority:

Provided that nothing in this section shall be construed as requiring an authority—

- (a) where separate sewers are provided for foul water and for surface water, to admit any such liquid into a sewer provided for surface water only; or
- (b) to admit into their sewers any liquid which would prejudicially affect the sewers, or the treatment or disposal of the contents of the sewers, or would, from its temperature or otherwise, be prejudicial to health; or

- (c) to give such facilities as aforesaid where their sewers or sewage disposal works are only sufficient for the requirements of their district, or as affecting the provisions of the next succeeding section.

27 Certain matters not to be passed into public sewers.

- (1) No person shall throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any drain or sewer communicating with a public sewer—
 - (a) any matter likely to injure the sewer or drain, or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or
 - (b) any chemical refuse or waste steam, or any liquid of a temperature higher than one hundred and ten degrees Fahrenheit, being refuse or steam which, or a liquid which when so heated, is, either alone or in combination with the contents of the sewer or drain, dangerous, or the cause of a nuisance, or prejudicial to health; or
 - (c) any petroleum spirit, or carbide of calcium.
- (2) A person who contravenes any of the provisions of this section shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.
- (3) In this section the expression " petroleum spirit " means any such—
 - (a) crude petroleum;
 - (b) oil made from petroleum, or from coal, shale, peat or other bituminous substances; or
 - (c) product of petroleum or mixture containing petroleum,as, when tested in the manner prescribed by or under the Petroleum (Consolidation) Act, 1928, gives off an inflammable vapour at a temperature of less than seventy-three degrees Fahrenheit.

28 Communication of sewers with sewers of another sewerage authority.

- (1) A sewerage authority may, by agreement with another sewerage authority, and with the approval of the Minister, cause any sewer vested in them to communicate with a sewer of, or to discharge into sewage disposal works of, that other authority in such manner, and on such terms, as may be agreed between the authorities:

Provided that, where any sewer of a sewerage authority discharges, whether directly or indirectly, into the sewers or sewage disposal works of another sewerage authority, the first mentioned authority shall not, without the consent of that other authority, enter into any agreement under this section for admitting further sewage to the sewer in question.
- (2) This section extends to London so far as to enable agreements to be made thereunder between a sewerage authority in London and a sewerage authority outside London.

29 Powers of local authority as respects land held for treating sewage.

A local authority who hold any land for the purpose of treating the contents of their sewers may themselves manage it in such manner as they think fit, or may let it on lease

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for a period not exceeding twenty-one years, but every lease so granted shall contain provisions for ensuring the effective disposal, without the creation of a nuisance, of all sewage brought to the land.

30 Sewage, and &c, to be purified before discharge into streams, canals, and &c.

Nothing in this Part of this Act shall authorise a local authority to construct or use any public or other sewer, or any drain or outfall, for the purpose of conveying foul water into any natural or artificial stream, watercourse, canal, pond or lake, until the water has been so treated as not to affect prejudicially the purity and quality of the water in the stream, watercourse, canal, pond or lake.

31 Local authority not to create any nuisance.

A local authority shall so discharge their functions under the foregoing provisions of this Part of this Act as not to create a nuisance.

32 Duty of local authority to keep map showing public sewers, and &c.

- (1) Subject to the provisions of subsection (3) of this section with respect to existing sewers, every local authority shall keep deposited at their offices, for inspection by any person at all reasonable hours free of charge, a map showing and distinguishing all sewers and drains within their district which are—
 - (a) public sewers;
 - (b) sewers with respect to which a declaration of vesting has been made under this Part of this Act but has not yet taken effect;
 - (c) sewers or drains with respect to which an agreement to make such a declaration in the future has been entered into.
- (2) Where some of the public sewers in the district are reserved for foul water only or for surface water only, the map referred to in this section shall show also the purposes which each such sewer is intended to serve.
- (3) Public sewers which were vested in the local authority before the commencement of this Act shall be shown on the said map if they are reserved for foul water only or for surface water only, but, save as aforesaid, it shall not be obligatory on the local authority to show on the map a public sewer which was vested in them before the commencement of this Act.

33 Application of 27 and 28 Vict. c. 114 to works for supply of sewage.

Works for the supply of sewage to land for agricultural purposes shall be deemed to be an improvement of land authorised by the Improvement of Land Act, 1864, and the provisions of that Act shall apply accordingly.