



# Local Government (Miscellaneous Provisions) Act 1982

## 1982 CHAPTER 30

### PART XI

#### PUBLIC HEALTH, ETC.

24, 25. ....<sup>F1</sup>

**Textual Amendments**

F1 Ss. 24, 25 repealed by [Building Act 1984](#) (c. 55, SIF 15), s. 133(2), [Sch. 7](#)

26 .....<sup>F2</sup>

**Textual Amendments**

F2 S. 26(1)(2) repealed by [Environmental Protection Act 1990](#) (c. 43, SIF 46:4), s. 162(2), [Sch. 16 Pt. III](#)

27 **Powers to repair drains etc. and to remedy stopped-up drains etc.**

(1) The following section shall be substituted for sections 17 and 18 of the<sup>M1</sup>Public Health Act 1961—

**“17 Powers to repair drains etc. and to remedy stopped-up drains etc.**

(1) If it appears to a local authority that a drain, private sewer, water-closet, waste pipe or soil pipe—

(a) is not sufficiently maintained and kept in good repair, and

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- (b) can be sufficiently repaired at a cost not exceeding £250, the local authority may, after giving not less than seven days notice to the person concerned, cause the drain, private sewer, water-closet or pipe to be repaired and, subject to subsections (7) and (8) below, recover the expenses reasonably incurred in so doing, so far as they do not exceed £250, from the person or persons concerned, in such proportions, if there is more than one such person, as the local authority may determine.
- (2) In subsection (1) above “person concerned” means—
- (a) in relation to a water-closet, waste pipe or soil pipe, the owner or occupier of the premises on which it is situated, and
  - (b) in relation to a drain or private sewer, any person owning any premises drained by means of it and also, in the case of a sewer, the owner of the sewer.
- (3) If it appears to a local authority that on any premises a drain, private sewer, water-closet, waste pipe or soil pipe is stopped-up, they may by notice in writing require the owner or occupier of the premises to remedy the defect within forty-eight hours from the service of the notice.
- (4) If a notice under subsection (3) of this section is not complied with, the local authority may themselves carry out the work necessary to remedy the defect and, subject to subsections (7) and (8) below, may recover the expenses reasonably incurred in so doing from the person on whom the notice was served.
- (5) Where the expenses recoverable by a local authority under subsection (1) or (4) of this section do not exceed £10, the local authority may, if they think fit, remit the payment of the expenses.
- (6) In proceedings to recover expenses under this section—
- (a) where the expenses were incurred under subsection (1) of this section, the court—
    - (i) shall inquire whether the local authority were justified in concluding that the drain, private sewer, water-closet, waste pipe or soil pipe was not sufficiently maintained and kept in good repair ; and
    - (ii) may inquire whether any apportionment of expenses by the local authority under that subsection was fair ;
  - (b) where the expenses were incurred under subsection (4) of this section, the court may inquire—
    - (i) whether any requirement contained in a notice served under subsection (3) of this section was reasonable ; and
    - (ii) whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings.
- (7) Subject to subsection (8) below, the court may make such order concerning the expenses or their apportionment as appears to the court to be just.
- (8) Where the court determines that the local authority were not justified in concluding that a drain, private sewer, water-closet, waste pipe or soil pipe was not sufficiently maintained and kept in good repair, the local authority

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shall not recover expenses incurred by them under subsection (1) of this section.

- (9) The court shall not revise an apportionment unless it is satisfied that all persons affected by the apportionment or by an order made by virtue of subsection (6)(b)(ii) above have had notice of the proceedings and an opportunity of being heard.
- (10) Subject to subsection (11) of this section, the provisions of subsection (1) of this section shall not authorise a local authority to carry out works on land which belongs to any statutory undertakers and is held or used by them for the purposes of their undertaking.
- (11) Subsection (10) of this section does not apply to houses, or to buildings used as offices or showrooms, other than buildings so used which form part of a railway station.
- (12) The Secretary of State may by order made by statutory instrument increase any amount specified in this section.
- (13) Nothing in an order made under subsection (12) of this section shall apply to a notice given under this section before the commencement of the order.
- (14) A statutory instrument containing an order under subsection (12) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (15) The provisions of this section shall be without prejudice to section 39 of the Public Health Act 1936 (which empowers a local authority to serve notices as regards defective drains).”.

<sup>F3</sup>(2) .....

**Textual Amendments**

**F3** S. 27(2) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 10](#) Group 3

**Modifications etc. (not altering text)**

**C1** The text of ss. 27, 34, 38 and 39 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M1** [1961 c. 64](#).

**28** ..... <sup>F4</sup>

**Textual Amendments**

**F4** S. 28 repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), s. 133(2), [Sch. 7](#)

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## 29 Protection of buildings.

- (1) The section applies where it appears to a local authority—
  - (a) that any building in their area is unoccupied; or
  - (b) that the occupier of a building in their area is temporarily absent from it.
- (2) Where this section applies and it appears to the local authority that the building—
  - (a) is not effectively secured against unauthorised entry; or
  - (b) is likely to become a danger to public health,
 the local authority may undertake works in connection with the building for the purpose of preventing unauthorised entry to it, or, as the case may be, for the purpose of preventing it becoming a danger to public health.
- (3) In this section and sections 30 and 32 “building” includes structure.
- (4) ..... <sup>F5</sup> in this section, the sections mentioned in subsection (3) above and section 31 below “local authority” means a district council, a London borough council and the Common Council of the City of London.
- (5) ..... <sup>F6</sup>
- (6) Subject to subsection (8) below, before undertaking any works under subsection (2) above, other than works on land to which section 30 below applies, a local authority shall serve a notice that they propose to undertake works under this section in connection with the building on each owner or occupier of the building.
- (7) A notice under subsection (6) above shall specify the works in connection with the building which the local authority propose to undertake.
- (8) A local authority need not give any such notice where they consider—
  - (a) that it is necessary to undertake works immediately in order to secure the building against unauthorised entry or to prevent it from becoming a danger to public health; or
  - (b) that it is not reasonably practicable to ascertain the name and address of an owner or to trace the whereabouts of an occupier who is absent from the building.
- (9) A local authority shall not undertake works specified in a notice under subsection (6) above before the expiry of the period of 48 hours from the service of the notice.
- (10) For the purpose of exercising the power conferred on a local authority by this section any person duly authorised in writing by the authority may enter—
  - (a) the building in connection with which works are to be undertaken;
  - (b) any land that appears to the local authority to be appurtenant to the building; and
  - (c) any other land if—
    - (i) it appears to the local authority to be unoccupied; and
    - (ii) it would be impossible to undertake the works without entering it.
- (11) Where the local authority undertake any works under subsection (2) above, they may recover the expenses reasonably incurred in so doing from any person to whom notice was given under subsection (6) above or subsection (2) of section 30 below or to whom notice would have been required to be given but for subsection (8) of this section or subsection (4) of that section.

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- (12) Section 293 of the <sup>M2</sup>Public Health Act 1936 shall have effect in relation to the recovery of expenses under this section as it has effect in relation to the recovery of a sum which a council are entitled to recover under that Act and with respect to the recovery of which provision is not made by any other section of that Act.
- (13) In proceedings to recover expenses under this section the court may inquire whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and the court may make such order concerning the expenses of their apportionment as appears to the court to be just.

**Textual Amendments**

**F5** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, [Sch. 17](#)

**F6** [S. 29\(5\)](#) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, [Sch. 17](#)

**Marginal Citations**

**M2** [1936 c. 49](#).

**30 Buildings on operational land of British Railways Board and certain statutory undertakers.**

- (1) This section applies to operational land—
- (a) of the British Railways Board (in this section referred to as “the Board”); . . . <sup>F7</sup>
  - (b) . . . . . <sup>F7</sup>
- (2) Subject to subsection (4) below, before undertaking any works under section 29(2) above on land to which this section applies a local authority shall serve notice that they propose to undertake works under that section in connection with the building—
- (a) on the Board, if the works which they propose to undertake will be undertaken on operational land of the Board; and
  - (b) in any other case, on the statutory undertakers on whose operational land the works will be undertaken.
- (3) A notice under subsection (2) above shall specify the works which the local authority propose to undertake.
- (4) A local authority need not give any such notice where they consider that it is necessary to undertake works immediately in order to secure a building against unauthorised entry or to prevent it from becoming a danger to public health.
- (5) A local authority shall not undertake works specified in a notice under subsection (2) above before the expiry of the period of 48 hours from the service of the notice on the Board or the statutory undertakers.
- (6) In carrying out any works under section 29(2) above on land to which this section applies a local authority shall comply with any reasonable requirement which the Board or, as the case may be, the statutory undertakers may impose for the protection or safety of their undertaking.
- (7) In this section “operational land” means, in relation to the Board or the statutory undertakers—
- (a) land which is used for the purpose of carrying on their undertaking; and

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(b) land in which an interest is held for that purpose, not being land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of carrying on such undertakings.

#### Textual Amendments

**F7** S. 30(1)(b) and the word “or” immediately preceding it repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 paras. 33, 35(1), **Sch. 18**

#### Modifications etc. (not altering text)

**C2** S. 30 extended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1), **Sch. 7 para. 2(1)(xliv)** and by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1)(xxxvi), Sch. 17 paras 33, **35(1)**

**C3** S. 30 extended 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. 1(2)(xxix), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**

**C4** S. 30 extended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para. 2(1)(xxxiii)**; S.I. 1996/218, **art. 2**

### 31 Appeals against notices.

- (1) A person on whom a notice is served under section 29 or 30 above may appeal against the notice to the county court.
- (2) No such appeal may be brought after the expiry of the period of 21 days from the date on which the notice was served.
- (3) The ground of any such appeal may be—
  - (a) that the works specified in the notice were not authorised by section 29 above; or
  - (b) that they were unnecessary; or
  - (c) that it was otherwise unreasonable for the local authority to undertake them.
- (4) If such an appeal is brought, the local authority—
  - (a) shall cease from any works specified in the notice which they have commenced; and
  - (b) shall not commence any further works so specified except as provided by subsection (7) below.
- (5) The court may make an order confirming or quashing the notice or varying it in such manner as it thinks fit.
- (6) An order under subsection (5) above may make such provision as to the recovery of expenses arising in connection with the works specified in the notice as the court thinks fit.
- (7) Upon the confirmation or variation of a notice the local authority may commence or recommence the works authorised by the notice as originally served or, as the case may be, as varied by the order of the court.

### 32 Applications to court in respect of expenses of works.

- (1) If a local authority seek to recover expenses incurred in undertaking works under section 29(2) above in connection with a building—

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- (a) where the building is on land to which section 30 above applies, from the Board or the statutory undertakers; or
- (b) in any other case, from an occupier of the building; and
- (c) they did not serve notice of their proposal to undertake the works under section 29(6) or 30(2) above on the Board or, as the case may be, the statutory undertakers or that occupier,

the person from whom they seek to recover the expenses may apply to the county court for a declaration—

- (i) that the works undertaken in connection with the building were unnecessary; or
  - (ii) that it was otherwise unreasonable for the local authority to undertake them.
- (2) No such application may be made after the expiry of the period of 21 days from the date on which the local authority first requested payment of the expenses.
- (3) If the court makes a declaration under subsection (1) above, it may make such order as it thinks fit in respect of the payment of the expenses incurred in connection with the works.

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