



Local Government (Miscellaneous Provisions) Act 1982

1982 CHAPTER 30

PART XI

PUBLIC HEALTH, ETC.

24 Paving of yards and passages

The following section shall be substituted for section 56 of the Public Health Act 1936—

“56 Yards and passages to be paved and drained.

- (1) If any court or yard appertaining to, or any passage giving access to, buildings to which this section applies is not so formed, flagged, asphalted or paved or is not provided with such works on, above, or below its surface, as to allow of the satisfactory drainage of its surface or subsoil to a proper outfall, the local authority may by notice require any person who is the owner of any of the buildings to execute all such works as may be necessary to remedy the defect.
- (2) The buildings to which this section applies are houses and industrial and commercial buildings.
- (3) 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 subsection (1) of this section.
- (4) This section shall apply in relation to any court, yard or passage which is used in common by the occupiers of two or more houses, or a house and a commercial or industrial building but which is not a highway maintainable at the public expense.”.

25 Building regulations

(1) The following subsections shall be substituted for subsections (1) and (2) of section 64 of the Public Health Act 1936 (passing or rejection of plans, and power to retain plans, etc.)—

“(1) Where plans of any proposed work are, in accordance with building regulations, deposited with a local authority, it shall be the duty of the local authority, subject to the provisions of any other section of this Act which expressly requires or authorises them in certain cases to reject plans, to pass the plans unless they either are defective or show that the proposed work would contravene any of the building regulations.

(1A) If the plans—

- (a) are defective ; or
- (b) show that the proposed work would contravene any of the building regulations,

the local authority—

- (i) may reject the plans ; or
- (ii) subject to subsection (1C) below, may pass them subject to either or both of the conditions set out in subsection (1B) below.

(1B) The conditions mentioned in subsection (1A) above are—

- (a) that such modifications as the local authority may specify shall be made in the deposited plans; and
- (b) that such further plans as they may specify shall be deposited.

(1C) A local authority may only pass plans subject to a condition such as is specified in subsection (1B) above if the person by whom or on whose behalf they were deposited—

- (a) has requested them to do so ; or
- (b) has consented to their doing so.

(1D) A request or consent under subsection (1C) above must be in writing.

(2) The authority shall within the prescribed period from the deposit of the plans give notice to the person by whom or on whose behalf they were deposited whether they have been passed or rejected.

(2A) A notice that plans have been rejected shall specify the defects on account of which, or the regulation or section of this Act for non-conformity with which, or under the authority of which, they have been rejected.

(2B) A notice that plans have been passed—

- (a) shall specify any condition subject to which they have been passed ; and
- (b) shall state that the passing of the plans operates as an approval of them only for the purposes of the requirements of the regulations and of any such section of this Act as is referred to in subsection (1) above.”.

(2) In section 65(4) of that Act (by virtue of which, among other things, in any case where plans were deposited, a local authority may not give a notice requiring the pulling down, removal etc. of the work if the plans were passed by the authority) after the word " deposited " there shall be inserted the words " and the work was shown on them ".

- (3) This section, and section 47 below, so far as it relates to section 63 of the Health and Safety at Work etc. Act 1974, shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint.

26 Statutory nuisances

- (1) In section 92(1)(d) of the Public Health Act 1936 (by virtue of which statutory nuisances include any dust or effluvia caused by any trade, business, manufacture or process, being prejudicial to the health of, or a nuisance to, the inhabitants of the neighbourhood) for the words from " being " to " neighbourhood " there shall be substituted the words " injurious, or likely to cause injury, to the public health or a nuisance ".
- (2) In section 16(1) of the Clean Air Act 1956 (by virtue of which smoke of certain descriptions is deemed to be a statutory nuisance for the purposes of Part in of the Public Health Act 1936 if it is a nuisance to the inhabitants of the neighbourhood) for the words " a nuisance to the inhabitants of the neighbourhood " there shall be substituted the words " injurious, or likely to cause injury, to the public health or a nuisance ".

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 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
 - (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 or persons 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

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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 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.

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- (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).”.
- (2) Section 24 of the Greater London Council (General Powers) Act 1967 (which makes certain modifications to sections 17 and 18 of the Public Health Act 1961 in their application to Greater London) is hereby repealed.

28 Control of demolitions

- (1) The following sections shall be substituted for section 29 of the Public Health Act 1961 (powers of local authority in relation to demolitions)—

“29 Duty to give local authority notice of intended demolition.

- (1) This section applies to any demolition of the whole or part of a building except—
- (a) a demolition in pursuance of a demolition order made under the Housing Act 1957; and
 - (b) a demolition—
 - (i) of an internal part of a building where the building is occupied, and it is intended that it should continue to be occupied; or
 - (ii) of a building which has a cubic content (as ascertained by external measurement) of not more than 1750 cubic feet, or, where a greenhouse, conservatory, shed or prefabricated garage forms part of a larger building, of that greenhouse, conservatory, shed or prefabricated garage; or
 - (iii) without prejudice to sub-paragraph (ii) above, of an agricultural building (as defined in section 26 of the General Rate Act 1967) unless it is contiguous to another building which is not itself an agricultural building or a building of a kind mentioned in that sub-paragraph.
- (2) No person shall begin a demolition to which this section applies unless—
- (a) he has given the local authority notice of his intention to do so ; and
 - (b) either—
 - (i) the local authority have served a notice on him under section 29A of this Act; or
 - (ii) the relevant period (as defined in that section) has expired.
- (3) A notice under this section shall be in writing and shall specify the building to which it relates and the works of demolition intended to be carried out, and it shall be the duty of a person giving such a notice to a local authority to send or give a copy of it—
- (a) to the occupier of any building adjacent to the building;
 - (b) to the British Gas Corporation ; and

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(c) to the Area Electricity Board in whose area the building is situated.

(4) A person who contravenes subsection (2) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding £500.

29A Power of local authority to serve notice concerning demolition.

(1) A local authority may serve a notice under this section—

- (a) on any person on whom a demolition order has been served under the Housing Act 1957;
- (b) on any person who appears to them not to be intending to comply with an order made under section 58 of the Public Health Act 1936 or a notice served under section 27 of this Act; and
- (c) on any person who appears to them to have begun or to be intending to begin a demolition to which section 29 above otherwise applies.

(2) Nothing contained in a notice under this section shall prejudice or affect the operation of any of the relevant statutory provisions, as denned in section 53(1) of the Health and Safety at Work etc. Act 1974; and accordingly, if any requirement of such a notice is inconsistent with any requirement imposed by or under the said Act of 1974, the latter requirement shall prevail.

(3) Where

- (a) a person has given a notice under section 29 of this Act; or
- (b) the local authority have served a demolition order on a person under the Housing Act 1957,

a notice under this section may only be served on the person in question within the relevant period.

(4) In this section and section 29 of this Act " the relevant period " means—

- (a) in a case such as is mentioned in paragraph (a) of subsection (3) above, six weeks from the giving of the notice under section 29 of this Act, or such longer period as the person who gave that notice may in writing allow; and
- (b) in a case such as is mentioned in paragraph (b) of that subsection, seven days after the local authority served a copy of the demolition order in accordance with the Housing Act 1957, or such longer period as the person on whom the copy was served may in writing allow.

(5) It shall be the duty of the local authority to send or give a copy of a notice under this section to the owner and occupier of any building adjacent to the building to which the notice relates.

(6) It shall also be the duty of the local authority to send or give a copy of a notice under this section—

- (a) if it contains a requirement such as is specified in paragraph (h) of section 29B(1) of this Act, to the statutory undertakers concerned ; and
- (b) if it contains any such requirement as is specified in paragraph (j) of that section—
 - (i) to the fire authority, if they are not themselves the fire authority; and

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(ii) to the Health and Safety Executive, if the premises are special premises.

(7) In this section and section 29B of this Act—

" fire authority " has the meaning assigned to it by section 43(1) of the Fire Precautions Act 1971; and

" special premises " means premises for which a fire certificate is required by virtue of regulations under the Health and Safety at Work etc. Act 1974.

29B Contents of notices under section 29A.

(1) A notice under section 29A(1) of this Act may require the person on whom it is served—

- (a) to shore up any building adjacent to the building to which the notice relates;
- (b) to weatherproof any surfaces of an adjacent building which are exposed by the demolition ;
- (c) to repair and make good any damage to an adjacent building caused by the demolition or by the negligent act or omission of any person engaged in it;
- (d) to remove material or rubbish resulting from the demolition and clearance of the site ;
- (e) to disconnect and seal, at such points as the local authority may reasonably require, any sewer or drain in or under the building;
- (f) to remove any such sewer or drain and seal any sewer or drain with which the sewer or drain to be removed is connected ;
- (g) to make good to the satisfaction of the local authority the surface of the ground disturbed by anything done under paragraph (e) or paragraph (f) of this subsection;
- (h) to make arrangements with the relevant statutory undertakers for the disconnection of the supply of gas, electricity and water to the building;
- (j) to make such arrangements with regard to the burning of structures or materials on the site as may be reasonably required—
 - (i) if the building is or forms part of special premises, by the Health and Safety Executive and the fire authority; and
 - (ii) in any other case, by the fire authority ; and
- (k) to take such steps relating to the conditions subject to which the demolition is to be undertaken and the condition in which the site is to be left on completion of the demolition as the local authority may consider reasonably necessary for the protection of the public and the preservation of public amenity.

(2) No one shall be required under paragraph (c), (e) or (f) of subsection (1) of this section to carry out any work in land outside the premises on which the works of demolition are being carried out if he has no right to carry out that work, but, subject to the provisions of Part XII of the Public Health Act 1936 with respect to the breaking open of streets, the person undertaking the demolition, or the local authority acting in his default, may break open any street for the purpose of complying with any such requirement.

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- (3) Nothing in subsection (1) or (2) of this section shall be construed as authorising any interference with apparatus or works of statutory undertakers authorised by any enactment to carry on an undertaking for the supply of electricity, gas or water.
- (4) Without prejudice to the generality of subsection (3) of this section, nothing in subsection (1) or (2) of this section shall be construed as exempting any person—
 - (a) from the obligation to obtain any consent required under section 67 of Schedule 3 to the Water Act 1945 (which relates to interference with valves and other apparatus) or section 68 of that Schedule (which relates to alterations to supply pipes and other apparatus); or
 - (b) from criminal liability under any enactment relating to the supply of gas or electricity; or
 - (c) from the requirements of regulations under section 31 of the Gas Act 1972 (public safety).
- (5) Before a person complies with any requirement under paragraph (e) or paragraph (f) of subsection (1) of this section he shall give at least 48 hours notice to the local authority, and before he complies with paragraph (g) of that subsection he shall give at least 24 hours notice to the local authority; and a person who fails to comply with this subsection shall be liable on summary conviction to a fine not exceeding £50.

29C Appeals.

- (1) The provisions of Part XII of the Public Health Act 1936 with respect to appeals against and the enforcement of notices requiring the execution of works shall apply in relation to any notice given under section 29A of this Act.
 - (2) Among the grounds on which an appeal may be brought under section 290(3) of the Public Health Act 1936 against such a notice shall be—
 - (a) in the case of a notice requiring an adjacent building to be shored up, that the owner of the building is not entitled to the support of that building by the building which is being demolished, and ought to pay, or contribute towards, the expenses of shoring it up; and
 - (b) in the case of a notice requiring any surfaces of an adjacent building to be weatherproofed, that the owner of the adjacent building ought to pay, or contribute towards, the expenses of weather-proofing those surfaces.
 - (3) Where the grounds on which an appeal under the said section 290 is brought include any ground specified in subsection (2) of this section, the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and on the hearing of the appeal the court may make such order as it thinks fit in respect of the payment of, or contribution towards, the cost of the works by any such person, or as to how any expenses which may be recoverable by the local authority are to be borne between the appellant and any such person.”.
- (2) Section 29 of the Public Health Act 1961 shall continue to have effect as if this section had not been enacted in a case where a notice under subsection (1) of that section was served before the commencement of this section.

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) Subject to subsection (5) below, 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) This section and the other sections mentioned in subsection (4) above shall have effect, in relation to a building in respect of which—
 - (a) an undertaking that it shall not be used for human habitation is in force by virtue of section 16(4) of the Housing Act 1957 or paragraph 5 of Schedule 24 to the Housing Act 1980 ; or
 - (b) a closing order is in force by virtue of section 17, 26 or 35 of the Housing Act 1957, section 26 of the Housing Act 1961 or paragraph 6 of Schedule 24 to the Housing Act 1980,and which is situated in an area which in pursuance of section 40 of the Housing Act 1969 or section 49 of the Housing Act 1974 is for the time being declared by the Greater London Council to be a general improvement area or a housing action area, as if for the words " the local authority ", in each place where they occur, there were substituted the words " the Greater London Council ".
- (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—

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- (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.
- (12) Section 293 of the 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.

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 "); or
 - (b) of persons (in this section referred to as " the statutory undertakers ") authorised by any enactment to carry on an undertaking for the generation or supply of electricity or the supply of gas or water.
- (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 under take 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
 - (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.

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—
 - (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—

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- (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.