



# Building Act 1984

## 1984 CHAPTER 55

### PART III

#### OTHER PROVISIONS ABOUT BUILDINGS

##### *Drainage*

#### **59 Drainage of building.**

- (1) If it appears to a local authority that in the case of a building—
- (a) satisfactory provision has not been, and ought to be, made for drainage<sup>F1</sup> . . . ,
  - (b) a 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,
  - (c) a 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) a cesspool, private sewer or drain formerly used for the drainage of the building, but no longer used for it, 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.
- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (3) Subsections (4), (5) and (6) of section 21 above apply in relation to a drain that a local authority require to be constructed under this section as they apply in relation to such a proposed drain as is mentioned in that section.

*Status: Point in time view as at 09/12/2022.*

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- (4) Subsection (1) above, so far as it empowers a local authority to take action in the cases mentioned in paragraphs (a) and (b) of the subsection, does not apply in relation to a building belonging to statutory undertakers . . . [<sup>F2</sup>the Civil Aviation Authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services) and held or used by such a body or person for the purpose of that body's or that person's undertaking], unless it is—
- (a) a house, . . . <sup>F3</sup> or
  - (b) a building used as offices or showrooms, and not forming part of a railway station <sup>F4</sup> . . . <sup>F3</sup> . . .
- [<sup>F5</sup>(5) For the purposes of subsection (4) above, the undertaking of a person who holds a licence under Chapter I of Part I of the Transport Act 2000 shall be taken to be the person's undertaking as licence holder.]
- [<sup>F6</sup>(6) In subsection (1) above, “drainage” includes the conveyance, by means of a sink and any other necessary appliance, of refuse water and the conveyance of rainwater from roofs.]
- [<sup>F7</sup>(7) Schedule 3 to the Flood and Water Management Act 2010 extends the power under subsection (1)(c) of this section to sustainable drainage systems as defined in regulations under that Schedule.]

#### Textual Amendments

- F1** Words in s. 59(1)(a) omitted (1.4.2002) by virtue of S.I. 2001/3335, **reg. 3(4)(a)** (with **reg. 4**)
- F2** Words in s. 59(4) substituted (21.12.2001) by S.I. 2001/4050, **art. 2, Sch. Pt. II para. 7(b)(i)**
- F3** Words repealed by **Airports Act 1986 (c. 31, SIF 9), s. 83(5), Sch. 6 Pt. I**
- F4** Words in s. 59(4)(b) omitted (10.11.2011) by virtue of **The Airport Charges Regulations 2011 (S.I. 2011/2491), reg. 1(1), Sch. 2 para. 3(3)**
- F5** S. 59(5) inserted (21.12.2001) by S.I. 2001/4050, **art. 2 Sch. Pt. II para. 7(b)(ii)**
- F6** S. 59(5) added (1.4.2002) by S.I. 2001/3335, **reg. 3(4)(b)** and renumbered as s. 59(6) (1.4.2002) by S.I. 2002/440, **reg. 4**
- F7** S. 59(7) added (2.5.2018 for W. for specified purposes, 7.1.2019 for W. in so far as not already in force) by **Flood and Water Management Act 2010 (c. 29), s. 49(3), Sch. 3 para. 26(3)** (with s. 49(1)(6)); S.I. 2018/557, arts. 2(b), 3(b)

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

- C1** S. 59 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt I para. 5** (with ss. 42, 46)..
- C2** S. 59 modified (1.10.2011) by SI 2010/675, Sch. 23 Pt. 8 para. 3 Table 9 (as substituted (1.10.2011) by **The Environmental Permitting (England and Wales) (Amendment) Regulations 2011 (S.I. 2011/2043), reg. 1(b), Sch. 1**)
- C3** S. 59 modified (1.1.2017) by **The Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154), reg. 1(1), Sch. 23 paras. 1(3), 2 Table 9** (with regs. 1(3), 77-79, Sch. 4)
- C4** S. 59(1)(c) applied (2.5.2018 for W. for specified purposes, 7.1.2019 for W. in so far as not already in force) by **Flood and Water Management Act 2010 (c. 29), s. 49(3), Sch. 3 para. 26(2)** (with s. 49(1)(6)); S.I. 2018/557, arts. 2(b), 3(b)
- C5** S. 59(4) applied with modifications by **Airports Act 1986 (c. 31, SIF 9), s. 58, Sch. 2 para. 6(b)**

## 60 Use and ventilation of soil pipes.

- (1) A pipe for conveying rain-water from a roof shall not be used for the purpose of conveying the soil or drainage from a sanitary convenience.

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- (2) The soil pipe from a water-closet shall be properly ventilated.
- (3) A pipe for conveying surface water from premises shall not be permitted to act as a ventilating shaft to a drain or sewer conveying foul water.
- (4) If it appears to the local authority . . . <sup>F8</sup> 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.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (4) above.

#### Textual Amendments

- F8** Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 69, 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 8 para. 7, Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

## 61 Repair etc, of drain.

- (1) No person shall—
  - (a) except in case of emergency, repair, reconstruct or alter the course of an underground drain that communicates with a sewer, or with a cesspool or other receptacle for drainage, or
  - (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 24 hours' notice of his intention to do so.
- (2) While any such work as aforesaid is being executed, all persons concerned shall permit the proper officer, or any other authorised officer, of the local authority to have free access to the work.
- (3) A person who fails to comply with this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) This section does not apply to—
  - (a) so much of a drain or sewer constructed by, or belonging to, a railway company as runs under, across or along their railway, or
  - (b) so much of a drain or sewer constructed by, or belonging to, dock undertakers as is situated in or on land of the undertakers that is held or used by them for the purposes of their undertaking.

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

- C6** S. 61(2)(3) excluded (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\)](#), s. 70(1), **Sch. 22 para. 2**
- C7** S. 61(2) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 22 para. 2(a)**
- C8** S. 61(3) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 22 para. 2(b)**

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## 62 Disconnection of drain.

- (1) Where a person—
- (a) reconstructs in the same or a new position a drain that communicates with a sewer or another drain,
  - (b) executes any works to such a drain so as permanently to discontinue its use, or
  - (c) executes any works on premises served by such a drain so as permanently to discontinue its use,
- he shall cause any drains or parts of drains thereby becoming disused or unnecessary to be disconnected and sealed at such points as the local authority may reasonably require.
- (2) Any question as to the reasonableness of a requirement of a local authority under this section shall be determined by a magistrates' court, and the court may vary the requirement as it thinks fit.
- (3) No one shall be required under this section to carry out any work in land outside the premises served by the drain if he has not right to carry out that work, but, subject to section 101 below, the person undertaking the reconstruction of the drain or the execution of the works may break open any street for the purpose of complying with a requirement under this section.
- (4) Before a person complies with a requirement under this section, he shall give at least 48 hours' notice to the local authority, and a person who fails to comply with this subsection is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- (5) A person who knowingly fails to comply with subsection (1) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £1 for each day on which the default continues after he is convicted.
- (6) This section does not apply in relation to anything done in the course of the demolition of a building, or of part of a building, being a demolition as respects which the local authority have power under section 81 below to serve a notice on the person undertaking the demolition.

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

- C9** S. 62 modified (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\), s. 70\(1\), Sch. 22 para. 3](#)
- C10** S. 62 modified (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\), s. 64\(1\), Sch. 22 para. 3](#)

## 63 Improper construction or repair of water-closet or drain.

- (1) If a water-closet, drain or soil pipe is so constructed or repaired as to be prejudicial to health or a nuisance, the person who undertook or executed the construction or repair is liable on summary conviction to a fine not exceeding level 1 on the standard scale, unless he shows that the prejudice to health or nuisance could not have been avoided by the exercise of reasonable care.
- (2) A person charged with an offence under this section (hereafter in this section referred to as "the original defendant") is entitled, upon information duly laid by him and on

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- giving to the prosecutor not less than three clear days' notice of his intention, to have any other person, being his agent or servant, to whose act or default he alleges that the offence was due brought before the court at the time appointed for the hearing of the charge; and—
- (a) if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person, that other person may be convicted of the offence, and
  - (b) if the original defendant further proves that he used all due diligence to secure that the water-closet, drain or soil pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance, he shall be acquitted of the offence.
- (3) Where the original defendant seeks to avail himself of subsection (2) above—
- (a) the prosecutor as well as the person whom the original defendant charges with the offence has the right to cross-examine the original defendant, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence, and
  - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party to them.
- (4) In this section in its application to Greater London, a reference to a water-closet includes a reference to a urinal.

#### *Provision of sanitary conveniences*

### **64 Provision of closets in building.**

- (1) If it appears to a local authority—
- (a) that a building is without sufficient closet accommodation,
  - (b) that a part of a building, being a part that is occupied as a separate dwelling, is without sufficient closet accommodation, or
  - (c) that any closets provided for or in connection with a building are in such a state as to be prejudicial to health or a nuisance and cannot without reconstruction be put into a satisfactory condition,
- the authority shall, by notice to the owner of the building, require him to provide the building with such closets or additional closets, or such substituted closets, being in each case either water-closets or earth-closets, as may be necessary.
- (2) Unless a sufficient water supply and sewer are available, the authority shall not require the provision of a water-closet except in substitution for an existing water-closet.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (4) Among the grounds on which an appeal may be brought under section 102 below against such a notice is that—
- (a) the need for the works to be executed under the notice would not, in whole or in part, arise but for the occupation of part of the building as a separate dwelling, and the occupation of that part as a separate dwelling is a matter in respect of which the appellant has a cause of action, and
  - (b) the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.

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- (5) Where the grounds on which an appeal under section 102 below is brought include the ground specified in subsection (4) above—
- (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and
  - (b) on the hearing of the appeal the court may make such order as it thinks fit with respect to—
    - (i) the contribution to be made by any such person towards the cost of the works, or
    - (ii) the proportion in which any expenses that may be recoverable by the local authority are to be borne by the appellant and any such other person.
- (6) This section does not apply to—
- (a) a factory,
  - (b) a building that is used as a workplace, or
  - (c) premises to which the <sup>M1</sup>Offices, Shops and Railway Premises Act 1963 applies.

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

- C11** S. 64(1) applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2**.S. 64(1) applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch.2**.
- C12** S. 64(1): certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2**.S. 64(1): certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.

**Marginal Citations**

- M1** 1963 c. 41.

**65 Provision of sanitary conveniences in workplace.**

- (1) A building that is used as a workplace shall be provided with—
- (a) sufficient and satisfactory accommodation in the way of sanitary conveniences, regard being had to the number of persons employed in, or in attendance at, the building, and
  - (b) where persons of both sexes are employed or in attendance, sufficient and satisfactory separate accommodation for persons of each sex, unless the local authority are satisfied that in the circumstances of the particular case the provision of such separate accommodation is unnecessary.
- (2) If it appears to the local authority that subsection (1) above is not complied with in the case of any building, they shall by notice require the owner or the occupier of the building to make such alterations in the existing conveniences, and to provide such additional conveniences, as may be necessary.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (2) above.
- (4) This section does not apply to premises to which the Offices, Shops and Railway Premises Act 1963 applies.

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

- C13** S. 65 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2**. S. 65 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**.
- C14** S. 65: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**. S. 65: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.

**66 Replacement of earth-closets etc.**

- (1) If a building has a sufficient water supply and sewer available, the local authority may, subject to this section, by notice to the owner of the building require that any closets, other than water-closets, provided for, or in connection with, the building shall be replaced by water-closets, notwithstanding that the closets are not insufficient in number and are not prejudicial to health or a nuisance.
- (2) A notice under subsection (1)  
above shall—
  - (a) require the owner to execute the necessary works, or
  - (b) require that the authority themselves shall be allowed to execute them, and shall state the effect of subsection (3) below.
- (3) Where the local authority give a notice under subsection (1) above—
  - (a) if it requires the owner to execute the works, the owner is entitled to recover from them one-half of the expenses reasonably incurred by him in the execution of the works, and
  - (b) if it requires that they shall be allowed to execute the works, they are entitled to recover from the owner one-half of the expenses reasonably incurred by them in the execution of the works.
- (4) Where the owner of a building proposes to provide it with a water-closet in substitution for a closet of any other type, the local authority may, if they think fit, agree to pay him a part, not exceeding one-half, of the expenses reasonably incurred in effecting the replacement, notwithstanding that a notice has not been given by them under subsection (1) above.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above, subject to the following modifications—
  - (a) no appeal lies on the ground that the works are unnecessary, and
  - (b) any reference in the said section 99 to the expenses reasonably incurred in executing works is a reference to one-half of those expenses.

**67 Loan of temporary sanitary conveniences.**

- (1) A local authority may, at the request of the occupier of any premises connected with a cesspool, sewer or drain on which any work of maintenance, improvement or repair that necessitates the disconnection of the sanitary conveniences provided for or in connection with the premises is to be carried out—
  - (a) by a local authority, or
  - (b) by the owner or occupier of the premises in pursuance of section 59 above,

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supply on loan temporary sanitary conveniences in substitution for any sanitary conveniences so disconnected.

- (2) Subject to the following provisions of this section, the local authority may make reasonable charges for supplying, removing and cleansing any temporary sanitary conveniences lent under this section for more than seven days.
- (3) No charge may be made under subsection (2) above—
- (a) for the use of the temporary sanitary conveniences for the first seven days, or
  - (b) in a case where the work is made necessary by a defect in a public sewer . . . <sup>F9</sup>
- (4) No charge may be made under subsection (2) above where the work is made necessary—
- (a) . . . . . <sup>F10</sup>
  - (b) by a defect in a cesspool, private sewer or drain in respect of which the local authority have served a notice under section 59 above,

but, if the temporary sanitary conveniences are provided for a period of more than seven days, the reasonable expenses of supplying, removing and cleansing them are recoverable from the owner of the premises (but not any charge for the use of them for the first seven days).

- (5) In proceedings to recover expenses under subsection (4) above, the court may—
- (a) inquire whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and
  - (b) make such order concerning the expenses or their apportionment as appears to the court to be just,

but the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had notice of the proceedings and an opportunity of being heard.

**Textual Amendments**

- F9** Words repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**
- F10** S. 67(4)(a) repealed by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

**68 Erection of public conveniences.**

- (1) No person shall erect a public sanitary convenience in, or so as to be accessible from, a street without the consent of the local authority, who may give their consent upon such terms as to the use of the convenience or its removal at any time, if required by them, as they think fit.
- (2) A person who contravenes subsection (1) above is liable on summary conviction to a fine not exceeding level 1 on the standard scale, without prejudice to the right of the authority under subsection (4) below to require the convenience to be removed.
- (3) A person aggrieved by the refusal of a local authority to give a consent under subsection (1) above, or by any terms imposed by them, may appeal to a magistrates' court.



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- (4) The local authority may by notice require—
- (a) the owner of a sanitary convenience—
    - (i) that has been erected in contravention of subsection (1) above, or
    - (ii) that the authority are, by virtue of the terms of a consent given under that subsection, entitled to require to be removed,to remove it, or
  - (b) the owner of a sanitary convenience that opens on a street, and is so placed or constructed as to be a nuisance or offensive to public decency, to remove it or permanently close it.
- (5) Sections 99 and 102 below apply in relation to a notice given under subsection (4) above.
- (6) in this section, a reference to a local authority, in relation to a street that is a highway for which the local authority are not the highway authority, is a reference to the highway authority.
- (7) Subsection (1) above does not apply to a sanitary convenience erected—
- (a) by a railway company within their railway station or its yard or approaches, or
  - (b) by dock undertakers in or on land that belongs to them and is held or used by them for the purposes of their undertaking.
- (8) This section does not affect the powers of—
- (a) a county council . . . <sup>F11</sup> under section 87 of the <sup>M2</sup>Public Health Act 1936,
  - (b) the [<sup>F12</sup>Secretary of State][<sup>F12</sup>appropriate national authority] under section 112 of the <sup>M3</sup>Highways Act 1980, or
  - (c) a county council under section 114(1) of the Highways Act 1980.

#### Textual Amendments

**F11** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

**F12** Words in s. 68(8)(b) substituted (28.6.2022 for E.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 50](#); S.I. 2022/561, reg. 3(f), [Sch. para. 26](#)

#### Marginal Citations

**M2** 1936 c. 49.

**M3** 1980 c. 66.

## Buildings

### 69 Provision of water supply in occupied house.

F13

#### Textual Amendments

**F13** S. 69 repealed (with saving) by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), [Sch. 26 paras. 3\(1\)\(2\), 17, 20\(2\), 40\(4\), 41\(1\), 57\(6\), 58](#), [Sch. 27 Pt. 1](#)

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## 70 Provision of food storage accommodation in house.

- (1) If it appears to a local authority that a house, or part of a building that is occupied as a separate dwelling, is without sufficient and suitable accommodation for the storage of food, the local authority may by notice require the owner of the house or building to provide the house or building with sufficient and suitable accommodation for that purpose.
- (2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
- (3) Among the grounds on which an appeal may be brought under section 102 below against such a notice are—
  - (a) that it is not reasonably practicable to comply with the notice;
  - (b) that—
    - (i) the need for the works to be executed under the notice would not, in whole or in part, arise but for the occupation of part of the building as a separate dwelling, and that the occupation of that part as a separate dwelling is a matter in respect of which the appellant has a cause of action, and
    - (ii) the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.
- (4) Where the grounds on which an appeal under section 102 below is brought include the ground specified in subsection (3)(b) above—
  - (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and
  - (b) on the hearing of the appeal the court may make such order as it thinks fit with respect to—
    - (i) the contribution to be made by any such person towards the cost of the works, or
    - (ii) the proportion in which any expenses that may be recoverable by the local authority are to be borne by the appellant and any such other person.

### Modifications etc. (not altering text)

- C15** S. 70 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch.2**. S. 70 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**.
- C16** S. 70: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2**. S. 70: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.

## <sup>F14</sup>71 Entrances, exits etc. to be required in certain cases.

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### Textual Amendments

- F14** S. 71 repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005](#) (S.I. 2005/1541), art. 1(3), [Sch. 2 para. 33\(4\)](#), **Sch. 4** (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006](#) (S.I. 2006/484), **arts. 1(1), 2**)

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*Changes to legislation: Building Act 1984, Part III is up to date with all changes known to be in force on or before 29 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 72 Means of escape from fire.

(1) If it appears to a local authority, after consultation with the [<sup>F15</sup>fire and rescue authority], that—

- (a) a building to which this section applies is not provided, or
- (b) a proposed building that will be building to which this section applies will not be provided,

with such means of escape in case of fire as the local authority, after such consultation, deem necessary from each storey whose floor is more that twenty feet above the surface of the street or ground on any side of the building, the authority shall by notice require the owner of the building, or, as the case may be, the person proposing to erect the building, to execute such work or make such other provision in regard to the matters aforesaid as may be necessary.

(2) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above in so far as it requires a person to execute works.

(3) In so far as such a notice requires a person to make provision otherwise than by the execution of works, he is, if he fails to comply with the notice, liable on summary conviction to a fine not exceeding level 4 on the standard scale and to a further fine not exceeding £2 for each day on which the offence continues after he is convicted.

(4) In proceedings under subsection (3) above, it is open to the defendant to question the reasonableness of the authority's requirements.

(5) Where building regulations imposing requirements as to the provision of means of escape in case of fire are applicable to a proposed building or proposed extension of a building, or would be so applicable but for a direction under section 8 above dispensing with such requirements—

- (a) this section, and
- (b) any provision of a local Act that has effect in place of this section,

does not apply in relation to the proposed building or extension.

(6) This section applies to a building that exceeds two storeys in height and in which the floor of any upper storey is more than twenty feet above the surface of the street or ground on any side of the building and that—

- <sup>F16</sup>(a) .....
- <sup>F17</sup>(b) .....
- <sup>F17</sup>(c) .....

<sup>F18</sup>(7) .....

### Textual Amendments

**F15** Words in s. 72(1) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\), s. 61, Sch. 1 para. 57\(2\)\(3\)\(f\)](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

**F16** S. 72(6)(a) repealed (6.4.2007 for E.) by [Housing Act 2004 \(c. 34\), ss. 53\(3\), 270\(4\)\(5\)\(a\), Sch. 16](#); S.I. 2007/1068, art. 2

**F17** S. 72(6)(b)(c) repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\), art. 1\(3\), Sch. 2 para. 33\(5\)\(a\), Sch. 4](#) (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\), arts. 1\(1\), 2](#))

*Status: Point in time view as at 09/12/2022.*

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**F18** S. 72(7) repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), Sch. 2 para. 33(5)(b), [Sch. 4](#) (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), [arts. 1\(1\), 2](#))

### 73 Raising of chimney.

(1) Where, after the <sup>M4</sup>3rd October 1961 (which was the date of commencement of the relevant provisions of the Public Health Act 1961)—

- (a) a person erects or raises a building (in this section referred to as “the taller building”) to a greater height than an adjoining building, and
- (b) any chimneys or flues of an adjoining building are in a party wall between the two buildings or are six feet or less from the nearest part of the taller building,

the local authority may by notice—

- (i) require that person, within such time as may be specified in the notice, to build up those chimneys and flues, if it is reasonably practicable so to do, so that their top will be of the same height as the top of the chimneys of the taller building or the top of the taller building, whichever is the higher, and
- (ii) require the owner or occupier of the adjoining building to allow the first-mentioned person to enter on that building and carry out such work as may be necessary to comply with the notice served on him,

except that, if the said owner or occupier, within fourteen days from the date of service of the notice on him, serves on the first-mentioned person and on the local authority a notice (in this section referred to as a “counter-notice”) that he elects to carry out the work himself, the owner or occupier shall comply with the notice served under paragraph (i) above instead of the first-mentioned person and may recover the expenses reasonably incurred in so doing from that person.

(2) A person on whom a notice is served under paragraph (i) or paragraph (ii) of subsection (1) above may appeal to a magistrates’ court.

(3) If—

- (a) a person on whom a notice is served under paragraph (i) of subsection (1) above fails to comply with the notice, except in a case where the owner or occupier of an adjoining building has refused to allow entry on that building, or has refused to allow the carrying out of any such work as may be necessary to comply with the notice, or has served a counter-notice, or
- (b) a person on whom a notice is served under paragraph (ii) of subsection (1) above fails to comply with the notice or, having served a counter-notice, fails to comply with the notice served under paragraph (i) of that subsection,

he is liable on summary conviction to a fine not exceeding level 1 on the standard scale, and the local authority may themselves carry out such work as may be necessary to comply with the notice served under the said paragraph (1), and recover the expenses reasonably incurred in doing so from the person on whom that notice was served.

#### Marginal Citations

**M4** 1961 c. 64.

*Status: Point in time view as at 09/12/2022.*

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## 74 Cellars and rooms below subsoil water level.

- (1) No person shall without the consent of the local authority construct a cellar or room in, or as part of, a house, shop, inn, hotel or office if the floor level of the cellar or room is lower than the ordinary level of the subsoil water on, under or adjacent to the site of the house, shop, inn, hotel or office.
- (2) Subsection (1) above does not apply to—
  - <sup>F19</sup>(a) .....
  - (b) the construction of a cellar or room in connection with a shop, inn, hotel or office that forms part of a railway station.
- (3) If a person constructs a cellar or room in contravention of subsection (1) above, or of any condition attached to a consent under this section—
  - (a) he is liable on summary conviction to a fine not exceeding level 1 on the standard scale, and
  - (b) the local authority may by notice require him either to alter the cellar or room so that its construction will no longer contravene the said subsection or condition or, if he so elects, to fill it in or otherwise make it unusable.
- (4) Sections 99 and 102 below apply in relation to a notice given under subsection (3) above, subject to the following modifications—
  - (a) section 99(1) requires the notice to indicate the nature of the works of alteration and that of the works for making the cellar or room unusable, and
  - (b) section 99(2) authorises the local authority to execute, subject to that subsection, at their election either the works of alteration or the works for making the cellar or room unusable.
- (5) If the owner for the time being of the house, shop, inn, hotel or office causes or permits a cellar or room forming part of it to be used in a manner that he knows to be in contravention of a condition attached to a consent under this section, he is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

### Textual Amendments

**F19** S. 74(2)(a) repealed (24.11.2005) by [Licensing Act 2003 \(c. 17\), s. 201\(2\), Sch. 6 para. 92, Sch. 7](#) (with ss. 2(3), 15(2), 195); [S.I. 2005/3056, art. 2\(2\)](#) (with art. 4)

### Modifications etc. (not altering text)

**C17** S. 74(1) excluded (23.2.2017) by [High Speed Rail \(London - West Midlands\) Act 2017 \(c. 7\), s. 70\(1\), Sch. 22 para. 5\(1\)](#)

**C18** S. 74(1) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\), s. 64\(1\), Sch. 22 para. 5\(1\)](#)

## 75 Consents under s. 74.

- (1) A consent under section 74 above may be given subject to such conditions as to the construction or use of the premises as may be specified in it, and conditions specified in such a consent are binding on successive owners of the house, shop inn, hotel or office.
- (2) If a local authority—
  - (a) refuse an application for such a consent, or

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- (b) attach any conditions to such a consent,  
the person applying for the consent may appeal to a magistrates' court against the refusal or, as the case may be, against any of the conditions, and if a magistrates' court allows an appeal against a refusal to grant a consent it may direct the local authority to give their consent subject to such conditions, if any, as appear to the court to be appropriate.
- (3) An application may be made at any time to the local authority for the variation or withdrawal of a condition attached to such a consent, and, if the local authority refuse the application, the applicant may appeal to a magistrates' court.

*Defective premises, demolition etc.*

## 76 Defective premises.

- (1) If it appears to a local authority that—
- (a) any premises are in such a state (in this section referred to as a “defective state”) as to be prejudicial to health or a nuisance, and
  - (b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by [F20section 80 of the Environmental Protection Act 1990],
- the local authority may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section 93 (if the local authority had proceeded under that section) a notice stating that the local authority intend to remedy the defective state and specifying the defects that they intend to remedy.
- (2) Subject to subsection (3) below, the local authority may, after the expiration of nine days after service of a notice under subsection (1) above, execute such works as may be necessary to remedy the defective state, and recover the expenses reasonably incurred in so doing from the person on whom the notice was served.
- (3) If, within seven days after service of a notice under subsection (1) above, the person on whom the notice was served serves a counter-notice that he intends to remedy the defects specified in the first-mentioned notice, the local authority shall take no action in pursuance of the first-mentioned notice unless the person who served the counter-notice—
- (a) fails within what seems to the local authority a reasonable time to begin to execute works to remedy the said defects, or
  - (b) having begun to execute such works fails to make such progress towards their completion as seems to the local authority reasonable.
- (4) In proceedings to recover expenses under subsection (2) above, the court—
- (a) shall inquire whether the local authority were justified in concluding that the premises were in a defective state, or that unreasonable delay in remedying the defective state would have been occasioned by following the procedure prescribed by [F20section 80 of the Environmental Protection Act 1990], and
  - (b) if the defendant proves that he served a counter-notice under subsection (3) above, shall inquire whether the defendant failed to begin the works to remedy the defects within a reasonable time, or failed to make reasonable progress towards their completion,
- and if the court determines that—

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- (i) the local authority were not justified in either of the conclusions mentioned in paragraph (a) of this subsection, or
- (ii) there was no failure under paragraph (b) of this subsection,
- the local authority shall not recover the expenses or any part of them.
- (5) Subject to subsection (4) above, in proceedings to recover expenses under subsection (2) above, the court may—
- (a) inquire whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and
- (b) make such order concerning the expenses or their apportionment as appears to the court to be just,
- but the court shall not order the expenses or any part of them to be borne by a person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.
- (6) A local authority shall not serve a notice under subsection (1) above, or proceed with the execution of works in accordance with a notice so served, if the execution of the works would, to their knowledge, be in contravention of a building preservation order under section 29 of the <sup>M5</sup>Town and Country Planning Act 1947.
- (7) The power conferred on a local authority by subsection (1) above may be exercised notwithstanding that the local authority might instead have proceeded under [F21Part VI of the Housing Act 1985 (repair notices)].

#### Textual Amendments

- F20** Words substituted by [Environmental Protection Act 1990 \(c.43, SIF 46:4\)](#), s. 162(1), **Sch. 15 para. 24**
- F21** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c.71, SIF 61\)](#), ss. 4, 5(2), **Sch. 2 para. 58(2), Sch. 4**

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

- C19** S. 76 applied (with modifications) (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(2)(3), **Sch.2**. S. 76 applied (with modifications) (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(2)(3), **Sch.2**.
- C20** S. 76: certain functions transferred (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(1)(3), **Sch.2**. S. 76: certain functions transferred (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(1)(3), **Sch.2**.
- C21** S. 76 modified (E.) (6.4.2010) by [The Bristol Port Health Authority Order 2010 \(S.I. 2010/1214\)](#), arts. 1, 4, **Sch.**
- C22** S. 76 modified (E.) (6.4.2010) by [The Cowes Port Health Authority Order 2010 \(S.I. 2010/1216\)](#), arts. 1(1), 4, **Sch.**
- C23** S. 76 modified (E.) (6.4.2010) by [The Cornwall Port Health Authority Order 2010 \(S.I. 2010/1215\)](#), arts. 1(1), 4, **Sch.** (with art. 2)
- C24** S. 76 applied (with modifications) (E.) (24.3.2011) by [The Hull and Goole Port Health Authority Order 2011 \(S.I. 2011/939\)](#), arts. 1(1), 9, **Sch. 2**
- C25** S. 76 functions transferred and modified (E.) (14.6.2016) by [The River Tees Port Health Authority Order 2016 \(S.I. 2016/644\)](#), arts. 1(1), 9, **Sch. 2**
- C26** S. 76 functions transferred and modified (E.) (31.3.2017) by [The Weymouth Port Health Authority Order 2017 \(S.I. 2017/558\)](#), arts. 1(1), 9, **Sch. 2** (with art. 9(3))

#### Marginal Citations

- M5** 1947 c. 51.

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## 77 Dangerous building.

- (1) If it appears to a local authority that a building or structure, or part of a building or structure, is in such a condition, or is used to carry such loads, as to be dangerous, the authority may apply to a magistrates' court, and the court may—
- (a) where danger arises from the condition of the building or structure, make an order requiring the owner thereof—
    - (i) to execute such work as may be necessary to obviate the danger or,
    - (ii) if he so elects, to demolish the building or structure, or any dangerous part of it, and remove any rubbish resulting from the demolition, or
  - (b) where danger arises from overloading of the building or structure, make an order restricting its use until a magistrates' court, being satisfied that any necessary works have been executed, withdraws or modifies the restriction.
- (2) If the person on whom an order is made under subsection (1)(a) above fails to comply with the order within the time specified, the local authority may—
- (a) execute the order in such manner as they think fit, and
  - (b) recover the expenses reasonably incurred by them in doing so from the person in default,
- and, without prejudice to the right of the authority to exercise those powers, the person is liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- [<sup>F22</sup>(3) This section has effect subject to the provisions [<sup>F23</sup>the Planning (Listed Buildings and Conservation Areas) Act 1990] relating to listed buildings, buildings subject to building preservation [<sup>F23</sup>notices] and buildings in conservation areas.]

### Textual Amendments

**F22** S. 77(3) inserted by Housing and Planning Act 1986 (c. 63, SIF 15), s. 40, **Sch. 9 para. 6(2)**

**F23** Words substituted by Planning (Consequential Provisions) Act 1990 (c. 11, SIF 123:1, 2), s. 4, **Sch. 2 para. 67(3)**

### Modifications etc. (not altering text)

**C27** S. 77 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2.S. 77** applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch.2.S. 77** excluded (20.9.2000) by 2000 c. vii, s. 45(4)

**C28** S. 77: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2.S. 77**: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch. 2.**

## 78 Dangerous building—emergency measures.

- (1) If it appears to a local authority that—
- (a) a building or structure, or part of a building or structure, is in such a state, or is used to carry such loads, as to be dangerous, and
  - (b) immediate action should be taken to remove the danger,
- they may take such steps as may be necessary for that purpose.
- (2) Before exercising their powers under this section, the local authority shall, if it is reasonably practicable to do so, give notice of their intention to the owner and occupier of the building, or of the premises on which the structure is situated.



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- (3) Subject to this section, the local authority may recover from the owner the expenses reasonably incurred by them under this section.
- (4) So far as expenses incurred by the local authority under this section consist of expenses of fencing off the building or structure, or arranging for it to be watched, the expenses shall not be recoverable in respect of any period—
  - (a) after the danger has been removed by other steps under this section, or
  - (b) after an order made under section 77(1) above for the purpose of its removal has been complied with or has been executed as mentioned in subsection (2) of that section.
- (5) In proceedings to recover expenses under this section, the court shall inquire whether the local authority might reasonably have proceeded instead under section 77(1) above, and, if the court determines that the local authority might reasonably have proceeded instead under that subsection, the local authority shall not recover the expenses or any part of them.
- (6) Subject to subsection (5) above, in proceedings to recover expenses under this section, the court may—
  - (a) inquire whether the expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and
  - (b) make such order concerning the expenses or their apportionment as appears to the court to be just,but the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless it is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.
- (7) Where in consequence of the exercise of the powers conferred by this section the owner or occupier of any premises sustains damage, but section 106(1) below does not apply because the owner or occupier has been in default—
  - (a) the owner or occupier may apply to a magistrates' court to determine whether the local authority were justified in exercising their powers under this section so as to occasion the damage sustained, and
  - (b) if the court determines that the local authority were not so justified, the owner or occupier is entitled to compensation, and section 106(2) [<sup>F24</sup>and (3) below] applies in relation to any dispute as regards compensation arising under this subsection.
- (8) The proper officer of a local authority may, as an officer of the local authority, exercise the powers conferred on the local authority by subsection (1) above.
- (9) This section does not apply to premises forming part of a mine or quarry within the meaning of the <sup>M6</sup>Mines and Quarries Act 1954.

#### Textual Amendments

**F24** Words in s. 78(7)(b) omitted (28.6.2022 for E.) by virtue of Building Safety Act 2022 (c. 30), s. 170(4)(b)(c), Sch. 5 para. 51; S.I. 2022/561, reg. 3(f), Sch. para. 27

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

**C29** S. 78 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), Sch. 2. S. 78 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), Sch. 2.

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**C30** S. 78: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2**. S. 78: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**.

#### Marginal Citations

**M6** 1954 c. 70.

## 79 Ruinous and dilapidated buildings and neglected sites.

- (1) If it appears to a local authority that a building or structure is by reason of its ruinous or dilapidated condition seriously detrimental to the amenities of the neighbourhood, the local authority may by notice require the owner thereof—
- (a) to execute such works of repair or restoration, or
  - (b) if he so elects, to take such steps for demolishing the building or structure, or any part thereof, and removing any rubbish or other material resulting from or exposed by the demolition,
- as may be necessary in the interests of amenity.
- (2) If it appears to a local authority that—
- (a) rubbish or other material resulting from, or exposed by, the demolition or collapse of a building or structure is lying on the site or on any adjoining land, and
  - (b) by reason thereof the site or land is in such a condition as to be seriously detrimental to the amenities of the neighbourhood,
- the local authority may by notice require the owner of the site or land to take such steps for removing the rubbish or material as may be necessary in the interests of amenity.
- (3) Sections 99 and 102 below apply in relation to a notice given under subsection (1) or (2) above, subject to the following modifications—
- (a) section 99(1) requires the notice to indicate the nature of the works of repair or restoration and that of the works of demolition and removal of rubbish or material, and
  - (b) section 99(2) authorises the local authority to execute, subject to that subsection, at their election either the works of repair or restoration or the works of demolition and removal of rubbish or material.
- (4) This section does not apply to an advertisement as defined in [<sup>F25</sup>section 336(1) of the Town and Country Planning Act 1990].
- [<sup>F26</sup>(5) This section has effect subject to the provisions of [<sup>F27</sup>the Planning (Listed Buildings and Conservation Areas) Act 1990] relating to listed buildings, buildings subject to building preservation [<sup>F27</sup>notices] and buildings in conservation areas.]

#### Textual Amendments

- F25** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 67\(4\)\(a\)](#)
- F26** S. 79(5) inserted by [Housing and Planning Act 1986 \(c. 63, SIF 15\), s. 40, Sch. 9 para. 6\(2\)](#)
- F27** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123:1, 2\), s. 4, Sch. 2 para. 67\(4\)\(b\)](#)

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

- C31** S. 79 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**. S. 79 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**. S. 79 excluded (20.9.2000) by 2000 c. vii, s. 45(4)
- C32** S. 79: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), **Sch. 2**. S. 79: certain functions transferred (10. 01. 1992), by S.I. 1991/2913, art. 8(1)(3), **Sch. 2**.

**80 Notice to local authority 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 [<sup>F28</sup>or obstructive building order] made under [<sup>F29</sup>Part IX of the Housing Act 1985], 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,
    - (ii) of a building that 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 ([<sup>F30</sup>within the meaning of any of paragraphs 3 to 7 of Schedule 5 to the Local Government Finance Act 1988]), unless it is contiguous to another building that 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 given a notice to him under section 81 below, or
    - (ii) the relevant period (as defined in that section) has expired.
- (3) A notice under subsection (2) above shall specify the building to which it relates and the works of demolition intended to be carried out, and it is the duty of a person giving such a notice to a local authority to send or give a copy of it to—
- (a) the occupier of any building adjacent to the building,
  - [<sup>F31</sup>(b) any public gas supplier (as defined in Part I of the Gas Act 1986) in whose authorised area (as so defined) the building is situated,]
  - [<sup>F32</sup>(c) the public electricity supplier (as defined in Part I of the Electricity Act 1989) in whose authorised area (as so defined) the building is situated and any other person authorised by a licence under that Part to supply electricity to the building;]
- (4) A person who contravenes subsection (2) above is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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### Textual Amendments

- F28** Words inserted (*retrosp.* 1.4.1986) by [Housing and Planning Act 1986 \(c. 63, SIF 15\)](#), s. 24(1), **Sch. 5 para. 11(1)(2)**
- F29** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), ss. 4, 5(2), Sch. 2 para. 58(3), **Sch. 4**
- F30** Words substituted by [S.I. 1990/1285](#), art. 2, **Sch. para. 7**
- F31** [S. 80\(3\)\(b\)](#) substituted by [Gas Act 1986 \(c. 44, SIF 44:2\)](#), s. 67(1)(3), Sch. 7 para. 30, **Sch. 8 para. 33**
- F32** [S. 80\(3\)\(c\)](#) substituted by [Electricity Act 1989 \(c.29, SIF 44:1\)](#), s. 112(1)(3), Sch. 16 para. 31, **Sch. 17 para. 33**

### Modifications etc. (not altering text)

- C33** [S. 80](#) excluded (7.12.2022) by [The A417 Missing Link Development Consent Order 2022 \(S.I. 2022/1248\)](#), arts. 1, **3** (with art. 4)
- C34** [S. 80\(2\)\(b\)](#) excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 22 para. 6**
- C35** [S. 80\(2\)\(b\)](#) excluded (3.11.2022) by [The Network Rail \(Huddersfield to Westtown \(Dewsbury\) Improvements\) Order 2022 \(S.I. 2022/1067\)](#), arts. 1, **5(3)**
- C36** [S. 80\(3\)\(b\)](#) amended (1.3.1996) by [1995 c. 45](#), s. 16(1), **Sch. 4 para. 2(2)(i)**; [S.I. 1996/218](#), **art.2**

## 81 Local authority’s power to serve notice about demolition.

- (1) A local authority may give a notice under this section to—
- (a) a person on whom a demolition order [<sup>F33</sup>or obstructive building order] has been served under [<sup>F34</sup>Part IX of the Housing Act 1985],
  - (b) a person who appears to them not to be intending to comply with an order made under section 77 above or a notice given under section 79 above, and
  - (c) a person who appears to them to have begun or to be intending to begin a demolition to which section 80 above otherwise applies.
- (2) Nothing contained in a notice under this section prejudices or affects the operation of any of the relevant statutory provisions, as defined in section 53(1) of the <sup>M7</sup>Health and Safety at Work etc. Act 1974 [<sup>F35</sup>or the relevant provisions]; and accordingly, if a requirement of such a notice is inconsistent with a requirement imposed by or under the said Act of 1974 [<sup>F36</sup>or the relevant provisions], the latter requirement prevails.
- [<sup>F37</sup>(2A) For the purposes of subsection (2), “relevant provisions” means the relevant statutory provisions (within the meaning of Part 3 of the Energy Act 2013) other than—
- (a) the provisions of the Nuclear Safeguards Act 2000; and
  - (b) any provision of nuclear regulations identified in accordance with section 74(9) of the 2013 Act as being made for the nuclear safeguards purposes.]
- (3) Where—
- (a) a person has given a notice under section 80 above, or
  - (b) the local authority have served a demolition order [<sup>F33</sup>or obstructive building order] on a person under [<sup>F34</sup>Part IX of the Housing Act 1985],
- a notice under this section may only be given to the person in question within the relevant period.
- (4) In this section and section 80 above, “the relevant period” means—

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- (a) in a case such as is mentioned in subsection (3)(a) above, six weeks from the giving of the notice under section 80 above, 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 subsection (3)(b) above, seven days after the local authority served a copy of the demolition order [<sup>F33</sup>or obstructive building order]in accordance with [<sup>F34</sup>Part IX of the Housing Act 1985], or such longer period as the person on whom the copy was served may in writing allow.
- (5) It is 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 is also the duty of the local authority to send or give a copy of a notice under this section—
- (a) if it contains such a requirement as is specified in section 82(1)(h) below, to the statutory undertakers concerned, and
  - [<sup>F38</sup>(b) if it contains such a requirement as is specified in section 82(1)(i) below, to the fire and rescue authority, if they are not themselves the fire and rescue authority.]

<sup>F39</sup>(7) . . . . .

#### Textual Amendments

- F33** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 15\)](#), s. 24, **Sch. 5 para. 11(1)**
- F34** Words substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), ss. 4, 5(2), Sch. 2 para. 58(3), **Sch. 4**
- F35** Words in s. 81(2) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 3(2)(a)** (with Sch. 4)
- F36** Words in s. 81(2) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 3(2)(b)** (with Sch. 4)
- F37** S. 81(2A) inserted (1.4.2014) by [The Energy Act 2013 \(Office for Nuclear Regulation\) \(Consequential Amendments, Transitional Provisions and Savings\) Order 2014 \(S.I. 2014/469\)](#), art. 1(2), **Sch. 2 para. 3(3)** (with Sch. 4)
- F38** S. 81(6)(b) substituted (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), **Sch. 2 para. 33(6)(a)** (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), **arts. 1(1), 2**)
- F39** S. 81(7) repealed (1.10.2006) by [Regulatory Reform \(Fire Safety\) Order 2005 \(S.I. 2005/1541\)](#), art. 1(3), Sch. 2 para. 33(6)(b), **Sch. 4** (with art. 49) (as amended by [The Regulatory Reform \(Fire Safety\) Subordinate Provisions Order 2006 \(S.I. 2006/484\)](#), **arts. 1(1), 2**)

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

- C37** S. 81 applied (with modifications) (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(2)(3), **Sch.2**. S. 81 applied (with modifications) (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(2)(3), **Sch. 2**.
- C38** S. 81: certain functions transferred (07. 08. 1991) by [S.I. 1991/1773](#), art. 8(1)(3), **Sch.2**. S. 81: certain functions transferred (10. 01. 1992) by [S.I. 1991/2913](#), art. 8(1)(3), **Sch. 2**.
- C39** S. 81 excluded (11.2.2021) by [High Speed Rail \(West Midlands - Crewe\) Act 2021 \(c. 2\)](#), s. 64(1), **Sch. 22 para. 6**
- C40** Ss. 81, 82 excluded (3.11.2022) by [The Network Rail \(Huddersfield to Westtown \(Dewsbury\) Improvements\) Order 2022 \(S.I. 2022/1067\)](#), arts. 1, **5(3)**

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**C41** S. 81(1)(b) applied (with modifications) (13.7.2004) by [London Local Authorities Act 2004 \(c. i\)](#), ss. 1(1), **10(1)**

**Marginal Citations**

**M7** 1974 c. 37.

**82 Notices under section 81.**

- (1) A notice under section 81(1) above may require the person to whom it is given—
- (a) to shore up any building adjacent to the building to which the notices relates,
  - (b) to weatherproof any surfaces of an adjacent building that 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 (f) above,
  - (h) to make arrangements with the relevant statutory undertakers for the disconnection of the supply of gas, electricity and water to the building,
  - [<sup>F40</sup>(i) to make such arrangements with regard to the burning of structures or materials on the site as may be reasonably required by the fire and rescue authority;]
  - (j) 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) above 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 section 101 below, 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.
- (3) Before a person complies with a requirement under paragraph (e), (f) or (g) of subsection (1) above, he shall give to the local authority—
- (a) at least 48 hours' notice, in the case of a requirement under paragraph (e) or (f), or
  - (b) at least 24 hours' notice, in the case of a requirement under paragraph (g),
- and a person who fails to comply with this subsection is liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (4) This section does not authorise interference with apparatus or works of statutory undertakers authorised by an enactment to carry on an undertaking for the supply of electricity, [<sup>F41</sup>or gas or with apparatus or works of a water undertaker or sewerage undertaker].

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- (5) Without prejudice to the generality of subsection (4) above, this section does not exempt a person from—
- (a) the obligation to obtain any consent required under <sup>F42</sup>[<sup>F43</sup>section 174 of the Water Industry Act 1991 or section 176 of the Water Resources Act 1991] (interference with water supplies or with waterworks)]
  - (b) criminal liability under any enactment relating to the supply of gas or electricity, or
  - (c) the requirements of regulations under section 31 of the <sup>M8</sup>Gas Act 1972 (public safety).
- (6) Section 99 below applies in relation to a notice given under section 81(1) above.

#### Textual Amendments

- F40** S. 82(1)(i) substituted (1.10.2006) by Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541), art. 1(3), **Sch. 2 para. 33(7)** (with art. 49) (as amended by The Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006 (S.I. 2006/484), **arts. 1(1), 2**)
- F41** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(2)(a), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F42** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 70(2)(b), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F43** Words in s. 82(5)(a) substituted (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. 2(1), 4(2), **Sch. 1 para. 39(4)**.

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

- C40** Ss. 81, 82 excluded (3.11.2022) by The Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2022 (S.I. 2022/1067), arts. 1, **5(3)**
- C42** S. 82 applied (with modifications) (7.8.1991) by S.I. 1991/1773, art. 8(2)(3), **Sch. 2**  
S. 82 applied (with modifications) (10.1.1992) by S.I. 1991/2913, art. 8(2)(3), **Sch. 2**
- C43** S. 82: certain functions transferred (7.8.1991) by S.I. 1991/1773, art. 8(1)(3), **Sch.2**  
S. 82: certain functions transferred (10.1.1992) by S.I. 1991/2913, art. 8(1)(3), **Sch.2**
- C44** S. 82 excluded (11.2.2021) by High Speed Rail (West Midlands - Crewe) Act 2021 (c. 2), s. 64(1), **Sch. 22 para. 6**
- C45** S. 82(4) amended by Gas Act 1986 (c. 44, SIF 44:2), s. 67(1)(3), Sch. 7 para. 2(8), **Sch. 8 para. 33**
- C46** S. 82(4) amended by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(7), **Sch. 17 para. 33**
- C47** S. 82(4) amended (1.3.1996) by 1995 c. 45, s. 16(1), **Sch. 4 para.2(8)**; S.I. 1996/218, **art.2**

#### Marginal Citations

- M8** 1972 c. 60.

### 83 Appeal against notice under s. 81.

- (1) Section 102 below applies in relation to a notice given under section 81 above.
- (2) Among the grounds on which an appeal may be brought under section 102 below against such a notice are—
- (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 that is being demolished, and ought to pay, or contribute towards, the expenses of shoring it up,

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- (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 weatherproofing those surfaces.
- (3) Where the grounds on which an appeal under section 102 below is brought include a ground specified in subsection (2) above—
  - (a) the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and
  - (b) on the hearing of the appeal the court may make such order as it thinks fit—
    - (i) in respect of the payment of, or contribution towards, the cost of the works by any such person, or
    - (ii) as to how any expenses that may be recoverable by the local authority are to be borne between the appellant and any such person.

### *Yards and passages*

## **84 Paving and drainage of yards and passages.**

- <sup>F44</sup>(1) If a court or yard appurtenant to, or a passage giving access to, buildings to which this section applies—
- (a) is not so formed, flagged, asphalted or paved, or
  - (b) is not provided with such works on, above or below its surface,
- as to allow of the satisfactory drainage of its surface or subsoil [<sup>F44</sup>to a proper outfall]]<sup>F44</sup>(having regard both to the need to remove water from the court, yard or passage and also to the need to dispose of it satisfactorily in the course of or after its removal)], 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) Sections 99 and 102 below apply in relation to a notice given under subsection (1) above.
  - (3) The buildings to which this section applies are houses and industrial and commercial buildings.
  - (4) This section applies in relation to any court, yard or passage that is used in common by the occupiers of two or more houses, or a house and a commercial or industrial building, but is not a highway maintainable at the public expense.

#### **Textual Amendments**

**F44** Words in s. 84(1) substituted (2.5.2018 for W. for specified purposes, 7.1.2019 for W. in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 3 para. 26\(4\)](#) (with s. 49(1)(6)); S.I. 2018/557, arts. 2(b), 3(b)

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

- C48** S. 84 applied (with modifications) (07. 08. 1991) by S.I. 1991/1773, art. 8(2)(3), [Sch.2](#). S. 84 applied (with modifications) (10. 01. 1992) by S.I. 1991/2913, art. 8(2)(3), [Sch.2](#).
- C49** S. 84: certain functions transferred (07. 08. 1991) by S.I. 1991/1773, art. 8(1)(3), [Sch.2](#). S. 84: certain functions transferred (10. 01. 1992) by S.I. 1991/2913, art. 8(1)(3), [Sch.2](#).



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## **85 Maintenance of entrances to courtyards.**

- (1) Except with the consent of the local authority—
  - (a) an entrance to a court or yard on which two or more houses front or abut shall not be closed, narrowed, reduced in height or otherwise altered so as to impede the free circulation of air through the entrance, and
  - (b) no permanent structure shall be erected so as to impede the free circulation of air through such an entrance.
- (2) A local authority in giving a consent under this section may impose such conditions as they think fit with respect to the provision of other openings or means of access, or other means for securing free circulation of air throughout the court or yard.
- (3) A person aggrieved by the refusal of a local authority to give a consent under this section, or by a condition imposed by them, may appeal to a magistrates' court.
- (4) A person who contravenes this section is liable on summary conviction to a fine not exceeding level 1 on the standard scale and to a further fine not exceeding £2 for each day on which the offence continues after he is convicted.

### *Appeal to Crown Court*

## **86 Appeal to Crown Court.**

- (1) Where a person—
  - (a) is aggrieved by an order, determination or other decision of a magistrates' court under this Part of this Act, or under Part IV of this Act as it applies in relation to this Part, and
  - (b) is not by any other enactment authorised to appeal to the Crown Court, he may appeal to the Crown Court.
- (2) Subsection (1) above does not confer a right of appeal in a case in which each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by a magistrates' court.

### *Application of provisions to Crown property*

## **87 Application of provisions to Crown property.**

- (1) This section applies to any house, building or other premises being property belonging to Her Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a government department, or held in trust for Her Majesty for purposes of a government department.
- (2) In relation to any such property, the appropriate authority may agree with—
  - (a) the council of the county, or
  - (b) the local authority of the district,in which the property is situated that any particular provisions of this Part of this Act, and of Part IV of this Act so far as it relates to this Part, shall apply to the property; and, while the agreement is in force, those provisions shall apply to that property accordingly, subject to the terms of the agreement.

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- [<sup>F45</sup>(2A) Subsection (2) above shall apply in relation to property in Wales as if—
- (a) in paragraph (a) the reference to a county included a reference to a county borough; and
  - (b) paragraph (b) were omitted.]
- (3) Any such agreement may contain such consequential and incidental provisions (including, with the approval of the Treasury, provisions of a financial character) as appear to the appropriate authority to be necessary or equitable.
- (4) In this section, “the appropriate authority” means—
- (a) in the case of property belonging to Her Majesty in right of the Crown, the Crown Estate Commissioners or other government department having the management of the property,
  - (b) in the case of property belonging to Her Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy,
  - (c) in the case of property belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints, and
  - (d) in the case of property belonging to a government department or held in trust for Her Majesty for purposes of a government department, that department,
- and, if a question arises as to what authority is the appropriate authority in relation to any property, that question shall be referred to the Treasury, whose decision is final.

#### Textual Amendments

**F45** S. 87(2A) inserted (1.4.1996) by 1994 c. 19, s. 22(3), **Sch. 9 para. 15(2)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); s.I. 1996/396, art. 3, Sch.1

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

**C50** S. 87 modified (17.7.1992) by S.I. 1992/1732, **art. 4(2)**

### *Inner London*

#### **88 Inner London.**

- (1) In its application to inner London, this Part of this Act has effect subject to Part II of Schedule 3 to this Act.
- (2) Part III of Schedule 3 to this Act has effect with respect to building and the drainage of buildings in the inner London boroughs.
- (3) Part IV of Schedule 3 to this Act has effect with respect to the making of byelaws . . .  
<sup>F46</sup>\_\_\_
  - (a) for the inner London boroughs, with respect to certain matters, and
  - (b) for the inner London boroughs, the Inner Temple and the Middle Temple, with respect to certain other matters.

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**Textual Amendments**

**F46** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

*Miscellaneous*

**89 References in Acts to building byelaws.**

- (1) Subject to subsection (2) below, for any reference to—
- (a) building byelaws as defined in section 343 of the <sup>M9</sup>Public Health Act 1936, or
  - (b) byelaws made under Part II of that Act with respect to buildings, works and fittings,

that occurs in an Act, or in an instrument having effect under an Act, there is substituted a reference to building regulations.

- (2) ..... <sup>F47</sup>

**Textual Amendments**

**F47** [S. 89\(2\)](#) repealed by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\)](#), s. 3, 5(2), [Sch. 1 Pt. I, Sch. 4](#)

**Marginal Citations**

**M9** 1936 c. 49.

**90 Facilities for inspecting local Acts.**

- (1) In an area in which there is in force a local Act containing provisions that impose an obligation or restriction as to the construction, nature or situation of buildings, the local authority shall keep a copy of those provisions at their offices for inspection by the public at all reasonable times free of charge.
- (2) Any question as to what provisions of a local Act are provisions of which a copy is to be so kept shall, on the application of the local authority, be determined by the [<sup>F48</sup>Secretary of State][<sup>F48</sup>appropriate national authority].

**Textual Amendments**

**F48** Words in [s. 90\(2\)](#) substituted (28.6.2022 for E.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 5 para. 53](#); S.I. 2022/561, reg. 3(f), [Sch. para. 28](#)

**Status:**

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**Changes to legislation:**

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