



# 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—
- satisfactory provision has not been, and ought to be, made for drainage<sup>F1</sup> . . .,
  - 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,
  - 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
  - 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*Status: Point in time view as at 06/04/2024.*

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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 [<sup>F9</sup>the appropriate court or tribunal], and the court [<sup>F10</sup>or tribunal] 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.

### Textual Amendments

- F9** Words in s. 62(2) substituted (1.10.2023 except in relation to W., 6.4.2024 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 9\(j\)](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6); S.I. 2024/207, reg. 2(d)(xii) (with regs. 3, 4, 8-12)
- F10** Words in s. 62(2) inserted (1.10.2023 except in relation to W., 6.4.2024 for W.) by [Building Safety Act 2022 \(c. 30\)](#), s. 170(4)(b)(c), [Sch. 6 para. 16](#); S.I. 2023/993, reg. 2(o)(i) (with reg. 6); S.I. 2024/207, reg. 2(d)(xii) (with regs. 3, 4, 8-12)

### 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](#)

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### **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 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.

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