



Public Health Act 1961

1961 CHAPTER 64

PART II

SANITATION AND BUILDINGS

Buildings and structures

24 Section 58 of Public Health Act, 1936, to apply to buildings constituting a danger to persons in streets

- (1) Subsection (1) of section fifty-eight of the Public Health Act, 1936 (which empowers a local authority to deal with any building which is dangerous to those in the building or on any adjoining premises), shall also apply to any building which is dangerous to persons in a street and accordingly in paragraph (a) of that subsection the words from " to persons in the building " to " adjoining premises " shall cease to have effect.
- (2) Subsections (1) and (2) of section one hundred and forty-five of the Highways Act, 1959 (which, as regards buildings dangerous to those using streets, gives local authorities a power corresponding to that in section fifty-eight of the Public Health Act, 1936), shall cease to have effect.

25 Emergency measures to deal with dangerous buildings

- (1) If it appears to a local authority that 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 that 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.
- (3) Subject to the provisions of this section, the local authority may recover from the owner the expenses reasonably incurred by them under this section.

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- (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 fifty-eight of the Public Health Act, 1936, 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 subsection (1) of the said section fifty-eight, and, if the court determines that the local authority might reasonably have proceeded instead under the said subsection (1), the local authority shall not recover the expenses or any part of them.
- (6) Subject to the provisions of the last foregoing subsection, 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 or their apportionment as appears to the court to be just:
- Provided that 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 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 subsection (1) of section two hundred and seventy-eight of the Public Health Act, 1936, does not apply because the owner or occupier has been in default, 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, if the court determines that the local authority were not so justified, the owner or occupier shall be entitled to compensation, and subsection (2) of section two hundred and seventy-eight of the Public Health Act, 1936, shall apply in relation to any dispute as regards compensation arising under this subsection.
- (8) The surveyor of a local authority may, as an officer of the local authority, exercise the powers conferred on the local authority by subsection (1) of this section without being empowered to act by the local authority.
- (9) The foregoing provisions of this section shall not apply to any premises forming part of a mine or quarry within the meaning of the Mines and Quarries Act, 1954.
- (10) Subsection (3) of section fifty-eight of the Public Health Act, 1936, and subsection (3) of section one hundred and forty-five of the Highways Act, 1959, shall cease to have effect.

26 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

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- (b) unreasonable delay in remedying the defective state would be occasioned by following the procedure prescribed by sections ninety-three to ninety-five of the Public Health Act, 1936,
- the local authority may serve on the person on whom it would have been appropriate to serve an abatement notice under the said section ninety-three (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 which they intend to remedy.
- (2) Subject to the next following subsection, the local authority may, after the expiration of nine days after service of a notice under the foregoing subsection, execute such works as may be necessary to remedy the defective state and may 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) of this section, 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 either—
- (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 this section 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 sections ninety-three to ninety-six of the Public Health Act, 1936, and
- (b) if the defendant proves that he served a counter-notice under subsection (3) of this section, 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—
- (i) that the local authority were not justified in either of the conclusions mentioned in paragraph (a) of this subsection, or
- (ii) that 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 the provisions of the last foregoing subsection, in proceedings to recover expenses under this section the court may inquire whether the said 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 or their apportionment as appears to the court to be just:
- Provided that 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 due notice of the proceedings and an opportunity of being heard.
- (6) A local authority shall not serve a notice under this section, or proceed with the execution of works in accordance with a notice so served, if the execution of the works

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would, to their knowledge, be in contravention of a building preservation order under section twenty-nine of the Town and Country Planning Act, 1947.

- (7) The power conferred on a local authority by subsection (1) of this section may be exercised notwithstanding that the local authority might instead have proceeded under section nine of the Housing Act, 1957.

27 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 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 that 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) 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 this section, and in the application of section two hundred and ninety of that Act to a notice given under subsection (1) of this section—
- (a) subsection (2) shall be construed as requiring the notice to indicate both the nature of the works of repair or restoration and the works of demolition and removal of rubbish or material, and
 - (b) subsection (6) shall be construed as authorising the local authority to execute, subject to the provisions of that subsection, at their election either the works of repair or restoration, or the works of demolition and removal of rubbish or material.
- (4) The foregoing provisions of this section shall not apply to any advertisement as defined in subsection (1) of section one hundred and nineteen of the Town and Country Planning Act, 1947.
- (5) Paragraph (b) of subsection (1) of section fifty-eight of the Public Health Act, 1936, shall cease to have effect except as regards proceedings instituted under that paragraph before the commencement of this Act.

28 New building overreaching adjacent chimneys

- (1) Where after the commencement of this Act—
- (a) any 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—

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- (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 the top thereof 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:

Provided 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) of this subsection instead of the first-mentioned person and may recover the expenses reasonably incurred in so doing from, that person.

- (2) Any person on whom a notice is served under paragraph (i) or paragraph (ii) of the foregoing subsection may appeal to a magistrates' court.
- (3) If—
 - (a) any person on whom a notice is served under paragraph (i) of subsection (1) of this section 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) any person on whom a notice is served under paragraph (ii) of subsection (1) of this section 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 shall be liable to a fine not exceeding twenty pounds; and the local authority may themselves carry out such work as may be necessary to comply with the notice served under the said paragraph (i), and recover the expenses reasonably incurred in so doing from the person on whom that notice was served.

29 Powers of local authority in relation to demolitions

- (1) Subject to the provisions of this section, a local authority may serve a notice under this section on any person who undertakes the demolition of the whole or of part of a building.
- (2) Subsection (1) of this section shall not apply to the demolition—
 - (a) of an internal part of a building where the building is occupied, and it is intended that it should continue to be occupied, or
 - (b) of a building which has a cubic content (as ascertained by external measurement) of not more than one thousand seven hundred and fifty 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
 - (c) without prejudice to the last foregoing paragraph, of an agricultural building (as defined in section two of the Rating and Valuation (Apportionment) Act, 1928) unless it is contiguous to another building which is not itself of a kind mentioned in this or the last foregoing paragraph.
- (3) No person shall undertake a demolition to which subsection (1) of this section applies unless a notice specifying the building and the works of demolition intended to be

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carried out has been given to the local authority; and a person contravening this subsection shall be liable to a fine not exceeding five pounds:

Provided that notice need not be given under this subsection of a demolition undertaken to comply with any requirement contained in—

- (a) a notice, order or other instrument issued by, or on the application of, the local authority in pursuance of any power conferred by or under an Act of Parliament, or
- (b) an injunction or other direction given in legal proceedings brought by the local authority,

except where compliance with the requirement is effected, at the election of the person complying with it, either by undertaking the demolition or by taking some other steps.

- (4) The time within which a notice may be served under subsection (1) of this section shall be—
 - (a) where a notice was given under subsection (3) of this section, within six weeks from the giving of that notice, or such longer period as the person undertaking the demolition may in writing allow, and
 - (b) in the case of a demolition undertaken to comply with a requirement contained in a demolition order or clearance order under the Housing Act, 1957, at any time not more than seven days after serving on the person undertaking the demolition a copy of the demolition order or clearance order in accordance with that Act, or within such longer period as the person undertaking the demolition may in writing allow, and
 - (c) in any other case, within six weeks from the beginning of the demolition.
- (5) A notice under subsection (1) of this section may require the person undertaking the demolition to take action under all or any of the following paragraphs, that is to say—
 - (a) to shore up adjacent buildings,
 - (b) to weatherproof any surfaces of an adjacent building which are exposed by the demolition,
 - (c) to remove material or rubbish resulting from the demolition and clearance of the site,
 - (d) to disconnect and seal, at such points as the local authority may reasonably require, any sewer, drain or water pipe in or under the building to be demolished,
 - (e) to remove any such sewer, drain or water pipe and seal any sewer, drain or water pipe with which the sewer, drain or pipe to be removed is connected, and
 - (f) to make good to the satisfaction of the local authority the surface of the ground disturbed by anything done under paragraph (d) or paragraph (e) of this subsection.
- (6) No one shall be required under paragraph (d) or paragraph (e) of subsection (5) 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.
- (7) Nothing in subsection (5) of this section shall be construed as exempting any person from the obligation to obtain any consent required under section sixty-eight of the

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Third Schedule to the Water Act, 1945 (which relates to alterations in supply pipes and other apparatus), or under any similar enactment.

- (8) Before a person complies with any requirement under paragraph (d) or paragraph (e) of subsection (5) of this section he shall give at least forty-eight hours notice to the local authority, and before he complies with paragraph (f) of that subsection, he shall give at least twenty-four hours notice to the local authority ; and a person who fails to comply with this subsection shall be liable to a fine not exceeding five pounds.
- (9) 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 subsection (1) of this section.
- (10) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the Public Health Act, 1936, against a notice under subsection (1) of this section 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 weatherproofing those surfaces.
- (11) Where the grounds on which an appeal under the said section two hundred and ninety is brought include any ground specified in the last foregoing subsection, 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 as between the appellant and any such other person.
- (12) This section shall not apply to a demolition begun before the commencement of this Act.

30 Cellars and rooms below subsoil water level

- (1) No person shall without the consent of the local authority construct any 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) A consent under this section may be given subject to such conditions as to the construction or use of the premises as may be specified therein; and conditions specified therein shall be binding on successive owners of the house, shop, inn, hotel or office.
- (3) If a local authority refuse an application for consent under this section or attach any conditions to a consent under this section the person applying for the consent may appeal to a magistrates' court against their refusal or, as the case may be, against any such condition; and if a magistrates' court allow an appeal against a refusal to grant a consent they may direct the local authority to give their consent subject to such conditions, if any, as appear to the court to be appropriate.

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- (4) An application may be made at any time to the local authority for the variation or withdrawal of any condition attached to a consent under this section, and, if the local authority refuse the application, the applicant may appeal to a magistrates' court.
- (5) If any person constructs a cellar or room in contravention of subsection (1) of this section, or of any condition attached to a consent under this section—
 - (a) he shall be liable to a fine not exceeding twenty pounds; 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.
- (6) 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 the last foregoing subsection, and in the application of section two hundred and ninety of that Act to such a notice—
 - (a) subsection (2) shall be construed as requiring the notice to indicate both the nature of the works of alteration and the works for making the cellar or room unusable, and
 - (b) subsection (6) shall be construed as authorising the local authority to execute, subject to the provisions of that subsection, at their election either the works of alteration or the works for making the cellar or room unusable.
- (7) 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 which he knows to be in contravention of any condition attached to a consent under this section he shall be liable to a fine not exceeding twenty pounds.
- (8) Subsection (1) of this section shall not apply to the construction of a cellar or room carried out in accordance with plans deposited on an application under the Licensing Act, 1953, to licensing justices on which they made a provisional grant of a justices' licence for the premises of which the cellar or room forms part, or made a provisional grant of a removal of a justices' licence to those premises.
- (9) Nothing in this section shall apply to the construction of any cellar or room in connection with a shop, inn, hotel or office which forms part of a railway station.

31 Food storage accommodation in new houses

- (1) Where plans—
 - (a) for the erection of a house, or of a building part of which is intended to be occupied as a separate dwelling, or
 - (b) of any works involving the conversion of a building into a house or into separate dwellings, or the conversion of part of a building into a separate dwelling,

have been deposited with a local authority in pursuance of building byelaws or building regulations, the local authority may, subject to the provisions of this section, reject the plans if they do not show that the house, or, as the case may be, each separate dwelling, will be provided with sufficient and suitable accommodation for the storage of food, or sufficient and suitable space for the provision of such accommodation by the occupier.

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- (2) If the local authority reject the plans under this section, the person by whom the plans were deposited may appeal to a magistrates' court, and if the magistrates' court allow the appeal they shall direct the local authority to allow the plans under this section.

32 Food storage accommodation in existing houses

- (1) If it appears to a local authority that any house, or any part of a building which 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) 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 under this section.
- (3) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the Public Health Act, 1936, against a notice under this section shall be that it is not reasonably practicable to comply with the notice.
- (4) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the Public Health Act, 1936, against a notice under this section shall be—
- (a) that 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
 - (b) that the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.
- (5) Where the grounds on which an appeal under the said section two hundred and ninety is brought include the ground specified in subsection (4) 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 with respect to the contribution to be made by any such person towards the cost of the works, or as to the proportion in which any expenses which may be recoverable by the local authority are to be borne by the appellant and any such other person.

33 Provision of bathrooms

- (1) Where plans—
- (a) for the erection of a house, or of a building part of which is intended to be occupied as a separate dwelling, or
 - (b) of any works involving the conversion of a building into a house or into separate dwellings, or the conversion of part of a building into a separate dwelling,

have been deposited with a local authority in pursuance of building byelaws or building regulations, the local authority may, subject to the provisions of this section, reject the plans if they do not show that the house, or as the case may be, each separate dwelling, will be provided with a bathroom containing either a fixed bath or a shower

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bath, and a suitable installation for the provision of hot and cold water to the bath or shower bath.

- (2) If the local authority reject the plans under this section, the person by whom the plans were deposited may appeal to a magistrates' court, and if the magistrates' court allow the appeal they shall direct the local authority to allow the plans under this section.