



# Public Health Act 1936

1936 CHAPTER 49 26 Geo 5 and 1 Edw 8

## PART XI

### MISCELLANEOUS

*Watercourses, ditches, ponds, &c.*

#### **259 Nuisances in connection with water-courses, ditches, ponds, &c.**

(1) The following matters shall be statutory nuisances for the purposes of [<sup>F1</sup>Part III of the Environmental Protection Act 1990], that is to say—

- (a) any pond, pool, ditch, gutter or watercourse which is so foul or in such a state as to be prejudicial to health or a nuisance;
- (b) any part of a watercourse, not being a part ordinarily navigated by vessels employed in the carriage of goods by water, which is so choked or silted up as to obstruct or impede the proper flow of water and thereby to cause a nuisance, or give rise to conditions prejudicial to health:

Provided that in the case of an alleged nuisance under paragraph (b) nothing in this subsection shall be deemed to impose any liability on any person other than the person by whose act of default the nuisance arises or continues.

(2) . . . . . F2

#### **Textual Amendments**

**F1** Words substituted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15](#), para. 4(3)

**F2** [S. 259\(2\)](#) repealed by [Control of Pollution Act 1974 \(c. 40\)](#), s. 109(2), [Sch. 4](#)

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

**C1** [S. 259](#) amended by [Radioactive Substances Act 1960 \(c. 34\)](#), s. 9, [Sch. 1 Pt. I para. 3](#); extended by that 1960 Act, s. 108(1)

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- S. 259 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 1**  
**C2** Power to apply s. 259 conferred by Transport Act 1968 (c. 73), **s. 112(3)**

## **260 Power of parish council, or local authority, to deal with ponds, ditches, &c.**

- (1) A parish council may—
- (a) deal with any pond, pool, ditch, gutter or place containing, or used for the collection of, any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing or covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right, or with any public drainage, sewerage or sewage disposal works;
  - (b) execute any works, including works of maintenance or improvement, incidental to or consequential on any exercise of the foregoing power;
  - (c) contribute towards the expenses incurred by any other person in doing anything mentioned in this subsection.
- (2) Without prejudice to their right to take action in respect of any statutory nuisance, a local authority may exercise any powers which a parish council may exercise under this section.

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

- C3** S. 260 restricted by S.I. 1965/654, **art. 3(10)**

## **261 Provision for obtaining order for cleansing offensive ditches lying near to, or forming, boundary of district.**

Upon a complaint by a local authority against the local authority of an adjoining district that a watercourse or ditch which forms the boundary between their districts, or which lies in the adjoining district but near to that boundary, is so foul and offensive as injuriously to affect the district of the complainants, a court of summary jurisdiction having jurisdiction in the place where the watercourse or ditch is situate may make such order as it deems reasonable with respect to the cleansing of the watercourse or ditch and the execution of any work appearing to the court to be necessary, and with respect to the person by whom the work is to be executed, and the persons by whom, and the proportions in which, the costs of the work are to be paid.

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

- C4** S. 261 amended by Radioactive Substances Act 1960 (c. 34), s. 9, **Sch. 1 Pt. I para. 3**; restricted by S.I. 1965/654, **art. 3(10)**  
 S. 261 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. I para. 1**

## **262 Power of local authority to require culverting of watercourses and ditches where building operations in prospect.**

- (1) If a local authority consider that any watercourse or ditch, situate upon land laid out for building, or on which any land laid out for building abuts, should be wholly or partially filled up or covered over, they may by notice require the owner of the land laid out for

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building, before any building operations are begun or while any such operations are in progress, wholly or partially to fill up the watercourse or ditch, or to substitute therefor a pipe, drain or culvert with all necessary gullies and other means of conveying surface water into and through it.

- (2) Any question arising under this section between a local authority and an owner as to the reasonableness of any works which the authority require to be executed may, on the application of either party, be determined by a court of summary jurisdiction.
- (3) Any person who, on any land to which a notice given by a local authority under this section applies, begins or proceeds with any building operations before executing the works required by the notice, shall be liable to a fine not exceeding [<sup>F3</sup>level 1 on the standard scale] and to a further fine not exceeding [<sup>F4</sup>£2] for each day on which the offence continues after conviction therefor.
- (4) Nothing in this section shall empower an authority to require the execution of works upon the land of any person other than the owner of the land laid out for building, without the consent of that person, or prejudicially to affect the rights of any person not being the owner of the land so laid out.

#### Textual Amendments

- F3** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46
- F4** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), s. 10(1)

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

- C5** S. 262 restricted by [S.I. 1965/654](#), art 3(10)

## 263 Watercourses in urban district not to be culverted except in accordance with approved plans.

- (1) It shall not be lawful within a borough or [<sup>F5</sup>district,] or a rural district or contributory place in which section fifty-two of the <sup>M1</sup>Public Health Act 1925, was in force immediately before the commencement of this Act, to culvert or cover any stream or watercourse except in accordance with plans and sections to be submitted to and approved by the local authority, but such approval shall not be withheld unreasonably and, if the authority, within six weeks after plans and sections have been submitted to them, fail to notify their determination to the person by whom the plans and sections were submitted, they shall be deemed to have approved them.
- (2) Any question arising under this section between a local authority and an owner as to the reasonableness of any works which the authority require to be executed as a condition of their approval, or as to the reasonableness of their refusal to give approval, may, on the application of either party, be determined by a court of summary jurisdiction.
- (3) A local authority shall not, as a condition of approving plans or sections under this section, require an owner to receive upon his land, or to make provision for the passage of, a greater quantity of water than he is otherwise obliged to receive or to permit to pass, and, if the owner at the request of the authority makes provision for the passage of a larger quantity of water than he is obliged to permit to pass at the time of the commencement of any work under this section, any additional cost reasonably incurred by him in complying with the request of the authority shall be borne by them.

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- (4) Any person who contravenes this section shall be liable to a fine not exceeding [<sup>F6</sup>level 1 on the standard scale] and to a further fine not exceeding [<sup>F7</sup>£2] for each day on which the offence continues after conviction therefor.

#### Textual Amendments

- F5** Words substituted by virtue of [Local Government Act 1972 \(c. 70\), s. 179\(3\)](#)  
**F6** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 46](#)  
**F7** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

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

- C6** S. 263 restricted by [S.I. 1965/654, art. 3\(10\)](#); applied by [Local Government Act 1972 \(c. 70\), Sch. 14 para. 4](#)  
**C7** S. 263 excluded by [Highways Act 1980 \(c. 66, SIF 59\), s. 101\(4\)](#)

#### Marginal Citations

- M1** 1925 c. 71.

### 264 Urban authority may require repair and cleansing of culverts.

The owner or occupier of any land within a borough or [<sup>F8</sup>district,] or a rural district or contributory place in which section fifty-three of the <sup>M2</sup>Public Health Act 1925, was in force immediately before the commencement of this Act, shall repair, maintain and cleanse any culvert in, on or under that land, and, if it appears to the local authority that any person has failed to fulfil his obligations under this section, they may by notice require him to execute such works of repair, maintenance or cleansing as may be necessary.

The provisions of Part XII of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this section.

#### Textual Amendments

- F8** Words substituted by virtue of [Local Government Act 1972 \(c. 70\), s. 179\(3\)](#)

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

- C8** S. 264 restricted by [S.I. 1965/654, art. 3\(10\)](#); applied by [Local Government Act 1972 \(c. 70\), Sch. 14 para. 4](#)

#### Marginal Citations

- M2** 1925 c. 71.

### 265 Power of local authority to defray cost of, or execute, works relating to watercourses.

A local authority may, if they think fit, contribute the whole or a part of the expenses of the execution of works for any of the purposes mentioned in the foregoing provisions of this Part of this Act, or may be agreement with any owner or occupier themselves execute any such works which he may be required, or is entitled, to execute.

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

**C9** S. 265 restricted by S.I. 1965/654, **art. 3(10)**

**266 †Saving for land drainage authorities, the London County Council, railway companies and dock undertakers.**

- (1) The powers conferred by the foregoing provisions of this Part of this Act shall not be exercised—
- (i) with respect to any stream, watercourse, ditch or culvert within the jurisdiction of a land drainage authority, except after consultation with that authority;
  - (ii) . . . <sup>F9</sup>

Provided that nothing in this subsection shall apply in relation to the taking of proceedings in respect of a statutory nuisance.

- (2) Nothing in the foregoing provisions of this Part of this Act shall prejudice or affect the powers of any railway company or dock undertakers to culvert or cover in any stream or watercourse, or, without the consent of the railway company or dock undertakers concerned, extend to any culvert or covering of a stream or watercourse constructed by a railway company and used by them for the purposes of their railway, or constructed by dock undertakers and used by them for the purposes of their undertaking.

**Textual Amendments**

**F9** S. 266(1)(ii) repealed by [London Government Act 1963 \(c. 33\)](#), **Sch. 18 Pt. II**

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

**C10** Unreliable marginal note

**C11** S. 266(1)(i) extended (Greater London) by [London Government Act 1963 \(c. 33\)](#), **Sch. 11 Pt. I para. 23**

*Ships and boats*

**267 Application to ships and boats of certain provisions of Act.**

- (1) For the purposes of such of the provisions of this Act specified in subsection (4) of this section as are provisions for the execution of which local authorities are responsible, a vessel lying in any inland or coastal waters shall—
- (a) if those water are within a port health district, be subject to the jurisdiction of the port health authority for that district;
  - (b) if those waters are within the district of a local authority but not within a port health district, be subject to the jurisdiction of that local authority;
  - (c) if those waters are not within the district of any local authority or any port health district, be subject to the jurisdiction of such local authority as the Minister may from time to time by order direct or, if no such direction is given, within the jurisdiction of the local authority whose district includes that point on land which is nearest to the spot where the vessel is lying.

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- (2) For the purposes of such of the said provisions as are provisions for the execution of which county councils are responsible, a vessel when lying in any inland or coastal waters not within a county shall be subject to the jurisdiction of the council of the county which includes that point on land which is nearest to the spot where the vessel is lying.
- [<sup>F10</sup>(2A) Subsection (2) of this section does not apply if the point on land which is nearest to the spot where the vessel is lying is in Wales.]
- (3) In relation to any vessel the said provisions shall have effect as if—
- (a) the vessel were a house, building or premises within the district, or, as the case may be, the county, of the [<sup>F11</sup>port health authority or] local authority or county council to whose jurisdiction it is subject; and
  - (b) the master, or other officer or person in charge, of the vessel were the occupier.
- (4) The provisions of this Act referred to in the preceding subsections are Parts . . . <sup>F12</sup>, . . . <sup>F13</sup>, VI and XII and, so far as regards boats used for human habitation, the provisions of Part II relating to filthy or verminous premises or articles and verminous persons: . . . <sup>F14</sup>
- (5) This section does not apply to any vessel belonging to His Majesty or under the command or charge of an officer holding His Majesty's commission, or to any vessel belonging to a foreign government.
- [<sup>F15</sup>(6) In determining for the purposes of subsection (1) above what provisions of this Act specified in subsection (4) above are provisions for the execution of which local authorities are responsible, no account shall be taken of any enactment (whether contained in this Act or not) relating to port health authorities or joint boards or to any particular port health authority or joint board or of any instrument made under any such enactment]

#### Textual Amendments

- F10** S. 267(2A) added (1.4.1996) by 1994 c. 19, s.22(4), **Sch. 9 para. 3(4)**(with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F11** Words inserted by Local Government (Miscellaneous Provisions) Act 1982 (c. 30, SIF 81:1), s. 47, **Sch. 6 para. 4**
- F12** Word repealed by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. III**
- F13** Word repealed by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), s. 78, **Sch. 3**
- F14** S. 267(4) proviso repealed by Clean Air Act 1956 (c. 52), **Sch. 4**
- F15** S. 267(6) added by Local Government (Miscellaneous Provisions) Act 1982 (c. 30, SIF 81:1), s. 47, **Sch. 6 para. 4**

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

- C12** S. 267(1)(c) amended by Local Government Act 1972 (c. 70) Sch. 14 Pt. I para. 19

*Status: Point in time view as at 01/04/1996.*

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*Tents, vans, sheds, &c.*

**268 Nuisances arising from, and byelaws and other matters relating to, tents, vans, &c.**

- (1) The provisions of [<sup>F16</sup>Part III of the Environmental Protection Act 1990 and Parts] . . .<sup>F17</sup>, VII and XII of this Act, and the provisions of Part II relating to filthy or verminous premises or articles and verminous persons, shall apply in relation to tents, vans, sheds and similar structures used for human habitation as they apply in relation to other premises and as if a tent, van, shed or similar structure used for human habitation were a house or a building so used.
- (2) For the purposes of [<sup>F18</sup>Part III of the Environmental Protection Act 1990] a tent, van, shed or similar structure used for human habitation—
  - (a) which is in such a state, or so overcrowded, as to be prejudicial to the health of the inmates; or
  - (b) the use of which, by reason of the absence of proper sanitary accommodation or otherwise, gives rise, whether on the site or on other land, to a nuisance or to conditions prejudicial to health,shall be a statutory nuisance, and the expression “occupier” in relation to a tent, van, shed or similar structure shall include any person for the time being in charge thereof.
- (3) Where such a nuisance as is mentioned in paragraph (b) of the preceding subsection is alleged to arise, wholly or in part, from the use for human habitation of any tent, van, shed or similar structure, then, without prejudice to the liability of the occupants or other users thereof, an abatement notice may be served on, and proceedings under [<sup>F19</sup>Part III of the Environmental Protection Act 1990] may be taken against, the occupier of the land on which the tent, van, shed, or other structure is erected or stationed:  
Provided that it shall be a defence for him to prove that he did not authorise the tent, van, shed or other structure to be stationed or erected on the land.
- (4) A local authority may make byelaws for promoting cleanliness in, and the habitable conditions of, tents, vans, sheds and similar structures used for human habitation, . . .<sup>F20</sup> and generally for the prevention of nuisances in connection therewith.
- (5) The powers of a court before which proceedings are brought—
  - (a) in respect of a statutory nuisance caused by, or arising in connection with, a tent, van, shed or similar structure used for human habitation; or
  - (b) in respect of any contravention of byelaws made under this section,shall include power to make an order prohibiting the use for human habitation of the tent, van, shed or other structure in question at such places, or within such area, as may be specified in the order.

**Textual Amendments**

- F16** Words substituted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), **Sch. 15**, para. 4(4)(a)
- F17** Word repealed by [Public Health \(Control of Disease\) Act 1984 \(c. 22, SIF 100:1\)](#), s. 78, **Sch. 3**
- F18** Words substituted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), **Sch. 15 para. 4(4)(b)**
- F19** Words substituted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), **Sch. 15 para. 4(4)(c)**



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**F20** Words repealed by [Public Health \(Control of Disease\) Act 1984 \(c. 22, SIF 100:1\)](#), s. 78, [Sch. 3](#)

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

**C13** S. 268(3) extended by [Public Health \(Recurring Nuisances\) Act 1969 \(c. 25\)](#), s. 4(5)

**C14** S. 268(4) modified (10.1.1992) by [S.I. 1991/2913](#), art. 8, [Sch.2](#).

**269 Power of local authority to control use of moveable dwellings.**

- (1) For the purpose of regulating in accordance with the provisions of this section the use of moveable dwellings within their district, a local authority may grant—
- (i) licences authorising persons to allow land occupied by them within the district to be used as sites for moveable dwellings; and
  - (ii) licences authorising persons to erect or station, and use, such dwellings within the district;

and may attach to any such licence such conditions as they think fit—

- (a) in the case of a licence authorising the use of land, with respect to the number and classes of moveable dwellings which may be kept thereon at the same time, and the space to be kept free between any two such dwellings, with respect to water supply, and for securing sanitary conditions;
  - (b) in the case of a licence authorising the use of a moveable dwelling, with respect to the use of that dwelling (including the space to be kept free between it and any other such dwelling) and its removal at the end of a specified period, and for securing sanitary conditions.
- (2) Subject to the provisions of this section, a person shall not allow any land occupied by him to be used for camping purposes on more than forty-two consecutive days or more than sixty days in any twelve consecutive months, unless either he holds in respect of the land so used such a licence from the local authority of the district as is mentioned in paragraph (i) of the preceding subsection, or each person using the land as a site for a moveable dwelling holds in respect of that dwelling such a licence from that authority as is mentioned in paragraph (ii) of the said subsection.

For the purposes of this subsection, land which is in the occupation of the same person as, and within one hundred yards of, a site on which there is during any part of any day a moveable dwelling shall be regarded as being used for camping purposes on that day.

- (3) Subject to the provisions of this section, a person shall not keep a moveable dwelling on any one site, or on two or more sites in succession, if any one of those sites is within one hundred yards of another of them, on more than forty-two consecutive days, or sixty days in any twelve consecutive months, unless either he holds in respect of that dwelling such a licence from the local authority of the district as is mentioned in paragraph (ii) of subsection (1) of this section, or the occupier of each piece of land on which the dwelling is kept holds in respect of that land such a licence from that authority as is mentioned in paragraph (i) of the said subsection.
- (4) Where under this section an application for a licence is made to a local authority, the authority shall be deemed to have granted it unconditionally, unless within four weeks from the receipt thereof they give notice to the applicant stating that his application is refused, or stating the conditions subject to which a licence is granted, and, if an applicant is aggrieved by the refusal of the authority to grant him a licence, or by any condition attached to a licence granted, he may appeal to a court of summary jurisdiction.



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- (5) Nothing in this section applies—
- (i) to a moveable dwelling which—
    - (a) is kept by its owner on land occupied by him in connection with his dwelling-house and is used for habitation only by him or by members of his household; or
    - (b) is kept by its owner on agricultural land occupied by him and is used for habitation only at certain seasons and only by persons employed in farming operations on that land; or
  - (ii) . . . <sup>F21</sup>
  - (iii) to a moveable dwelling while it is not in use for human habitation and is being kept on premises the occupier of which permits no moveable dwellings to be kept thereon except such as are for the time being not in use for human habitation.
- (6) If an organisation satisfies the Minister that it takes reasonable steps for securing—
- (a) that camping sites belonging to or provided by it, or used by its members, are properly managed and kept in good sanitary condition; and
  - (b) that moveable dwellings used by its members are so used as not to give rise to any nuisance,

the Minister may grant to that organisation a certificate of exemption.

A certificate so granted may be withdrawn at any time, but while in force shall for the purposes of this section have the effect of a licence—

- (i) authorising the use as a site for moveable dwellings of any camping ground belonging to, provided by or used by members of, the organisation;
- (ii) authorising any member of the organisation to erect or station on any site, and use, a moveable dwelling.

In this subsection the expression “member” in relation to an organisation includes a member of any branch or units of, or formed by, the organisation.

- (7) A person who contravenes any of the provisions of this section, or fails to comply with any condition attached to a licence granted to him under this section, shall be liable to a fine not exceeding [<sup>F22</sup>level 1 on the standard scale], and to a further fine not exceeding [<sup>F23</sup>£2] for each day on which the offence continues after conviction therefor.

- (8) For the purposes of this section—

- (i) the expression “moveable dwelling” includes any tent, any van or other conveyance whether on wheels or not, and, subject as hereinafter provided, any shed or similar structure, being a tent, conveyance or structure which is used either regularly, or at certain seasons only, or intermittently, for human habitation:

Provided that it does not include a structure to which [<sup>F24</sup>building regulations] apply;

- (ii) the owner of land which is not let shall be deemed to be the occupier thereof;
- (iii) if a moveable dwelling is removed from the site on which it stands, but within forty-eight hours is brought back to the same site or to another site within one hundred yards thereof, then, for the purpose of reckoning any such period of forty-two consecutive days as is mentioned in subsection (2) or subsection (3) of this section, it shall be deemed not to have been removed or, as the case may be, to have been moved direct from the one site to the other.

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(9) Subject as hereinafter provided, this section shall not apply to any district in which at the commencement of this Act there was in force a local Act containing provisions enabling the local authority to regulate, by means of byelaws or licences or otherwise, the use of moveable dwellings or camping grounds:

Provided that, on the application of the local authority, the Minister may declare this section to be in force in their district, and upon the declaration taking effect, such of the provisions of the local Act as may be specified in the declaration shall be repealed or, as the case may be, shall be repealed as respects the district of that authority.

#### Textual Amendments

- F21** S. 269(5)(ii) repealed by [Caravan Sites and Control of Development Act 1960 \(c. 62\), Sch. 4](#)
- F22** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#)
- F23** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)
- F24** Words substituted by virtue of [Building Act 1984 \(c. 55, SIF 15\), s. 133\(1\), Sch. 6 para. 3](#)

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

- C15** S. 269 repealed in relation to caravans, by [Caravan Sites and Control of Development Act 1960 \(c. 62\), s. 30](#)
- C16** S. 269(1): functions of local authority not to be the responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853, reg. 2\(1\), Sch. 1 para. B2](#)

*Hop-pickers, &c.*

## 270 Byelaws as to hop-pickers and persons engaged in similar work.

A local authority may make byelaws for securing the decent lodging and accommodation of hop-pickers and other persons engaged temporarily in picking, gathering or lifting fruit, flowers, bulbs, roots or vegetables within their district.

**Status:**

Point in time view as at 01/04/1996.

**Changes to legislation:**

There are currently no known outstanding effects for the Public Health Act 1936, Part XI.