



Public Health Act 1936

1936 CHAPTER 49

PART II

SANITATION AND BUILDINGS.

Sewerage and sewage disposal.

17 Adoption by local authority of sewers and sewage disposal works.

- (1) Subject to the provisions of this section, a local authority may at any time declare that any sewer or sewage disposal works situate within their district, or serving their district or any part of their district, being a sewer or works the construction of which was not completed before the commencement of this Act, shall, as from such date as may be specified in the declaration, become vested in them :

Provided that an authority who propose to make a declaration under this subsection shall give notice of their proposal to the owner or owners of the sewer or works in question, and shall take no further action in the matter until either two months have elapsed without an appeal against their proposal being lodged under subsection (3) of this section, or, as the case may be, until any appeal so lodged has been determined.

- (2) Subject as aforesaid, the owner, or any of the owners, of any sewer or sewage disposal works with respect to which a local authority might have made a declaration under the preceding subsection may make an application to that authority requesting them to make such a declaration with respect thereto.
- (3) An owner aggrieved by the proposal of a local authority to make a declaration under this section may appeal to the Minister within two months after notice of the proposal is served upon him, and an owner aggrieved by the refusal of a local authority to make such a declaration may appeal to the Minister at any time after receipt of notice of their refusal, or if no such notice is given to him, at any time after the expiration of two months from the making of his application.

On the hearing of an appeal under this subsection, the Minister may allow or disallow the proposal of the local authority or, as the case may be, make any declaration which

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the local authority might have made, and any declaration so made shall have the same effect as if it had been made by the authority:

Provided that the Minister may, if he thinks fit, specify conditions, including conditions as to the payment of compensation by the local authority, and direct that his declaration shall not take effect unless any conditions so specified are accepted.

- (4) A local authority and, on an appeal, the Minister, in deciding whether a declaration should be made under this section, shall have regard to all the circumstances of the case and, in particular, to the following considerations:—
- (a) whether the sewer or works in question is or are adapted to, or required for, any general system of sewerage or sewage disposal which the authority have provided, or propose to provide, for their district or any part thereof;
 - (b) whether the sewer is constructed under a highway, or under land reserved by a planning scheme for a street;
 - (c) the number of buildings which the sewer is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;
 - (d) the method of construction and state of repair of the sewer or works; and
 - (e) in a case where an owner objects, whether the making of the proposed declaration would be seriously detrimental to him.
- (5) Any person who immediately before the making of a declaration under this section was entitled to use the sewer in question shall be entitled to use it, or any sewer substituted therefor, to the same extent as if the declaration had not been made.
- (6) A declaration or an application under this section may be made with respect to a part only of a sewer.
- (7) Where a local authority are about to take into consideration the question of making a declaration under this section with respect to a sewer or sewage disposal works situate within the district of another local authority, or situate within their own district but serving the district, or any part of the district, of another local authority, they shall give notice to that other authority, and no declaration shall be made by them until either that other authority have consented thereto, or the Minister, on an application made to him, has dispensed with the necessity for such consent, either unconditionally or subject to such conditions as he may think fit to impose.
- In this subsection references to another local authority and their district include references to the council of a metropolitan borough and that borough.
- (8) Where a local authority have made a declaration under this section with respect to a sewer or sewage disposal works situate within the district of another local authority or within a metropolitan borough, they shall forthwith give notice of the fact to that other authority or, as the case may be, to the council of that borough.
- (9) A local authority shall not, except on the application of the authority, council, board or statutory undertakers concerned, make a declaration under this section with respect to any sewer or any part of a sewer, or any works, if that sewer or part of a sewer, or those works—
- (a) is or are vested in another local authority, the council of a metropolitan borough, a county council (including the London County Council), or a joint sewerage board; or

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- (b) is or are vested in a railway company or dock undertakers and situate in or on land which belongs to them and is held or used by them for the purposes of their undertaking.