



# Public Health Act 1875

1875 CHAPTER 55 38 and 39 Vict

## PART XI

### SAVING CLAUSES AND REPEAL OF ACTS

#### *Saving Clauses*

326 .....<sup>F1</sup>

#### **Textual Amendments**

**F1** S. 326 repealed by [Local Government Act 1933 \(c. 51\)](#), [Sch. 11 Pt. I](#)

#### **<sup>F2</sup>327 Saving for works and property of certain authorities, and for navigation and water rights, &c.**

Nothing in this Act shall be construed to authorise any local authority—

- (1) To use injure or interfere with any sluices floodgate sewers groynes or sea defences or other works, already or hereafter made under the authority of any commissioners of sewers appointed by the Crown, or any sewers or other works already or hereafter made and used by any body of persons or person for the purpose of draining preserving or improving land under any local or private Act of Parliament, or for the purpose of irrigating land; or,
- (2) To disturb or interfere with any lands or other property vested in the [<sup>F3</sup>Secretary of State for Defence] for the time being; or,
- (3) To interfere with any river canal dock harbour lock reservoir or basin, so as to injuriously affect the navigation thereon, or the use thereof, or to interfere with any towing-path so as to interrupt the traffic thereof, in cases where any body of persons or person are or is by virtue of any Act of Parliament entitled to navigate on or use

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such river canal dock harbour lock reservoir or basin, or to receive any tolls or dues in respect of the navigation thereon or use thereof; or,

- (4) To interfere with any watercourse in such manner as to injuriously affect the supply of water to any river canal dock harbour reservoir or basin, in cases where any such body of persons or person as last aforesaid would, if this Act had not passed, have been entitled by law to prevent or be relieved against such interference; or,
- (5) To interfere with any bridges crossing any river canal dock harbour or basin, in cases where any body of persons or person are or is authorised by virtue of any Act of Parliament to navigate or use such river canal dock harbour or basin, or to demand any tolls or dues in respect of the navigation thereon or use thereof; or,
- (6) To execute any works in through or under any wharves quays docks harbours or basins, to the exclusive use of which any body of persons or person are or is entitled by virtue of any Act of Parliament, or for the use of which any body of persons or person are or is entitled by virtue of any Act of Parliament to demand any tolls or dues,—

Without the consent in every case of such . . . <sup>F4</sup> Secretary of State, commissioners, body of persons or person as are herein-before in that behalf respectively mentioned, such consent to be expressed in writing in the case of a corporation under their common seal, and in the case of any body of persons not being a corporation under the hand of their clerk or other duly authorised officer or agent. And nothing in this Act shall prejudice or affect the rights privileges powers or authorities given or reserved to any person under such local or private Acts for draining preserving or improving land as are in this section mentioned.

#### Textual Amendments

- F2** S. 327 repealed by Public Health Act 1936 (c. 49), s. 346, **Sch. 3 Pt. I** except so far as material for the purposes of any unrepealed enactment in this Act or any Act directed to be construed therewith
- F3** Words substituted by S.I. 1964/488, **Sch. 1 Pt. I**
- F4** Words repealed by S.I. 1964/488, **Sch. 1 Pt. I**

#### <sup>F5</sup>328 Reference to arbitration in case of works not within preceding section.

Where any matters or things proposed to be done by any local authority, and not being within the prohibition aforesaid, interfere with the improvement of any river canal dock harbour lock reservoir basin or towing-path which any body of persons or person are or is entitled by virtue of any Act of Parliament to navigate on or use, or in respect of the navigation whereon or use whereof to demand any tolls or dues, or interfere with any works belonging to such river canal dock harbour or basin, or with any land necessary for the enjoyment or improvement thereof, the local authority shall give to such body of persons or person a notice specifying the particulars of the matters and things so intended to be done. If the parties on whom such notice is served do not consent to the requisitions thereof, the matter in difference shall be referred to arbitration; and the following questions shall be decided by such arbitration; (that is to say,)

- (1) Whether the matters or things proposed to be done by the local authority will cause any injury to such river canal dock harbour basin towing-path works or land, or to the enjoyment or improvement of such river canal dock harbour or basin as aforesaid:

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- (2) Whether any injury that may be caused by such matters or things, or any of them, is or is not of a nature to admit of being fully compensated by money.

**Textual Amendments**

**F5** S. 328 repealed by [Public Health Act 1936 \(c. 49\)](#), s. 346, [Sch. 3 Pt. I](#) except so far as material for the purposes of any unrepealed enactment in this Act or any Act directed to be construed therewith

**<sup>F6</sup>329 Effect of arbitration.**

The result of any such arbitration shall be final, and the local authority shall do as follows; (that is to say,)

- (1) If the arbitrators are of opinion that no injury will be caused, the local authority may forthwith proceed to do the proposed matters and things:
- (2) If the arbitrators are of opinion that injury will be caused, but that such injury is of a nature to admit of being fully compensated by money, they shall proceed to assess such compensation; and on payment of the amount so assessed, but not before, the local authority may proceed to do the proposed matters and things:
- (3) If the arbitrators are of opinion that injury will be caused, and that it is not of a nature to admit of being fully compensated by money, the local authority shall not proceed to do any matter or thing in respect of which such opinion may be given.

**Textual Amendments**

**F6** S. 329 repealed by [Public Health Act 1936 \(c. 49\)](#), s. 346, [Sch. 3 Pt. I](#) except so far as material for the purposes of any unrepealed enactment in this Act or any Act directed to be construed therewith

**330**— ..... <sup>F7</sup>  
**337.**

**Textual Amendments**

**F7** Ss. 330–337 repealed by [Public Health Act 1936 \(c. 49\)](#), s. 346, [Sch. 3 Pt. I](#)

**338** ..... <sup>F8</sup>

**Textual Amendments**

**F8** S. 338 repealed by [Statute Law Revision Act 1883 \(c. 39\)](#)

**339** ..... <sup>F9</sup>

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**Textual Amendments**

**F9** Ss. 339, 342 repealed by [Local Government Act 1933 \(c. 51\)](#), [Sch. 11 Pt. I](#)

**<sup>F10</sup>340 Saving for proceedings under local Acts.**

Where within the district of a local authority any local Act is in force, providing for purposes the same as or similar to the purposes of this Act, proceedings may be instituted at the discretion of the authority or person instituting the same, either under the local Act or this Act, or both, subject to these qualifications:

- (1) That no person shall be punished for the same offence both under a local Act and this Act; and
- (2) That the local authority shall not, by reason of any local Act in force within their district, be exempted from the performance of any duty or obligation to which they may be subject under this Act.

**Textual Amendments**

**F10** S. 340 repealed by [Public Health Act 1936 \(c. 49\)](#), s. 346, [Sch. 3 Pt. I](#) except so far as the material for the purposes of any unrepealed enactment in this Act or any Act directed to be construed therewith

**<sup>F11</sup>341 Powers of Act to be cumulative.**

All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament law or custom, and such other powers may be exercised in the same manner as if this Act had not passed; and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not been passed.

Provided that no person who has been adjudged to pay any penalty in pursuance of this Act shall for the same offence be liable to a penalty under any other Act.

**Textual Amendments**

**F11** S. 341 repealed by [Public Health Act 1936 \(c. 49\)](#), s. 346, [Sch. 3 Pt. I](#) except so far as material for the purposes of any unrepealed enactment in this Act or any Act directed to be construed therewith

**342** ..... <sup>F12</sup>

**Textual Amendments**

**F12** Ss. 339, 342 repealed by [Local Government Act 1933 \(c. 51\)](#), [Sch. 11 Pt. I](#)

**Status:**

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