



# Public Health Act 1936

## 1936 CHAPTER 49

### PART XII

#### GENERAL.

*Supplemental as to powers of councils.*

#### **271 Interpretation of " provide ".**

- (1) Any power of a council under this Act to provide buildings or other premises for any purpose includes power to equip them with such furniture, apparatus and instruments as may be reasonably necessary to enable them to be used for that purpose.
- (2) Any power of a council under this Act to provide buildings or other premises, accommodation, equipment, or vehicles for any purpose includes power to enter into agreements with any other council or any person for the use, upon such terms as may be agreed, of any suitable buildings, premises, accommodation, equipment or vehicles provided by, or under the control of, that other council or that person, and, if it appears convenient, for the services of any staff employed in connection therewith.
- (3) A council who provide buildings or other premises, accommodation, equipment or vehicles for any of the purposes of this Act may, on such terms (including terms with respect to the services of any staff employed by them) as may be agreed, permit the use thereof by any other council authorised by or under this, or any other Act, to make such provision.

#### **272 Power of councils to combine for purposes of Act.**

Without prejudice to the powers of combination conferred on local authorities by the Local Government Act, 1933, any two or more councils may by agreement combine for the purposes of any of their functions under this Act.

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**273 Provisions as to sub-committees.**

A committee appointed by a county council or local authority for any of the purposes of this Act may, subject to any directions of the council or authority, appoint such and so many sub-committees consisting either wholly or partly of members of the committee as the committee think fit and, subject as aforesaid, may delegate, with or without restrictions or conditions, any of their functions to a sub-committee so appointed :

Provided that a majority of the members of any such sub-committee shall be members of the county council or, as the case may be, of the local authority.

**274 Power of councils to execute works outside their county or district.**

Subject to any express provisions of this Act with respect to the execution by a local authority of particular works outside their district, a council may execute outside their county or district any work which under this Act they may execute within their county or district.

**275 Power of local authority to execute certain work on behalf of owners or occupiers.**

A local authority may by agreement with the owner or occupier of any premises themselves execute at his expense any work which they have under this Act required him to execute, or any work in connection with the construction, laying, alteration or repair of a sewer, drain or communication pipe for water, which he is entitled to execute, and for that purpose they shall have all such rights as he would have.

**276 Power of local authority to sell certain materials.**

- (1) A local authority may sell any materials which have been removed by them from any premises, including any street, when executing works under, or otherwise carrying into effect the provisions of, this Act, and which are not before the expiration of three days from the date of their removal claimed by the owner and taken away by him.
- (2) Where a local authority sell any materials under this section, they shall pay the proceeds to the person to whom the materials belonged after deducting the amount of any expenses recoverable by them from him.
- (3) This section does not apply to refuse removed by a local authority.

**277 Power of councils to require information as to ownership of premises.**

A council may, for the purpose of enabling them to perform any of their functions under this Act, require the occupier of any premises, and any person who either directly or indirectly receives rent in respect of any premises, to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as freeholder, mortgagee, lessee or otherwise, and any person who having been required by a council in pursuance of this section to give to them any information fails to give that information, or knowingly makes any misstatement in respect thereof, shall be liable to a fine not exceeding five pounds.

**278 Compensation to individuals for damage resulting from exercise of powers under Act.**

(1) Subject to the provisions of this section, a local authority shall make full compensation to any person who has sustained damage by reason of the exercise by the authority of any of their powers under this Act in relation to a matter as to which he has not himself been in default.

(2) Any dispute arising under this section as to the fact of damage, or as to the amount of compensation, shall be determined by arbitration:

Provided that, if the compensation claimed does not exceed fifty pounds, all questions as to the fact of damage, liability to pay compensation and the amount of compensation may on the application of either party be determined by, and any compensation awarded may be recovered before, a court of summary jurisdiction.

(3) No person shall be entitled by virtue of this section to claim compensation on the ground that a local authority have in the exercise of their powers under this Act declared any sewer or sewage disposal works, whether belonging to him or not, to be vested in them, or on the ground that he has sustained damage by reason of any action of a local authority in respect of which the authority are by this Act authorised to pay compensation if they think fit.

(4) Where an owner of land claims compensation in respect of damage sustained by reason of a local authority having, in the exercise of their powers under this Act, constructed a sewer or laid a water main in, on or over his land, the tribunal determining the amount of the compensation shall determine also by what amount, if any, the value to the claimant of any land belonging to him has been enhanced by the construction of the sewer or the laying of the water main, and the local authority shall be entitled to set off that amount against the amount of any compensation awarded.

*Breaking open of streets.*

**279 General provisions as to breaking open streets.**

(1) For the purposes of any section of this Act which confers powers on local authorities to construct, lay or maintain sewers, drains or pipes, the provisions of sections twenty-eight and thirty to thirty-four of the Waterworks Clauses Act, 1847, shall be incorporated with this Act, subject, however, to such adaptations as may be necessary to make those provisions applicable to the construction and maintenance of sewers and drains as well as to the laying and maintenance of water mains and pipes, and subject also to the following modifications, namely that—

(a) any reference in the said provisions to the persons under whose control or management a street or bridge is, shall, in the case of a highway or bridge repairable by the inhabitants at large or by the inhabitants of the county, be construed as a reference to the authority who are the highway authority or, as the case may be, the bridge authority in respect thereof;

(b) the reference in section thirty of the said Act of 1847 to three clear days shall be construed as a reference to seven clear days;

(c) the expenses referred to in section thirty-four of the said Act may be recovered summarily as a civil debt; and

(d) except in cases of emergency arising from defects in existing sewers, drains or pipes, a street or bridge which is under the control or management of, or

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repairable by, a railway company or dock undertakers shall not be opened or broken up without their consent, but that consent shall not be unreasonably withheld, and any question whether or not consent is unreasonably withheld shall be referred to the Minister, whose decision shall be final.

- (2) The provisions so incorporated with adaptations and modifications as aforesaid shall apply in relation to any person not being a local authority who is empowered by this Act to construct, lay or maintain a sewer, drain or pipe as if, so far as his powers extend, he were the undertakers:

Provided that, where such a person gives notice to a railway company or dock undertakers that he desires to open or break up a street or bridge which is under their control or management or repairable by them, they may within fourteen days give notice to him that they intend themselves to execute the necessary work and, if before the expiration of fourteen days, or after such a notice has been given to him, he proceeds himself to open or break up the street or bridge, he shall be liable to a fine not exceeding fifty pounds.

- (3) Where a railway company or dock undertakers have given such a notice as is mentioned in the last preceding subsection, it shall not be obligatory on them to execute the work until the cost thereof, as estimated by their engineer or surveyor, has been paid to them or security for payment has been given to their satisfaction, but, if any payment so made to them exceeds the expenses reasonably incurred by them in the execution of the work, the excess shall be repaid by them and, if and so far as those expenses are not covered by the payment, if any, made to them, they may recover the expenses or the balance thereof from the person for whom the work was done.

## **280 Protection for certain works of railway companies and dock undertakers.**

- (1) A local authority or other person who under the powers conferred by this Act propose to open or break up any length of street which forms a level crossing, or crosses over or under a railway or other works of a railway company or dock undertakers, and which is not under the control or management of the railway company or dock undertakers, shall give to the company or undertakers the like notice as they are required by section thirty of the Waterworks Clauses Act, 1847, to give to the persons under whose control or management the street is and, if and in so far as the proposed work is likely to affect the structure of any bridge or other works belonging to the railway company or dock undertakers, shall carry out the work to the reasonable satisfaction of the engineer of the company or undertakers in accordance with plans approved by him.
- (2) If any dispute arises under this section between the persons proposing to execute work and a railway company or dock undertakers, either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

## **281 Protection for tramway undertakings.**

For the protection of undertakers entitled to the benefit of section thirty-two of the Tramways Act, 1870 (which relates to the rights of authorities and companies, &c. to open roads), that section shall be construed as applying to operations authorised by this Act, and in the said section as so applied any reference to a tramway shall be construed as including a reference to a trolley vehicle system.

**282 Application of 38 and 39 Vict. c. 55, s. 153.**

Section one hundred and fifty-three of the Public Health Act, 1875 (which relates to the power to require gas and water pipes to be moved), shall apply for the purposes of this Act as it applies for the purposes of that Act.

*Notices, &c.*

**283 Notices to be in writing; forms of notices, and &c.**

- (1) All notices, orders, consents, demands and other documents authorised or required by or under this Act to be given, made or issued by a council, and all notices and applications authorised or required by or under this Act to be given or made to, or to any officer of, a council shall be in writing.
- (2) The Minister may by regulations prescribe the form of any notice, advertisement, certificate or other document to be used for any of the purposes of this Act and, if forms are so prescribed, those forms or forms to the like effect may be used in all cases to which those forms are applicable.

**284 Authentication of documents.**

- (1) Any notice, order, consent, demand or other document which a council are authorised or required by or under this Act to give, make or issue may be signed on behalf of the council—
  - (a) by the clerk of the council;
  - (b) by the surveyor, the medical officer of health, the sanitary inspector or the chief financial officer, of the council as respects documents relating to matters within their respective provinces;
  - (c) by any officer of the council authorised by them in writing to sign documents of the particular kind or, as the case may be, the particular document.
- (2) Any document purporting to bear the signature of an officer expressed to hold an office by virtue of which he is under this section empowered to sign such a document, or expressed to be duly authorised by the council to sign such a document or the particular document, shall for the purposes of this Act, and of any byelaws and orders made thereunder, be deemed, until the contrary is proved, to have been duly given, made or issued by authority of the council.

In this subsection the expression "signature" includes a facsimile of a signature by whatever process reproduced.

**285 Service of notices, and &c.**

Any notice, order, consent, demand or other document which is required or authorised by or under this Act to be given to or served on any person may, in any case for which no other provision is made by this Act, be given or served either—

- (a) by delivering it to that person; or
- (b) in the case of a coroner, or a medical officer of health, by leaving it or sending it in a prepaid letter addressed to him, at either his residence or his office and, in the case of any other officer of a council, by leaving it or sending it in a prepaid letter addressed to him, at his office; or

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- (c) in the case of any other person, by leaving it or sending it in a prepaid letter addressed to him, at his usual or last known residence; or
- (d) in the case of an incorporated company or body, by delivering it to their secretary or clerk at their registered or principal office, or by sending it in a prepaid letter addressed to him at that office; or
- (e) in the case of a document to be given to or served on a person as being the owner of any premises by virtue of the fact that he receives the rackrent thereof as agent for another, or would so receive it if the premises were let at a rackrent, by leaving it, or sending it in a prepaid letter addressed to him, at his place of business; or
- (f) in the case of a document to be given to or served on the owner or the occupier of any premises, if it is not practicable after reasonable inquiry to ascertain the name and address of the person to or on whom it should be given or served, or if the premises are unoccupied, by addressing it to the person concerned by the description of "owner" or "occupier" of the premises (naming them) to which it relates, and delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it, or a copy of it, to some conspicuous part of the premises.

#### **286 Proof of resolutions, and &c.**

In any proceedings under this Act a document purporting to be certified by the clerk of a council as a copy of a resolution or order passed or made by that council on a specified date, or of the appointment of, or of any authority given to, an officer of that council on a specified date, shall be evidence that that resolution, order, appointment or authority was duly passed, made, or given by the council on the said date.

#### *Entry and obstruction.*

#### **287 Power to enter premises.**

- (1) Subject to the provisions of this section, any authorised officer of a council shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours—
  - (a) for the purpose of ascertaining whether there is, or has been, on or in connection with the premises any contravention of the provisions of this Act or of any byelaws made thereunder, being provisions which it is the duty of the council to enforce;
  - (b) for the purpose of ascertaining whether or not circumstances exist which would authorise or require the council to take any action, or execute any work, under this Act or any such byelaws;
  - (c) for the purpose of taking any action, or executing any work, authorised or required by this Act or any such byelaws, or any order made under this Act, to be taken, or executed, by the council;
  - (d) generally, for the purpose of the performance by the council of their functions under this Act or any such byelaws:

Provided that admission to any premises not being a factory, workshop or workplace, shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

- (2) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of urgency, or that an application for admission would defeat the object of the entry; and
  - (b) that there is reasonable ground for entry into the premises for any such purpose as aforesaid,

the justice may by warrant under his hand authorise the council by any authorised officer to enter the premises, if need be by force:

Provided that such a warrant shall not be issued unless the justice is satisfied either that notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

- (3) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.
- (4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.
- (5) If any person who in compliance with the provisions of this section or of a warrant issued thereunder is admitted into a factory, workshop or workplace discloses to any person any information obtained by him in the factory, workshop or workplace with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months.
- (6) Nothing in this section shall be construed as limiting the provisions of section fifty-seven of the Waterworks Clauses Act 1847, as incorporated with this Act, or the provisions of Part VII of this Act with respect to entry upon and inspection of premises by child protection visitors and persons authorised to exercise the powers of such visitors, or the provisions of Parts IX and X of this Act with respect to entry into or upon, and inspection of, common lodging-houses and canal boats.

## **288 Penalty for obstructing execution of Act.**

A person who wilfully obstructs any person acting in the execution of this Act or of any byelaw, order or warrant made or issued thereunder shall, in any case for which no other provision is made by this Act, be liable to a fine not exceeding five pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.

## **289 Power to require occupier to permit works to be executed by owner.**

If on a complaint made by the owner of any premises, it appears to a court of summary jurisdiction that the occupier of those premises prevents the owner from executing any work which he is by or under this Act required to execute, the court may order the occupier to permit the execution of the work.

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*Notices requiring the execution of works.*

**290 Provisions as to appeals against, and the enforcement of, notices requiring execution of works.**

- (1) The following provisions of this section shall, subject to any express modifications specified in the section under which the notice is given, apply in relation to any notice given under this Act which is expressly declared to be a notice in relation to which the provisions of this Part of this Act with respect to appeals against, and the enforcement of, notices requiring the execution of works are to apply.
- (2) Any such notice shall indicate the nature of the works to be executed, and state the time within which they are to be executed.
- (3) A person served with such a notice as aforesaid may appeal to a court of summary jurisdiction on any of the following grounds which are appropriate in the circumstances of the particular case :—
  - (a) that the notice or requirement is not justified by the terms of the section under which it purports to have been given or made;
  - (b) that there has been some informality, defect or error in, or in connection with, the notice;
  - (c) that the authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary ,
  - (d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
  - (e) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served;
  - (f) where the work is work for the common benefit of the premises in question and other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute towards the expenses of executing any works required.
- (4) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice, the court shall dismiss the appeal, if it is satisfied that the informality, defect or error was not a material one.
- (5) Where the grounds upon which an appeal under this section is brought include a ground specified in paragraph (e) or paragraph (f) of subsection (3) of this section, the appellant shall serve a copy of his notice of appeal on each other person referred to, and in the case of any appeal under this section may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question, and on the hearing of the appeal the court may make such order as It thinks fit with respect to the person by whom any work is to be executed and the contribution to be made by any other person towards the cost of the work, or as to the proportions in which any expenses which may become recoverable by the local authority are to be borne by the appellant and such other person.

In exercising its powers under this subsection, the court shall have regard—

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required; and



- (b) in any case, to the degree of benefit to be derived by the different persons concerned.
- (6) Subject to such right of appeal as aforesaid, if the person required by the notice to execute works fails to execute the works indicated within the time thereby limited, the local authority may themselves execute the works and recover from that person the expenses reasonably incurred by them in so doing and, without prejudice to their right to exercise that power, he shall be liable to a fine not exceeding five pounds, and to a further fine not exceeding forty shillings for each day on which the default continues after conviction therefor.
- (7) In proceedings by the local authority against the person served with the notice for the recovery of any expenses which the authority are entitled to recover from him, it shall not be open to him to raise any question which he could have raised on an appeal under this section.

*Provisions as to recovery of expenses, doc.*

**291 Certain expenses recoverable from owners to be a charge on the premises: power to order payment by instalments.**

- (1) Where a local authority have incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable, either under this Act or under any enactment repealed thereby, or by agreement with the authority, those expenses, together with interest from the date of service of a demand for the expenses, may be recovered by the authority from the person who is the owner of the premises at the date when the works are completed, or, if he has ceased to be the owner of the premises before the date when a demand for the expenses is served, either from him or from the person who is the owner at the date when the demand is served, and, as from the date of the completion of the works, the expenses and interest accrued due thereon shall, until recovered, be a charge on the premises and on all estates and interests therein.
- (2) A local authority may by order declare any expenses recoverable by them under this section to be payable with interest by instalments within a period not exceeding thirty years, until the whole amount is paid; and any such instalments and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred, and, if recovered from the occupier, may be deducted by him from the rent of the premises:

Provided that an occupier shall not be required to pay at any one time any sum in excess of the amount which was due from him on account of rent at, or has become due from him on account of rent since, the date on which he received a demand from the local authority together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.

An order may be made under this subsection at any time with respect to any unpaid balance of expenses and accrued interest so, however, that the period for repayment shall not in any case extend beyond thirty years from the service of the first demand for the expenses.

- (3) The rate of interest chargeable under subsection (1) or subsection (2) of this section shall be such rate as the authority may determine :

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Provided that the Minister may from time to time by order fix a maximum rate of interest for the purposes of this section generally, or different maximum rates for different purposes and in different cases.

- (4) A local authority shall, for the purpose of enforcing a charge under this section, have all the same powers and remedies under the Law of Property Act, 1925, and otherwise as if they were mortgagees by deed having powers of sale and lease, of accepting surrenders of leases and of appointing a receiver.

**292 Power to make a charge in respect of establishment expenses.**

Where under this Act a local authority are empowered to execute works and to recover from any person the expenses incurred by them in so doing, they may include in, and recover as part of, the expenses such additional sum, not exceeding five per cent. of the cost of the works, as they think fit in respect of their establishment charges.

**293 Recovery of expenses, and &c.**

- (1) Any sum which a council are entitled to recover under this Act, and with respect to the recovery of which provision is not made by any other section of this Act, may be recovered either summarily as a civil debt, or as a simple contract debt in any court of competent jurisdiction.
- (2) The time within which summary proceedings may be taken for the recovery of any such sums shall, except where otherwise expressly provided by this Act, be reckoned from the date of the service of a demand therefor.

**294 Limitation of liability of certain owners.**

Where a council claim to recover any expenses under this Act from a person as being the owner of the premises in respect of which the expenses were incurred and that person proves that he—

- (a) is receiving the rent of those premises merely as agent or trustee for some other person; and
- (b) has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid, but a council who are, or would be, debarred by the foregoing provisions from recovering the whole of any such expenses from an agent or trustee may recover the whole or any unpaid balance thereof from the person on whose behalf the agent or trustee receives the rent.

**295 Power of local authority to grant charging orders.**

- (1) Where a local authority have under this Act required any person to execute works and those works have been completed, the person executing the works, or any person who has advanced money to enable them to be executed, may apply to the authority for a charging order and the authority, on being satisfied as to the due execution of the works and as to the amount of the expenditure thereon and, in the case of an advance, as to the sum advanced, may make an order accordingly charging on the premises on

which the works were executed, and on all estates and interests therein, an annuity to repay the sum expended or advanced, as the case may be.

- (2) Subject as hereinafter provided, the annuity charged shall be such sum as the authority may determine in respect of every hundred pounds of the said amount and so in proportion in respect of any fraction of that amount, and shall commence from the date of the order and be payable by equal half-yearly payments for a term of thirty years to the person named in the order, his executors, administrators or assigns :

Provided that the Minister may from time to time by order fix the maximum sum to be so charged in respect of a hundred pounds.

*Prosecution of offences, die.*

**296 Summary proceedings for offences.**

All offences under this Act may be prosecuted under the Summary Jurisdiction Acts.

**297 Continuing offences and penalties.**

Where provision is made by or under this Act for the imposition of a daily penalty in respect of a continuing offence, the court by which a person is convicted of the original offence may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the court and, where a court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration thereof.

**298 Restriction on right to prosecute.**

Proceedings in respect of an offence created by or under this Act shall not, without the written consent of the Attorney-General, be taken by any person other than a party aggrieved, or a council or a body whose function it is to enforce the provisions or byelaws in question, or by whom or by whose predecessors the byelaw in question was made.

**299 Inclusion of several sums in one complaint, and &c.**

Where two or more sums are claimed from any person as being due under this Act, or under byelaws made thereunder, any complaint, summons or warrant issued for the purposes of this Act or of the byelaws in respect of that person may contain in the body thereof, or in a schedule thereto, all or any of the sums so claimed.

*Appeals and other applications to courts of summary jurisdiction, and appeals to quarter sessions.*

**300 Appeals and applications to courts of summary jurisdiction.**

- (1) Where any enactment in this Act provides—
- (a) for an appeal to a court of summary jurisdiction against a requirement, refusal or other decision of a council; or

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- (b) for any matter to be determined by, or an application in respect of any matter to be made to, a court of summary jurisdiction, the procedure shall be by way of complaint for an order, and the Summary Jurisdiction Acts shall apply to the proceedings.
- (2) The time within which any such appeal may be brought shall be twenty-one days from the date on which notice of the council's requirement, refusal or other decision was served upon the person desiring to appeal, and for the purposes of this subsection the making of the complaint shall be deemed to be the bringing of the appeal.
- (3) In any case where such an appeal lies, the document notifying to the person concerned the decision of the council in the matter shall state the right of appeal to a court of summary jurisdiction and the time within which such an appeal may be brought.

**301 Appeals to quarter sessions against decisions of justices.**

Subject as hereinafter provided, where a person aggrieved by any order, determination or other decision of a court of summary jurisdiction under this Act is not by any other enactment authorised to appeal to a court of quarter sessions, he may appeal to such a court:

Provided that nothing in this section shall be construed as conferring a right of appeal from the decision of a court of summary jurisdiction in any case if each of the parties concerned might under this Act have required that the dispute should be determined by arbitration instead of by such a court.

**302 Effect of decision of court upon an appeal.**

Where upon an appeal under this Act a court varies or reverses any decision of a council, it shall be the duty of the council to give effect to the order of the court and, in particular, to grant or issue any necessary consent, certificate or other document, and to make any necessary entry in any register.

*Arbitrations.*

**303 Mode of reference to arbitration.**

In arbitrations under this Act the reference shall, except where otherwise expressly provided, be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, by the Minister.

*Judges and justices.*

**304 Judges and justices not to be disqualified by liability to rates.**

A judge of any court or a justice of the peace shall not be disqualified from acting in cases arising under this Act by reason only of his being as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or be benefited by, any rate or fund out of which any expenses of a council are to be defrayed.

*Protection of members and officers.*

**305 Protection of members and officers of certain local authorities from personal liability.**

Section two hundred and sixty-five of the Public Health Act, 1875, (which relates to the protection of members and officers of certain authorities) shall apply to local authorities, joint boards and port health authorities under this Act as if any reference in that section to the said Act of 1875 were a reference to this Act.

*Compulsory purchase.*

**306 Compulsory purchase of land by means of provisional order.**

The purposes of this Act shall be purposes for which a local authority may be authorised to purchase land compulsorily by means of a provisional order made by the Minister and confirmed by Parliament:

Provided that this section shall not apply where a power to purchase conferred by this Act is stated to be a power to purchase by agreement.

*Expenses and borrowing.*

**307 Contributions by county councils to certain expenses of county district councils.**

- (1) A county council may agree to contribute a sum equal to the whole or any part of any expenses incurred by the council of a county district within the county in connection with hospital accommodation, sewers or sewage disposal works, or a supply of water, if it appears to the county council to be reasonable so to do having regard to the resources of the district and the other circumstances of the case.
- (2) For the purposes of the preceding subsection, contributions by the council of a county district towards the expenses of a joint board shall be deemed to be expenses incurred by the contributing council.

**308 Special expenses of rural authorities.**

- (1) The following expenses of a rural authority, that is to say—
  - (a) expenses incurred in connection with sewers or sewage disposal works for any contributory place;
  - (b) expenses incurred in connection with a supply of water to any such place;
  - (c) charges and expenses arising out of, or incidental to, the possession of property held by the council in trust for any such place; and
  - (d) all other expenses incurred or payable by the council in, or in respect of, any such place, and determined to be special expenses by order of the Minister made under subsection (3) of section one hundred and ninety of the Local Government Act, 1933,

shall, so far as they fall to be defrayed out of rates, be special expenses chargeable on that contributory place, but without prejudice to the powers of the authority under subsection (4) of the said section one hundred and ninety.

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*Status: This is the original version (as it was originally enacted).*

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- (2) For the purposes of paragraph (a) or paragraph (b) of the preceding subsection, contributions towards the expenses of a joint board shall be deemed to be expenses incurred by the contributing council.
- (3) Where a rural authority determine to defray as part of their general expenses the whole of any expenses which would otherwise be defrayed as special expenses chargeable upon a contributory place, or upon two or more contributory places, it shall not be necessary for the authority to keep parochial accounts in respect of those expenses and, if those expenses were incurred in respect of separate undertakings for supplying water, those undertakings shall for the purposes of this Act and of the Local Government Act, 1933, be deemed to be one undertaking.

### **309 Expenses of joint boards.**

- (1) Any expenses incurred by a joint board shall, unless otherwise determined by the order constituting the board, be defrayed out of a common fund to be contributed by the constituent districts, or contributory places, in proportion to the rateable value of the property in each district or contributory place, as ascertained according to the valuation list for the time being in force.
- (2) For the purpose of obtaining payment from constituent districts or contributory places of the sums to be contributed by them, a joint board shall issue precepts to the local authority of each district concerned, stating the sum to be contributed by the authority and requiring the authority, within a time limited by the precept, to pay the sums therein mentioned to the joint board, or to such person as the joint board may direct.
- (3) Any sum mentioned in a precept issued under this section by a joint board to a local authority shall be a debt due from that authority, and may be recovered accordingly, without prejudice, however, to the right of the board to exercise any powers conferred upon them by section thirteen of the Rating and Valuation Act, 1925.
- (4) In their application to joint boards constituted under section eight of this Act, the foregoing provisions of this section shall have effect as if references therein to constituent districts and to the local authority of a constituent district included respectively references to constituent counties and to the council of a constituent county.
- (5) Where the order constituting a united district provides for contributions to be made to the common fund of the joint board by a county council, the amount of any such contribution as fixed by the order shall be a debt due to the joint board and may be recovered accordingly.

### **310 Power to borrow on sewage land and plant.**

- (1) Without prejudice to the exercise by local authorities of the borrowing powers conferred on them by the Local Government Act, 1933, a local authority who own any land, works or other property for the purposes of the disposal of sewage may borrow money on mortgage thereof for any purposes of this Act, or of the Public Health Acts, 1875 to 1932, so far as those Acts are not repealed, for which they might borrow money under the Local Government Act, 1933.
- (2) Any money borrowed under this section shall be applied only to such purposes as aforesaid and shall be repaid within thirty years.

- (3) Sections one hundred and ninety-nine, two hundred and two hundred and three of the Local Government Act, 1933, shall apply to any borrowing under this section, but, save as aforesaid, the provisions of sections one hundred and ninety-six to two hundred and eighteen of that Act shall not apply thereto.

### **311 Loans by Public Works Loan Commissioners.**

The power of the Public Works Loan Commissioners to lend money to a county council or local authority for any works authorised by this Act which are works for which that council or authority may borrow money shall extend to the lending of money to a port health authority or joint board constituted by an order under this Act, or any enactment repealed by this Act, for any works authorised by this Act and the order which are works for which that authority or board may borrow money.

#### *Powers of the Minister.*

### **312 Confirmation of byelaws.**

The Minister shall be the confirming authority as respects byelaws made under this Act.

### **313 Orders for amendment or adaptation of local Acts.**

- (1) Where at the date of the passing of this Act there is in force—
- (a) in any county borough a local Act the Bill for which was promoted by the council of the borough; or
  - (b) in any county or county district a local Act the Bill for which was promoted either by the county council or by the local authority of the district;
- and the said local Act contains provisions appearing to the Minister either to be inconsistent with any of the provisions of this Act, or to have become redundant in consequence of the passing of this Act, the Minister on the application, in the first mentioned case, of the council of the county borough, and, in the second mentioned case, of the county council or of the local authority, as the case may be, may by order make such alterations, whether by amendment or by repeal, in the local Act as appear to him to be necessary for the purpose of bringing its provisions into conformity with the provisions of this Act, or for the purpose of removing redundant provisions, as the case may be.
- (2) This section applies in relation to a local Act the Bill for which was promoted by any authority, board, commissioners, trustees or other body whose functions under the local Act have become exercisable by the council of a county borough, a county council or the local authority of a district, as if the Bill for that Act had been promoted by the council of the county borough, the county council or the local authority.
- (3) Any order made under this section shall be laid before each House of Parliament for a period of thirty days during the Session of Parliament, and, if before the expiration of that period either House resolves that the order be annulled, it shall be void, but without prejudice to the making of a new order:

Provided that, in reckoning any such period of thirty days as aforesaid, no account shall be taken of any time during which both Houses are adjourned for more than four days.

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*Status: This is the original version (as it was originally enacted).*

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**314 Power to apply corresponding provisions of Act to joint boards, and &c, in substitution for repealed provisions.**

Where by a provisional or other order in operation immediately before the commencement of this Act any enactment repealed by this Act has been applied to a port health authority or joint board, that order may be amended by an order of the Minister applying to the authority or board, in substitution for any enactment so repealed, any corresponding enactment in this Act which the Minister could under this Act apply to an authority or board of the like kind :

Provided that, if the Minister's order is not made within two years after the commencement of this Act, and on the application of the authority or board in question, the order shall be provisional only and shall not have effect until it is confirmed by Parliament.

**315 Existing isolation hospital committees to be dissolved.**

- (1) Before the expiration of two years from the commencement of this Act, the Minister shall by order dissolve every hospital committee constituted under the Isolation Hospitals Acts, 1893 and 1901, and transfer the property and liabilities of the committee—
  - (i) if the committee consist wholly of representatives of a county council, or of a single local authority, to that council or authority; and
  - (ii) if the committee consist wholly of representatives of two or more local areas, or partly of such representatives and partly of representatives of a county council, to a joint board to be constituted by the order for the same local areas and consisting, in the first case, of members to be appointed by the local authorities for those areas and, in the second case, of members to be so appointed together with members to be appointed by the county council:

Provided that, if the committee request the Minister so to do, the Minister, in lieu of transferring their property and liabilities to a county council or joint board, may order their property to be disposed of, and, if the committee represent two or more councils or authorities, may order the proceeds of such disposal and the liabilities of the committee to be apportioned between the constituent councils and authorities as he may think fit.

- (2) Before making an order under this section, the Minister shall cause a local inquiry to be held, if he is requested so to do by any council who are represented on the isolation hospital committee.
- (3) A joint board constituted by an order under this section shall be a body corporate by such name as may be determined by the order and shall have perpetual succession and a common seal and power to hold land for the purposes of their constitution without licence in mortmain.
- (4) A joint board so constituted shall be deemed to be a joint board constituted under section six of this Act and the provisions of this Act relating to joint boards constituted under that section shall apply accordingly, except that the order constituting the board shall not require confirmation by Parliament.



**316 Adaptation, where necessary, of provisional order procedure.**

- (1) In relation to any order made by the Minister under this Act which requires confirmation by Parliament but was not made on the application of any local authority, section two hundred and eighty-five of the Local Government Act, 1933 (which relates to the procedure for making provisional orders), shall have effect as if for references therein to the applicants for the order and to the application for the order there were substituted respectively references to the Minister and to the order proposed to be made by him.
- (2) The expenses incurred by the Minister in connection with the making and confirmation of any such order as aforesaid shall be paid by such council, or by such councils in such shares, as he may direct, and the amount of those expenses as certified by him, or the amount of any share thereof so certified, shall be recoverable by him from the council liable therefor as a debt due to the Crown.

**317 Amendment of 38 and 39 Vict. c. 55, s. 303.**

In section three hundred and three of the Public Health Act, 1875 (which relates to the power of the Minister to repeal and alter local Acts by means of provisional orders), the reference to any local Act which relates to the same subject-matters as that Act shall be construed as including a reference to any local Act which relates to the same subject-matters as this Act.

**318 Local inquiries.**

The Minister may cause a local inquiry to be held in any case where he is authorised by this Act to determine any difference, to make any order, to frame any scheme, to give any consent, confirmation, sanction or approval, or otherwise to act under this Act, and in any other case where he deems it advisable that a local inquiry should be held in relation to any matter concerning the public health in any place.

*Regulations.*

**319 Provisions as to regulations required to be laid before Parliament.**

Where any regulation is required by this Act to be laid before Parliament, it shall be laid before each House of Parliament for a period of thirty days during the Session of Parliament and, if an Address is presented to His Majesty by either House before the expiration of that period praying that the regulation may be annulled, it shall thenceforth be void but without prejudice to the validity of anything previously done thereunder or to the making of a new regulation:

Provided that, in reckoning any such period of thirty days as aforesaid, no account shall be taken of any time during which both Houses are adjourned for more than four days.

*Relinquishment and transfer of powers and duties.*

**320 Relinquishment of functions by district councils.**

- (1) The council of a county district may at any time, by agreement with the council of the county in which the district is situate, relinquish in favour of, and transfer to, the

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*Status: This is the original version (as it was originally enacted).*

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council of the county any of their functions under this Act for such period and upon such terms and subject to such conditions, if any, including terms and conditions as to the transfer of property and liabilities, as may be specified in the agreement:

Provided that, except in the case of an agreement which is expressed to remain in force for a specified period not exceeding five years, it shall be an implied term of any agreement made under this section that either party to the agreement may determine it at the end of any financial year by giving notice to the other party not less than twelve months beforehand.

- (2) A copy of an agreement made under this section shall forthwith be sent to the Minister and notice shall be given to him as soon as may be of the determination of the agreement, or of any variation in the terms thereof.

**321 Complaint by county council to Minister of default of council of county district.**

If it appears to a county council that the council of any county district within their county have made default in discharging any of their functions under this Act, the county council may complain to the Minister, and thereupon the Minister shall cause a local inquiry to be held into the matter.

**322 Power of Minister to enforce exercise of powers by local authorities, and &c, in default.**

- (1) If—
- (i) a complaint is made to the Minister that any council, port health authority or joint board have failed to discharge their functions under this Act in any case where they ought to have done so; or
  - (ii) the Minister is of opinion that an investigation should be made As to whether any council, port health authority or joint board have failed as aforesaid,
- the Minister may cause a local inquiry to be held into the matter.
- (2) If, after a local inquiry has been held in pursuance either of this section or of the last preceding section, the Minister is satisfied that there has been such a failure on the part of the council, authority or board in question, he may make an order declaring them to be in default and directing them for the purpose of removing the default to discharge such of their functions, and in such manner and within such time or times, as may be specified in the order.
- (3) If a council, authority or board with respect to whom an order has been made under the last preceding subsection fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Minister, in lieu of enforcing the order by mandamus or otherwise, may—
- (i) if the body in default are the council of a county district, or a joint board whose district lies wholly within one county, or a port health authority whose district (so far as it does not consist of water) lies wholly within one county, make an order transferring to the council of the county such of the functions of the body in default as may be specified in his order;
  - (ii) in any other case, make an order transferring to himself such of the functions of the body in default as may be so specified.

**323 Subsidiary provisions on transfer of functions of body in default to county council.**

Where any functions of the council of a county district, a port health authority or a joint board are transferred by an order under the last preceding section to a county council—

- (a) the expenses incurred by the county council in discharging those functions shall, except in so far as they may be met by any grant made by the county council, be a debt due from the body in default to the county council, and shall be defrayed as part of the expenses of the body in default in the execution of this Act, and that body shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them;
- (b) any such expenses as aforesaid shall, where the body in default are the council of a rural district, be raised as general expenses, or as special expenses, or partly as general expenses and partly as special expenses, according as the county council may direct;
- (c) the county council, for the purpose of functions transferred to them, may on behalf of the body in default borrow money subject to the like conditions, in the like manner, and on the security of the like revenues as that body might have borrowed for the purpose of those functions;
- (d) the county council may charge the said revenues with the payment of the principal and interest of the loan, and the loan, with the interest thereon, shall be paid by the body in default in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on those revenues by that body; and
- (e) the county council shall keep separate accounts of all receipts and expenditure in respect of the transferred functions.

**324 Provisions as to exercise by Minister of functions of body in default.**

- (1) Where under the last but one preceding section the Minister has by order transferred to himself any functions of a council, port health authority or joint board, any expenses incurred by him in discharging the said functions shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Minister shall on demand be paid to him by the body in default, and shall be recoverable by him from them as a debt due to the Crown, and that body shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them.
- (2) The payment of any such expenses as aforesaid shall, to such extent as may be sanctioned by the Minister, be a purpose for which a local authority, port health authority or joint board may borrow money in accordance with the statutory provisions relating to borrowing by such an authority or board.

**325 Power to vary and revoke orders relating to defaults.**

In any case where under this Part of this Act an order has been made by the Minister transferring to a county council or to himself any functions of a council, port health authority or joint board) the Minister may at any time by a subsequent order vary or revoke that order, but without prejudice to the validity of anything previously done thereunder; and when any order is so revoked the Minister may, either by the revoking

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*Status: This is the original version (as it was originally enacted).*

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order or by a subsequent order, make such provision as appears to him to be desirable with respect to the transfer, vesting and discharge of any property or liabilities acquired or incurred by the county council or by him in discharging any of the functions to which the order so revoked related.

*General provisions as to transfer, compensation and superannuation rights of officers.*

**326 Provisions as to the transfer and compensation of officers and superannuation rights of transferred officers.**

- (1) The provisions of this section shall apply in relation to any order or agreement made under this Act, or any order made by virtue of this Act under section three hundred and three of the Public Health Act, 1875, being an order or agreement by, under or in consequence of which an authority is constituted or dissolved, or any functions of an authority are relinquished, delegated, transferred or re-transferred, or exercised by two or more authorities in combination, or the services of any staff of one authority are rendered available to another authority.
- (2) The provisions of section one hundred and fifty of, and the Fourth Schedule to, the Local Government Act, 1933, (which relate to the transfer and compensation of officers of a local authority affected by an order made under Part VI of that Act) shall have effect in relation to any such order as is mentioned in subsection (1) of this section as they have effect in relation to an order made under the said Part VI, and where, by virtue or in consequence of any such order as is mentioned in subsection (1) of this section, officers of one authority who are entitled as such to the benefits of a superannuation enactment will be transferred to the service of another authority, there shall be included in the order such provisions as are hereinafter mentioned for the purpose of protecting the rights and interests of those officers in respect of superannuation.
- (3) The provisions with respect to superannuation to be included in any such order as aforesaid shall be either—
  - (a) provisions for securing that the superannuation enactment to the benefits of which an officer was entitled immediately before his transfer shall continue to apply to him, subject to such modifications and adaptations as the Minister may determine; or
  - (b) provisions for applying to the officer, subject to such modifications and adaptations as the Minister may determine, any superannuation enactment to the benefits of which any officers of the authority to whom the officer is transferred are entitled.
- (4) The Minister, on the application of any officer or authority affected by any such agreement as is mentioned in subsection (1) of this section, shall make a scheme containing such provisions for the protection and compensation of existing officers affected by the agreement as are specified in paragraphs (a) and (6) of subsection (1) of section one hundred and fifty of the Local Government Act, 1933, and such provisions, if any, as he deems expedient with respect to the transfer of such existing officers, and where, by virtue or in consequence of the agreement, officers of one authority who are entitled as such to the benefits of a superannuation enactment will be transferred to the service of another authority, the scheme shall also contain such provisions for the purpose of protecting the rights and interests of those officers in respect of superannuation as in the case of an order are required by the last preceding subsection to be included in the order.

- (5) A scheme made by the Minister under the last preceding subsection and the agreement to which it relates shall be construed together as if they constituted a single instrument coming into operation on the date on which the agreement comes into operation, and the provisions of subsections (2) to (6) of section one hundred and fifty of, and the Fourth Schedule to, the Local Government Act, 1933, shall have effect in relation thereto as they have effect in relation to a scheme made under Part VI of the said Act.
- (6) In this section the expression " authority " means a county council, local authority, joint board, isolation hospital committee, port health authority or riparian authority within the meaning of section two of this Act, and, for the purposes of this section, any reference in the relevant provisions of the Local Government Act, 1933, to a local authority shall be construed as a reference to an authority as herein defined.

In this section the expression " superannuation enactment " means an enactment, including a scheme made thereunder, by virtue of which persons employed by an authority become entitled to superannuation benefits on retirement.

**327 Provisions for compensation in certain cases to officers of trustees, and &c. executing local Acts.**

- (1) If, by virtue or in consequence of a provisional order made by the Minister under or by virtue of any provision of this Act, an officer of any trustees or other body of persons entrusted with the execution of a local Act suffers any direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments and no other provision for his compensation for that loss is made by any enactment or statutory order for the time being in force, he shall be entitled to receive compensation for that loss from such local authority as the Minister may determine.
- (2) The provisions of subsections (2) to (6) of section one hundred and fifty of, and the Fourth Schedule to, the Local Government Act, 1933, shall apply to the case of any such officer as aforesaid as if the provisional order of the Minister were an order made under Part VI of the said Act and as if subsection (1) of this section were contained in the said order.

*Savings.*

**328 Powers of Act to be cumulative.**

All powers and duties conferred or imposed by this Act shall be deemed to be in addition to, and not in derogation of, any other powers and duties conferred or imposed by Act of Parliament, law or custom, and, subject to any repeal effected by, or other express provision of, this Act, all such other powers and duties may be exercised and shall be performed in the same manner as if this Act had not been passed.

**329 Saving for certain provisions of the Land Charges Act, 1925.**

Nothing in this Act with respect to the recovery of expenses from owners of premises affects the provisions of the Land Charges Act, 1925 (as amended by any subsequent enactment), with respect to local land charges.

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*Status: This is the original version (as it was originally enacted).*

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**330 Power of railway companies, dock undertakers and land drainage authorities to alter sewers, and &c. vested in a local authority.**

Any railway company, dock undertakers or land drainage authority may, after giving reasonable notice to the local authority concerned, at their own expense and on substituting other sewers, drains, culverts and pipes which will be equally effectual and will entail no additional expense on the local authority, take up, divert or alter the level of any sewers, drains, culverts or pipes vested in the local authority which pass under, or interfere with, or interfere with the improvement or alteration of, the railway of the railway company, or, as the case may be, any river, canal, towing path or works forming part of the undertaking of the undertakers, or any watercourse or other works vested in or under the control of the land drainage authority.

**331 Works affecting water rights.**

Nothing in this Act shall authorise a local authority injuriously to affect any reservoir, canal, watercourse, river or stream, or any feeder thereof, or the supply, quality or fall of water contained in, or in any feeder of, any reservoir, canal, watercourse, river or stream without the consent of any person who would, if this Act had not been passed, have been entitled by law to prevent, or be relieved against, the injurious affection of, or of the supply, quality or fall of water contained in, that reservoir, canal, watercourse, river, stream or feeder.

**332 Arbitration as to alteration of sewers, and &c, or injurious affection of water rights.**

Any difference of opinion which may arise under either of the two last preceding sections between a local authority and any person as to whether—

- (a) any sewers, drains, culverts or pipes substituted or proposed to be substituted for sewers, drains, culverts or pipes of a local authority are or will be equally effectual, or entail or will entail additional expense on the authority; or
- (b) the supply, quality or fall of water in any reservoir, canal, watercourse, river, stream or feeder is injuriously affected by the exercise of powers under this Act,

may, at the option of the party complaining, be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

**333 Protection for works of dock undertakers and for railways.**

(1) Subject to the provisions of this section, nothing in this Act shall authorise a local authority without the consent of the dock undertakers concerned—

- (a) to interfere with any river, canal, dock, harbour, basin, lock or reservoir so as injuriously to affect navigation thereon or the use thereof or the access thereto, or to interfere with any towing path, so as to interrupt the traffic thereon;
- (b) to interfere with any bridges crossing any river, canal, dock, harbour or basin;
- (c) to execute any works in, across or under any dock, harbour, basin, wharf, quay or lock, or any land which belongs to dock undertakers and is held or used by them for the purposes of their undertaking;
- (d) to execute any works which will interfere with the improvement of, or the access to, any river, canal, dock, harbour, basin, lock, reservoir, or towing

path, or with any works appurtenant thereto or any land necessary for the enjoyment or improvement thereof;

or without the consent of the railway company concerned, to execute any works along, across or under any railway of a railway company:

Provided that consent under this section shall not be unreasonably withheld, and if any question arises as to whether or not consent is unreasonably withheld, either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers,

- (2) Upon an arbitration under this section, the arbitrator shall determine—
- (i) whether any works which the local authority propose to execute are such works as under the last preceding subsection they are not entitled to execute without the consent of the statutory undertakers; and
  - (ii) if they are such works, whether the injury, if any, to the undertakers will be of such a nature as to admit of being fully compensated by money; and
  - (iii) if the works are of such a nature, the conditions subject to which the local authority may execute the works, including the amount of the compensation, if any, to be paid by them to the undertakers.

If the arbitrator should determine that the proposed works are such works as the local authority are not entitled to execute without the consent of the undertakers and that the works would cause injury to the undertakers of such a nature as not to admit of being fully compensated by money, the local authority shall not proceed to execute the works, but in any other case they may execute the works subject to compliance with such conditions, including the payment of such compensation, as the arbitrator may have determined.

- (3) For the purposes of this section, dock undertakers shall be deemed to be concerned with any river, canal, dock, harbour, basin, lock, reservoir, towing path, wharf, quay or land if it belongs to them and forms part of their undertaking, or if they have statutory rights of navigating on or using it, or of demanding tolls or dues in respect of navigation thereon or the use thereof.
- (4) Nothing in this section shall be construed as limiting the powers of a local authority under any of the foregoing provisions of this Act in respect of the opening and breaking up of streets and bridges for the purpose of constructing, laying and maintaining sewers, drains and pipes.

### **334 Protection for works of land drainage authorities, and &c.**

Nothing in this Act shall authorise a local authority to use, injure or interfere with any sluices, floodgates, sewers, groynes, sea defences or other works, whether made before or after the date of commencement of this Act, which are vested in or under the control of a land drainage authority, or are used by any person for draining, preserving or improving land under any local or private Act of Parliament, or for irrigating land, without the consent, as the case may be, of that authority or that person:

Provided that consent under this section shall not be unreasonably withheld, and if any question arises as to whether or not consent is unreasonably withheld, either party may require that it shall be referred to an arbitrator to be appointed, in default of agreement, by the President of the Institution of Civil Engineers.

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*Status: This is the original version (as it was originally enacted).*

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**335 Saving for works, powers, and &c. of London County Council.**

Nothing in, or done under, this Act shall affect any outfall or other works of the London County Council executed, whether within or outside London, under the Metropolis Management Act, 1855, and the Acts amending that Act, or take away, abridge, or prejudicially affect any right, power, authority, jurisdiction or privilege of the London County Council.

**336 Saving for powers and duties of Middlesex County Council as sewerage and sewage disposal authority.**

Nothing in this Act shall affect the powers and duties of the County Council of Middlesex with respect to main sewers and sewage disposal under the Middlesex County Council Act, 1931, or impose on local authorities of that county any obligations with respect to sewers or sewage disposal from which they were relieved by the said Act:

Provided that, on the application of the county council, the Minister may by order amend the said Act by making therein such adaptations and modifications as appear to him to be necessary in consequence of the amendments made by this Act in the general law relating to public health, and, in particular, by applying to the county council, by way of substitution but with any necessary adaptation, such of the provisions of this Act as appear to him to correspond to any provisions of the Public Health Acts, 1875 to 1932, which were applied to the council by the said local Act.

**337 Saving for certain payments in respect of drainage into sewers of another district.**

Nothing in this Act shall affect the payment or recovery of any yearly sum payable at the time of the passing of the Public Health Act, 1875, in pursuance of the Local Government Act (1858) Amendment Act, 1861, to any local authority in respect of any premises without their district which have a drain communicating with a sewer within their district:

Provided that any such sum shall cease to be payable if the connection between the drain and the sewer is discontinued, but shall again become payable if thereafter the connection is re-established.

**338 Sewers or drains of collegiate and other corporate bodies and Government departments.**

Any collegiate or other corporate body required or authorised by or in pursuance of Act of Parliament to divert its sewers or drains from any river or to construct new sewers, and any Government department, shall have the like powers and be subject to the like obligations under this Act as they had or were subject to under the Sewage Utilization Act, 1867; and for that purpose the provisions of this Act applicable to purposes the same as, or similar to, those of the Sewage Utilization Act, 1865, and the Sewage Utilization Act, 1867, shall apply in substitution for the provisions of those Acts.

**339 Saving for existing rights of drainage.**

Nothing in this Act affects any right of drainage acquired by any person by prescription or otherwise before the commencement of this Act:



Provided that nothing in this section shall be construed as limiting the powers conferred on local authorities by sections twenty-two and forty-two of this Act.

**340 Works below high-water mark.**

Nothing in this Act shall authorise the execution of any works on, over or under tidal lands below high-water mark of ordinary spring tides, except in accordance with such plans and sections and subject to such restrictions and regulations as may, before the works are commenced, be approved by the Board of Trade in writing under the hand of one of the secretaries, under-secretaries or assistant secretaries of the Board.

**341 Power to apply provisions of Act to Crown property.**

- (1) The provisions of this section shall apply: in relation to any house, building or other premises being property belonging to His Majesty in right of the Crown or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, or belonging to a Government department, or held in trust for His Majesty for purposes of a Government department.
- (2) The authority which in relation to any such property is for the purposes of this section the appropriate authority and the council of the county, or the local authority of the district, in which that property is situate may agree that any provisions of this Act specified in the agreement shall apply to that property and, while the agreement is in force, those provisions shall apply to that property accordingly, subject however to the terms of the agreement.

Any such agreement as aforesaid may contain such consequential and incidental provisions, including, with the approval of the Treasury, provisions of a financial character, as appear to the appropriate authority to be necessary or equitable.

- (3) In this section the expression " the appropriate authority " means—
  - (a) in the case of property belonging to His Majesty in right of the Crown, the Commissioners of Crown Lands or other Government department having the management of the property in question;
  - (b) in the case of property belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
  - (c) in the case of property belonging to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints; and
  - (d) in the case of property belonging to a Government department or held in trust for His Majesty for purposes of a Government department, that department;and, if any question arises as to what authority is the appropriate authority in relation to any property, that question shall be referred to the Treasury, whose decision shall be final.

*Interpretation, transitory provisions, repeals, dec.*

**342 Application of portions of Act to London.**

- (1) In any Part or section of this Act which is declared to extend to London any reference to a local authority shall be construed as including a reference to the Common Council

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of the City of London and the council of a metropolitan borough, and any reference to the district of a local authority shall be construed as including a reference to the City of London and to a metropolitan borough.

- (2) For the purposes of their functions under any such Part or section of this Act as aforesaid, the Common Council of the City of London and the council of a metropolitan borough may borrow—
- (i) in the case of the Common Council of the City of London, under and in accordance with the City of London Sewers Acts, 1848 to 1897, as amended by any subsequent enactment;
  - (ii) in the case of the council of a metropolitan borough, in the like manner, and subject to the like conditions, as for the purposes of the Metropolis Management Acts, 1855 to 1893.
- (3) The provisions of those sections of this Part of this Act which are specified in the Second Schedule to this Act shall extend to London in so far as they are material for the purposes of any other provisions of this Act which so extend.

### **343 Interpretation.**

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them—

" authorised officer " means, as respects any council, an officer of the council authorised by them in writing, either generally or specially, to act in matters of any specified kind, or in any specified matter:

Provided that the medical officer of health, surveyor and sanitary inspector of a council shall, by virtue of their appointments, be deemed to be authorised officers for the purpose of matters within their respective provinces;

" bridge authority " means—

- (i) in the case of a county bridge the county council;
- (ii) in the case of a bridge which carries a highway repairable by the inhabitants at large but is not a county bridge, the council who are the highway authority in respect of that highway; and
- (iii) in the case of any other bridge, the authority or person responsible for the maintenance thereof;

" building byelaws " means byelaws made under Part II of this Act with respect to buildings, works and fittings, and includes also byelaws made with respect to those matters under any corresponding enactment repealed by this Act, or under any such enactment as amended or extended by a local Act;

" clerk, " in relation to a local authority being the council of a borough, means the town clerk;

" coastal waters " means waters within a distance of three nautical miles from any point on the coast measured from low-water mark of ordinary spring tides;

" contributory place " means—

- (a) a rural parish no part of which is included in a special purpose area formed under this Act or under any Act repealed by this Act or by the Public Health Act, 1875;
- (b) a special purpose area so formed; and

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- (c) in the case of a rural parish part of which forms or is included in a special purpose area formed as aforesaid, such part of the parish as is not comprised within that area;
- " county " means an administrative county;
- " county district " means a non-county borough, urban district or rural district;
- " dock undertakers " means persons who are statutory undertakers in respect of a dock, harbour, canal, or inland navigation;
- " drain " means a drain used for the drainage of one building or of any buildings or yards appurtenant to buildings within the same curtilage ;
- " dustbin " means a movable receptacle for the deposit of ashes or refuse;
- " emoluments " has the same meaning as it has in the Local Government Act, 1933;
- " enactment " includes any enactment in a provisional order confirmed by Parliament;
- " factory " means a factory within the meaning of the Factory and Workshop Acts, 1901 to 1929; " functions " includes powers and duties ;
- " highway authority " means, in the case of a highway repairable by the inhabitants at large, the council in whom that highway is vested;
- " hospital " includes any premises for the reception of the sick;
- " house " means a dwelling-house, whether a private dwelling-house or not;
- " inland waters " includes rivers, harbours and creeks;
- " joint board " means a joint board constituted under this Act or under any Act repealed by this Act, and includes such a board acting as a port health authority;
- " land " includes any interest in land and any easement or right in, to or over land;
- " land drainage authority " means a drainage authority within the meaning of the Land Drainage Act, 1930;
- " local Act " includes a provisional order confirmed by Parliament and the confirming Act so far as it relates to that order;
- " local authority " has the meaning assigned to it in section one of this Act;
- " London " means the administrative county of London;
- " Minister " means the Minister of Health;
- " notifiable disease " means any of the following diseases, namely, small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names, typhus, typhoid, enteric or relapsing, and includes, as respects any particular district, any infectious disease to which Part V of this Act or any corresponding enactment repealed by this Act has been applied by the local authority of the district in manner provided by that Part or that enactment;
- " officer " includes servant;
- " owner " means the person for the time being receiving the rackrent of the premises in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if those premises were let at a rackrent;
- " planning scheme " means a scheme made under the Town Planning Act, 1925, or the Town and Country Planning Act, 1932, or any enactment repealed by either of those Acts;

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" prejudicial to health " means injurious, or likely to cause injury, to health;  
" premises " includes messuages, buildings, lands, easements and hereditaments of any tenure;

" private sewer " means a sewer which is not a public sewer;

" public sewer " has the meaning assigned to it in section twenty of this Act;

" rackrent " in relation to any property means a rent which is not less than two-thirds of the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and tithe rentcharge (if any), and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the same in a state to command such rent;

" railway company " means persons who are statutory undertakers in respect of a railway undertaking;

" school " includes a Sunday school or a Sabbath school;

" sewer " does not include a drain as defined in this section but, save as aforesaid, includes all sewers and drains used for the drainage of buildings and yards appurtenant to buildings;

" statutory order " means an order, rule or regulation made under any enactment;

" statutory scheme " means a scheme made under any enactment;

" statutory undertakers " means any persons authorised by an enactment or statutory order to construct, work or carry on any railway, canal, inland navigation, dock, harbour, tramway, gas, electricity, water or other public undertaking;

" street " includes any highway, including a highway over any bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

" vessel " has the same meaning as in the Merchant Shipping Act, 1894;

" waterworks " includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines and all machinery, lands, buildings and things for supplying, or used for supplying, water, or used for protecting sources of water supply;

" workplace " does not include a factory or workshop, but save as aforesaid includes any place in which persons are employed otherwise than in domestic service;

" workshop " means a workshop within the meaning of the Factory and Workshop Act, 1901.

- (2) In the construction of any enactment incorporated with this Act, the expressions " the undertakers " and " the special Act " shall be construed as meaning respectively the local authority and this Act.
- (3) Nothing in this section shall affect the interpretation of expressions which are used in any local Act, statutory order or scheme passed or made before the commencement of this Act and are denned as having for the purposes thereof the same meaning as in some enactment repealed by this Act.

#### **344 Transitional provisions as to existing temporary buildings.**

- (1) Where at the commencement of this Act there is in existence a building to the erection of which a local authority have given their consent either under section twenty-seven

of the Public Health Acts Amendment Act, 1907, or under section twenty-five of the Housing, Town Planning, &c, Act, 1919, the local authority may under this section extend the period fixed by them, either originally or by way of extension, as the period during which the building may be allowed to stand or, as the case may be, may be allowed to be used for human habitation, and any person aggrieved by their refusal to extend any such period may appeal to a court of summary jurisdiction.

- (2) The owner of any such building shall, on the expiration of the period fixed, or, as the case may be, of that period as extended, remove the building if it was erected under the said Act of 1907 or discontinue its use for human habitation if it was erected under the said Act of 1919, and, if he fails to do so, the local authority shall remove the building and may recover from him the expenses reasonably incurred by them in so doing, and without prejudice to the right of the authority to exercise that power he shall be liable to a fine not exceeding ten pounds and to a further fine not exceeding five pounds for each day during which the building is allowed to remain, or, as the case may be, is allowed to be used for human habitation after the conviction.

### **345 Transitional provisions as to offences and notices.**

- (1) Where an offence (being an offence for the continuance of which a penalty was provided) has been committed under any enactment repealed by this Act, proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act in the same manner as if the offence had been committed under the corresponding provisions of this Act.
- (2) Where an enactment repealed and re-enacted, with or without modifications, by this Act relates to the giving of notices—
- (i) not less than a specified period before; or
  - (ii) within a specified period after,

the doing of some act or the happening of some event, and the commencement of this Act falls within the period applicable under that enactment to any particular act done or to any particular event, the repeal and re-enactment shall be deemed to have taken effect in relation to that act or event, in the first-mentioned case, at a date sufficiently early to enable the required notice to be given under the corresponding provisions of this Act, and, in the secondly mentioned case immediately before the doing of the act or the happening of the event in question.

### **346 Repeals.**

- (1) The following Acts are hereby repealed to the following extent:—
- (a) the Public Health Act, 1875, the Public Health Acts Amendment Act, 1890, the Public Health Acts Amendment Act, 1907, and the Public Health Act, 1925, to the extent specified in the First, Second, Third and Fourth Parts respectively of the Third Schedule to this Act ;
  - (b) the Acts mentioned in the second column of the Fifth Part of that Schedule, to the extent specified in the third column of that Part of that Schedule,

and the said repeal shall as respects the Acts mentioned in the second column of the Sixth and Seventh Parts of that Schedule, to the extent specified in the third column of those Parts, extend to London and to Northern Ireland, the Isle of Man and the Channel Islands respectively :

Provided that—

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- (a) save as expressly provided in this Act, nothing in this repeal shall affect any byelaw in force at the commencement of this Act, and, while such a byelaw continues in force by virtue of this proviso, any question as to its application or interpretation shall be determined as if this Act had not been passed ;
  - (b) nothing in this repeal shall affect the constitution of any authority, board or committee constituted for any district or area under any enactment repealed by this Act, and any such authority, board or committee shall continue to act for that district or area as if they and it had been constituted under the corresponding provisions of this Act;
  - (c) in so far as any appointment, agreement, scheme, order, rule, regulation, requirement, apportionment or representation made, or any resolution passed, or any notice, direction, consent, sanction, approval, exemption or certificate given under any enactment repealed by this Act, or any charge conferred by, or any conditions imposed, or any proceeding instituted, or any other thing done, under any such enactment, could have been made, passed, given, conferred, imposed, instituted or done under or by a corresponding provision of this Act, it shall not be invalidated by this repeal, but shall have effect as if it had been made, passed, given, conferred, imposed, instituted or done under or by that corresponding provision and, in the case of any legal proceeding, may be continued and appealed against as if this Act had not been passed;
  - (d) where immediately before the commencement of this Act a local authority were recovering any expenses by means of private improvement rates they may continue to recover the unpaid balance of those expenses by means of such rates as if this Act had not been passed;
  - (e) the repeal of section twenty-seven of the Public Health Acts Amendment Act, 1907, shall not take effect in the district of a local authority until the date on which building byelaws made by that authority under this Act come into force in the district, or until the expiration of one year from the commencement of this Act, whichever date may first occur;
  - (f) the repeal of the Isolation Hospitals Acts, 1893 and 1901, shall not take effect until the expiration of two years from the commencement of this Act.
- (2) If any enactments or words mentioned in the Third Schedule to this Act are, wholly or partly, re-enacted in a Consolidation Act of the present session of Parliament, the references in the said Schedule to those enactments or words shall be construed as including references to such enactments or words in the Consolidation Act as His Majesty in Council may declare to be corresponding enactments or words, and accordingly any enactments and words to which such declaration extends shall also be repealed by this section.
- (3) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment, if any, in this Act.
- (4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

### **347 Short title, date of commencement, and extent.**

- (1) This Act may be cited as the Public Health Act, 1936, and shall come into operation on the first day of October, nineteen hundred and thirty-seven.

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- (2) This Act shall not extend to Scotland nor, except as otherwise expressly provided, to Northern Ireland or London.