

*Status: Point in time view as at 27/08/1993.*

*Changes to legislation: There are currently no known outstanding effects for the London Government Act 1963, SCHEDULE 11. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 11

Section 40.

#### MODIFICATION AND RE-ENACTMENT AS FROM 1ST APRIL 1965 OF PROVISIONS OF PUBLIC HEALTH ACTS

#### PART I

#### MODIFICATIONS

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

**C1** Sch. 11 Pt. I saved by [Local Government Act 1972 \(c. 70\)](#), s. **180(1)**

#### GENERAL MODIFICATIONS

- 1 Subject to the provisions of this Schedule, any reference in the enactments to which section 40 of this Act applies to the council of a county borough shall be construed as including a reference to the council of a London borough, the Common Council, the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple.
- 2 Subject as aforesaid, and without prejudice to the foregoing paragraph, any reference in the said enactments to the district of a local authority or urban authority shall be construed as including a reference to a London borough, the City, the Inner Temple and the Middle Temple and any reference to a borough or urban district shall be construed as including a reference to the City, the Inner Temple and the Middle Temple.
- 3—10. . . . . <sup>F1</sup>

##### Textual Amendments

**F1** Sch. 11 Pt. I paras. 3–10, 15 repealed by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**

#### <sup>M1</sup>THE PUBLIC HEALTH ACT 1936

##### Marginal Citations

**M1** 1936 c. 49.

- 11 Subject to the provisions of the Public Health Act 1936 . . . <sup>F2</sup> and this Schedule, in any district in Greater London the duty imposed by section 1(1) of carrying the

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said Act of 1936 into execution shall, so far as relating to the enactments to which section 40 of this Act applies, be the duty of the local authority for that district.

**Textual Amendments**

**F2** Words repealed (E.W.) by [Public Health \(Control of Disease\) Act 1984 \(c. 22, SIF 100:1\)](#), s. 78, [Sch. 3](#) and also expressed as repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), ss. 133(2), 134, 135, [Sch. 7](#)

12 ..... **F3**

**Textual Amendments**

**F3** [Sch. 11 Pt. I para. 12](#) repealed by [Building Act 1984 \(c. 55, SIF 15\)](#), ss. 133(2), 134, 135, [Sch. 7](#)

13 Section 51 shall in its application to Greater London have effect as if any reference to a water closet included a reference to a urinal and as if that section required the occupier of every building in or in connection with which a urinal is provided to cause the urinal to be supplied with flushing apparatus.

14 ..... **F4**

**Textual Amendments**

**F4** [Sch. 11 Pt. 1 paras. 14, 16](#) repealed by [Control of Pollution Act 1974 \(c. 40\)](#), s. 109(2), [Sch. 4](#)

15 ..... **F5**

**Textual Amendments**

**F5** [Sch. 11 Pt. I paras. 3–10, 15](#) repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

16 ..... **F6**

**Textual Amendments**

**F6** [Sch. 11 Pt. 1 paras. 14, 16](#) repealed by [Control of Pollution Act 1974 \(c. 40\)](#), s. 109(2), [Sch. 4](#)

17 Byelaws made under section 81 with respect to Greater London may include provision for preventing the occurrence of nuisances from ice, salt, offal, carrion, fish or other matter as well as nuisance from the matters therein mentioned.

18 (1) Byelaws made under section 82(1) with respect to Greater London may make the like provision for the removal or carriage by water of faecal or offensive or noxious matter or liquid as may be made with respect to the removal or carriage thereof through the streets and may provide that any receptacle or any ship or other vessel used for the purpose shall be properly constructed and covered so as to prevent the escape of any such matter or liquid and so as to prevent any nuisance arising therefrom.

<sup>x1</sup>(2) In section 82(2) for the words from “a regulation” onwards there shall be substituted the words “an order under section 34 of the Road Traffic Act 1960 or section 10 (1) of the London Government Act 1963, and the order shall prevail”.

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#### Editorial Information

- X1** The text of Sch. 11 Pt. I paras. 18(2), 27, 31, 33 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

19 ..... F7

#### Textual Amendments

- F7** Sch. 11 Pt. I para. 19 repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, Sch. 17

20 ..... F8

#### Textual Amendments

- F8** Sch. 11 Pt. I para. 20 repealed by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), Sch. 16 Pt. III

21 ..... F9

#### Textual Amendments

- F9** Sch. 11 Pt. I para. 21 repealed by Building Act 1984 (c. 55, SIF 15), ss. 133(2), 134, 135, Sch. 7

22 ..... F10

#### Textual Amendments

- F10** Sch. 11 Pt. I paras. 22, 25 repealed by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), ss. 78, 79, Sch. 3

23 In section 266(1)(i) the references to a land drainage authority shall include references to the Greater London Council.

24 In Part XII—

- (a) any reference to the Public Health Act 1936 shall include a reference to section 41 of this Act and this Schedule;
- (b) any reference to a council shall be construed as including a reference to the Sub-Treasurer of the Inner Temple and the Under-Treasurer of the Middle Temple, except that any reference in any provision of Part XII to the clerk or any officer or authorised officer of the council shall, in relation to the Inner Temple or the Middle Temple, be construed as a reference to an officer authorised by the Sub-Treasurer or the Under-Treasurer, as the case may be, to act for the purposes of that provision;
- (c) any reference to a local authority or the district of a local authority shall, so far as relating to any enactment under which the Greater London Council has functions, be construed as a reference to that Council or Greater London as the case may be.

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25 ..... F11

**Textual Amendments**

**F11** Sch. 11 Pt. I paras. 22, 25 repealed by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), ss. 78, 79, **Sch. 3**

*M<sup>2</sup>THE WATER ACT 1945*

**Marginal Citations**

**M2** 1945 c. 42.

26 ..... F12

**Textual Amendments**

**F12** Sch. 11 Pt. I para. 26 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2) (4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

F13 27 ..... F13

**Textual Amendments**

**F13** Sch. 11 Pt. I para. 27 repealed (1.12.1991) by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), ss. **3(1)**, 4(2), Sch.3 Pt. I (with Sch. 2 paras. 10, 14(1), 15)

28 ..... F14

**Textual Amendments**

**F14** Sch. 11 Pt. I para. 28 repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

29 ..... F15

**Textual Amendments**

**F15** Sch. 11 Pt. I para. 29 repealed by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2) (4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 41(1), 57(6), 58, **Sch. 27 Pt. I**

*M<sup>3</sup>THE CLEAN AIR ACT 1956*

**Marginal Citations**

**M3** 1956 c. 52.

F16 30 ..... F16

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**Textual Amendments**

**F16** Sch. 11 para. 30 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(2), Sch.6.

<sup>F17</sup>31 .....

**Textual Amendments**

**F17** Sch. 11 para. 31 repealed (27.8.1993) by 1993 c. 11, ss. 67(3), 68(3), Sch.6.

32 ..... <sup>F18</sup>

**Textual Amendments**

**F18** Sch. 11 para. 32 repealed by Control of Pollution Act 1974 (c. 40), s. 109(2), Sch. 4

*M<sup>4</sup>THE PUBLIC HEALTH ACT 1961*

**Marginal Citations**

**M4** 1961 c. 64.

<sup>X2</sup>33 In section 2 (3) after the word “district” there shall be inserted the words “the Common Council, the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple”.

**Editorial Information**

**X2** The text of Sch. 11 Pt. I paras. 18(2), 27, 31, 33 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

34—36. .... <sup>F19</sup>

**Textual Amendments**

**F19** Sch. 11 Pt. I paras. 34—36 repealed by Building Act 1984 (c. 55, SIF 15), ss. 133(2), 134, 135, Sch. 7

37 ..... <sup>F20</sup>

**Textual Amendments**

**F20** Sch. 11 Pt. I para. 37 repealed by Highways Act 1980 (c. 66, SIF 59), s. 43(3), Sch. 25

38 ..... <sup>F21</sup>

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**Textual Amendments**

**F21** Sch. 11 Pt. I para. 38 repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

39 ..... F22

**Textual Amendments**

**F22** Sch. 11 Pt. I para. 39 repealed by Local Government Act 1972 (c. 70), **Sch. 30**

40 ..... F23

**Textual Amendments**

**F23** Sch. 11 Pt. I para. 40 repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, **Sch. 17**

41 ..... F24

**Textual Amendments**

**F24** Sch. 11 Pt. I para. 41 repealed by Statute Law (Repeals) Act 1977 (c. 18), s. 1(1), **Sch. 1 Pt. XI**

## PART II

### PROVISIONS REPRODUCED FROM ENACTMENTS RELATING TO PUBLIC HEALTH IN LONDON

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

**C2** Sch. 11 Pt. II: power to transfer certain functions conferred by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), ss. 7(3)(c), 8(2)

- 1 (1) Without prejudice to sections 259 and 262 of the <sup>M5</sup>Public Health Act 1936, but subject to the following provisions of this paragraph, if a local authority consider that in any premises a pond, pool, ditch, gutter or place containing, or used for the collection of, any drainage, filth, stagnant water or other matter is likely to be prejudicial to health or a nuisance, they may by notice require the owner or occupier of the premises to drain, cleanse, cover or fill up the pond, pool, ditch, gutter or place, or to construct a proper drain for the discharge of the matter, or to execute such other works as the circumstances may require.
- (2) The local authority may contribute towards the expenses incurred by any person in complying with a notice under this paragraph.
- (3) Where any works required by a notice under this paragraph interfere with any right to the use of water, the local authority may, with the agreement of the person in whom the right is vested, acquire from him the right and any land for the benefit of which the right enures, instead of compensating him under section 278 of the Public Health Act 1936.

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- (4) The provisions of Part XII of the Public Health Act 1936 with respect to appeals against, and the enforcement of, notices requiring the execution of works shall apply in relation to any notice given under this paragraph.

**Marginal Citations**

**M5** 1936 c. 49.

2, 3. . . . . **F25**

**Textual Amendments**

**F25** Sch. 11 Pt. II paras. 2, 3 repealed by Building Act 1984 (c. 55, SIF 15), s. 133(2), Sch. 7

<sup>F26</sup> Byelaws with respect to the construction and use of incinerators for the disposal of refuse in inner London boroughs and the City (being incinerators which are, or are in the nature of, buildings or structures or which form part of a building or structure) shall be made by the councils of those boroughs or the Common Council, as the case may be.

**Textual Amendments**

**F26** Sch. 11 Pt. II para. 4 substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, Sch. 6 para. 1

5 It shall be the duty of each local authority to enforce in their district any byelaws under paragraphs 2 to 4 of this Part of this Schedule which are in force in their district.

**Textual Amendments**

**F26** Sch. 11 Pt. II para. 4 substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, Sch. 6 para. 1

6 The council of any London borough and the Common Council may make byelaws with respect to the following operations, except when carried out by a local authority . . . <sup>F27</sup> and except so far as byelaws with respect thereto may be made under section 72 or 82 of the <sup>M6</sup>Public Health Act 1936, that is to say—

- (a) the removal of refuse from premises in the council's area;
- (b) the conveyance of refuse by rail, road or water from loading points in that area;
- (c) the deposit of refuse in premises in that area pending its removal or disposal.

**Textual Amendments**

**F26** Sch. 11 Pt. II para. 4 substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, Sch. 6 para. 1

**F27** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), ss. 1, 102, Sch. 17

**Marginal Citations**

**M6** 1936 c. 49.

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7 Any person who has in his possession or under his control any article of food which is unsound, unwholesome or unfit for human consumption may, by notice to the local authority, specifying and identifying the article, request its removal, and the local authority shall cause it to be removed as if it were trade refuse which they had undertaken to remove under section 73(1) of the Public Health Act 1936.

**Textual Amendments**  
**F26** Sch. 11 Pt. II para. 4 substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, Sch. 6 para. 1

8 ..... F28

**Textual Amendments**  
**F26** Sch. 11 Pt. II para. 4 substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, Sch. 6 para. 1  
**F28** Sch. 11 Pt. II para. 8 repealed by Public Health (Control of Disease) Act 1984 (c. 22, SIF 100:1), ss. 78, 79, Sch. 3

9 (1) Where it appears to a local authority, being the council of a London borough or the Common Council, that any land within the area of the authority is by reason of its derelict, neglected or unsightly condition detrimental to the amenities of the neighbourhood, the authority may, after serving notice of their proposals on the owner and on the occupier of the land and subject to sub-paragraph (3) of this paragraph, execute such works and do such other things as the authority consider expedient for the purpose of restoring or improving and thereafter preserving the appearance of the land:

Provided that the works and other things which may be required to be executed or done under this paragraph shall not include the erection or maintenance of any building or the doing of anything in or upon any building, but may include the erection or maintenance of a hoarding or fence.

- (2) Any person served with a notice under the foregoing sub-paragraph may, if aggrieved by the proposal specified in the notice, appeal to a magistrates’ court within the period of twenty-eight days beginning with the date of the service of the notice.
- (3) A local authority may proceed with the proposals specified in a notice under sub-paragraph (1) of this paragraph if but only if—
  - (a) none of the persons on whom the notice was served has, within the said period of twenty-eight days, taken steps to implement the proposals himself or instituted an appeal against the proposals to a magistrates’ court; or
  - (b) any such steps begun to be taken by any such person within that period are not completed within a reasonable time; or
  - (c) any appeal instituted within that period has been dismissed or abandoned or failed for want of prosecution.
- (4) Any expenses incurred by the local authority in removing any materials from any land in exercise of the powers conferred on them by this paragraph and the cost of selling any materials so removed may be deducted by the authority from the proceeds which they are required by section 276 of the <sup>M7</sup>Public Health Act 1936 to pay to the person to whom the materials belonged.



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- (5) The foregoing provisions of this paragraph shall not be construed as prejudicing the powers exercisable by the Greater London Council under section 69 of the <sup>M8</sup>London Building Acts (Amendment) Act 1939, or by the council of an outer London borough under [<sup>F29</sup>section 79 of the Building Act 1984], or by the local planning authority under section 89 of the National Parks and Access to the <sup>M9</sup>Countryside Act 1949.

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#### Textual Amendments

**F26** Sch. 11 Pt. II para. 4 substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, Sch. 6 para. 1

**F29** Words substituted by Building Act 1984 (c. 55, SIF 15), s. 133(1), Sch. 6 para. 10

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#### Marginal Citations

**M7** 1936 c. 49.

**M8** 1939 c. xcvi.

**M9** 1949 c. 97.

- 10 Without prejudice to paragraph 24 of Part I of this Schedule, expressions used in this Part of this Schedule and the Public Health Act 1936 have the same meanings in this Part of this Schedule as in that Act.]

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#### Textual Amendments

**F26** Sch. 11 Pt. II para. 4 substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 9, Sch. 6 para. 1

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