



Public Health Acts Amendment Act 1907

1907 CHAPTER 53

PART II

STREETS AND BUILDINGS

15 Deposit of plan to be of no effect after certain intervals

The deposit of any plans or sections of any street or building, in pursuance of any byelaw in force in the district, may by notice in writing to the person by whom the plans or sections have been deposited be declared by the local authority to be of no effect if the work to which the plans or sections relate is not commenced—

As to plans and sections deposited before the commencement of this section, within three years from that date ;

As to plans and sections deposited on or after the commencement of this section, within three years of the deposit of the plans and sections.

When the deposit of any plans and sections has been declared to be of no effect, a fresh deposit shall be necessary before the work to which they relate is commenced.

The local authority shall give notice of the provisions of this section to every person intending to lay out a new street or erect a new building in relation to which plans and sections have been deposited before the commencement of this section, but the laying out of which street or erection of which building shall not have been commenced, and shall attach a similar notice to the approval of every such intended work in relation to which plans and sections have been deposited subsequent to the commencement of this section.

16 As to plans deposited with local authority

The local authority may retain any drawings, plans, elevations, sections, specifications, and written particulars, descriptions or details, deposited with and approved by them in pursuance of any enactment for the time being in force in the district or of any byelaw thereunder.

17 Power to vary position or direction and to fix beginning and end of new streets

- (1) The local authority may, on the deposit of a plan and sections of a new street in pursuance of a byelaw in force in the district, by order vary the intended position, direction or termination, or level of the new street so far as is necessary for the purpose of securing more direct, easier, or more convenient means of communication with any other street or intended street or for the purpose of securing an adequate opening at either end of the new street, or of securing compliance with any enactment or byelaw in force in the district for the regulation of streets and buildings.

The local authority may also by their order fix the points at which the new street shall be deemed to begin or end, and the limits of the new street as determined by the points so fixed shall have effect for the purposes of the Public Health Acts, 1875 to 1907, and of any byelaws made under those Acts and in force within the district.

- (2) The powers of the local authority under this section shall not be exerciseable in any case in which it is shown, to their satisfaction, that compliance with their order will entail the purchase of additional lands by the owner of the lands on which the new street is intended to be laid out, or the execution of works elsewhere than on those lands.
- (3) Where the local authority make an order under this section a person shall not lay out or construct the new street otherwise than in compliance with the order. If any person acts in contravention of this provision, he shall be liable to a penalty not exceeding five pounds, and to a daily penalty not exceeding forty shillings.
- (4) The local authority shall pay compensation to any person injuriously affected by the exercise by the local authority of their powers under this section.

18 Crossing for cattle, &c, over footways

The provision and use of new means of access for any cattle, any beast of draught or burden, any waggon, cart, or "other wheeled carriage exceeding four feet in width or two hundredweight in weight, to or from any premises fronting, adjoining, or abutting on any street which has become a highway repairable by the inhabitants at large, may, where that provision involves passage across or interference with any such part of the street as comprises a kerbed or paved footway, be allowed by the local authority subject to the following conditions (that is to say) :—

- (a) Every person who intends to provide the new means of access shall give notice in writing of his intention to the local authority, and shall at the same time submit, for the approval of the local authority, a plan showing the position, gradient, and mode of construction of the intended means of access ;
- (b) When the plan, with or without amendment, has been approved by the local authority, the person may, upon receiving notice of their approval, proceed to execute the necessary works, but those works shall be executed under the supervision and to the reasonable satisfaction of the local authority, and in accordance with the plan as approved by the local authority ;
- (c) After the completion of the works the new means of access may be used, subject to the conditions which, in pursuance of any provisions of the law relating to highways, attach to the use for the like purpose of any carriageway forming part of a highway repairable by the inhabitants at large.

19 As to urgent repairs to private streets

- (1) Where repairs are required in the case of any street, not being a highway repairable by the inhabitants at large, to obviate or remove danger to any passenger or vehicle in the street, the local authority may give notice in writing to the owners of the lands and premises fronting, adjoining, or abutting on the street, and may require the owners to execute, within a time to be specified in the notice, such repairs as are described in the notice.
- (2) If, within the time specified in the notice, the repairs described in the notice are not executed, the local authority may execute the repairs, and may recover summarily, as a civil debt, the cost of the repairs so executed from the owners in default, and the amount recoverable from each owner shall be in the proportion which the extent of his lands and premises fronting, adjoining, or abutting on the street, bears to the total extent of all lands and premises so fronting, adjoining, or abutting.
- (3) Where the name or place of abode of an owner cannot be found by the local authority, a copy of the notice shall be sent by post to or left with the occupier of the lands and premises to which the notice relates, or, if there be no such occupier, shall be affixed upon some conspicuous part of the lands and premises.
- (4) In every case in which, within the time specified in the notice, the majority in number or rateable value of owners of lands and premises in the street, by a notice in writing, require the local authority to proceed, in relation to the street, under section one hundred and fifty of the Public Health Act, 1875, or, if the Private Street Works Act, 1892, is in force in the district, under that Act, the local authority shall so proceed ; and where the local authority so proceed they shall, on the completion of the necessary works, forthwith declare the street to be a highway repairable by the inhabitants at large, and on and after the date of the declaration the street shall become a highway so repairable.

20 Recovery of damages caused to footways by excavations

If the footway of any street repairable by the inhabitants at large be injured by or in consequence of any excavations or other works on lands adjoining thereto the local authority may repair or replace the footway so injured, and all damages and expenses of, or arising from such injury and repair or replacement shall be paid to the local authority by the owner of the lands on which such excavations or other works have been made, or by the person causing or responsible for the injury.

21 Power to alter names of streets

The local authority may, with the consent of two-thirds in number and value of the ratepayers in any street, alter the name of such street - or any part of such street. The local authority may cause the name of any street or of any part of any street to be painted or otherwise marked on a conspicuous part of any building or other erection. Any person who shall wilfully and without the consent of the local authority, obliterate, deface, obscure, remove, or alter any such, name, shall be liable to a penalty not exceeding forty shillings.

22 Buildings at corner of streets

The local authority may require the corner of any building intended to be erected at the corner of two streets to be rounded off or splayed off to the height of the first storey or

to the full height of the building, and to such extent otherwise as they may determine and for any loss which may be sustained through the exercise of the powers by this section conferred upon the local authority they shall pay compensation.

23 What to be deemed new buildings

For the purposes of this Act and the Public Health Acts, and any byelaws made thereunder, each of the following operations, namely:—

- (a) The re-erection, wholly or partially, of any building of which an outer wall is pulled down or burnt down to or within ten feet of the surface of the ground adjoining the lowest storey of the building, and of any frame building so far pulled down or burnt down as to leave only the framework of the lowest storey ;
 - (b) The conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only;
 - (c) The re-conversion into a dwelling-house of any building which has been discontinued as or appropriated for any purpose other than that of a dwelling-house ;
 - (d) The making of any addition to an existing building by raising any part of the roof, by altering a wall, or making any projection from the building, but so far as regards the addition only ; and
 - (e) The roofing or covering over of an open space between walls or buildings ;
- shall be deemed to be the erection of a new building.

24 Byelaws as to height of chimneys, &c

Section one hundred and fifty-seven of the Public Health Act, 1875, shall be extended so as to empower the local authority to make byelaws—

- with respect to the height of chimneys of buildings and with respect to the height of buildings ; and
- with respect to the structure of chimney shafts for the furnaces of steam engines, breweries, distilleries, or manufactories.

Section one hundred and fifty-eight of the Public Health Act, 1875, shall also be in force in every district in which this section is in force.

25 Yards to be paved, &c

If any yard in connection with, and exclusively belonging to, a dwelling-house shall not be so formed, flagged, asphalted, or paved, or shall not be provided with such works on, above, or below the surface of the yard, as to allow of the effectual drainage of the subsoil or surface of the yard by safe and suitable means to a proper outfall, the local authority may, by notice in writing, require the owner of the dwelling-house, within twenty-one days after the service of the notice, to execute all such works as are necessary for the effectual drainage of the subsoil or surface of the yard to a proper outfall.

If, within the said period of twenty-one days, the owner has failed to complete the execution of the works specified in the notice, the local authority may execute the

works, and may recover from the owner in a summary manner as a civil debt the expenses incurred by the local authority in the execution of the works.

26 Entrances to courts, &c. not to be closed

After the commencement of this section the entrances to any court shall not, except with the consent of the local authority, be closed or narrowed or otherwise altered or affected by any permanent structure so as to impede the free circulation of air, and the height of any such entrance shall not, except with that consent, be lowered. The consent of the local authority under this section maybe given subject to compliance with such conditions as the local authority by their consent prescribe with respect to the formation or provision of any other sufficient opening or means of access, or with respect to the. provision of other sufficient means of securing free circulation of air throughout the court.

Nothing in this section shall have effect in relation to any court which by reason of its situation, use, architectural features, or other characteristics is, either wholly or in part, necessary for an ancillary to the ornament or amenity of any lands or premises.

Any person offending against this section shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

27 As to temporary buildings

- (1) Before any person erects or sets up a temporary building he shall apply to the local authority for permission so to do.

The application shall be accompanied by a plan and sections of the proposed building drawn to a scale of not less than one inch to every eight feet, and a block plan, drawn to a convenient scale, showing the intended situation and surroundings of the proposed building, together with a specification describing the, materials proposed to be used in the construction of the building, and the purpose for which the building is intended.

- (2) The local authority shall, within one month after the delivery of the plans and sections and specification, signify in writing their approval or disapproval of the building to the person proposing to erect or set up the building.
- (3) The local authority may attach to their approval any condition which they deem proper with regard to the sanitary arrangements of the building, the ingress thereto and the egress therefrom, protection against fire, and the period during which the building shall be allowed to stand.
- (4) If any such building is begun, erected, or set up without such application accompanied by such plan, sections, and specification as this section requires, or after the disapproval of the local authority or before the expiration of one month without their approval, or is in any respect not in conformity with any condition attached by the local authority to their approval, the person who began, erected, or set up the building, or, if any such building is not removed within the period allowed by the local authority, the owner of the building shall for every such offence be liable to a penalty not exceeding forty shillings, and to a daily penalty not exceeding the like amount; and the local authority may cause the building to be pulled down or removed, and any expense incurred by them in and about the pulling down or removal of the building may, at their discretion, be recovered summarily as a civil debt from the owner of the building or from the person erecting or setting up the building.

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

- (5) Where any such building is pulled down or removed by the local authority under the powers of this section the local authority may sell the materials or any part of the materials, and shall apply the proceeds of the sale in or towards payment of the costs and expenses incurred by them in relation to the pulling down or removal of the building, and shall pay the balance to the owner of the building.
- (6) The following buildings shall be exempt from the operation of this section :—
- (a) Any building expressly exempt from the operation of the Public Health Acts or the byelaws made under those Acts and in force for the time being within the district;
 - (b) Any building erected or set up for the purpose of protecting or of preventing the acquisition of rights to light;
 - (c) Any temporary building set up as part of the plant to be used in or about or in connection with the construction, alteration, or repair of any building or other work; but so far as regards only so much of this section as relates to plans, sections, and specifications.

28 Removal of materials in streets

The local authority may remove, appropriate, use, and dispose of all old materials existing in any street at the time of the execution by the local authority of any works in such street unless the owners of buildings and lands in such street within forty-eight hours after notice so to do served on them by the surveyor remove such materials or their respective proportions thereof, and the local authority shall allow such sum as may be the reasonable value thereof to such owners for any materials which have been used or removed by the local authority, and in case of dispute the amount to be allowed shall be settled in the manner provided by the Public Health Act, 1875, with respect to compensation for damage sustained by reason of the exercise of any powers of that Act.

29 Deposit of building materials or excavations not to be made without consent

It shall not be lawful for any person without the consent of the local authority in writing first obtained to lay any building materials, rubbish, or other thing, or make any excavation on or in any street repairable by the inhabitants at large, and when with such consent any person lays any building materials, rubbish, or other thing, or makes any excavation on or in any street, he shall, at his own expense, cause the same to be sufficiently fenced and a sufficient light to be fixed in a proper place on or near the same and to be continued every night from sunset to sunrise, and shall remove such materials, rubbish, or thing or fill up such excavation (as the case may be) when required by the local authority; and, if any person fails to comply in any respect with the requirements of this enactment, he shall be liable to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings, and the local authority may remove any such materials, rubbish, or thing, or fill up such excavation (as the case may be), and recover the expenses from the offender summarily as a civil debt.

30 Dangerous places to be repaired or enclosed

With respect to the repairing or enclosing of dangerous places the following provisions shall have effect (namely):—

- (1) If in any situation fronting, adjoining, or abutting on any street or public footpath, any building, wall, fence, steps, structure or other thing, or any well, excavation, reservoir, pond, stream, dam or bank is, for want of sufficient repair, protection, or enclosure dangerous to the persons lawfully using the street or footpath, the local authority may by notice in writing served upon the owner, require him, within the period specified in the notice and herein-after in this section referred to as the "prescribed period," to repair, remove, protect, or enclose the same so as to prevent any danger therefrom :
- (2) If, after service of the notice on the owner, he shall neglect to comply with the requirements thereof within the prescribed period, the local authority may cause such works as they think proper to be done for effecting such repair, removal, protection, or enclosure, and the expenses thereof shall be payable by the owner, and may be recovered summarily as a civil debt.

31 Fencing lands adjoining streets

If any land (other than land forming part of any common) adjoining any street is allowed to remain unfenced or if the fences of any such land are allowed to be or remain out of repair, and such land is, owing to the absence or inadequate repair of any such fence, a source of danger to passengers, or is used for any immoral or indecent purposes, or for any purpose causing inconvenience or annoyance to the public, the Local Government Board on the application of the local authority may by Order empower the local authority to proceed under this section, and, in that case, at any time after the expiration of fourteen days from the service upon the owner or occupier of notice in writing by the local authority requiring the land to be fenced or any fence of the land to be repaired, the local authority may cause the land to be fenced or may cause the fences to be repaired in such manner as they think fit, and the reasonable expenses thereby incurred shall be recoverable from such owner or occupier summarily as a civil debt.

32 Hoards to be securely erected

- (1) A person shall not use any hoarding or similar structure which is in, or abuts on, or adjoins any street, for any purpose, unless it is securely fixed to the satisfaction of the local authority.
- (2) If any person acts in contravention of this section he shall be liable, in respect of each offence, to a penalty not exceeding five pounds and to a daily penalty not exceeding twenty shillings.

33 Exemption of buildings of railway companies and others

Nothing in this Part or in any byelaws to be made under any enactment extended by this Part shall apply to a building (other than a dwelling-house) belonging to a railway company, or to any company or other public body authorised to construct, maintain, or improve a harbour, pier or dock, or to the owners of any canal or inland navigation, and used by the company, public body, or owners as a part of or in connection with their railway, harbour, pier, dock, canal or inland navigation.