



Public Health Act 1961

1961 CHAPTER 64

PART II

SANITATION AND BUILDINGS

Sewers, drains and sanitary conveniences

12 Contribution to cost of sewerage highway

- (1) Where a local authority—
- (a) resolve to construct a sewer in a street or part of a street which is a highway maintainable at the public expense, and
 - (b) include in the resolution a declaration that the construction of the sewer will, in the opinion of the local authority, increase the value of premises fronting the street or that part of the street,
- the provisions of this section shall have effect as respects the recovery by the local authority of payments from the owners of those premises in respect of the construction of the sewer.
- (2) A notice of any such resolution shall be published by the local authority in a local newspaper circulating in their district; and the resolution shall come into operation for the purposes of this section on the date of the publication.
- (3) This section shall not authorise the recovery of any payment in respect of any sewer if the construction of the sewer is not complete at the expiration of the period of two years beginning with the date on which the resolution concerning the sewer comes into operation.
- (4) This section shall not apply to any street or part of a street if at any time before the construction of the sewer there was in that street or part of a street a public sewer into which foul water could be discharged by virtue of section thirty-four of the Public Health Act, 1936 (which relates to the connection of premises with public sewers).

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- (5) Subject to the provisions of this section, a payment shall be recoverable in respect of any premises fronting the street or part of the street in which the sewer is constructed—
- (a) if a building is erected on those premises after the date on which the resolution comes into operation, and
 - (b) if that building is connected with the sewer for the purpose of discharging foul water.
- (6) Subject to the provisions of this section, the amount of the payment in respect of any premises shall be one-half of—
- (a) the actual cost per yard of the sewer constructed in the street or part of the street, or
 - (b) the estimated cost per yard of a sewer having an internal diameter of nine inches constructed in the street or part of the street at a depth of seven feet, whichever is the less, multiplied by the extent in yards of the frontage to the street or part of the street of those premises.
- (7) If a payment has become recoverable under this section by reference to any length of frontage, no further payment shall be recoverable by reference to that length of frontage.
- (8) The local authority may, on the application of the owner of any premises in respect of which a payment is recoverable under this section, remit any part of that payment on the ground that by reason of the extent of the frontage of those premises the amount of the payment is disproportionate to the benefit received by those premises from the construction of the sewer; and if the owner is dissatisfied with the decision of the local authority upon his application, or if the local authority do not within one month of his application give him notice of their decision, he may appeal to a magistrates' court, and that court may direct that any part of the payment be remitted on the said ground.
- (9) Where any part of a payment has been remitted under the last foregoing subsection in respect of any premises, subsection (7) of this section shall not apply, but any further payment which may be recoverable by reference to the frontage of those premises shall not exceed the amount remitted, and, for the purposes of this subsection, that amount shall be treated as distributed proportionately over the length of that frontage.
- (10) This section shall apply to a sewer whether or not the sewer is constructed in the district of the local authority, but shall not authorise the recovery of any payment in respect of any premises situated outside that district.
- (11) If a local authority have entered into any agreement (whether before or after the date on which this section comes into force) for the construction of a sewer for the benefit of any premises, this section shall have effect as respects the recovery of any payment in respect of those premises subject to the terms of that agreement.
- (12) The provisions of the Second Schedule to this Act shall have effect in relation to this section.

13 Contribution to cost of sewer in land subsequently laid out as street

- (1) Where a local authority—
- (a) have, after the commencement of this Act, constructed a sewer in any land which has, after the construction of the sewer, been laid out as a street or as part of a street, and

- (b) pass a resolution declaring that the construction of the sewer has, in the opinion of the local authority, increased the value of premises fronting the street or that part of the street,

the provisions of subsections (5) to (9) of the last foregoing section shall have effect as respects the recovery by the local authority of payments from the owners of those premises in respect of the construction of the sewer.

- (2) A notice of any such resolution shall be published by the local authority in a local newspaper circulating in their district; and the resolution shall come into operation for the purposes of this section on the date of publication.
- (3) Where compensation due to the owner of any land under section two hundred and seventy-eight of the Public Health Act, 1936, in respect of damage sustained by reason of the construction therein of the sewer has been diminished by setting off any sum on account of the enhancement in value of the land by reason aforesaid, no payment shall be recoverable by virtue of this section in respect of any premises forming part of that land.
- (4) Subsections (10), (11) and (12) of the last foregoing section shall apply to this section.

14 Evasion of liability to contribute under two last foregoing sections

- (1) If on a complaint by a local authority it is shown to the satisfaction of a magistrates' court—
 - (a) that any premises which do not front a street or part of a street have by reason of any transfer of land been severed from any other premises which do so front (whether at the time of the transfer or subsequently), and
 - (b) that but for the transfer a payment under either of the two last foregoing sections would be recoverable in respect of the premises so severed, and
 - (c) that the transfer was intended for the purpose of evading liability to make any such payment,the court may make an order under this section.
- (2) An order under this section may direct that the premises so severed shall be deemed for the purposes of those sections to have a frontage to the street or part of the street of such extent in yards as may be specified in the order.
- (3) In this section " transfer " includes any disposal of land whether by way of sale, lease, exchange, gift or otherwise; and references to premises and to fronting shall be construed in the same manner as in the two last foregoing sections.

15 Recovery of cost of maintaining public sewers

In the proviso to subsection (1) of section twenty-four of the Public Health Act, 1936 (under which a local authority must, unless in their opinion immediate action is necessary, give seven days notice of any work for the maintenance of a sewer which is chargeable to owners of premises served by the sewer), for the words " unless in the opinion of the local authority immediate action is necessary, they " there shall be substituted the words " unless the medical officer of health or public health inspector certifies in writing to the local authority that immediate action is necessary, the local authority " .

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16 Examination and testing of drains

The medical officer of health or public health inspector of a local authority may, as an officer of the local authority, exercise the powers conferred on the local authority by subsection (1) of section forty-eight of the Public Health Act, 1936 (which gives power to examine and test drains), without being empowered to act by the local authority.

17 Summary power to remedy stopped-up drains

- (1) If it appears to the medical officer of health or public health inspector that on any premises a drain, private sewer, water-closet or soil pipe is stopped up, he may by notice in writing require the owner or occupier of the premises to remedy the defect within forty-eight hours from the service of the notice.
- (2) If the notice is not complied with, the local authority may themselves carry out the work necessary to remedy the defect and may, subject to the next following subsection, recover the expenses reasonably incurred in so doing from the person on whom the notice was served:

Provided that, where the expenses do not exceed two pounds, the local authority may, if they think fit, remit the payment of the expenses,

- (3) In proceedings to recover expenses under this section the court may inquire—
 - (a) whether any requirement contained in a notice served under this section was reasonable, and
 - (b) whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings,

and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had due notice of the proceedings and an opportunity of being heard.

- (4) The provisions of this section shall be without prejudice to section thirty-nine of the Public Health Act, 1936 (which empowers a local authority to serve notices as regards defective drains).

18 Power to repair drains and private sewers

- (1) If it appears to a local authority that a drain or private sewer—
 - (a) is not sufficiently maintained and kept in good repair, and
 - (b) can be sufficiently repaired at a cost not exceeding fifty pounds,

the local authority may, after giving not less than seven days' notice to the person or persons concerned, cause the drain or sewer to be repaired, and, subject to the next following subsection, recover the expenses reasonably incurred in so doing, so far as they do not exceed fifty pounds, from the person or persons concerned, in such proportions, if there is more than one such person, as the local authority may determine:

Provided that, where the expenses do not exceed two pounds, the local authority may, if they think fit, remit the payment of the expenses.

- (2) The provisions of subsection (1) of this section shall not authorise a local authority to carry out any works in land which belongs to any statutory undertakers and is held or used by them for the purposes of their undertaking:

Provided that the exemption conferred by this subsection shall not extend to houses, or to buildings used as offices or showrooms, other than buildings so used which form part of a railway station.

- (3) In proceedings to recover expenses under this section the court shall inquire whether the local authority were justified in concluding that the drain or private sewer was not sufficiently maintained and kept in good repair, and, if the court determines that the local authority were not so justified, the local authority shall not recover the expenses or any part of them.

- (4) Subject to the provisions of the last foregoing subsection, in proceedings to recover expenses under this section the court may inquire whether any apportionment by the local authority was fair, and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not revise an apportionment unless it is satisfied that all persons affected thereby have had due notice of the proceedings and an opportunity of being heard.

- (5) In this section " person concerned " means, in relation to a drain or private sewer, any person owning any premises drained by means of the drain or sewer and also, in the case of a sewer, the owner of the sewer.
- (6) The provisions of this section shall be without prejudice to section thirty-nine of the Public Health Act, 1936.

19 Disconnection of drains

- (1) Where any person—
- (a) reconstructs in the same or a new position a drain which communicates with a sewer or another drain, or
 - (b) executes any works to such a drain so as permanently to discontinue its use, or
 - (c) executes any works on premises served by such a drain so as permanently to discontinue its use,

he shall cause any drains or parts of drains thereby becoming disused or unnecessary to be disconnected and sealed at such points as the local authority may reasonably require.

- (2) Any question as to the reasonableness of any requirement of a local authority under this section shall be determined by a magistrates' court and the court may vary the requirement as it thinks fit.
- (3) No one shall be required under this section to carry out any work in land outside the premises served by the drain if he has no right to carry out that work, but, subject to the provisions of Part XII of the Public Health Act, 1936, with respect to the breaking open of streets, the person undertaking the reconstruction of the drain or the execution of the works may break open any street for the purpose of complying with any requirement under this section.

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- (4) Before a person complies with any requirement under this section he shall give at least forty-eight hours notice to the local authority, and a person who fails to comply with this subsection shall be liable to a fine not exceeding five pounds.
- (5) A person who knowingly fails to comply with subsection (1) of this section shall be liable to a fine not exceeding five pounds and to a further fine not exceeding twenty shillings for each day on which the default continues after he is convicted.
- (6) This section shall not apply in relation to anything done in the course of the demolition of a building, or of part of a building, being a demolition as respects which the local authority have power under section twenty-nine of this Act to serve a notice on the person undertaking the demolition.

20 Fine for improper construction or repair of water closets or soil pipes

- (1) If a watercloset, drain or soil pipe is so constructed or repaired as to be prejudicial to health or a nuisance, the person who undertook or executed the construction or repair thereof shall, unless he shows that the prejudice to health or nuisance could not have been avoided by the exercise of reasonable care, be liable to a fine not exceeding twenty pounds.
- (2) A person charged with an offence under this section (hereafter in this section referred to as " the original defendant") shall, upon information duly laid by him and on giving to the prosecutor not less than three clear days' notice of his intention, be entitled to have any other person, being his agent or servant, to whose act or default he alleges that the offence was due brought before the court at the time appointed for the hearing of the charge ; and—
 - (a) if after the commission of the offence has been proved the original defendant proves that the offence was due to the act or default of that other person, that other person may be convicted of the offence, and
 - (b) if the original defendant further proves that he used all due diligence to secure that the watercloset, drain or soil pipe in question was so constructed or repaired as not to be prejudicial to health or a nuisance, he shall be acquitted of the offence.
- (3) Where the original defendant seeks to avail himself of the provisions of subsection (2) of this section—
 - (a) the prosecutor as well as the person whom the original defendant charges with the offence shall have the right to cross-examine the original defendant, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence, and
 - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

21 Closet accommodation for separate dwellings

- (1) In subsection (1) of section forty-four of the Public Health Act, 1936 (paragraph (a) of which relates to the sufficiency of closet accommodation in buildings), after the said paragraph (a) there shall be added the following paragraph—
 - “(aa) that any part of a building, being a part which is occupied as a separate dwelling, is without sufficient closet accommodation ; or”

- (2) Among the grounds on which an appeal may be brought under subsection (3) of section two hundred and ninety of the said Act against a notice under the said subsection (1) as amended by this section shall be—
- (a) that the need for the works to be executed under the notice would not, in whole or in part, arise but for the occupation of part of the building as a separate dwelling, and that the occupation of that part as a separate dwelling is a matter in respect of which the appellant has a cause of action, and
 - (b) that the person against whom the appellant has a cause of action ought to contribute towards the expenses of executing the works.
- (3) Where the grounds on which an appeal under the said section two hundred and ninety is brought include the ground specified in subsection (2) of this section, the appellant shall serve a copy of his notice of appeal on the person or persons referred to in that ground of appeal, and on the hearing of the appeal the court may make such order as it thinks fit with respect to the contribution to be made by any such person towards the cost of the works, or as to the proportion in which any expenses which may be recoverable by the local authority are to be borne by the appellant and any such other person.

22 Power to cleanse or repair drains

A local authority may, on the application of the owner or occupier of any premises, undertake the cleansing or repair of any drains, waterclosets, sinks or gullies in or connected with the premises, and may recover from the applicant such reasonable charge, if any, for so doing as they think fit.

23 Loan of temporary sanitary conveniences

- (1) A local authority may, at the request of the occupier of any premises connected with a cesspool, sewer or drain on which any work of maintenance, improvement or repair which necessitates the disconnection of the water-closets or other sanitary conveniences provided for or in connection with the premises is to be carried out—
- (a) by a local authority, or
 - (b) in pursuance of section thirty-nine of the Public Health Act, 1936, by the owner or occupier of the premises,
- supply on loan temporary sanitary conveniences in substitution for any waterclosets or other sanitary conveniences. so disconnected.
- (2) Subject to the following provisions of this section, the local authority may make reasonable charges for supplying, removing and cleansing any temporary sanitary conveniences lent under this section for more than seven days:
- Provided that the local authority may not make charges for the use of the temporary sanitary conveniences for the first seven days.
- (3) No charge may be made under subsection (2) of this section where the work is made necessary by a defect in a public sewer vested in and maintainable by the local authority (not being a length of sewer to which subsection (4) of this section applies).
- (4) Where the work is made necessary—
- (a) by a defect in any length of a public sewer of a kind described in subsection (4) of section twenty-four of the Public Health Act, 1936 (which relates to sewers

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for the maintenance of which a local authority may make the owners of the premises served by the sewers pay), or

- (b) by a defect in any cesspool, private sewer or drain in respect of which the local authority have served a notice under section thirty-nine of the said Act,

no charge may be made under subsection (2) of this section but, if the temporary sanitary conveniences are provided for a period of more than seven days, the reasonable expenses of supplying, removing and cleansing them shall be recoverable from the owner of the premises:

Provided that the local authority may not recover charges for the use of the temporary sanitary conveniences for the first seven days.

- (5) In proceedings to recover expenses under the last foregoing subsection the court may inquire whether the said expenses ought to be borne wholly or in part by some person other than the defendant in the proceedings, and the court may make such order concerning the expenses or their apportionment as appears to the court to be just:

Provided that the court shall not order the expenses or any part of them to be borne by any person other than the defendant in the proceedings unless the court is satisfied that that other person has had notice of the proceedings and an opportunity of being heard.