



Public Health Act 1936

1936 CHAPTER 49

PART IV

WATER SUPPLY.

Waterworks and other sources of supply.

116 General powers of local authority for supplying district with water.

- (1) For the purpose of providing their district, or any part thereof, with a supply of water, a local authority may, subject to the provisions of this section and to the provisions of Part XII of this Act with respect to the execution of works affecting water or water rights—
 - (i) construct, take on lease, or with the approval of the Minister purchase by agreement, waterworks ;
 - (ii) with the approval of the Minister purchase by agreement any water, or right to take or convey water, or other rights, powers and privileges in relation to the supply of water, and, in so far as it may be necessary for facilitating the supply of water, any water-mill, dam, or weir;
 - (iii) with the approval of the Minister purchase by agreement the water undertaking of any statutory water undertakers whose limits of supply are coterminous with, or include the whole or any part of, the authority's district, and any water undertaking belonging to persons who are supplying water in any part of the authority's district, but are not statutory water undertakers;
 - (iv) contract with any local authority or other person for a supply of water and, in particular, avail themselves of the provisions of the Supply of Water in Bulk Act, 1934;
 - (v) give any such guarantee in respect of a supply of water as is authorised by any subsequent provision of this Part of this Act.
- (2) A local authority shall not take any steps for supplying water in any part of their district in which they are not already supplying water and which is within the limits of supply of any statutory water undertakers without the consent of those undertakers :

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Provided 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.

- (3) A local authority shall not, for the purpose of supplying water under this Act, construct any works for taking or intercepting water without the approval of the Minister.
- (4) Where a rural authority propose to carry out works for a supply of water to any part of their district, they shall, before adopting plans for the works, give notice of their proposals to the parish council of each parish to be served by the works, or, in the case of a parish not under a parish council, to the parish meeting.
- (5) Where under this section a local authority propose to purchase the water undertaking of statutory water undertakers whose limits of supply extend beyond the authority's district, or the water undertaking of persons, not being statutory water undertakers, who are supplying water outside that district, they shall give notice in writing to the authority of every other district which is wholly or in part within the limits of supply of the statutory undertakers or, as the case may be, within the area in which the non-statutory undertakers are supplying water, and shall not proceed with their proposal unless the consent of each such authority has been obtained:

Provided 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.

- (6) Where a local authority have under this Act, or under any Act repealed by this Act, acquired a water undertaking constituted or regulated by an order made under the Gas and Water Works Facilities Act, 1870, or any Act amending that Act, the provisions of section three hundred and three of the Public Health Act, 1875, with respect to the power of the Minister to make provisional orders for repealing or amending local Acts shall apply as if the order were a local Act which could be repealed or amended under that section.

117 Rights of statutory undertakers where local authority supply water with their consent.

- (1) Where a local authority are supplying water to any premises within the limits of supply of statutory water undertakers by virtue of a consent given by those undertakers, whether voluntarily or in compliance with a decision of the Minister, under any of the foregoing provisions of this Part of this Act, those undertakers may, in the absence of any agreement to the contrary, at any time give not less than one month's notice to the supplying authority that they are able and intend to give a supply of water to the premises in question.
- (2) When a notice has been given under this section, then, so soon as, after the expiration of one month, the statutory undertakers commence to supply water to the premises in question, the rights and duties of the local authority in respect of a supply thereto shall cease, but the statutory undertakers shall pay to the local authority such portion of any expenses reasonably incurred by the authority for the purpose of giving a supply to those premises as may be agreed or, failing agreement, determined by arbitration.

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118 Notices to be given before constructing reservoir.

- (1) A local authority who propose to construct under the provisions of this Act a reservoir, other than a service reservoir or tank which will not contain more than one hundred thousand gallons, shall—
 - (a) publish by advertisement in a local newspaper circulating in the district in which the proposed reservoir is to be constructed a notice describing the nature of the proposals and specifying the land in or on which they propose to execute any work, and naming a place where a plan illustrative of their proposals may be inspected at all reasonable hours by any person free of charge; and
 - (b) if the site of the proposed reservoir is in the district of another local authority, serve a copy of the notice on that authority.
- (2) If, within twenty-eight days after the publication of the notice referred to in the preceding subsection, notice of objection to their proposals is served on the local authority by any owner or occupier of land affected by the proposals, or by such other local authority, if any, as aforesaid, they shall not proceed with their proposals unless all such objections so made are withdrawn, or the Minister, after a local inquiry, has approved the proposals, either with or without modification.

119 Powers and duties of local authority in respect of laying and maintaining water mains.

A local authority who supply, or are about to supply, water under this Act shall have the like powers and duties and be subject to the like restrictions in respect of the laying and maintenance of water mains within or without their district, as, under the provisions of Part II of this Act, they have and are subject to in respect of the construction and maintenance of public sewers within or without their district, as the case may be.

120 Incorporation of certain provisions of Waterworks Clauses Acts.

For the purpose of enabling a local authority to supply water under this Act, there shall be incorporated with this Act the Waterworks Clauses Act, 1863, except section fifteen thereof, and the following provisions of the Waterworks Clauses Act, 1847 :—

- sections forty-four to forty-seven, with respect to the communication pipes to be laid by the undertakers;
- sections forty-eight to fifty-one and fifty-three, with respect to the communication pipes to be laid by the inhabitants;
- sections fifty-four to sixty, with respect to waste or misuse of the water supplied by the undertakers;
- sections sixty-one to sixty-seven, with respect to the provision for guarding against fouling the water of the undertakers; and
- sections sixty-eight to seventy-one, seventy-three and seventy-four, with respect to the payment and recovery of the water rates :

Provided that—

- (a) the provisions with respect to the communication pipes to be laid by the undertakers and the inhabitants respectively shall apply only in districts, or parts of districts, where the local authority lay any pipes for the supply of any of the inhabitants thereof;

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- (b) the provisions with respect to the communication pipes to be laid by the inhabitants shall have effect subject to the provisions of the next succeeding section;
- (c) any dispute authorised, or directed, by any of the said incorporated provisions to be settled by an inspector, or two justices, shall be settled by a court of summary jurisdiction;
- (d) section forty-four of the Waterworks Clauses Act, 1847, shall for the purposes of this Act have effect as if the words " with the consent " in writing of the owner or reputed owner " of any such house, or of the agent of such " owner " were omitted therefrom, and any rent for pipes and works paid by an occupier under that section may be deducted by him from any rent from time to time due from him to such owner;
- (e) section forty-eight of the said Act shall for the purposes of this Act have effect as if after the words " having first obtained " there were inserted the words " as respects any ground not forming part of a street ";
- (f) section fifty-seven of the said Act shall for the purposes of this Act have effect as if after the word " afternoon " there were inserted the words " on producing, if required, evidence of his authority ", and as if after the words " and if" there were inserted the words " after production of his authority " ; and
- (g) the provisions with respect to the payment and recovery of water rates shall have effect subject to the subsequent provisions of this Part of this Act with respect to charges for water.

121 Power of owner or occupier to break open streets for laying pipes, subject, in certain cases, to right of local authority to execute the work.

- (1) Subject to the provisions of Part XII of this Act with respect to the breaking open of streets, and to the following provisions of this section, any owner or occupier of premises entitled under this Act to take a supply of water from the mains of a local authority may break open any street for the purpose of laying any necessary communication pipe and for the purpose of inspecting, repairing and renewing any communication pipe serving his premises.
- (2) A person who proposes to lay a pipe from his premises to communicate with a main of the local authority shall give to the authority notice of his proposals and they may, within twenty-one days after the receipt thereof, give notice to him that they intend themselves to make the communication and if, after such a notice has been given to him, he proceeds himself to make the communication, he shall be liable to a fine not exceeding fifty pounds.
- (3) Where a local authority have given such a notice as aforesaid, they shall have all such rights in respect of the making of the communication as the person desiring it to be made would have, but it shall not be obligatory on them to make the communication until the cost of the work as estimated by their surveyor has been paid to them, or security for payment has been given to their satisfaction.
- (4) If any payment so made to the local authority 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.

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- (5) For the purposes of this section, the making of the communication with a main includes all such work as involves the breaking open of a street.

122 Power of water undertakers to supply water, or sell or lease waterworks, to local authority.

Any person supplying water, whether under statutory powers or not, may—

- (i) contract to supply water to a local authority; or
- (ii) subject to the provisions of this section, sell or lease to a local authority all or any of his waterworks and all his rights, powers and privileges attaching thereto, but subject to all liabilities attaching thereto :

Provided that a sale by a company under this section must be authorised, if the company is a company within the meaning of the Companies Act, 1929, by a special resolution of the members passed in the manner provided in Part IV of that Act, and if the company is not such a company, by a resolution passed by three-fourths in number and value of the members present, either personally or by proxy, at a meeting specially convened for the purpose with notice of the business to be transacted.

123 Power of local authority to give guarantees to water companies, and &c.

A local authority may undertake to pay to any person supplying water, or guarantee payment to any such person of, such periodical or other sums as may be agreed as a consideration for that person giving a supply of water, so far as he can lawfully do so, within any part of the authority's district and executing any works necessary for that purpose.