



Public Health Act 1875

1875 CHAPTER 55

PART IV

LOCAL GOVERNMENT PROVISIONS.

HIGHWAYS AND STREETS.

As to Highways.

144 Powers of surveyors of highways and of vestries under 5 & 6 W. 4 c. 50 vested in urban authority.

Every urban authority shall within their district exclusively of any other person execute the office of and be surveyor of highways, and have exercise and be subject to all the powers authorities duties and liabilities of surveyors of highways under the law for the time being in force, save so far as such powers authorities or duties are or may be inconsistent with the provisions of this Act; every urban authority shall also have exercise and be subject to all the powers authorities duties and liabilities which by the Highway Act, 1835, or any Act amending the same, are vested in and given to the inhabitants in vestry assembled of airy parish within their district.

All ministerial acts required by any Act of Parliament to be done by or to the surveyor of highways may be done by or to the surveyor of the urban authority, or by or to such other person as they may appoint.

145 Inhabitants of urban district not liable to rates for roads without district.

The inhabitants within any urban district shall not in respect of any property situated therein be liable to the payment of highway rate or other payment, not being a toll, in respect of making or repairing roads or highways without such district: Provided, that any person who in any place after the passing of this Act ceases under or by virtue of any provision of this Act, or of any order made thereunder, to be surveyor of highways within such place, may recover any highway rate made in respect of such place, and remaining unpaid at the time of his so ceasing to be such surveyor, as if he had not

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ceased to be such surveyor ; and the money so recovered shall be applied, in the first place, in reimbursing himself any expenses incurred by him as such surveyor, and in discharging any debts legally owing fey him on account of the highways within his jurisdiction ; and the surplus (if any) shall be paid by him to the treasurer of the urban authority, and carried to the fund or rate applicable to the repair of highways within their district.

146 Power of urban authority to agree as to making of new public roads.

Any urban authority may agree with any person for the making of roads within their district for the public use through the lands and at the expense of such person, and may agree that such roads shall become and the same shall accordingly become on completion highways maintainable and repairable by the inhabitants at large within their district ; they may also, with the consent of two thirds of their number, agree with such person to pay, and may accordingly pay, any portion of the expenses of making such roads.

147 Power of urban authority to construct or adopt public bridges, &c. over or under canals, &c.

Any urban authority may agree with the proprietors of any canal railway or tramway to adopt and maintain any existing or projected bridge viaduct or arch within their district, over or under any such canal railway or tramway, and the approaches thereto, and may accordingly adopt and maintain such bridge viaduct or arch and approaches as parts of public streets or roads maintainable and repairable by the inhabitants at large within their district; or such authority may themselves agree to. construct any such bridge viaduct or arch at the expense of such proprietors ; they may also, with the consent of two thirds of their number, agree to pay, and may accordingly pay, any portion of the expenses of the construction or alteration of any such bridge viaduct or arch, or of the purchase of any adjoining lands required for the foundation and support thereof, or for the approaches thereto.

148 Power of urban authority to enter into agreement with turnpike trustees as to repair, &c. of roads.

Any urban authority may by agreement with the trustees of any turnpike road, or with any person liable to repair any street or road, or any part thereof, or with the surveyor of any county bridge, take on themselves the maintenance repair cleansing or watering of any such street or road or any part thereof, or of- any road over any county bridge, and the approaches thereto, or of any part of the said streets or roads within their district, and may remove any turnpike gates toll gates or bars which may be situated within their district, and may erect other turnpike gates toll gates or bars in lieu thereof, on such terms as the urban authority and such trustees or person or surveyor as aforesaid may agree on :

Provided—

That where any mortgage debt is charged on the tolls of any such turnpike road, no agreement shall be made for the removal of any of the toll gates or bars thereon, unless with the previous consent in writing of a majority of at least two thirds in value of the mortgagees ; and

That where the terms arranged include any annual or other payments from such urban authority to the trustees of any such turnpike road, then the payments may

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be secured on any fund or rate applicable by such authority to any of the purposes of this Act in the same manner as other charges on any such fund or rate are authorised by this Act.

Any executors administrators guardians trustees or committee of the estate of any idiot or lunatic, who are as such for the time being entitled to any money charged or secured on the tolls of any such turnpike road, may consent to any such agreement as aforesaid, as fully as if they respectively were so entitled in their own right, discharged of all trusts in respect thereof ; and all executors administrators guardians trustees and committees so consenting are hereby severally indemnified for so doing.

Regulation of Streets and Buildings.

149 Vesting of streets, &c. in urban authority.

All streets, being or which at any time become highways repairable by the inhabitants at large jwithin any urban district, and the pavements stones and other materials thereof, and all buildings implements and other things provided for the purposes thereof, shall vest in and be under the control of the urban authority.

The urban authority shall from time to time cause all such streets to be levelled paved metalled flagged channelled altered and repaired as occasion may require ; they may from time to time cause the soil of any such street to be raised lowered or altered as they may think fit, and may place and keep in repair fences and posts for the safety of foot passengers.

Any person who without the consent of the urban authority wilfully displaces or takes up or who injures the pavement stones materials fences or posts of or the trees in any such street shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding five shillings for every square foot of pavement stones or other materials so displaced taken up or injured ; he shall also be liable in the case of any injury to trees to pay to the local authority such amount of compensation as the court may award.

150 Power to compel paving, &c. of private streets.

Where any street within any urban district (not being a highway repairable by the inhabitants at large) or the carriageway footway or any other part of such street is not sewered levelled paved metalled flagged channelled and made good or is not lighted to the satisfaction of the urban authority, such authority may, by notice addressed to the respective owners or occupiers of the premises fronting adjoining or abutting on such parts thereof as may require to be sewered levelled paved metalled flagged or channelled, or to be lighted, require them to sewer level pave metal flag channel or make good or to provide proper means for lighting the same within a time to be specified in such notice.

Before giving such notice the urban authority shall cause plans and sections of any structural works intended to be executed under this section, and an estimate of the probable cost thereof, to be made under the direction of their surveyor, such plans and sections to be on a scale of not less than one inch for eighty-eight feet for a horizontal plan, and on a scale of not less than one inch for ten feet for a vertical section, and, in the case of a sewer, showing the depth of such sewer below the surface of the ground ; such plans sections and estimate shall be deposited in the office of the urban authority,

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and shall be open at all reasonable hours for the inspection of all persons interested therein during the time specified in such notice ; and a reference to such plans and sections in such notice shall be sufficient without requiring any copy of such plans and sections to be annexed to such notice.

If such notice is not complied with, the urban authority may, if they think fit, execute the works mentioned or referred to therein ; and may recover in a summary manner the expenses incurred by them in so doing from the owners in default, according to the frontage of their respective premises, and in such proportion as is settled by the surveyor of the urban authority, or (in case of dispute) by arbitration in manner provided by this Act ; or the urban authority may by order declare the expenses so incurred to be private improvement

The same proceedings may be taken, and the same powers may be exercised, in respect of any street or road of which a part is or may be a public footpath or repairable by the inhabitants at large as fully as if the whole of such street or road was a highway not repairable by the inhabitants at large.

151 Exemption from expenses under last section of incumbent of church, &c.

The incumbent or minister of any church chapel or place appropriated to public religious worship, which is now by law exempt from rates for the relief of the poor, shall not be liable to any expenses under the last preceding section, as the owner or occupier of such church chapel or place or of any churchyard or burial ground attached thereto, nor shall any such expenses be deemed to be a charge on such church chapel or other place, or on such churchyard or burial ground, or to subject the same to distress execution or other legal process ; and the urban authority may, if they think fit, undertake any works from the expenses of which any such incumbent or minister is hereby exempted.

152 Power to declare private streets when sewered, &c. to be highways.

When any street within any urban district not being a highway repairable by the inhabitants at large has been sewered levelled paved flagged metalled channelled and made good and provided with proper means of lighting to the satisfaction of the urban authority, such authority may, if they think fit, by notice in writing put up in any part of the street, declare the same to be a highway, and thereupon the same shall become a highway repairable by the inhabitants at large ; and every such notice shall be entered among the proceedings of the urban authority.

Provided that no such street shall become a highway so repairable, if within one month after such notice has been put up the proprietor or the majority in number of proprietors of such street, by notice in writing to the urban authority, object thereto, and in ascertaining such majority joint proprietors shall be reckoned as one proprietor.

153 Power to require gas and water pipes to be moved.

Where for any purpose of this Act any urban authority deem it necessary to raise sink or otherwise alter the situation of any water or gas pipes mains plugs or other waterworks or gasworks laid in or under any street, they may by notice in writing require the owner of the pipes mains plugs or works -to raise sink or otherwise alter the situation of the same in such manner and within such reasonable time as is specified in the notice ; the expenses of or connected with any such alteration shall be paid by

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the urban authority ; and if such notice is not complied with the urban authority may themselves make the alteration required:

Provided—

That no such alteration shall be required or made which will permanently injure any such pipes mains plugs or works or prevent the water or gas from flowing as freely and conveniently as usual; and

That where under any local Act of Parliament the expenses of or connected with the raising sinking or otherwise altering-the situation of any water or gas pipes mains plugs or other waterworks or gasworks, are directed to be borne by the owner of such pipes or works, his liability in that respect shall continue in the same manner and under the same conditions in all respects as if this Act had not been passed.

154 Power to purchase premises for improvement of streets.

Any urban authority may purchase any premises for the purpose of widening opening enlarging or otherwise improving any street or (with the sanction of the Local Government Board) for the purpose of making any new street.

155 Power to regulate line of buildings.

When any house or building situated in any street in an urban district, or the front thereof, has been taken down, in order to be rebuilt or altered, the urban authority may prescribe the line in which any house or building, or the front thereof, to be built or rebuilt in the same situation shall be erected, and such house or building, or the front thereof, shall be erected in accordance therewith.

The urban authority shall pay or tender compensation to the owner or other person immediately interested in such house or building for any loss or damage he may sustain in consequence of his house or building being set back or forward, the amount of such compensation, in case of dispute, to be settled by arbitration in manner provided by this Act.

156 Buildings not to be brought forward.

It shall not be lawful in any urban district, without the written consent of the urban authority, to bring forward any house or building forming part of any street, or any part thereof beyond the front wall of the house or building on either side thereof, nor to build any addition thereto beyond the front of the house or building on either side of the same. Any person offending against this enactment shall be liable to a penalty not exceeding forty shillings for every day during, which the offence is continued after written notice in this behalf from the urban authority.

157 Power to make byelaws respecting new buildings, &c.

Every urban authority may make byelaws with respect to the following matters ; (that is to say,)

- (1) With respect to the level width and construction of new streets, and the provisions for the sewerage thereof :

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- (2) With respect to the structure of walls foundations roofs and chimneys of new buildings for securing stability and the prevention of fires, and for purposes of health :
- (3) With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings :
- (4) With respect to the drainage of buildings, to waterclosets earth closets privies ashpits and cesspools in connexion with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation:

And they may further provide for the observance of such byelaws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposit of plans and sections by persons intending to lay out streets or to construct buildings, as to inspection by the urban authority, and as to the power of such authority (subject to the provisions of this Act) to remove alter or pull down any work begun or done in contravention of such byelaws : Provided that no byelaw made under this section shall affect any building erected in any place (which at the time of the passing of this Act is included in an urban sanitary district) before the Local Government Acts came into force in such place, or any building erected in any place (which at the time of the passing of this Act is not included in an urban sanitary district) before such place becomes constituted or included in an urban district, or by virtue of any order of the Local Government Board subject to this enactment.

The provisions of this section and of the two last preceding sections shall not apply to buildings belonging to any railway company and used for the purposes of such railway under any Act of Parliament.

158 As to commencement of works and removal of works made contrary to byelaws.

Where a notice plan or description of any work is required by any byelaw made by an urban authority to be laid before that authority, the urban authority shall, within one month after the same has been delivered or sent to their surveyor or clerk, signify in writing their approval or disapproval of the intended work to the person proposing to execute the same ; and if the work is commenced after such notice of disapproval, or before the expiration of such month without such approval, and is in any respect not in conformity with any. byelaw of the urban authority, the urban authority may cause so much of the work as has been executed to be pulled down or removed.

Where an urban authority incur expenses in or about the removal of any work executed contrary to any byelaw, such authority may recover in a summary manner the amount of such expenses either from the person executing the works removed or from the person causing the works to be executed, at their discretion.

Where an urban authority may under this section pull down or remove any work begun or executed in contravention of any byelaw, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable in respect of any byelaw to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the byelaw shall be deemed to be a continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of one year from the day when the offence was committed or the byelaw was broken.

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159 What to be deemed a new building.

For the purposes of this Act the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground floor, or 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, shall be considered the erection of a new building.

160 Incorporation of certain provisions of 10 & 11 Vict. c. 34.

The provisions of the Towns Improvement Clauses Act, 1847, with respect to the following matters ; that is to say,

- (1) With respect to naming the streets and numbering the houses ; and
 - (2) With respect to improving the line of the streets and removing obstructions : and
 - (3) With respect to ruinous or dangerous buildings ; and
 - (4) With respect to precautions during the construction and repair of the sewers streets and houses,
- shall, for the purpose of regulating such matters in urban districts, be incorporated with this Act.

Notices for alterations under the sixty-ninth, seventieth, and seventy-first sections, directions under the seventy-third section, and orders under the seventy-fourth section of the said Towns; Improvement Clauses Act, may, at the option of the urban authority, be served on owners instead of occupiers, or on owners as well as occupiers, and the cost of works done under any of these sections may, when notices have been so served on owners, be recovered from owners instead of occupiers ; and when such cost is recovered from occupiers so much thereof may be deducted from the rent of the premises where the work is done as is allowed in the case of private improvement rates under this Act.

Lighting Streets, &c.

161 Powers of urban authority for lighting their district.

Any urban authority may contract with any person for the supply of gas, or other means of lighting the streets markets and public buildings in their district, and may provide such lamps lamp posts and other materials and apparatus as they may think necessary for lighting the same.

Where there is not any company or person (other than the urban-authority) authorised by or in pursuance of any Act of Parliament, or any order confirmed by Parliament, to supply gas for public, and private purposes, supplying gas within any part of the district of such authority, such authority may themselves undertake to supply gas for such purposes or any of them throughout the whole or any part of their district ; and if there is any such company or person so supplying gas, but the limits of supply of such company or person include part only of the district, then the urban authority may themselves undertake to supply gas throughout any part of the district not included within such limits of supply.

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Where an urban authority may under this Act themselves, undertake to supply gas for the whole or any part of their district, a provisional order authorising a gas undertaking may be obtained by such authority under and subject to the provisions of the Gas and Water Works Facilities Act, 1870, and any Act amending the same ; and in the construction of the said Act the term " the undertakers " shall be deemed to include any such urban authority: Provided that for the purposes of this Act the Local Government Board shall throughout the said Act be deemed to be substituted for the Board of Trade.

162 Power for sale of undertaking of gas company to urban authority.

For the purpose of supplying gas within their district or any part thereof either for public or private purposes any urban authority may (with the-sanction of the Local Government Board) buy, and the directors of any gas company, in pursuance, in the case of a company registered under the Companies Act, 1862, of a special resolution of the members passed in manner provided by that Act, and in the case of any other company, of a resolution passed by a majority of three fourths in number and value of the members present, either personally or by proxy, at a meeting specially convened with notice of the business to be transacted, may sell and transfer to such authority, on such terms as may be agreed on between such authority and the company, all the rights powers and privileges and. all or any of the lands premises works and other property of the company, but subject to all liabilities attached to the same at the time of such purchase.

163 Watching and Lighting Act (3 & 4 W. 4 c. 90) to be superseded by this Act.

Where in any place which after the passing of this Act becomes constituted or included in an urban district, or which by virtue of any order of the Local Government Board becomes subject to this enactment, the Act passed in the fourth year of the reign of King William the Fourth, intituled " An Act to " repeal an Act of the eleventh year of His late Majesty King " George the Fourth, for the lighting and watching of parishes " in England and Wales, and to make other provisions in lieu " thereof," has been adopted, the said Act shall be superseded by this Act, and all lamps lamp posts gas pipes fire engines hose and other property vested in the inspectors for the time being under the said Act shall vest in the authority having under this Act jurisdiction in such place.