



Public Health Act 1875

1875 CHAPTER 55

PART X

MISCELLANEOUS AND TEMPORARY PROVISIONS.

Miscellaneous.

305 Entry on lands for purposes of Act.

Whenever it becomes necessary for a local authority or any of their officers to enter examine or lay open any lands or premises for the purpose of making plans surveying measuring taking levels making keeping in repair or examining works, ascertaining the course of sewers or drains, or ascertaining or fixing boundaries, and the owner or occupier of such lands or premises refuses to permit the same to be entered upon examined or laid open for the purposes aforesaid or any of them, the local authority may, after written notice to such owner or occupier, apply to a court of summary jurisdiction for an order authorising the local authority to enter examine and lay open the said lands and premises for the purposes aforesaid or any of them.

If no sufficient cause is shown against the application the court may make an order accordingly, and on such order being made the local authority or any of their officers may, at all reasonable times between the hours of nine in the forenoon and six in the afternoon, enter examine or lay open the lands or premises mentioned in such order, for such of the said purposes as are therein specified, without being subject to any action or molestation for so doing: Provided that, except in case of emergency, no entry shall be made or works commenced under this section unless at least twenty-four hours notice of the intended entry, and of the object thereof, be given to the occupier of the premises intended to be entered.

306 Penalty on obstructing execution of Act.

Any person who wilfully obstructs any member of the local authority, or any person duly employed in the execution of this Act, or who destroys pulls down injures or defaces any board on which any byelaw notice or other matter is inscribed, shall, if the

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same was put up by authority of the Local Government Board or of the local authority, be liable for every such offence to a penalty not exceeding five pounds.

Where the occupier of any premises prevents the owner thereof from obeying or carrying into effect any provisions of this Act, any justice to whom application is made in this behalf shall, by order in writing, require such occupier to permit the execution of any works required to be executed, provided that the same appear to such justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act; and if within twenty-four hours after the making of the order such occupier fails to comply there with, he shall be liable to a penalty not exceeding five pounds for every day during the continuance of such non-compliance.

If the occupier of any premises, when requested by or on behalf of the local authority to state the name of the owner of the premises occupied by him, refuses or wilfully omits to disclose or wilfully mis-states the same, he shall (unless he shows cause to the satisfaction of the court for his refusal) be liable to a penalty not exceeding five pounds.

307 Penalty on damaging works, &c. of local authority.

Any person who wilfully damages any works or property belonging to any local authority shall, in cases where no other penalty is provided by this Act, be liable to a penalty not exceeding five pounds.

308 Compensation in case of damage by local authority.

Where any person sustains any damage by reason of the exercise of any of the powers of this Act, in relation to any matter as to which he is not himself in default, full compensation shall be made to such person by the local authority exercising such powers; and any dispute as to the fact of damage or amount of compensation shall be settled by arbitration in manner provided by this Act, or if the compensation claimed does not exceed the sum of twenty pounds, the same may at the option of either party be ascertained by and recovered before a court of summary jurisdiction.

309 Compensation in certain cases to officers.

If any officer of any trustees commissioners or other body of persons intrusted with the execution of any local Act, whether acting exclusively under the local Act, or partly under the local Act and partly under the Local Government Acts, or any officer of any sanitary authority under the sanitary Acts by this Act repealed, or of any local authority under this Act, is, by or in pursuance of the Public Health Act, 1872, or of this Act, or of any provisional order made in pursuance of either of those Acts, removed from his office, or deprived of the whole or part of the emoluments of his office, and does not afterwards receive remuneration to an equal amount in respect of some office or employment under or by the authority of any district under this Act, the Local Government Board may by order award to such officer such compensation as the said Board may think just; and such compensation may be by way of annuity or otherwise, and shall be paid by the local authority of the district in which such officer held his office out of any rates applicable to the general purposes of this Act within that district.

310 Provision where improvement Act district or local government district becomes a borough.

Where after the passing of this Act a district or part of a district under the jurisdiction of improvement commissioners, or a district or part of a district under the jurisdiction of a local board, is constituted or included in a borough, all the powers rights duties capacities liabilities obligations and property exercisable by attaching to or vested in such improvement commissioners or local board (as the case may be) under this Act, or under any local Act for purposes the same as or similar to those of this Act, or under any general Act of Parliament, within or for the benefit of such district or part of a district, shall pass to and be exercisable by and vested in the council of such borough.

The transfer by virtue of the Public Health Act, 1872, of the powers rights duties capacities liabilities obligations and property of any local board or improvement commissioners to an urban sanitary authority, shall be deemed to have included all powers rights duties capacities liabilities obligations and property exercisable by attaching to or vested in such local board or improvement commissioners as a burial board under any general Act of Parliament.

311 Power of local boards to change name.

Any local board constituted either before or after the passing of this Act may, with the sanction of the Local Government Board, change their name. Every such change of name shall be published in such manner as the Local Government Board may direct. No such change of name shall affect any rights or obligations of the local board, or render defective any legal proceedings instituted by or against the local board ; and any legal proceedings may be continued or commenced-against the local board by their new name which might have been continued or commenced against the local board by their former name.

312 As to election of certain improvement commissioners, &c.

The retirement and mode of election of members of any authority invested by any local Act with powers of town government and rating, whose retirement and mode of election were at the time of the passing of this Act regulated by the Local Government Acts, shall be regulated in all respects by the rules for election of local boards contained in Schedule II to this Act; but this enactment shall not affect the qualification fixed for members of such authority by-the local Act under which such authority are constituted, or the qualification and tenure of office of any ex-officio members of such authority.

313 Substitution in other Acts of provisions of this Act for provisions of repealed Acts.

Where in any Act, or order made by one of Her Majesty's Principal Secretaries of State or by the Local Government Board and in force at the time of the passing of this Act, or in any document, any provisions of any of the Sanitary Acts which are repealed by this Act are mentioned or referred to, such Act order or document shall be read as if the provisions of this Act applicable to purposes the same as or similar to those of the repealed provisions were therein mentioned or referred to instead of such repealed provisions and were substituted for the. same ; nevertheless those substituted provisions shall have effect subject to any modification or restriction in such Act order or document expressed in relation to the repealed provisions therein mentioned or referred to.

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314 Byelaws as to hop-pickers.

Any local authority may, if they think fit, make byelaws for securing the decent lodging and accommodation of persons engaged in hop-picking within the district of such authority.

315 As to byelaws inconsistent with this Act.

Any byelaw made by any sanitary authority under the Sanitary Acts which is inconsistent with any of the provisions of this Act shall so far as it is inconsistent therewith be deemed to be repealed.

316 As to construction of incorporated Acts.

In the construction of the provisions of any Act incorporated with this Act the term "the special Act " includes this Act, and, in the case of the Lands Clauses Consolidation Acts, 1845, 1860, and 1869, any order confirmed by Parliament and authorising the purchase of lands otherwise than by agreement under this Act ; the term " the limits of the special Act " means the limits of the district ; and the urban or rural authority shall be deemed to be "the promoters of the undertaking," " the commissioners," or "the undertakers," as the case may be.

All penalties incurred under the provisions of any Act incorporated with this Act shall be recovered and applied in the same way as penalties incurred under this Act.

317 Construction of schedules.

The schedules to this Act shall be read and have effect as part of this Act.

The forms contained in Schedule IV to this Act, or forms, to the like effect, varied as circumstances may require, may be used and shall be sufficient for all purposes.

Temporary Provisions.

318 As to clerk and treasurer of certain authorities.

Nothing in this Act shall affect the rights or position of any clerk or treasurer the tenure of whose office is regulated by section twelve of the Public Health Act, 1872.

319 As to special district rates.

Nothing in this Act shall affect the making and levying of any special district rates, or the discharge of sums borrowed on the credit of any special district rates, or any right or remedy for the recovery of the same, under any provision of the Local Government Acts in force at the time of the passing of this Act.

320 Division of expenses between landlord and tenant in certain cases.

Where under the provisions of any local Act in. that : behalf any expenses directed by this Act to be paid in the case of a council of a borough out of the borough fund or borough rate were, before the passing of the Public Health Act, 1872, divided between landlord and tenant in moieties or otherwise, the Local Government Board may, on the

application either of landlord or tenant, by order make provision for the continuance of such division of expenses during the continuance of any contract existing between them at the passing of the last-mentioned Act.

321 Validity of certain securities.

Where by any sanction to a loan given or by any provisional order made under the Sanitary Acts, it is directed that the sums borrowed shall be repaid within a limited period of years from the date of the borrowing thereof, any security which has been given for a sum so borrowed shall not be invalid by reason of the sum having been made repayable within a period less than the period so limited.

322 As to certain turnpike trustees.

Where by any local Act powers' are conferred on any turnpike trustees for any purposes the same as or similar to any of the purposes of the Sanitary Acts or of this Act, such trustees; shall not be deemed to be an urban authority under this Act, but all their powers and obligations under such local Act for such purposes shall be transferred to the local authority within whose district the area to which such local Act applies is contained.

323 As to main sewerage districts and joint sewerage boards.

Where any district has been constituted in pursuance of the provisions of the Public Health Act, 1848, for the purposes of main sewerage only, or where a district has been formed subject to the jurisdiction of a joint sewerage board in pursuance of the Sewage Utilization Act, 1867, the Local Government Board may by provisional order dissolve such district, or may constitute such district a united district subject to the jurisdiction of a joint board in manner provided by this Act, without application previous to the making of any such order; and until an order has been made by the Local Government Board under this section, the authority of any such district shall continue to be the authority thereof and their members shall be elected as if this Act had not passed: Provided that the provisions of this Act applicable to purposes the same as or similar to those of any enactments of the Sanitary Acts which are in force within the district of any such authority at the time of the passing of this Act and are repealed by this Act shall be deemed to be substituted for those enactments.

Any order made under this section may if necessary provide for the settlement of any differences or the adjustment of any accounts or the apportionment of any liabilities arising between districts parishes or other places in consequence of the exercise of any of the powers conferred by this section, and may direct the persons by and to whom any moneys found to be due are to be paid and the mode of raising such moneys.

324 As to audit of certain accounts.

The accounts of any urban or rural sanitary authority under the Sanitary Acts by this Act repealed, not audited at the time of the passing of this Act, shall be deemed for the purposes of audit to be accounts of such authority under this Act.

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325 As to certain orders under section 20 of 35 & 36 Vict. c. 79.

The power conferred by section twenty of "The Public Health Act, 1872" of temporarily constituting a port sanitary authority shall be deemed to have authorised a renewal from time to time of any order made under that section.