



Public Health Act 1875

1875 CHAPTER 55

PART XI

SAVING CLAUSES AND REPEAL OF ACTS.

Saving Clauses.

326 Provision as to the sanitary authorities existing at the passing of this Act and their officers, &c.

All urban sanitary authorities and rural sanitary authorities existing at the time of the passing of this Act shall be deemed to be urban authorities and rural authorities under this Act; and all joint boards, port sanitary authorities, committees of rural sanitary authorities, and parochial committees, and all local government districts constituted in pursuance of the Sanitary Acts, and existing at the time of the passing of this Act, shall be deemed to be joint boards, port sanitary authorities, committees of rural sanitary authorities, and parochial committees, and local government districts under this Act; and the members of all the above-mentioned bodies shall hold office (subject to the provisions of this Act respecting the election of members of local boards) for such time as they would respectively have held office if this Act had not been passed ; and the officers and servants of all the above-mentioned bodies shall continue to hold their several offices and employments on the same terms and subject to the same conditions, as to duties remuneration and otherwise, as they would have held them if this Act had not been passed ; and all byelaws duly made under any of the Sanitary Acts by this Act repealed and not inconsistent with any of the provisions of this Act shall be deemed to be byelaws under this Act; and all the provisions of this Act shall apply to all such bodies existing at the time of the passing of this Act, and to their several officers and servants, in substitution for the provisions of the Sanitary Acts by this Act repealed, but so as not to affect any right acquired or liability incurred under the Sanitary Acts, or any of them, before the passing of this Act, and existing at the time of the passing of this Act.

Status: This is the original version (as it was originally enacted).

327 Saving for works and property of certain authorities, and for navigation and water rights, &c.

Nothing in this Act shall be construed to authorise any local authority—

- (1) To use injure or interfere with any sluices floodgates sewers groynes or sea defences or other works, already or hereafter made under the authority of any commissioners of sewers appointed by the Crown, or any sewers or other works already or hereafter made and used by any body of persons or person for the purpose of draining preserving or improving land under any local or private Act of Parliament, or for the purpose of irrigating land ; or
- (2) To disturb or interfere with any lands or other property vested in the Lord High Admiral of the United Kingdom or the Commissioners for executing the office of the Lord High Admiral for the time being or in Her Majesty's Principal Secretary of State for the War Department for the time being ; or
- (3) To interfere with any river canal dock harbour lock reservoir or basin, so as to injuriously affect the navigation thereof, or the use thereof, or to interfere with any towing-path so as to interrupt the traffic thereof, in cases where any body of persons or person are or is by virtue of any Act of Parliament entitled to navigate on or use such river canal dock harbour lock reservoir or basin, or to receive any tolls or dues in respect of the navigation thereon or use thereof ; or
- (4) To interfere with any watercourse in such maimer as to injuriously affect the supply of water to any river canal dock harbour reservoir or basin, in cases where any such body of persons or person as last aforesaid would, if this Act had not passed, have been entitled by law to prevent or be relieved against such interference ; or
- (5) To interfere with any bridges crossing any river canal dock harbour or basin, in cases where any body of persons or person are or is authorised by virtue of any Act of Parliament to navigate or use such river canal dock harbour or basin, or to demand any tolls or dues in respect of the navigation thereon or use thereof ; or
- (6) To execute any works in through or under any wharves quays docks harbours or basins, to the exclusive use of which any body of persons or person are or is entitled by virtue of any Act of Parliament, or for the use of which any body of persons or person are or is entitled by virtue of any Act of Parliament to demand any tolls or dues,—

Without the consent in every case of such Lord High Admiral or Commissioners for executing the office of Lord High Admiral, Secretary of State, commissioners, body of persons or person as are herein-before in that behalf respectively mentioned, such consent to be expressed in writing in the case of a corporation under their common seal, and in the case of any body of persons not being a corporation under the hand of their clerk or other duly authorised officer or agent. And nothing in this Act shall prejudice or affect the rights privileges powers or authorities given or reserved to any person under such local or private Acts for draining preserving or improving land as are in this section mentioned.

328 Reference to arbitration in case of works not within preceding section.

Where any matters or things proposed to be done by any local authority, and not being within the prohibition aforesaid, interfere with the improvement of any river canal dock harbour lock reservoir basin or towing-path which any body of persons or person are or is entitled by virtue of any Act of Parliament to navigate on or use, or in respect

of the navigation whereon or use whereof to demand any tolls or dues, or interfere with any works belonging to such river -canal dock harbour or basin, or with any land necessary for the enjoyment or improvement thereof, the local authority shall give to such body of persons or person a notice specifying the particulars of the matters and things so intended to be done. If the parties on whom such notice is served do not consent to the requisitions thereof, the matter in difference shall be referred to arbitration ; and the following questions shall be decided by such arbitration ; (that is to say,) .

- (1) Whether the- matters or things proposed to be done by the local authority will cause any injury to such river canal dock harbour basin towing-path works or land, or to the enjoyment or improvement of such river canal dock harbour or basin as aforesaid :
- (2) Whether any injury that may be caused by such matters or things, or any of them, is or is not of a nature to admit of being fully compensated by money.

329 Effect of arbitration.

The result of any such arbitration shall be final, and the local authority shall do as follows ; (that is to say,)

- (1) If the arbitrators are of opinion that no injury will be caused, the local authority may forthwith proceed to do the proposed matters and things :
- (2) If the arbitrators are of opinion that injury will be caused, but that such injury is of a nature to admit of being fully compensated by money, they shall proceed to assess such compensation ; and on payment of the amount so assessed, but not before, the local authority may proceed to do the proposed matters and things :
- (3) If the arbitrators are of opinion that injury will be caused, and that it is not of a nature to admit of being fully compensated by money, the local authority shall not proceed to do any matter or thing in respect of which such opinion may be given.

330 Provision as to transfer of powers, &c.

No transfer of powers and privileges under this Act shall deprive any body of persons or person authorised by virtue of any Act of Parliament to navigate on any river or canal, or to demand for their or his own benefit in respect of such navigation any tolls or dues, of such powers and privileges as are vested in them by any Act of Parliament in relation to such river or canal.

331 Provision as to alteration of sewers.

Any body of persons or person authorised by virtue of any Act of Parliament to navigate on or use any river canal dock harbour or basin, or to demand any tolls or dues in respect of the navigation on such river or canal, or the use of such dock harbour or basin, may, at their own expense, and on substituting other sewers drains culverts and pipes equally effectual, and certified as such by the surveyor to the local authority, take up, divert, or alter the level of any sewers drains culverts or pipes constructed by any local authority, and passing under or interfering with such rivers canals docks harbours or basins, or the towing-paths thereof, and may do all such things as may be necessary for carrying into effect such taking up diversion or alteration.

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

332 Saving for water rights generally.

Nothing in this Act shall be construed to authorise any local authority to injuriously affect any reservoir canal river or stream or the feeders thereof or the supply quality or fall of water contained in any reservoir canal river stream or in the feeders thereof, in cases where any body of persons or person would, if this Act had not passed, have been entitled by law to prevent or be relieved against the injuriously affecting such reservoir canal river stream feeders or such supply quality or fall of water, unless the local authority first obtain the consent in writing of the body of persons or person so entitled as aforesaid.

333 Arbitration as to alteration of sewers injuriously affecting supply of water, &c.

Any difference of opinion that may arise between a local authority and any such body of persons or person as aforesaid, whether any sewers drains culverts or pipes substituted under the powers of this Act for sewers drains culverts or pipes constructed or laid down by any local authority are equally effectual with those for which they are substituted, or whether the supply quality or fall of water in any such reservoir canal river or stream as last aforesaid is injuriously affected by the exercise of powers under this Act, may, at the option of the party complaining, be determined by arbitration in manner by this part of this Act provided. The arbitrators shall decide the same questions as to the alleged injury, and the local authority shall proceed in the same way as is by this Act provided with regard to arbitrations in cases of alleged injury to rivers canals docks harbours and basins.

334 Saving for mines, &c.

Nothing in this Act shall be construed to extend to mines of different descriptions so as to interfere with or to obstruct the efficient working of the same ; nor to the smelting of ores and minerals, nor to the calcining puddling and rolling of iron and other metals, nor to the conversion of pig iron into wrought iron, so as to obstruct or interfere with any of such processes respectively.

335 Saving for collegiate bodies and Government departments.

Any collegiate or other corporate body required or authorised by or in pursuance of any Act of Parliament to divert its sewers or, drains from any river, or to construct new sewers, and any public department of the Government, shall have the like powers and be subject to the like obligations under this Act as they had or were subject to under the Sewage Utilization Act, 1867 ; and for that purpose the provisions of this Act applicable to purposes the same as or similar to those of the Sewage Utilization Act 1865 and the Sewage Utilization Act 1867 shall apply in substitution for the last mentioned provisions.

336 Saving for Metropolitan Board of Works.

Nothing in or done under this Act shall affect any outfall or other works of the Metropolitan Board of Works (although beyond the Metropolis) executed under the Metropolis Management Act, 1855, and the Acts amending the same, or take away, abridge, or prejudicially affect any right power authority jurisdiction or privilege of the Metropolitan Board of Works.

337 Saving for payment in certain cases to local authority.

Nothing in this Act shall affect the payment or recovery of any yearly sum payable at the time of the passing of this Act in pursuance of the Local Government Act 1858 Amendment Act 1861, to any local authority in respect of any premises without their district which have a drain communicating with a sewer within their district: Provided that any such sum shall cease to be payable, if and when the connexion between the drain and the sewer is discontinued, from the time of such discontinuance ; but if after the discontinuance the connexion is re-established, the yearly sum shall again become payable, and so from time to time.

338 Saving for acts of authorities under certain local Acts.

All rates orders acts or things made assessed performed or done, before the passing of this Act, by any authority purporting to act under the powers conferred on them by a Local Act with respect to any sanitary purposes shall be valid, notwithstanding the passing of the Public Health Act, 1872, or of this Act.

339 Saving for certain local boards.

Nothing in this Act shall affect the composition of any local board constituted by any Order in Council or any provisional order made under the Public Health Act, 1848, and confirmed by Parliament, or the qualification or number of members of any such board ; but any such Order in Council, or order so confirmed or the Act confirming any such last-mentioned order, may be repealed altered or amended in manner provided by this Act.

340 Saving for proceedings under local Acts.

Where within the district of a local authority any local Act is in force, providing for purposes the same as or similar to the purposes of this Act, proceedings may be instituted at the discretion of the authority or person instituting the same, either under the local Act or this Act, or under both, subject to these qualifications :

- (1) That no person shall be punished for the same offence both under a local Act and this Act : and
- (2) That the local authority shall not, by reason of any local Act in force within their district, be exempted from the performance of any duty or obligation to which they may be subject under this Act.

341 Powers of Act to be cumulative.

All powers given by this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament law or custom, and such other powers may be exercised in the same manner as if this Act had not passed ; and nothing in this Act shall exempt any person from any penalty to which he would have been subject if this Act had not passed.

Provided that no person who has been adjudged to pay any penalty in pursuance of this Act shall for the same offence be liable to a penalty under any other Act.

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

Oxford.

342 Constitution of local board of the Oxford district.

The local government district of Oxford shall be subject to the jurisdiction of a local board consisting of the vice-chancellor of the University of Oxford and the mayor of Oxford for the time being, of forty-five other members, fifteen to be elected by the university of Oxford, sixteen by the town council of Oxford, and fourteen by the ratepayers of the parishes situated within the area formerly within the jurisdiction of the commissioners, for amending certain mileways leading to Oxford, and making improvements in the university and city of Oxford, the suburbs thereof and the adjoining parish of Saint Clement, and of the members for any parishes or parts of parishes which may have been or may hereafter be added to the Oxford district.

After the passing of this Act, a district formed out of the rural sanitary districts of the city of Oxford, and the Abingdon union, to be termed the " Grandpont district, " shall be defined by an order of the Local Government Board, and on a day to be mentioned in such order, the said district shall form part of the said local government district of Oxford. The election of members of the said local board by the town council and by, the ratepayers of the parishes and parts of parishes respectively shall be conducted at the same time, in the same way, and subject to the same regulations in and subject to which such election is conducted at the time of the passing of this Act.

As regards the district of Cowley now comprised in the said local government district of Oxford, and the district of Grandpont when added to the same district, the chairman of the said local board or, in his absence, the clerk to the local board, shall summon a meeting of the several persons rated to the relief of the poor in respect of hereditaments situated in the said Cowley and Grandpont districts respectively, by public notices under his hand, to be affixed three clear days previously to the principal doors of every church and chapel in the districts, such meeting to be held on the day when the members for the parishes are elected, and at a place in each such district to be fixed by the chairman or clerk, and the appointment of a chairman and all other the business of such meetings shall be conducted as if the meetings respectively were the meetings of a vestry in a parish.

An election of the member for the Grandpont district shall take place as soon as convenient after that district has been added to the Oxford local government district as aforesaid, and he shall continue in office until the next annual election of the said local board.

The fifteen members to be elected by the university shall be elected as follows ; namely, four members shall be elected by the university in convocation, and eleven members shall be elected by the heads and senior resident bursars of the several colleges entitled by any statute of the university or otherwise to matriculate students, and by the heads of the several halls; any member of the university, being of the degree of Master of Arts, Bachelor of-Civil Law, or Bachelor in Medicine, or any superior degree of the university, shall be qualified to be elected ; and the elections shall be conducted by the said university, and by the colleges and halls respectively, at the same time, and in the same way, and subject to the same regulations, in and subject to which guardians of the poor for the university and for the colleges and halls are now or may hereafter be chosen by them respectively, save that in the election of members the heads and bursars of all the colleges and the heads of all the halls shall be summoned by the vice-chancellor for that purpose, and shall be entitled to vote.

Except as above provided, nothing in this Act shall affect the provisions of any order confirmed by Parliament relating to the local government district of Oxford, and in force at the time of the passing of this Act.

Repeal of Acts.

343 Repeal of Acts in Schedule V.

The Acts specified in the first and second parts of Schedule V. to this Act are hereby repealed to the extent in the third column in the said parts of that schedule mentioned, with the following qualification ; (that is to say,)

That so much of the said Acts as is set forth in the third part of that schedule shall be re-enacted in manner therein appearing, and shall be in force as if enacted in. the body of this Act.

Provided also, that this repeal shall not affect—

- (a) Anything duly done or suffered under any enactment hereby repealed ; or
- (b) Any right or liability acquired accrued or incurred under any enactment hereby repealed ; or
- (c) Any security given under any enactment hereby repealed ; or
- (d) Any penalty forfeiture or punishment incurred in respect of any offence committed against any enactment hereby repealed; or
- (e) Any investigation legal proceeding or remedy in respect of any such right liability security penalty forfeiture or punishment as aforesaid ; and any such investigation legal proceeding and remedy may be carried on as if this Act had not been passed.