

**HEALTH (No. 2).**

24° GEO. V., No. XXXVIII.

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**No. 38 of 1933.**

**AN ACT** to amend the Health Act, 1911-1933, in order to enable Local Authorities to Finance and Undertake (either alone or in combination), and to maintain Sewerage and Drainage Works; and for other relative purposes.

[Assented to 4th January, 1934.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Health Act Amendment Act, 1933* (No. 2), and shall be read as one with the Health Act, 1911-1933, hereinafter called "the principal Act." Short title.

2. Section forty of the principal Act is hereby amended by inserting the following words after the words "section ninety-three," in the fifth line of the said section, namely, "and the maintenance of any sewerage works constructed by the local authority under Part IV." Amendment of s. 40 of the principal Act.

Repeal of sub-  
section (1) of  
s. 43, p.a.

3. Subsection (1) of section forty-three of the principal Act is hereby repealed and the following substituted:—

1. (a) Subject to any express provisions of this Act, every local authority may, with the approval of the Governor, from time to time under the borrowing powers conferred by its local governing Act, raise a special loan for any of the purposes of this Act.

(b) Where the purpose of any loan is to provide moneys for the carrying out of any proposed sewerage or drainage works for the benefit of the district, or a portion of the district—

(i) no moneys shall be borrowed until the requirements of Part IV. of this Act have been complied with and the Governor's consent obtained thereto.

(ii) the maximum borrowing limits prescribed by its local governing Act shall not apply where the Governor is satisfied that the scheme is practicable, and that the revenue estimated to be derived therefrom will make it self supporting.

(c) The period for the repayment of any such loan shall not exceed fifty years, and the proceeds of each such loan shall be kept in a separate bank account, and shall not be applied to any purpose other than the purpose aforesaid.

(d) Where a local authority has obtained the consent of the Governor under Part IV. of this Act to the carrying out of any sewerage or drainage works, and has, with the Governor's consent, borrowed or arranged to borrow moneys to carry out the works, the Governor may authorise the Treasurer, on behalf of the State, to guarantee the repayment of any loan so borrowed or to be borrowed, in accordance with the terms and conditions of the loan, if the Governor is satisfied that the local authority is by reason of such guarantee able to obtain more advantageous terms in respect of the loan and that such guarantee is desirable.

(e) The provisions of the preceding paragraph shall also apply to any loan which has been actually arranged by or made to any local authority for the construction of sewerage or drainage works (including apparatus for the bacteriolytic treatment of sewage) since the first day

of November, 1933, under the provisions of the principal Act; provided the Governor is further satisfied that the works are sufficiently general in their scope. In connection with any such guarantee the local authority is authorised on the giving of such guarantee to execute all documents and do all things necessary for varying the terms of any loan made, or agreed to be granted, in order to give effect to and take advantage of any better terms granted by the lender in consideration of the guarantee.

4. Section forty-four of the principal Act is hereby repealed and the following substituted:—

Sec. 44 p.a.  
repealed—New  
section.

Where in any year it becomes necessary to strike a rate for the purpose of providing the interest and sinking fund of any such loan, the local authority shall, under the provisions of its local governing Act, make and levy a special annual rate, but where the local authority has expended loan moneys in the installation of any appliances, drains, pipes, shafts, ventilating shafts and fittings on any lands, and the person responsible for the payment of the cost of such installations enters into an agreement with the local authority under the provisions of this Act for the payment of same the local authority—

- (a) may in lieu of striking a special annual rate in the first instance place all repayments made to the credit of a special fund for the liquidation of the loan by which the moneys expended were raised;
- (b) if such repayments are insufficient to meet the periodical repayments of principal and/or interest on the loan, or to meet any payments to any fund for the liquidation of the loan, the local authority shall levy a special annual rate from time to time, as occasion requires, to make good such deficiency.

5. Subsection (1) of section forty-five of the principal Act is hereby repealed and the following substituted:—

Amendment of  
Subsection (1) of  
s. 45 p.a.

(1) Subject to any express provisions of this Act, with respect to every health rate, sanitary rate, supplementary rate, and special loan rate made and levied under this Act by a local authority, all the provisions of its local governing Act relating to the making, payment, and recovery of general rates shall apply and be deemed to be incorporated with this Act.

Provided that the local authority, in the exercise of its powers conferred by this Part of this Act, may make and levy rates of different amounts in respect of different portions of its district, defined for that purpose by proclamation.

Provided further, that where a local authority has carried out sewerage or drainage works under Part IV. which are of benefit to a particular portion of its district, which was specified at the time of making application for the approval of the Governor, any special loan rate imposed in connection with moneys borrowed for such works may be imposed in respect of land situate within that portion.

Repeal of ss.  
52-63 and s. 75  
p.a.

6. Sections fifty-two to sixty-three, inclusive, and section seventy-five of Part IV. of the principal Act are hereby repealed.

S. 80 p.a. re-  
pealed.

7. Section eighty of the principal Act is hereby repealed and the heading thereto "Division 3—Sewage Works beyond the District" is hereby excised.

S. 81A p.a.  
amended.

8. Section eighty-one A of the principal Act as amended by section thirteen of Act number 30 of 1932 is hereby further amended by deleting all the words after the word "interest," in the first proviso, and substituting the words "shall not exceed by more than one-half per centum the rate of interest payable on the loan."

S. 86 p.a.  
amended.

9. Section eighty-six of the principal Act is amended by adding a subsection as follows:—

(4a) Any such charge may be limited to premises in a particular portion of the area under the control of the local authority.

Sewers vested in  
local authority.  
H.A. 1911-1933,  
s. 52.  
cf. 43 of 1909,  
s. 18.

10. (1.) All public sewers in a district made or to be made at the cost of or acquired or to be acquired by a local authority, with all the works and materials belonging thereto and the management of the same, shall vest in and belong to the local authority.

(2.) The Governor may place under the control of the local authority any public sewer in the district not made at the cost of the local authority.

## 11. A local authority may—

- (a) formulate or combine with any other local authority in formulating a scheme or joint scheme for the construction and maintenance of all sewers, drains, and appliances necessary for carrying away or disposing of or treating any noxious or waste matter within its or their district or districts, or any portion or portions thereof;
- (b) without limiting the generality of the provisions of paragraph (a) formulate a scheme for the installation of, and instal on premises generally or in any specified portion of the district, apparatus for the bacteriolytic treatment of sewage;
- (c) subject to the provisions of this Part exercise beyond the district for the purpose of outfall or distribution of sewage all or any of the powers conferred by this Part of this Act;
- (d) alter or improve any such works from time to time;
- (e) instal on any lands which such works are designed or intended, or capable of serving all such drains, fittings, ventilating shafts, pipes, or tubes as may be necessary effectually to enable noxious or waste matter on the said lands to be discharged into any such sewer.

Power of local authority to construct and maintain sewers. H.A. 1911-1933, s. 53; cf. 43 of 1909, s. 19.

12. (1.) No such sewer or drain or general scheme for the installation of appliances for the bacteriolytic treatment of sewage (other than a sewer or drain for the disposal of storm water) shall be constructed or carried out without the approval of the Governor. Provided that this restriction shall not apply to the construction of any sewer or drain where the Commissioner is first satisfied that the scheme is sound and that the carrying out of the work will not involve an expenditure exceeding one thousand pounds.

Governor's approval necessary to all schemes. cf. 43 of 1909, s. 20.

(2.) For the purpose of obtaining the approval of the Governor, the local authority or authorities concerned shall prepare a general plan and description of the proposed works.

(3.) The general plan shall be on a scale of not less than one inch to two miles, and shall show the character and extent of the works proposed.

(4.) The description shall clearly set forth—

- (a) the object and purpose of the proposed works;

- (b) the mode in which it is proposed to obtain funds for their construction;
- (c) an estimate of their cost;
- (d) a statement of the capital value of the property to be benefited thereby;
- (e) the boundaries of the area proposed to be sewered and particulars of the premises proposed to be served;
- (f) the proposed source of supply of water for carrying out the scheme;
- (g) in the case of a joint scheme, the amount of money proposed to be spent by each local authority concerned.

(5.) The local authority or authorities shall forward such general plan and description to the Commissioner. The Commissioner shall examine the same, and may avail himself of the assistance of any other Government department, or of any officer belonging to any other Government department, in the examination thereof and, after having made such examination, shall report thereon to the Minister.

(6.) The local authority or authorities concerned shall, if required by the Commissioner, furnish details of the proposed works, with the levels thereof, and details of all proposed interferences with any street, road, bridge, culvert, or permanent structure, or with any private property, and such information as he requires.

13. For any of the purposes hereinbefore specified the local authority may by its officers, engineers, agents, or servants enter at all reasonable hours in the daytime any lands, whether within or without its district, and make surveys and take levels.

14. (1.) A notice stating that the application and general plan and description have been forwarded to the Commissioner, and stating in what place copies of the general plan and description have been deposited for inspection, shall be given by the local authority making application to any other local authority whose district is in whole or in part included in the area to be covered by the proposed works.

Power to do Acts preliminary to formulating scheme. cf. 43 of 1909, s. 24.

Plans and specifications. cf. 43 of 1909, s. 24.

(2.) A like notice shall be published by the local authority making application at least once in every week for three weeks—

Advertisement.  
cf. 43 of 1909,  
s. 20.

- (a) in some newspaper circulating generally in the district of the local authority; and
- (b) in the *Gazette*;

(3.) The Minister shall not forward any recommendation to the Governor in connection with any such proposed works until the requirements of the preceding section have been complied with and the Minister shall, when submitting any such application to the Governor, forward therewith a copy—

No scheme to be submitted to Governor until advertisements made.  
cf. 43 of 1909,  
s. 23.

- (a) of all notices given to any local authorities affected; and
- (b) of every newspaper and of the *Gazette* containing any publication of such notices.

15. (1.) Within one month after the last publication of any such notice in the *Gazette*, any corporation or person having any property or interest in the area the subject of the scheme, which is likely to be injuriously affected by the proposed works, may forward to the Minister a petition to the Governor to refuse the application, or to amend or alter the plan thereof, or to make such other order in reference thereto as the petitioner may claim.

Objections.  
cf. 43 of 1909,  
s. 22.

(2.) Every execution of a petition other than by the common seal of a local authority shall be verified by the statutory declaration of some person signing the petition, and no petition shall be received by the Minister unless the same is accompanied by such declaration.

16. A true copy of the application, and of the general plan and description forwarded to the Commissioner, shall be deposited for the inspection, without payment, of any person who desires to inspect the same, at the office of the local authority and also at the office of the Commissioner.

Copies of plans and specifications to be available for inspection.  
cf. 43 of 1909,  
s. 21.

17. After the expiration of two months from the date of the last publication of the notice in the *Gazette* prescribed by section fifteen, if the Minister is satisfied—

Conditions on which Minister may recommend scheme to Governor.  
cf. 43 of 1909,  
s. 23.

- (a) that the provisions of this Act have been complied with; and

- (b) that the revenue or periodical repayments estimated to be derived from the proposed works is sufficient to justify the undertaking; and
- (c) that the works, if carried out in the manner designed, will be of benefit to the district of the local authority, or to that portion of the district of the local authority which the works are designed to serve; and
- (d) that the objections, if any, lodged are not sufficient to require the approval of the Governor to be withheld from the proposed scheme,

he shall submit the general plans, specifications, and estimates to the Governor for approval, and if they are approved, the Governor may forthwith make an order empowering the local authority to undertake the construction of the works, and such order shall be notified in the *Gazette*.

Joint schemes  
apportionment  
of cost and  
maintenance.

18. On the completion of any joint scheme carried out by any two or more local authorities, the cost of such scheme, and the maintenance thereof, shall be apportioned between each of the local authorities concerned on an equitable basis, and in case of disagreement the Governor may decide the amount to be paid by each local authority.

Powers of local  
authority in  
carrying out  
works.  
H.A., 1911-1933,  
s. 53.  
of. 43 of 1909,  
s. 24.

19. For the purpose of the construction, extension, maintenance, repair, alteration, or improvement of any such works, the local authority, and all persons acting with its authority, may enter upon any lands and—

- (a) make surveys and take levels of the same and set out such parts thereof as they may think fit;
- (b) may dig or break up the soil of such lands, and trench and fence in the same, and remove or use any earth, stones, trees, and other things taken therefrom;
- (c) erect buildings, pumping stations, and pumping machinery;
- (d) make, maintain, alter, or discontinue drains and culverts upon any lands authorised to be taken;
- (e) construct, alter, and maintain under any street, and through, across, or under any land any sewer pipes or drains;



- (f) open and break up the soil of any streets or of any land, and excavate and sink trenches for the purpose of laying down, making, and constructing sewers, pipes, and drains therein;
- (g) cause any sewers to discharge upon any such land as may be required by the local authority for that purpose, or to communicate with the sea, or any arm thereof, or with any river or watercourse, either within or without the limits of the district of the local authority.
- (h) open, cleanse, and repair such sewers, pipes, and drains, or alter the position and construction thereof;
- (i) make any sewers or drains from any main sewer laid in any street into any dwelling-house, public or private building or other premises for the purpose of cleansing and draining any such house, building, or premises by means of such sewers or drains;
- (j) do all such other acts, matters, and things as the local authority may deem proper for making, repairing, completing, or improving any such works:

Provided, that nothing herein contained shall authorise the local authority to make use of any sewer, drain, or outfall for the purpose of conveying any sewage or sullage water into any river, natural stream, watercourse, lake, or pond until such sewage or sullage water is freed from all excrementitious or other foul or noxious matter as would affect or deteriorate the purity and quality of the water in the river, stream, watercourse, lake, or pond:

Provided further, that the local authority shall make to every person, or to any other local authority aggrieved, compensation for any actionable damage actually sustained by any such person or local authority through the exercise of the powers conferred by this Act, but any dispute as to the right of such person or local authority to receive compensation or the amount thereof shall be heard and determined by a compensation court duly constituted under the provisions of the Public Works Act, 1902-1927.

#### *Limited or Party Schemes.*

20. (1.) Where the local authority proposes to carry out any sewerage or drainage works which will be of special benefit to a particular portion only of its district, the local authority may decide that the cost of constructing such works (in

Recovery of cost of limited schemes from owners of premises served.  
H.A., 1911-1933.  
s. 53A.

so far as it is not defrayed out of loan moneys) shall be recoverable by action in any court of competent jurisdiction from the owners of rateable lands situated within the aforesaid portion of the district, and such moneys shall be recoverable accordingly: Provided that the respective amounts to be recoverable from the various owners shall be proportionate to the values of the rateable lands owned by them respectively within such portion of the district. No direction or order given or made under this section shall be subject to appeal.

(2.) Any such sums shall be a charge, together with interest at such rate as may be prescribed (but not exceeding by more than one half per centum the rate of interest payable in respect of any loan moneys expended on such works) on the premises to which such sum or sums relate.

21. (1.) When it shall appear to any local authority that the use of any sewer constructed or to be constructed by the local authority will be confined to the owners or occupiers of a limited number of premises, and will not be general, then the local authority may enter into agreements relating to the use of the sewer with the respective owners of such premises.

(2.) Any such agreement shall provide for the drainage into the sewer of sewage and liquid waste from the premises, and may provide for the local authority constructing and providing any drain to connect the premises with the sewer.

(3.) In every such agreement there shall be contained an undertaking on the part of the owner to pay to the local authority such annual sum as may in accordance with the agreement of the parties be necessary to cover—

- (a) a reasonable instalment of a due proportion of the cost of making and providing the sewer and any incidental works;
- (b) interest at such reasonable rate as may be stipulated on such proportion of the cost;
- (c) the expenses of the local authority for the year in maintaining and operating such sewer and works:

Provided that, in so far as the local authority has expended loan moneys on the construction and provision of such sewer and works, the period over which such instalments shall be payable shall not extend beyond the period of

the loan, and the rate of interest to be charged shall not exceed by more than one half per centum that payable on the loan.

(4.) In the event of any person subsequently availing himself of the use of the sewer under agreement with the local authority, any person who has entered into a prior agreement may apply to the local authority for a revision and adjustment of the amount to be paid by him thereunder, and, in the event of no agreement thereon being arrived at within two months, then the application, and all questions connected therewith, shall be deemed to have been referred and submitted by the parties to arbitration under the Arbitration Act, 1895.

(5.) Any amount payable to the local authority under any such agreement shall be and remain until paid a charge upon the premises to which the agreement refers, and on all the owner's estate and interest therein, as if the agreement had contained an express charge to that effect, and the personal obligation to make the payments stipulated for in the agreement, and to perform and observe the terms thereof, shall be binding not only on the original party but on every subsequent owner of the premises, but so that no person shall be personally liable for the making of any payment or the discharge of any obligation which shall accrue due or arise after he has ceased to be owner of the premises.

(6.) The obligations of the local authority under any such agreement shall be enforceable by the owner for the time being of the premises as if they had been entered into with him.

(7.) Nothing in this section shall deprive the local authority of any power of imposing any rate, except in so far as any such agreement as aforesaid may impose a restriction on such power for the benefit of any person liable under or entitled to the benefit of such agreement.

(8.) In the event of the ownership of any premises to which an agreement refers becoming divided between two or more persons, then the benefit and burden of the agreement may be so apportioned and adjusted between the owners as the Minister may determine, and the Minister's determination shall have effect as if embodied in an agreement under this section.

Power to acquire  
land.  
cf. 43 of 1909,  
s. 25.

22. (a) The local authority may take and acquire any land it may from time to time deem necessary for any of the purposes of this Part of this Act. Any such land shall be taken under and subject to the provisions of the Public Works Act, 1902-1927.

(b) If a local authority fails to serve an offer on any claimant against the local authority for compensation under the said Act within the time limited for that purpose by that Act, the Minister may at any time thereafter serve an offer on behalf of the local authority, and such offer shall be deemed to be an offer made by the local authority for the purposes of the said Act.

Duty of local  
authority where  
street broken up.  
cf. 43 of 1909,  
s. 28.

23. When the local authority opens or breaks up the soil or pavement of a street it shall—

(a) with all dispatch complete the work for which it is broken up, and fill in the ground and reinstate and make good the street or pavement so opened or broken up; and

(b) while any portion of such street or pavement continues to be opened up or broken up, cause such portion of the street or pavement to be fenced or guarded, and sufficient light to be kept there at night.

Interfering with  
works of other  
authorities.  
cf. 43 of 1909  
s. 30.

24. If at any time the local authority deems it necessary to raise, sink, or otherwise alter the situation of any tram rails, gas pipes, or gas works, hydraulic, steam, or other pipes, electric or telephone lines, pneumatic pipes or tubes, or other works laid in or under any street, it may by notice in writing require the person to whom the works belong to raise, sink, or otherwise alter the situation of the same in such manner and within such reasonable time as shall be specified in such notice, and the expense attendant on or connected with such alterations shall be paid by the local authority, and if such notice shall not be complied with, the local authority may make the alterations required.

Alteration of  
sewerage works.  
H.A., 1911-1933,  
s. 53.

25. The local authority may open the ground, and change the level or otherwise amend or enlarge any sewer lying under any public or private street or place within the district for better communicating with the main sewer or stormwater drains: Provided that no person shall by means of any such alteration, amendment, or enlargement be deprived of the use and enjoyment of any private sewer or drain which he

shall be entitled to use, but the local authority may at its own cost so construct and alter such private sewer or drain as to render the same as effectual for the purposes for which it was intended as any such sewer or drain may be at the time of such alteration.

26. The local authority may cause any ventilating shaft, pipe, or tube of any sewer or drain to be attached to any wall or building within its district; provided that the mouth of every such shaft, pipe, or tube shall be at least six feet higher than any window or door situated at a distance of thirty feet therefrom, and also make use of the chimney of any public building, or of any factory or any tramway building, for a ventilating shaft or tube: Provided that no ventilating shaft for the purpose of ventilating any sewer shall be attached to a private residence.

Ventilating shafts, etc., may be attached to buildings, etc. cf. 43 of 1909, s. 33.

27. The local authority shall cause to be made a map of all sewerage works in its district, on such scale and with such indications of levels and particulars of sewers and other works as may be prescribed, and shall cause such map to be revised from time to time and such additions made thereto as may show any new sewers, drains, and works, and the date of every revision shall be expressed therein. A copy of every such map shall be kept in the office of the Commissioner, and another copy shall be kept in the office of the local authority, and shall be open at all reasonable times to the inspection of the owner or occupier of any land within the district of the local authority.

Maps of system to be kept. H.A., 1911-1933, s. 55. cf. 43 of 1909, s. 34.

28. The local authority shall cause all sewers and drains under its control to be constructed and kept so as not to be a nuisance or injurious to health, and shall keep the same properly cleansed, and for that purpose may construct, either above or below the ground, such reservoirs, sluices, engines, and fittings as it may think necessary, and may cause all or any of such sewers or drains to connect with and to be emptied into such places as it may think fit, and may cause the sewage and refuse therefrom to be collected for sale or for any purpose whatever, but not so as to create a nuisance.

Sewers to be kept cleansed. H.A., 1911-1933, s. 54. cf. 43 of 1909, s. 32.

29. (1.) As soon as any sewer or any part of the sewer is complete and ready for use, the local authority may by notice in writing demand that the owner or occupier of any land situate in its district and capable, in the opinion of the local authority, of being drained into such sewer, shall construct

Owners or occupiers may be compelled to connect premises when works complete. cf. 43 of 1909, s. 58.

such drains and fittings from and in connection with such land to connect with the sewer as the local authority may determine.

(2.) Such drains and fittings shall be made and attached and be supplied with water according to such plans and directions as the local authority shall deem proper for effectually carrying off all impurities from the land.

Notice to owner or occupier to carry out installation of fittings. cf. 43 of 1909, s. 59.

30. (1.) The local authority may, after giving the prescribed notice to the owner or occupier of any land, require such drains and fittings to be constructed by the owner or occupier within such time as it may limit in that behalf, and may require ventilating shafts, pipes, or tubes to be attached to any building or erected apart from or otherwise than attached to any building and to be connected with the drains.

(2.) If the same shall not be constructed within such time or according to such plans and directions as the local authority shall think proper, the local authority may construct and attach the same, and for that purpose may enter into or upon the land of any such owner or occupier and excavate the ground, and make and construct and attach such drains and fittings, and may attach any such ventilating shafts, pipes, or tubes as aforesaid,

(3.) The local authority may in such case recover from every such owner or occupier in any court of competent jurisdiction, the full amount of the expenses of making such drains and fittings, or attaching or connecting such ventilating shafts, pipes, or tubes, together with interest at such rates as may be prescribed, but not exceeding by more than one half per centum the rate of interest on any loan moneys expended in carrying out such work; and the cost of providing, laying down, constructing, and fixing in readiness for use such drains and fittings shall, as between the owner and occupier of the land, be payable by the owner.

(4.) All such moneys, together with interest as aforesaid, shall be a charge on the lands in respect of which they were expended.

Where the local authority makes installations it may enter into agreements with person responsible for payment of cost. cf. 43 of 1909, s. 61.

31. (1.) Where any owner or occupier of land becomes liable to the local authority for the expense of making drains or fittings, or attaching or constructing ventilating shafts, pipes, or tubes, the local authority may, on the application of the owner or occupier, enter into an agreement with the owner or occupier for the payment of such expenses and any costs

incurred by the local authority in relation to such works, over a period not exceeding the period of any loan from which the moneys expended to pay for the same were derived, or in not more than forty quarterly instalments from the date of the completion of the work, if that period does not exceed the period of the loan.

(2.) Interest from time to time on the amount remaining, to be paid at such rate per centum per annum, not exceeding by more than one half per centum per annum the rate of interest on the loan moneys from which such moneys were expended, and in other cases, at such rate as may be prescribed, shall be added to each instalment, and all such moneys and interest shall be a charge on the land in respect of which such works have been carried out, and may be recovered from any owner of such land with costs.

(3.) The obligation of any occupier under an agreement made pursuant to this section shall cease in respect of any instalments becoming due thereunder after his tenancy shall have determined, but without prejudice to the right of the local authority to recover such instalments from the owner.

32. The owner or occupier of any land in the district of the local authority may, subject to such conditions as the local authority may impose and to the relative by-laws, cause his drains to empty into the covered sewers of the local authority.

Right of owner or occupier to connect drains with sewer.  
H.A., 1911-1933,  
s. 56.

33. The owner or occupier of any land beyond the district of the local authority may cause any sewer or drain from such land to communicate with any sewer of the local authority, on such conditions as the local authority may impose.

Owner or occupier of land outside district may connect if local authority agreeable.  
H.A., 1911-1933,  
s. 58.

34. No person shall, without having previously given one week's written notice to the local authority, construct or alter any drain or fitting connected with any sewer, and no person shall under any circumstances construct or alter any such drain or fitting, except according to the conditions laid down in the by-laws of the local authority and to such plans and in such manner as it may direct.

The local authority to have notice before fittings interfered with or premises connected with sewer.  
43 of 1909,  
s. 62.

Penalty: Fifty pounds.

35. (1.) All drains and fittings connected with any sewer shall from time to time be repaired and cleansed under the inspection or direction of the local authority, at the expense of the owner or occupier of the land in respect of which the said drain shall be constructed, and in case any such owner

Owner or occupier responsible for cleaning private drains.  
43 of 1909,  
s. 63.

or occupier shall neglect to repair or cleanse any such drain according to the direction of the local authority, he shall on conviction for every such offence forfeit and pay a penalty not exceeding ten pounds.

(2.) Subject to any agreement between the owner and occupier of any premises, the cost of repairing drains and fittings shall, as between the owner and occupier, be payable by the owner, and the cost of cleansing drains shall, as between the owner and occupier, be payable by the occupier.

Obstructing or encroaching on sewers.  
cf. 43 of 1909.  
s. 66.

36. (1.) Every person who shall erect, construct, or place any building, wall, fence, or obstruction in, upon, or over or under any sewer, so as to interfere with or injuriously affect such sewer in the carrying away of sewage or drainage, and every person who shall obstruct, fill in, close up, or divert any sewer without the previous consent in writing of the local authority, commits an offence.

Penalty: Twenty pounds and a daily penalty of five pounds for every day during which the offence continues after written notice from the local authority.

(2.) The local authority may perform any works necessary for restoring or reinstating such sewer; and the person offending shall be liable to pay the local authority all expenses incurred in performing such works. All such expenses may be recovered in any court of competent jurisdiction.

Local authority may enforce drainage of un-drained houses.  
Q., 1900, No. 9,  
s. 41.  
H.A., 1911-1933,  
s. 59.

37. (1.) Subject to the express provisions of section twenty-nine, when any house in the district is without a drain sufficient for effectual drainage, the local authority may, by written notice, require the owner or occupier of such house, within a reasonable time therein specified, to make a drain or drains emptying into any sewer of the local authority which is not more than three hundred feet from the curtilage of such house; or, if no such means of drainage are within that distance, then emptying into such place within that distance, and not being under any house, as the local authority directs.

(2.) The local authority may require any such drain or drains to be of such materials and size, and to be laid at such level and in such direction and with such fall as appear to the local authority to be necessary.

(3) If such notice is not complied with, the local authority may, after the expiration of the time specified in the



notice, do the work required, and recover the expenses incurred by it in so doing from the owner.

38. (1.) Subject to the express provisions of section twenty-nine, when there exists in any district any sewer (whether constructed by or under the control of the local authority or not) ready for use and suitable for the removal of sewage on the water-carriage system, then the local authority may, by notice in writing, require the owner of any house or land situated in the district within three hundred feet of the sewer, and capable, in the opinion of the local authority, of being drained into such sewer, to provide for the removal of sewage from such house or land, and for that purpose to construct and provide such drains and fittings as the authority having control of such sewer shall deem necessary, and to connect such drains with the sewer.

Owner may be required to connect premises with public sewer.  
H.A., 1911-1933.  
s. 59A.

(2.) Such drains and fittings shall be constructed and connected and be supplied with water in accordance with the laws and regulations applicable to the sewer, and in conformity with any directions given by the authority controlling the sewer.

(3.) It shall be the duty of any owner to whom any such notice as aforesaid is given to proceed as soon as practicable to comply therewith, and to carry the same into complete effect.

39. (1.) No person shall—

(a) erect any house; or

(b) rebuild any house which has been pulled down to or below the ground floor;

(c) occupy any house so erected or rebuilt

unless or until such drains (if any) as the local authority deems necessary for the effectual drainage of the house are provided to the satisfaction of the local authority.

(2.) Subject to the express provisions of section twenty-nine the drain or drains so to be constructed shall empty into some sewer of the local authority which is within three hundred feet from the curtilage of the house to be built or rebuilt; or, if no such means of draining are within that distance, shall, subject to the by-laws, empty into such place within that distance, not being under any house, as the local authority directs.

Buildings without drains.  
Q., 1900, No. 9,  
s. 43.  
H.A., 1911-1933.  
s. 61.

(3.) Any person who causes any house to be erected or re-built, or any drain to be constructed, contrary to the provisions of this section, shall be liable to a penalty not exceeding fifty pounds and to a daily penalty not exceeding forty shillings.

Making sewers  
and drains under  
private land.  
H.A., 1911-1933,  
ss. 62, 63, 64.

40. Without affecting the provisions of this Act relating to the powers of the local authority in the carrying out of any sewerage and drainage works, and the compulsory connection of any premises to any such works, whenever in the opinion of the local authority it is necessary for the proper drainage of any land or premises to construct a sewer or drain through or under private land, the following provisions shall apply—

- (a) The local authority may by notice in writing to the owner and to the occupier (if any) require him or them to permit such sewers or drains to be made through or under such private land;
- (b) After one month from the service of such notice on the owner and the occupier (if any), the local authority, or any person authorised by the local authority, may make such sewers or drains through or under such private land and may without notice enter into the premises to maintain or repair such sewer or drain.
- (c) Where any sewer or drain is made by or with the authority of the local authority, or the person so authorised, there shall be paid to the owner and to the occupier compensation for any damages occasioned by them in consequence of such works, and in relation to the assessment and determination of such compensation the provisions of the Public Works Act, 1902-1927, shall, with the necessary modifications, apply. There shall be payable to such owner in addition to any sum claimable under the last-mentioned Act all loss which may arise or be consequent upon the exercise by the local authority of any of the powers herein, including the depreciation (if any) in the value of the land through or under which any sewer or drain may be made.
- (d) Subject to the provisions of section twenty and section twenty-one of this Act, all expenses incurred by the local authority or by any person in making any sewer or drain through or under private land,

and any compensation and costs shall be repaid to the local authority or to the person so authorised—

- (a) in the case of drainage of private land or premises by the owner thereof;
- (b) in the case of the drainage of any street, road, or way by the owner of the land and premises fronting or abutting thereon, if the local authority shall so require; and
- (c) as between several owners, in such proportions as the local authority may fix and may be recovered by action in any court of competent jurisdiction.

41. Section one hundred and fifteen of the principal Act is hereby amended by inserting the following further numbered paragraphs after paragraph 2 thereof:—

Amendment of s. 15, p.a. Regulations may be made to implement further powers given in Part IV, as amended.

- (3) Prescribing the purposes for which any drains or sewers shall be used or applied ;
- (4) Prescribing the dimensions, material, form, construction, and arrangement of and the maintenance or alteration of ventilators for drains or sewers;
- (5) Prescribing the disinfection and cleansing of or otherwise dealing with any substance or matter for the discharge thereof into any drain or sewer;
- (6) Prescribing the fees payable for tapping the mains or connecting with the sewers of the local authority;
- (7) Providing for the proper keeping and repair by owners and occupiers of drains and fittings on or communicating with premises owned or occupied by them;
- (8) Prohibiting any alteration or interference with any drains or fittings without the consent of or notice to the local authority;
- (9) Enabling the local authority to repair all such drains or fittings with a view to preventing nuisances and for the efficient working of sewers with which they may communicate;
- (10) Providing for the examination and licensing of persons who perform work in connection with sewers, drains, and fittings; cancellation of such licenses; the prohibition of any other than licensed persons

from fixing, altering, or repairing any drains or fittings, or doing any work in connection with any such sewer;

- (11) Prescribing fees or charges to be paid in respect of such licenses.

The remaining paragraphs in that section from 3 to the end thereof shall be renumbered so as to follow the above paragraph 11 in arithmetical order.

Reprinting of Act with amendments.  
Citation of principal Act as amended.

42. (a) Any reprint of the principal Act shall be done by the Government Printer under the supervision of the Clerk of the Parliaments.

(b) In any reprint of the principal Act—

- (i.) sections ten to forty inclusive of this Act shall be inserted after section fifty-one in Part IV. of the principal Act and shall be numbered fifty-two to eighty-two consecutively;
- (ii.) a new divisional heading shall be inserted before section nine of this Act in any such reprint, namely—

*Division 1—Sewerage and Drainage Schemes.*

- (iii.) a new divisional heading shall be inserted before section twenty-nine of this Act in any such reprint, namely—

*Division 2.—Connection of Premises to Drains and Sewers of Local Authority.*

- (iv.) Division 2 of Part IV. of the principal Act shall be numbered Division 3 instead of Division 2;
- (v.) the remaining sections of the principal Act shall be renumbered in arithmetical order, and the cross references and the Divisional references in section two of the principal Act shall be adjusted;
- (vi.) the principal Act as further amended by this Act may be cited as the Consolidated Health Act, 1911-1933.