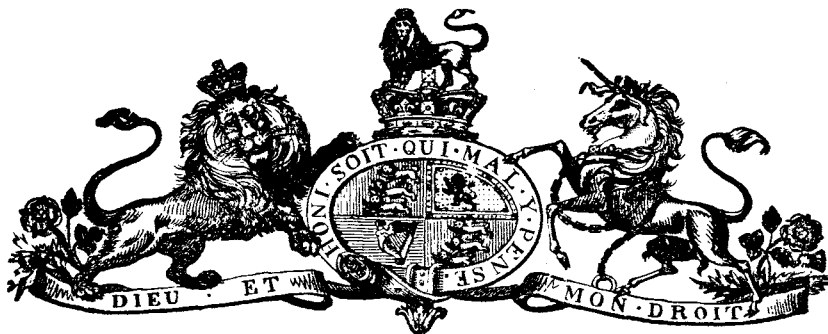


T A S M A N I A.



1903.

ANNO TERTIO

EDWARDI VII. REGIS,

No. 37.

AN ACT to consolidate and amend the Law A.D. 1903.
relating to Public Health.

[6 January, 1904.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as “The Public Health Act, 1903.”

Short Title.

2 In this Act, if not inconsistent with the context,—

Interpretation.

“Abattoir” or “slaughter-house” shall mean and include the buildings and places commonly called abattoirs or slaughter-houses, and also knackers’ yards, and any building or place used for slaughtering cattle, horses, or animals of any description :

Public Health Act, Sect. 6, altered.

“Animal” includes bird :

“Article of food” shall mean not only all alimentary substances, whether solids or liquids, but also all eatables and drinkables whatsoever, and all condiments and articles of confectionery :

“Ashpit” means a receptacle for ashes, dust, or rubbish, fitted with such doors or covering as the local authority prescribes :

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- “Burial of the dead” includes such other mode of disposing of the dead as the Governor from time to time authorises or directs :
- “Cesspool” shall mean any receptacle for night soil or for noxious or offensive matter below or above the ground :
- “Dangerous Infectious Disease” means typhus fever, small-pox, bubonic plague, cholera, and any infectious disease which the Governor upon the recommendation of the Chief Health Officer, by notice in the *Gazette* declares to be a dangerous infectious disease within the meaning of this Act :
- “Department” means the Department of Public Health :
- “Disease,” when used alone, means any disease affecting man, and includes an infectious disease and a dangerous infectious disease :
- “District,” when used alone, means the district of a local authority :
- “Drain” means a drain used solely in connection with any building or premises within the same curtilage, and “sewer” means every other drain or sewer :
- “Drug” shall include medicine for internal or external use :
- “*Gazette*” means the *Hobart Gazette* :
- “House” shall mean and include dwellings of any kind, schools, hotels, public-houses, factories, workrooms, common or other lodging-houses, or other buildings or premises :
- “Infectious Disease” means typhus fever, enteric fever, scarlet fever, small-pox, diphtheria, puerperal-fever, bubonic plague, cholera, or leprosy, and includes every other disease which the Governor upon the recommendation of the Chief Health Officer by notice in the *Gazette* declares to be an infectious disease within the meaning of this Act :
- “Injurious” includes dangerous :
- “Local Authority” means the Municipal Council of every City, and of every Rural Municipality, and the Board of every Town which has been proclaimed or shall be hereafter proclaimed a Town, under and for the purposes of “The Town Boards Act, 1896,” and also every Local Board appointed under the provisions of any Act hereby repealed, or any Local Authority hereafter appointed under the provisions of this Act :
- “Medical Practitioner” means a legally qualified medical practitioner registered in *Tasmania* :
- “Minister” means the responsible Minister of the Crown administering this Act :
- “Offensive” includes noxious :
- “Offensive trade” includes the trades specified or referred to in the Schedule (1.) hereto :
- “Prescribed” means prescribed by regulations made by the Governor under this Act :

Schedule (1.)



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- "Privy" includes earth-closet, water-closet, urinal, and every place for the reception of fæcal matter : A.D. 1903.
- "Public vehicle" means a coach, cab, omnibus, or other vehicle carrying passengers for hire, and includes a tramcar and a railway carriage, coastal and river boats :
- "Secretary to the Local Authority," or any words having the like import, shall mean the Town Clerk of *Hobart* and *Launceston* respectively, the Council Clerk of any Rural Municipality, and the corresponding officer of any Town Board :
- "Street" shall mean and include any highway and any public bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not :
- "This Act" includes regulations made under this Act :
- "Trade" includes business and manufacture.

3— (1.) All references in this Act to a Local authority mean the local authority of the district in which the subject-matter of the reference arises or occurs. References in Act

4 The Acts specified in the Schedule (2.) hereto are hereby repealed: Provided that all Proclamations, orders, regulations, and appointments made by the Governor or the Governor in Council under the repealed Acts and in force at the time of the repeal shall continue in force until they are revoked, altered, or otherwise dealt with by the Governor or Governor in Council under this Act in like manner as if they had been made under this Act : And provided further that such repeal shall not affect— Repeals.
Saving.
Schedule (2.)

- i. Any liability accruing before the commencement of this Act :
- ii. Any penalty incurred, or to be incurred, in respect of any offence committed before the commencement of this Act :
- iii. The institution of any legal proceedings, or any other remedy, for enforcing or recovering any such liability or penalty :
- iv. Any appointment of officers duly made by any Local Board of Health, under any Act hereby repealed, and subsisting at the time this Act commences and takes effect ; and the same shall be deemed to have been made under this Act :

And whenever in any Act the Acts hereby repealed, or any of them, are mentioned, such mention shall hereafter be held and construed to mean and refer to this Act.

Provided also that nothing contained in this Act shall be taken to repeal or alter anything in "The Sanitary Rate Act, 1889," "The Sanitary Rate Amendment Act, 1901," and "The Launceston Local Board of Health Jurisdiction Extension Act, 1902," save and except that where in the said Acts the expression "Local Board of Health," "Local Board," or "Board," are respectively used, the same shall be read and construed as "Local Authority."

5 All By-laws at any time heretofore passed by any Local Authority Existing By-laws, in accordance with the provisions of any Act hereby repealed, and all &c., continued.

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Regulations framed, and all acts, matters, and things done under the authority of any Act hereby repealed, and which are of any force and effect on the day preceding the date on which this Act comes into operation, shall be deemed to have been passed, framed, done and performed under and by virtue of this Act; and all such By-laws and Regulations, so far as they are not inconsistent with this Act, shall continue, until superseded by a By-law or Regulation made under the authority of this Act, to be of the same force and effect as if they had been passed and framed under the authority of this Act.

Act divided into
Parts.

6 This Act is divided into parts relating to the following subject-matters, that is to say—

- Part I.—Preliminary.
- Part II.—Prevention of Infectious Diseases.
- Part III.—Hospitals.
- Part IV.—Mortuaries and Morgues.
- Part V.—Privies, Ashpits, and Drains.
- Part VI.—Scavenging and Cleansing.
- Part VII.—Prevention of Pollution of Watercourses, &c.
- Part VIII.—Sanitary Works by Local Authorities.
- Part IX.—Nuisances.
- Part X.—Offensive Trades.
- Part XI.—Unsound Food.
- Part XII.—Public Buildings.
- Part XIII.—By-laws.
- Part XIV.—Cemeteries and Burial Grounds.
- Part XV.—Prevention of Adulteration of Articles of Food or Drugs.
- Part XVI.—Infant Life Protection.
- Part XVII.—Dwelling Houses.
- Part XVIII.—New Streets and Buildings.
- Part XIX.—Legal Proceedings.

PART I.**PRELIMINARY.**

Department of
Public Health.

7 For the purpose of this Act there is hereby constituted a Department of Public Health; and all expenses incurred by or on behalf of the Department in the administration of this Act shall be payable out of moneys to be provided by Parliament.

Chief Health
Officer.

8 For the purposes of this Act the Governor may appoint a fit person to be Chief Health Officer, and with respect to each such officer the following provisions shall apply :—

- I. He shall in every case be a medical practitioner, with special knowledge of sanitary and bacteriological science :
- II. He shall hold office during the Governor's pleasure :
- III. He shall not engage in private practice, but shall devote himself wholly to the functions and duties of his office :

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iv. He shall have such functions and duties as are prescribed by this Act, or by regulations under this Act : A.D. 1903.

v. Wherever by any Act of Parliament any powers are given to or duties imposed upon the Central Board of Health, such powers shall be exercised by and such duties performed by the Chief Health Officer appointed under this Act.

9—(1.) The Governor may upon the recommendation of the Chief Health Officer from time to time appoint such Assistant Health Officers, Inspectors, and other Officers as he thinks fit, and may define their functions and duties. Assistant Health Officers, Inspectors, and other Officers.

(2.) Each such Officer shall be subject to the control of the Chief Health Officer.

10 The Governor may from time to time, by Proclamation in the *Gazette*, appoint such and so many persons, not less than Three, nor more than Seven, or any existing Public Body, as he may think fit, to be the Local Authority of any such portion of *Tasmania* as may be defined in such Proclamation, and which is not included in the jurisdiction of any Local Authority ; and the Governor may from time to time remove such persons, or Public Bodies, and appoint others in the places of any such persons or Public Bodies so removed. Governor may appoint Local Authorities.

11 In all such portions of *Tasmania* as are out of the jurisdiction of any Local Authority, the Chief Health Officer shall have and exercise all the powers and authorities conferred by this Act upon the Local Authority for carrying out the provisions of this Act in their respective Districts. Where no Local Authority exists, Chief Health Officer to have powers of Local Board.

12 Each Local Authority may, and if recommended by the Chief Health Officer shall, appoint a legally-qualified medical practitioner as Officer of Health for its District, and may with the approval of the Chief Health Officer remove any such officer, and shall thereupon appoint another in his stead. Such Officer of Health shall be paid a sum as remuneration for his services, being not less than Ten Pounds for any year, as such Local Authority fix, and shall perform such duties and in such manner as such Local Authority may from time to time direct, and also such as are specially prescribed by any Minute or Order addressed by the Chief Health Officer to such Local Authority. Officers of Health —appointment and remuneration and duties. 11 & 12 Vict. c. 63, s. 40.

The Local Authorities of Two or more contiguous districts may, with the approval of the Chief Health Officer, join in the appointment of an Officer of Health, and in directing the duties to be performed by such officer and in remunerating him to an amount not less than that hereinbefore mentioned.

If any Local Authority do not appoint or join in appointing an Officer of Health within Two months from the coming into operation of this Act, or from the occurrence of a vacancy in such office, it shall be lawful for the Governor, upon a recommendation from the Chief Health Officer, to appoint an Officer of Health for the District

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of such Local Authority and also to fix a sum as the amount of remuneration, not less than that hereinbefore mentioned, which shall be paid to such Officer of Health, and the sum so fixed shall be a charge upon the General Rates of the District of such Local Authority, and shall be paid to such officer by the Local Authority, and in default of payment may be recovered by action of debt by such officer in any Court of competent jurisdiction. The Chief Health Officer may, by order in writing, remove any Officer of Health, and any Officer of Health so removed shall not be eligible for re-appointment without the previous approval of the Chief Health Officer: Provided that the Chief Health Officer shall not so remove any Officer of Health, except for flagrant misconduct or in case of his neglecting or refusing to carry out any order or orders of the Chief Health Officer so as to interfere with or prevent the efficient administration of this Act, and the Local Authority having first refused to remove him.

Local Authorities
to appoint
officers—duties
—salaries.

11 & 12 Vict.
c. 63, s. 37.

13 The Local Authority shall from time to time appoint such officers, inspectors, and servants as may be necessary for the due carrying out of the provisions of this Act, and shall make such rules specifying the duties and conduct of such officers, inspectors, and servants, as they think necessary; and may remove such officers, inspectors, or servants, as such Local Authority thinks fit; and may direct to be paid to such officers, inspectors, and servants, such wages, salaries, or allowances as such Local Authority deems reasonable, and the same, and all other expenses incurred by Local Authority in the due execution of this Act, shall be paid out of any funds at the disposal of such Local Authority. Provided that any Local Authority may, in lieu of itself appointing an Inspector of Nuisances out of its ordinary funds, contribute towards the salary of an Inspector appointed under this Act.

Inspectors to
carry out in-
structions of
Officer of Health.

14 Officers of Health are hereby empowered to give to any inspector appointed by the Local Authority of their respective Districts such directions and instructions as such officers may deem necessary from time to time for the due execution of this Act, and such inspectors are hereby required to faithfully obey and carry out any such directions or instructions so given.

Officers of Health
to have powers of
Inspectors.

15 Officers of Health shall, in addition to the powers conferred on such officers by this Act, have all the powers hereby conferred on any inspector appointed by the Local Authority of their respective Districts.

No officer to be
concerned in
contract.
Ib., s. 38.

16 No member, officer, inspector, or servant of any Local Authority, shall be concerned or interested directly or indirectly in any bargain or contract entered into by such Local Authority; and if any such member, officer, inspector, or servant is so concerned or interested, or if any such member, officer, inspector, or servant under colour of his office or employment exact, take, or accept any fee or reward whatsoever, other than his proper salary, wages, remuneration, and allowances,

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he shall be incapable of afterwards holding or continuing in any office or employment under this Act, and shall for each such offence incur a penalty not exceeding Fifty Pounds. A.D. 1903.

PART II.**PREVENTION OF INFECTIOUS DISEASES.**

17 The Governor may upon the recommendation of the Chief Health Officer from time to time, by notice in the *Gazette*, declare any disease (other than any of the infectious diseases specifically mentioned in Section Two hereof) to be an infectious disease, or any infectious disease to be a dangerous infectious disease, within the meaning of this Act, and in such case, and so long as the *Gazette* notice remains unrevoked, the disease specified therein shall be deemed to be an infectious disease or a dangerous infectious disease accordingly.

Disease may be declared infectious or dangerous.

18 For the purpose of preventing or checking the spread of any dangerous infectious disease, the Governor may upon the recommendation of the Chief Health Officer from time to time, as he thinks fit, make regulations—

Regulations to prevent the spread of dangerous infectious disease.

- I. For house-to-house visitation, and inspection of the houses, the occupants thereof, and the things therein, as also of the out-buildings, yards, drains, and sewers connected with any house:
- II. For the cleansing and disinfecting of houses, buildings, yards, drains, sewers, and things:
- III. For the ventilating of houses or buildings, or of rooms therein:
- IV. For the registering of hotels, public-houses, and lodging-houses and regulating the number of lodgers that may be kept therein:
- V. For the isolating or disinfecting of persons, houses, buildings, places, and things:
- VI. For the providing of medical aid and accommodation for the sick:
- VII. For the removal and curative treatment of the sick, and for the removal and detention of any other persons:
- VIII. For the speedy burial of the dead:
- IX. For the destruction of insanitary buildings and things:
- X. For the control and direction of ships from infected ports or places, including the berthing and discharge of the ships, and the treatment of the cargo, together with bilge water, drinking water, and ballast of whatever nature:
- XI. For the control and management of any Hospital erected for the accommodation of persons suffering from any dangerous infectious disease, or any place of isolation:

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- xii. Generally for promoting and enforcing all such cleansing, ventilating, disinfecting, and other measures as are deemed necessary in order to prevent or check the spread of infectious disease :

And may by such regulations impose penalties not exceeding Fifty Pounds for any breach of the regulations.

Provided that no city or town as a whole shall be isolated but only infected areas thereof as defined by the Chief Health Officer.

Special provisions
as to such
regulations.

19 With respect to such regulations, the following provisions shall apply :—

- i. The regulations and the Order making them shall be published in the *Gazette*, and in the Order the Governor shall declare that the regulations shall have force and effect within the whole of such specified parts of *Tasmania* as the Minister upon the recommendation of the Chief Health Officer by notice in the *Gazette* from time to time directs in that behalf :
- ii. The Minister may give such direction from time to time, and the direction may relate to the whole or part of the regulation as the Minister may think fit to specify in the notice :
- iii. The regulations to which any such direction relates shall be set forth in the *Gazette* notice, and shall have force and effect within the whole of such specified parts of *Tasmania* as are specified in the *Gazette* notice :
- iv. In so far as the by-laws of any Local Authority in force in any locality are inconsistent with or repugnant to the regulations in force in the same locality the by-laws shall be deemed to be subject to the regulations :
- v. Such regulations shall be laid upon the Table of both Houses of Parliament within Fourteen days after the commencement of the session.

And if in any case any regulation made under this Act shall be disallowed by a resolution of either House of Parliament it shall thereupon become void and cease to have force or effect.

Powers of Chief
Health Officer to
check infectious
disease.

20 In order to check or prevent the spread of any infectious disease, the Chief Health Officer may from time to time, as he thinks fit, exercise the following powers :—

- i. He may, by report to the Local Authority, recommend the Local Authority to exercise any function or power conferred upon the Local Authority by or under this Act :
- ii. He may, by report to the Local Authority, recommend the Local Authority to remedy any sanitary defect or execute any sanitary work within the compass of the powers possessed by the Local Authority under this Act.

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21 With respect to every such report the following provisions shall apply :—

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- i. It shall be under the hand of the Chief Health Officer, and shall specify with reasonable particularity what he recommends the local authority to do, and the reason why it should be done :
- ii. It shall be the duty of the local authority receiving the report to faithfully comply with the recommendation with all possible despatch, and to the satisfaction of the Chief Health Officer ; and if it fails or neglects so to do, he may himself cause the same to be done at the expense in all things of the local authority in default :

Recommendation to local authority to be complied with.

Provided that if the probable expense of any work under this section exceeds One hundred Pounds the Chief Health Officer shall obtain the approval of the Minister before causing the work to be done.

22 In cases of special emergency (whereof he shall be the sole judge) the Chief Health Officer may, without any prior report or recommendation as aforesaid, himself exercise, at the expense in all things of the local authority, any function or power which might lawfully be exercised by the local authority for the purpose of doing anything to prevent or check the spread of any dangerous infectious disease.

In special emergency Health Officer may act.

23 Irrespective of his functions and powers under the two last preceding Sections hereof, the Chief Health Officer may from time to time, exercise the following special powers within or with respect to a health district, or any part thereof, for the purpose of more effectually checking or preventing the spread of any dangerous infectious disease :—

Special powers of Health Officer when authorised by Governor.

- i. He may declare any land, building, or thing to be insanitary, and may forbid any insanitary building to be used or occupied for any purpose :
- ii. He may cause any insanitary building to be pulled down, and the timber and other materials thereof to be destroyed or otherwise disposed of as he thinks fit :
- iii. He may cause insanitary things to be destroyed or otherwise disposed of as he thinks fit :
- iv. He may cause infected animals to be destroyed in such manner as he thinks fit :
- v. He may require persons to report themselves or submit themselves for medical examination at specified times and places :
- vi. He may require persons, places, buildings, ships, animals, and things to be isolated, quarantined, or disinfected as he thinks fit :
- vii. He may forbid persons, ships, animals, or things to come or be brought to any port or place in the health district from any port or place which is, or is supposed to be, infected with any dangerous infectious disease :

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- viii. He may forbid persons to leave the health district or the place in which they are isolated or quarantined until they have been medically examined and found to be free from dangerous infectious disease :
- ix. He may forbid the removal of ships, animals, or things from the health district, or from one port or part thereof to another, or from the place where they are isolated or quarantined, until they have been examined and found to be free from infection :
- x. He may cause places, buildings, animals, and things to be inspected and examined :
- xi. He may require animals, or any specified description thereof, to be kept only in specified parts of the health district, or not be kept at all within the health district, or within a specified distance outside the boundaries thereof :
- xii. He may require watercourses and the sources of water supply to be purified :
- xiii. He may forbid the discharge of sewage, drainage or insanitary matter of any description into any watercourse, stream, lake, or source of water-supply, whether situate in the health district or outside the same :
- xiv. He may cause to be established such hospitals or places of isolation as may be necessary :
- xv. He may, with the approval of the Minister, use or authorise the local authority to use, as a temporary site for a special hospital or place of isolation or quarantine ground, any reserve or endowment suitable for the purpose, whether the same is situate in the health district or outside the same, notwithstanding that such use may conflict with any trusts, enactment, or condition affecting the reserve or endowment :
- xvi. He may exercise any other power conferred upon him by the Governor.

Provided that no city or town as a whole shall be isolated, but only infected areas thereof as defined by the Chief Health Officer.

Assistance and co-operation therein.

24 In the exercise of his functions and powers under the last preceding Section hereof the Chief Health Officer may employ Inspectors and workmen, and shall be entitled to the co-operation and assistance of all Magistrates, Justices, members of the Police Force, and Officers of Marine Boards, and they are hereby enjoined to co-operate and assist accordingly.

Hospitals for treatment of dangerous infectious diseases.

25—(1.) Hospitals for the treatment and isolation of persons suffering from any dangerous infectious disease may be established out of moneys to be provided by Parliament for that purpose.

(2.) The Managing Board or Committee of every public hospital shall, whenever required by the Chief Health Officer, furnish from existing stock all such proper equipment for any hospital established for the treatment of persons suffering from dangerous infectious

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diseases as the Chief Health Officer shall demand, and shall be repaid the cost of replacing the same out of funds provided by Parliament. A.D. 1903.

(3.) In the event of the Chief Health Officer obtaining the services of a Medical Officer, or any nurse of any hospital, the Chairman or Board shall grant such Medical Officer or nurse leave of absence from such hospital during such period as he or she shall be employed for the purposes required by the Chief Health Officer.

26 Every person who—

- i. Obstructs or hinders the Chief Health Officer or assistant or any Inspector in the execution of his functions and powers under the provisions of this Act; or
- ii. Does anything which the Chief Health Officer in the exercise of the aforesaid functions and powers, forbids to be done; or
- iii. Refuses, delays, or neglects to promptly and satisfactorily comply with any direction or requirement of the Chief Health Officer in the exercise of the aforesaid functions and powers,—

shall be liable to a penalty not exceeding Fifty Pounds, and in the case of a continuing offence, to a further penalty not exceeding Ten Pounds for every day on which the offence is continued after the first day.

27—(1.) If the offence consists of not doing any sanitary work, or remedying any sanitary defect, then, irrespective of the penalty to which the offender is liable, the Chief Health Officer may himself cause the work to be done, or the defect to be remedied, at the expense in all things of the offender. On default work may be done at expense of offender.

(2.) All such expenses shall by force of this Act be deemed to be a charge on the land in respect of which they have been incurred.

(3.) All such expenses, as also all penalties under the last preceding Section hereof, shall be recoverable in a summary manner by the Chief Health Officer or any person authorised by him.

28 For the purposes of the provisions of this Act the Chief Health Officer and any Assistant or Inspector may at any time, with or without assistants,— Power to enter on lands and do works.

- i. Enter on lands and buildings, and inspect and examine the same and all things thereon or therein :
- ii. Do on any land or building any sanitary or other work which the Chief Health Officer authorises or directs :
- iii. Generally do with respect to persons, places, land, buildings, animals or things, whatever is necessary or expedient in order to carry out the foregoing provisions of this Act or any direction or requirement of the Chief Health Officer thereunder.

29 In no case shall the Chief Health Officer, or any Assistant or Inspector incur any personal liability by reason of anything lawfully done by him under the powers conferred by this Act. No personal liability.

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Compensation for
building, animal,
or thing destroyed.

30 In every case where, under the provisions or powers of this Act, any building, animal, or thing is destroyed by direction of the Chief Health Officer, the owner shall be entitled to compensation to the extent and subject to the conditions following, that is to say :—

- i. The compensation shall not exceed the actual market value of the building, animal, or thing destroyed.
- ii. If the destruction has been rendered necessary by reason of any breach or neglect of duty, or of the ordinary rules of sanitary carefulness or cleanliness on the part of the owner or of any person for whose acts or defaults the owner is responsible, then no compensation shall be payable :
- iii. If, in the case of buildings, the destruction thereof has been rendered necessary by reason of any such breach or neglect as aforesaid on the part of the occupier of the building, or of any person for whose acts or defaults the occupier is responsible, then the compensation shall be payable by the occupier :
- iv. If the destruction has been rendered necessary by reason of any such breach or neglect aforesaid on the part of the Local Authority, then the compensation shall be payable by such Authority :
- v. If the destruction has been rendered necessary in the interests of the public health, and without any such breach or neglect as aforesaid, then the compensation shall be payable out of moneys to be appropriated by Parliament for the purpose.

Notice of infec-
tious disease.

31 Whenever in any house any person is known to be sick of any infectious disease, or of any sickness the symptoms of which raise a reasonable suspicion that it may be an infectious disease, the following provisions shall apply :—

- i. Where no medical practitioner is in attendance upon the day on which the occupier of the house becomes aware of the nature of the disease of which the patient is sick or is suspected to be sick, the occupier shall give notice thereof to the Local Authority and the Local Authority shall immediately report the same to the Chief Health Officer :
- ii. If the occupier fails or neglects to duly give such notice he shall be liable to a penalty not exceeding Five Pounds :
- iii. The medical practitioner who attends the patient shall, upon the day on which he becomes aware of the nature of the disease or suspected disease, or of a disease which he suspects to be of an infectious nature, give notice thereof to the occupier, and also to the Chief Health Officer, and to the Local Authority ; and for every such notice given to the Chief Health Officer, the medical practitioner shall be entitled to receive out of the Consolidated Revenue Fund the sum of Two shillings :

Penalty.

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- iv. Such notice to the Chief Health Officer and the Local Authority shall be in the form numbered One in the Schedule (3.) hereto: A.D. 1903.
- v. If the medical practitioner fails or neglects to duly give such notices he shall be liable to a penalty not exceeding Twenty-five Pounds:
- vi. Any notice under this Section may be given by post.

32 Whenever, of his own motion or on the report of an Inspector, or any other person, the Chief Health Officer is of opinion that the cleansing or disinfecting of any house or building, or of any articles therein, or of any outbuilding, yard, drain, sewer, privy, or other appurtenance belonging to or connected therewith would tend to prevent or check infectious disease, the following provisions shall apply:—

Power to require cleansing and disinfecting of buildings, &c.

- i. He may, by requisition to the occupier of the house or building, require him to do whatever works are necessary in order that the house, building, articles, or appurtenances may be effectually cleansed and disinfected in the manner and within the time specified in the requisition:
- ii. The occupier is hereby empowered and required to do whatever works are necessary in order to duly comply with the requisition:
- iii. If default is made in duly complying with the requisition within the time specified therein, then the occupier shall be liable to a penalty not exceeding Five Pounds for every day thereafter until the requisite works are duly done:
- iv. If such default occurs the Chief Health Officer shall cause the requisite works to be done at the expense in all things of the occupier, who shall be liable therefor:
- v. All such expenses shall be recoverable by the Chief Health Officer from the occupier in a summary way:
- vi. In the event of any house or building being unoccupied, the owner shall be liable under this Section.

33 The Local Authority of a district may from time to time, and shall if the Chief Health Officer so recommends, do any of the following things; that is to say:—

Local authority may provide for destroying or disinfecting things; also provide vehicles.

- i. Cause to be disinfected or destroyed any bedding, clothing, or other things which have been exposed to infection from any infectious disease, and pay compensation for the things destroyed, such compensation not to exceed their reasonable market value; and also
- ii. Provide and maintain a proper place, with all necessary apparatus and attendance, for the effectual disinfection or destruction of any bedding, clothing, or other things which have been exposed to infection from any infectious disease; and also

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- iii. Provide and maintain a sufficient number of vehicles suitable for the conveyance of infected things to the place of disinfection or destruction ; and also
- iv. Provide and maintain a sufficient number of vehicles suitable for the safe conveyance of persons suffering from any infectious disease to a hospital or other appointed destination.

Restrictions on
use of such
vehicles.

34 For the purposes of the last preceding Section hereof the following provisions shall apply :—

- i. Vehicles for the conveyance of infected things shall not be used for the conveyance of infected persons :
- ii. Forthwith after being used for the conveyance of infected persons or things the vehicle shall be effectively disinfected :
- iii. A vehicle which has been used for the conveyance of infected persons or things shall not be used for any other purpose until the Chief Health Officer or an Inspector certifies in writing that it has been effectively disinfected, and can safely be used :
- iv. If any vehicle is used in breach of this Section every person who so uses it, or who permits it to be so used, shall be liable to a penalty not exceeding Ten Pounds :
- v. The work of providing and maintaining vehicles, and of disinfecting and destroying infected things, and of conveying infected persons and things, shall be done by the Local Authority at its own cost in all things :

Provided that the Local Authority shall be entitled to recover from the owner the reasonable cost of disinfecting infected things.

Work to be done
to satisfaction of
Health Officer.

35 In carrying out any work under either of the Two last preceding Sections hereof, the Local Authority shall do so to the satisfaction of the Chief Health Officer, and in conformity with his directions ; and if it fails or neglects so to do, the Chief Health Officer shall cause the work to be done at the cost of the Local Authority.

Removal of
persons suffering
from infectious
disease to
hospital.

36 On the order of the Chief Health Officer or an Assistant or Local Health Officer any person who is suffering from any infectious disease may be removed to any hospital available for the reception and treatment of persons suffering from such disease ; and with respect to such order the following provisions shall apply :—

- i. The order may be made by the Chief Health Officer, Assistant, or Local Health Officer in any case where, in the interests of public health, he thinks it expedient so to do :
- ii. The order shall be made in every case where the Chief Health Officer, Assistant, or Local Health Officer is satisfied that the patient is without proper lodging or accommodation, or is living in a house in which he cannot be effectually isolated so as to prevent the risk of the infection spreading to other persons living in the house :

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- iii. The order need not be addressed to any specified person, but shall be obeyed by every officer of the Department, member of the Police Force, or officer of the Local Authority upon whom it is served or to whose knowledge it comes : A.D. 1903.
- iv. Every person who wilfully disobeys the order or in any way obstructs or delays the prompt execution thereof shall be liable to a penalty not exceeding Ten Pounds.

37 Every person who—

- i. Whilst to his own knowledge suffering from any infectious disease wilfully exposes himself in any shop, hotel, public house, public place, or public vehicle, without proper precautions against the spread of the infection ; or Penalty on exposure of infected persons.
- ii. Whilst suffering as aforesaid enters any public vehicle without previously notifying the driver or conductor that he is suffering as aforesaid ; or
- iii. Whilst in charge of any person suffering as aforesaid, allows him to do anything in breach of either of the Two last preceding Subsections hereof ; or
- iv. Being in charge of the body of any other person who has died from any infectious disease, shall knowingly expose, or permit to be exposed, such body, without taking reasonable precautions against spreading such disease :
- v. Being the owner, driver, or conductor of a public vehicle, fails or neglects to effectually disinfect the vehicle forthwith after it has to his knowledge been entered by any person suffering as aforesaid, to the satisfaction of any officer appointed under this Act, or a medical practitioner certified in writing—

shall be liable to a penalty not exceeding Ten Pounds for each offence ; and, if the offence relates to a public vehicle, then the convicting Court shall also order the defendant (being other than the owner, driver, or conductor) to pay to the owner of the vehicle the expenses incurred in effectually disinfecting the vehicle.

38—(1.) Before knowingly allowing any person who is suffering as aforesaid to enter a public vehicle, the owner, driver, or conductor thereof— Precautions when infected person enters public vehicle.

- i. Shall require proper precautions to be taken against spreading the infection ; and
- ii. May also require the persons suffering as aforesaid to pay or deposit a sum sufficient to defray the expenses of effectually disinfecting the vehicle.

(2.) If the owner, driver, or conductor of a public vehicle fails or neglects to faithfully comply with Sub-section i. of this Section he shall be liable to a penalty not exceeding Ten Pounds. Penalty for non-compliance.

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Penalty for
selling infected
things or letting
house where
infected person
is lodging.

39 Every person shall be liable to a penalty not exceeding Twenty Pounds who—

- i. Knowingly lends, sells, transmits, places in any ashpit for removal any infected rubbish, or exposes any things which have been exposed to infection from any infectious disease, unless they have first been effectively disinfected, or proper precautions have been taken against spreading the infection to the satisfaction of an officer appointed under this Act, or a medical practitioner certified in writing; or
- ii. Knowingly lets for hire any house, room, or part of a house or room, to be shared or occupied in common by or with any person suffering from any infectious disease; or
- iii. Knowingly lets for hire any house, room, or part of a house or room, in which there then is or within the previous Six weeks has been any person suffering from any infectious disease, unless before the person hiring goes into occupation the house, room, or part let, and all things therein liable to infection, have been effectually disinfected to the satisfaction of the Chief Health Officer, or an Inspector, as certified by a certificate under his hand; or
- iv. When letting or negotiating to let to any person for hire any house, room, or part of a house or room, conceals the fact that any person suffering from any infectious disease then is or within the previous Six weeks has been living in the house or in any part thereof.

When house let
for hire to guest
or lodger.

40 For the purposes of the last preceding Section hereof the keeper of an hotel, public-house, or lodging-house shall be deemed to let for hire part of a house to any person admitted as a guest or lodger into the hotel, public-house, or lodging-house.

When school
may be closed.

41 If in the opinion of the Chief Health Officer, or the Local Health Officer, the closing of any school would tend to prevent or check the spread of infectious disease, he may, by requisition addressed to the head master of such school, order it to be closed forthwith, for such period as he may specify therein.

PART III.**HOSPITALS.**

Local authority
to provide
hospital.

42 A Local Authority may from time to time of its own motion, and shall whenever the Chief Health Officer certifies that it is necessary so to do, provide, equip, and maintain hospitals suitable and sufficient for the reception and treatment of the sick: Provided that the Chief Health Officer shall not act under this Section without the approval of the Minister.

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43 With respect to such hospitals the following provisions shall apply :—

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Special provisions as to site, acquiring, purposes, emergency hospital, equipment, common hospital and expenses.

- i. The site, size, and plans of the hospital shall be subject to the approval of the Chief Health Officer :
- ii. The Local Authority may itself build or acquire the hospital, or may contract for the building thereof.
- iii. The Local Authority may contract for the use as a hospital of any existing hospital, or for the extension of any existing hospital, and the use of the extension as an hospital :
- iv. The hospital may be for the sick generally, or for persons suffering from infectious diseases, or any specified infectious diseases, or may be a sanatorium for persons suffering from consumption :
- v. The hospital may be permanent or temporary :
- vi. In cases of special emergency a temporary hospital for persons suffering from any infectious disease may, if the Governor by warrant published in the *Gazette* so authorises, be erected on any endowment or reserve, any enactment, condition, or trust affecting such endowment or reserve to the contrary notwithstanding :
 Provided that when the Governor is satisfied that the emergency has ceased he shall by notice in the *Gazette* cancel his warrant, and thereafter any such enactment, condition, and trust shall have effect as if this Section had not been passed, and the hospital shall be removed, utilised, or otherwise disposed of in such manner as the Governor directs, consistently with any such enactment, condition, or trust as aforesaid :
- vii. The Local Authority shall in every case properly equip the hospital with all requisites, and provide and maintain an efficient staff of physicians, surgeons, nurses, and attendants :
- viii. When at the request of another Local Authority any Local Authority shall receive into any hospital provided by it any person suffering from any infectious disease, the Local Authority at whose request the person was received shall indemnify the Local Authority receiving such person against the cost of maintaining and treating such person in such hospital, and such cost may be recovered in any Court of competent jurisdiction :
- ix. Two or more Local Authorities may if they think fit, and shall, if the Chief Health Officer so recommends, combine in providing and maintaining a common hospital, or sanatorium for consumptives, and for that purpose join in any of the works under this Section :
- x. The expenses incurred in providing and maintaining such common hospital or sanatorium for consumptives shall be apportioned amongst the Local Authorities concerned, in

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such shares as they agree on, or as, in the absence of agreement, Two Justices of the Peace by order decide after hearing the Chief Health Officer and the Local Authorities concerned.

Approval of
works to be done.

44 The works authorised or required to be done by the Local Authority under the Two last preceding Sections hereof shall in every case be done to the satisfaction of the Chief Health Officer, and in conformity with his recommendations; and if the Local Authority fails or neglects so to do with respect to any specified work, the Chief Health Officer may cause the same to be done at the cost and expense in all things of the Local Authority.

Recovery of cost
of maintenance
in hospital.

45 The reasonable expense of maintaining and treating in a hospital any patient who is not a pauper shall be deemed to be a debt due from the patient to the Local Authority, Trustees, or other body by which the hospital is maintained, and may be recovered accordingly.

Power to provide
medicine and
disinfectants for
poor.

46 A Local Authority may from time to time provide or contract with any person to provide medicines, disinfectants, and medical attendance for the poorer inhabitants of its district.

PART IV.**MORTUARIES AND MORGUES.**

Local authority
to provide mor-
tuaries and
morgues.

47 A Local Authority may from time to time provide, equip, and maintain in or for its district,—

- i. Mortuaries for the reception of the dead prior to burial, where a Coroner's inquest or *post-mortem* examination is not contemplated or required; and also
- ii. Morgues for the reception of the dead, where a Coroner's inquest or *post-mortem* examination is contemplated or may be required.

Special provisions
as to site, inspec-
tion, defects, and
by-laws.

48 With respect to mortuaries and morgues the following provisions shall apply :—

- i. The sites and plans thereof shall be subject to the approval of the Chief Health Officer :
- ii. The Chief Health Officer or any Assistant or Inspector may at all times enter and inspect any mortuary or morgue :
- iii. If at any time the Chief Health Officer, or Assistant or Inspector, is of opinion that any sanitary or other defect exists in the mortuary or morgue, he shall notify the defect to the Local Authority, and it shall be the duty of the Local Authority to forthwith remove or amend the same to his satisfaction :

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- iv. Where a mortuary does not exist, or is not available, a morgue A.D. 1903.
may be used as a mortuary :
- v. Where a morgue does not exist, or is not available, a mortuary may be used as a morgue :
- vi. The Local Authority shall make due provision, to the satisfaction of the Chief Health Officer, for the decent and economical burial of bodies received into a mortuary or morgue :
- vii. The Local Authority may from time to time make by-laws regulating the management and use of its mortuaries and morgues, and fixing reasonable burial fees in respect of burials therefrom :
- viii. The Local Authority shall at all times exhibit and maintain in some conspicuous place in or about every mortuary or morgue all by-laws in force affecting the same :
- ix. The Coroner may order a dead body to be removed to and from a morgue, as and when such removal is deemed necessary for the purposes of any Coroner's inquest or *post-mortem* examination :
- x. The costs of every such removal shall be deemed to be part of the costs of the inquest or examination, and shall be payable out of the same fund.

49 In either of the following cases; that is to say—

Where the body of a person who has died of any infectious disease is lying in a house in which persons live or sleep ; or
Where, whatever the cause of death, the body is in such a state as to be dangerous to health—

In certain cases burial or removal of dead body to morgue may be ordered.

the following provisions shall apply :—

- I. The Chief Health Officer, or any Officer of Health, or on the certificate of a medical practitioner, any Justice of the Peace may order the body—
 - (a) To be buried forthwith, or within a time limited in the order ; or
 - (b) To be removed to the nearest mortuary forthwith, or within a time limited in the order, for the purpose of being thence buried :
- II. If the order directs the burial of the body or its removal to a mortuary, and the friends or relatives of the deceased do not bury or remove it in terms of the order, it shall be the duty of the Local Authority to cause the body to be buried forthwith, or to be removed to a mortuary for the purpose of being thence buried, whichever course is the more convenient :
- III. Such duty may be performed on behalf and at the cost of the Local Authority by the Inspector or any member of the Police Force :
- IV. If the body is removed to the mortuary, it shall be the duty of the Local Authority to cause it to be buried :
- V. The expenses of the removal and burial of the body by the Local Authority may be recovered by the Local Authority

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in a summary way from any person legally liable to pay the expenses of the burial :

- vi. Every person who in any way prevents or obstructs the due and prompt execution of any order under this Section, or of any of the powers exercisable under this Section, shall be liable to a penalty not exceeding Ten Pounds.

PART V.**PRIVIES, ASHPITS, AND DRAINS.**

Penalty for erecting house without privy or ashpit.

50 If any house is erected or rebuilt without being provided with a sufficient privy and ashpit, the person for whom it is erected or rebuilt shall be liable to a penalty not exceeding Five Pounds.

Penalty for letting such house.

51 Irrespective of his liability under the last preceding Section hereof, the owner of a dwelling-house shall be liable to a penalty not exceeding One Pound for every day on which the house is let or inhabited whilst not provided with a sufficient privy and ashpit.

Privy accommodation for factories, shops, and other business places.

52 With respect to every factory, workroom, school, shop, office, warehouse, or other business-place in which persons are employed or engaged, the following provisions shall apply :—

- i. Adequate and sufficient privy accommodation to the satisfaction of an Inspector shall at all times be provided for the use of the persons employed in the business-place :
- ii. If the persons so employed are of different sexes, then the privy accommodation shall be separate for each sex, and shall be so constructed and situated as to ensure complete seclusion for each sex :
- iii. If in any business-place default is made in faithfully complying with any of the foregoing requirements of this Section, the owner and occupier thereof shall be severally liable to a penalty not exceeding One Pound for every day on which the default occurs.

When privy or ashpit sufficient.

53 A privy or ashpit shall not be deemed to be sufficient within the meaning of this Act unless it is of such class or description, and is furnished with such coverings, fittings, and connections as the Local Authority by by-law prescribes, or as in the absence of such by-laws the Chief Health Officer directs.

Public conveniences.

54 A Local Authority may from time to time provide and maintain in proper and convenient situations in its district sufficient privies, ashpits, and similar conveniences for public accommodation.

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55 It shall be the duty of a Local Authority to provide, to the satisfaction of the Chief Health Officer, that all privies, ashpits, and drains within its district are so constructed and kept as not to be a nuisance or injurious to health.

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Privies and drains to be properly kept.

56 In every case where, on the report of the Chief Health Officer, or any Assistant, Inspector, or other person, it is made to appear to a Local Authority that by reason of any foulness, want of repair, or any other structural or non-structural defect, any privy, ashpit, or drain is a nuisance or injurious to health, and that immediate action is necessary in order to remedy the defect, the following provisions shall apply :—

Procedure when privy or drain a nuisance or injurious.

- i. The Local Authority's Surveyor or Inspector of Nuisances, if so empowered by the Local Authority, may, with or without assistants, enter on any land or premises after giving Twenty-four hours' previous notice to the occupier, if any, or, in case of emergency, without any notice, and there open up the ground and inspect the privy, ashpit, or drain, and its connections, and do whatever work may be necessary for the purpose of discovering and remedying the defect :
- ii. Having effectually remedied the defect, if any, the Surveyor or Inspector of Nuisances shall close up the ground and make good any damage done to land or buildings in the course of his operations :
- iii. The owner and occupier of the land or premises on which the defect existed shall be jointly and severally liable for all expenses incurred by the Local Authority under this Section, and the same may be recovered in a summary manner, and until paid shall be deemed to be a charge on the land and premises.

Provided that in so far as the expenses have been incurred in respect of an alleged defect, which is found not to exist, they shall be defrayed by the Local Authority.

57—(1.) It shall be the duty of the Local Authority to take action under the last preceding Section hereof in any case where the Chief Health Officer so recommends.

If Local Authority fails to act, Health Officer may do so.

(2.) If the Local Authority fails or neglects to comply with such recommendation, or, where the Chief Health Officer considers the case to be one of urgency, then of his own motion, and irrespective of any such recommendation, but at the expense in all things of the Local Authority, he may himself take action under that Section in the same manner and with the same consequences as if he were the Local Authority, and an Inspector under this Act were the Local Authority's Surveyor or Inspector of Nuisances.

(3.) In every case where the Chief Health Officer takes action under that Section, he shall notify the Local Authority ; and thereupon the Local Authority shall not take action itself under that Section except for the purpose of recovering from the occupier or owner the expenses incurred.

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PART VI.

SCAVENGING AND CLEANSING.

Local authority
to provide for
removal of
refuse and
cleansing works.

58 A Local Authority may from time to time of its own motion, and shall, whenever the Chief Health Officer so recommends, itself undertake or contract for the efficient execution of the following works within its district, or any specified part of its district :—

- i. The removal of house refuse and other rubbish from houses and house premises :
- ii. The supply of some sufficient disinfectant for use in privies, or in any specified class or description of privy :
- iii. The cleansing of privies, ashpits, and drains :
- iv. The collection, removal, and disposal of nightsoil :
- v. The cleansing and watering of streets :
- vi. The providing, in proper and suitable places, of receptacles for the temporary deposit of refuse and rubbish collected under this Section :
- vii. The providing of suitable places, buildings, and appliances for the deposit or destruction of refuse, rubbish, and nightsoil.

Provided that, except in the case of a City or a Town proclaimed under "The Town Boards Act, 1896," the recommendations of the Chief Health Officer as to any works under Sub-sections Five to Seven, both inclusive, of this Section shall not be binding on the Local Authority.

Provided, further, that it shall not be lawful to deposit nightsoil in any place where it will be a nuisance or injurious to health.

Disposal of refuse
and waste matter.

59—(1.) All refuse, rubbish, nightsoil, and waste matter collected by the Local Authority or its contractor in the execution of any of the works under the last preceding Section hereof shall be destroyed, sold, or otherwise disposed of in such manner as, with the approval of the Chief Health Officer, the Local Authority thinks fit.

Money received
therefor.

(2.) All moneys derived therefrom shall be carried to the account of the fund or rate applicable to works under that Section, or, if there is no such fund or rate, then shall form part of the general funds of the Local Authority.

Penalty for
obstruction.

60 Every person shall be liable to a penalty not exceeding Five Pounds if he in any way obstructs or hinders the Local Authority or its contractor in the execution of any works under either of the Two last preceding Sections thereof :

Occupier may
dispose of refuse.

Provided that the occupier of a house shall not be liable under this Section by reason merely of himself collecting and removing, or using, selling, or otherwise disposing of his own house-refuse or rubbish, if in so doing he take sufficient precautions to prevent the creation of any nuisance or anything offensive to the neighbours or injurious to health.

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61 In every case where the Local Authority has itself undertaken or contracted for the execution of any of the works referred to in Sub-sections I. to IV. of Section Fifty-eight hereof, the following provisions shall apply :—

- I. The work shall be executed promptly, efficiently, and at regular and prescribed intervals to the satisfaction of the Chief Health Officer :
- II. If in respect of any house-premises default is made in executing any such work efficiently, or at the prescribed intervals, and by reason thereof refuse, rubbish, or night-soil has accumulated, or any privy, ashpit, or drain is offensive or is not cleansed, the occupier of the house or an Inspector may serve notice thereof on the Local Authority :
- III. If the notice is served as aforesaid, the Local Authority shall forthwith inform the contractor (if any) :
- IV. If such notice is served on the Local Authority, then, unless within Seventy-two hours after the service the requisite work is done and the cause of the complaint is removed, the person in default shall be liable to a penalty not exceeding One Pound for each day thereafter until the requisite work is efficiently done and the cause of complaint is removed :
- V. For the purposes of the last preceding Sub-section hereof the person in default means the contractor if the work is being executed by contract, or the officer in charge of the work if it is being executed by the Local Authority.

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Procedure when local authority undertakes work itself.

62 In so far as the Local Authority does not itself undertake or contract for the work of cleansing privies, ashpits, or drains belonging to any premises, removing house-refuse or nightsoil from any premises, or cleansing footways or pavements adjacent to any premises, it may from time to time of its own motion, and shall whenever the Chief Health Officer so recommends, make by-laws imposing on the owner or occupier of such premises the duty of effectually doing the work in such manner and at such regular intervals as are prescribed by the by-laws.

Local Authority may make by-laws imposing duty of cleansing on occupier.

63 A Local Authority may also from time to time of its own motion, and shall, whenever the Chief Health Officer so recommends, make by-laws for any of the following purposes :—

- I. Preventing the accumulation of filth, dust, ashes, and refuse.
- II. Regulating or preventing the keeping of live or dead animals where the keeping thereof (though not prohibited by this or any other Act) is, or is likely to be, a nuisance, or injurious to health :
- III. Regulating the use of stables :
- IV. Prescribing the classes or descriptions of privies which alone may lawfully be in use in the district generally, or in specified parts of the district :

Other purposes for which by-laws may be made.

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v. Regulating the mode of disposal of nightsoil :

vi. Generally any purpose which the Chief Health Officer recommends as calculated to prevent nuisances and safeguard the public health.

Reserves for deposit of nightsoil and refuse.

64— (1.) With the consent of the Governor the Local Authority of a district may from time to time set apart any portion of its reserves or other lands as a site for the deposit and disposal of nightsoil or refuse.

(2.) In using any land for the purpose aforesaid, the Local Authority shall in every case conform to the recommendations of the Chief Health Officer, and if it fails or neglects so to do then the Governor may revoke his consent, whereupon it shall be unlawful for the Local Authority to use the land for the purpose aforesaid.

Provision for obtaining order for cleansing offensive watercourse or ditch on boundaries of districts.

65 In any case where any river (whether tidal or otherwise), watercourse, stream, or open ditch or drain, lying near to or on the boundaries of two or more districts, or running into two or more districts, is foul or offensive, or out of repair, or otherwise defective, the following provisions shall apply :—

- i. On the application of the Chief Health Officer, or of any Local Authority of any of the said districts, any Judge of the Supreme Court may summon the Local Authorities of all the said districts to show cause why an order should not be made directing them, or any of them, to cleanse the river, watercourse, stream, ditch, or drain, and remedy all defects affecting the same, and prohibiting the recurrence of the defect.
- ii. After hearing the Chief Health Officer and the parties, or such of them as appear to the summons, and after making such inquiry as he thinks necessary, the Judge may, by order—
 - (a) Specify the works that are necessary in order to effectually cleanse the watercourse, stream, ditch, or drain, amend all defects in the same, and effect any requisite structural or non-structural improvements to the same :
 - (b) Direct one of the Local Authorities to execute the whole of the works, or apportion the works and the execution thereof between two or more of the Local Authorities :
 - (c) Direct one of the Local Authorities to pay the whole cost of the works, or apportion the cost between two or more of the Local Authorities :
 - (d) Prohibit the recurrence of the defect :
 - (e) Give such other directions in the premises as he thinks fit.
- iii. The Judge's order may be varied or amended from time to time by subsequent order made by him, on the application of the Chief Health Officer or any of the Local Authorities, and after summons to show cause :

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- iv. Every order made by the Judge under this Section shall, according to its tenor, bind all the Local Authorities concerned : A.D. 1903. —
- v. The Chief Health Officer may appoint an Engineer or other competent person to supervise the execution of the works, and the expenses of such supervision shall be deemed to be part of the cost of the works :
- vi. The works shall be executed with all reasonable diligence, and to the satisfaction of the Chief Health Officer or the person appointed to supervise as aforesaid ; and, if default is made in so doing, the Chief Health Officer may cause the works or any portion thereof to be executed at the cost in all things of the Local Authority in default :
- vii. For the purpose of executing the works the Local Authority or person executing the same may enter on land and there do whatever may be reasonably necessary in the premises :
- viii. The jurisdiction of the Judge under this Section shall not be affected by the fact that, independently of this Section, the watercourse, stream, ditch, or drain would not be under the control of the Local Authority executing the work, or of any of the Local Authorities :
- ix. If, independently of this Section, any person (other than a Local Authority) would be liable in law to cleanse the watercourse, stream, ditch, or drain, or to keep the same in repair, or would be responsible in law for the defects, the Local Authority executing, or by the Judge's order directed to execute, any work under this Section shall be entitled to recover from such person the whole or a duly proportionate part of the costs incurred by it under this Section.

PART VII.**PREVENTION OF POLLUTION OF WATERCOURSES, &c.****66** Every person who in any way—

- i. Defiles or pollutes any watercourse, stream, lake, or reservoir forming part of the water-supply of the district of a Local Authority ; or Pollution of stream, lake, or reservoir.
- ii. Permits or suffers drainage or refuse from his land or premises to flow into or be deposited in such watercourse, stream, lake, or reservoir, shall, on conviction, forfeit and pay a penalty not exceeding Ten Pounds.

67 In any case where, on the report of the Chief Health Officer, the Governor thinks it expedient in the interests of the public health so to do, he may, by notice in the *Gazette*, place any specified watercourse, stream, or lake, or any specified portion thereof, under the Stream or lake may be placed under control of one Local Authority.

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sole control of any one specified Local Authority, notwithstanding that it may not be within the district of such Local Authority, or on land belonging to such Local Authority, and every such notice shall, until revoked by the Governor, have full effect.

Control of all
streams and
lakes.

68 Subject to the provisions of the last preceding Section hereof, the Local Authority shall, for all the purposes of this Act, be deemed to have control of all watercourses, streams, and lakes within its district.

By-laws for
cleansing of
stream or lake.

69 The Local Authority having the control of any watercourse, stream, or lake, may from time to time, as it thinks fit, and shall, whenever the Chief Health Officer so recommends, make by-laws to enforce the cleansing and prevent the polluting or defiling of such watercourse, stream, or lake.

PART VIII.**SANITARY WORKS BY LOCAL AUTHORITIES.**

Sanitary work
to be deemed
public work.

70 In order to facilitate the construction of drainage-works, refuse-destroying works, hospitals, and other sanitary works by Local Authorities, the following provisions shall apply :—

Power to borrow.

- I. The Local Authority may borrow money under the provisions of "The Local Public Works Loans Act, 1890," for the purposes of constructing any such work :
- II. In any case where the work to be constructed has been recommended by the Chief Health Officer and approved by the Minister, the Local Authority may, for the purpose of constructing the work, borrow money by special order without taking any poll of the ratepayers or obtaining their consent to the work or the loan :
- III. Any two or more Local Authorities may combine to construct any such sanitary work in common, and for that purpose may raise a joint loan, in such manner and upon such terms as the Local Authorities concerned agree upon.

PART IX.**NUISANCES.**

Power to require
house or appur-
tenances to be
cleansed.

71 Whenever, on the report of the Chief Health Officer, or any Assistant or Inspector or other person, it appears that, by reason of not being cleansed, any house or any outbuilding, yard, privy, ashpit, drain, or other appurtenance belonging to the house, is in such a filthy or unwholesome condition as to be a nuisance or dangerous to health,

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the Local Authority may of its own motion, and shall, if the Chief Health Officer so recommends, by requisition to the occupier or owner of the house, require the occupier or owner or either of them to cleanse the house or appurtenances in the manner and within the time specified in the requisition, and thereupon the provisions of Section Thirty-two hereof shall, *mutatis mutandis*, apply, and the occupier, and in the case of unoccupied premises the owner, shall be liable accordingly. A.D. 1903.

72 In every case where—

1. Any waste or stagnant water, or any accumulation of filth or other offensive matter, is suffered to remain in, under, or near a dwelling-house for Twenty-four hours after the Chief Health Officer or any Assistant or Inspector under this Act, or the Local Authority's Inspector of Nuisances has by requisition to the occupier required him to remove the same; or

Penalty in respect of certain nuisances about dwelling-house.

- II. The contents of any privy or drain belonging to a dwelling-house are suffered to overflow or escape—

the occupier of the dwelling-house shall be deemed to have thereby created a nuisance, and shall be liable to a penalty not exceeding Forty Shillings for creating the nuisance, and also to a further penalty not exceeding Ten Shillings for every day on which the nuisance continues unabated.

73—(1.) The Local Authority may of its own motion, and shall, if the Chief Health Officer so recommends, abate any nuisance created as aforesaid; and the expenses thereby incurred shall be recoverable in a summary manner from the owner and occupier of the dwelling-house, who shall be jointly and severally liable therefor. Local Authority may abate nuisance and recover expenses.

(2.) Such expenses shall, until paid, be deemed to be a charge on the dwelling-house and the land on which it is built or to which it appertains.

74 In any case where it appears to the Chief Health Officer or an Assistant or Inspector under this Act, or a Local Authority's Inspector of Nuisances, that on any premises within the district of the Local Authority there exists any such accumulation of manure, dung, filth, or other offensive matter as to be a nuisance, or injurious to health, the following provisions shall apply :— Removal of manure or other offensive matter.

- I. He may, by requisition to the occupier, and in the case of unoccupied premises the owner, of the premises, require either of them within a specified time to remove such matter and destroy the same, or otherwise dispose of it so that it shall cease to be offensive :
- II. If default is made in duly complying with the requisition within the time specified in that behalf, then the occupier, and in the case of unoccupied premises the owner, shall be severally liable to a penalty not exceeding One Pound for every day thereafter until such matter is removed and disposed of as aforesaid :

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- iii. If such default occurs, the Chief Health Officer, Assistant, Inspector, or Inspector of Nuisances by whom the requisition was issued shall cause the offensive matter to be removed at the expense of the Local Authority :
- iv. The offensive matter so removed shall be destroyed, sold, or otherwise disposed of by or on behalf of the Local Authority :
- v. The surplus money (if any) remaining from such disposal, after defraying the expenses of the removal and disposal, shall be dealt with as provided in Section Fifty-nine hereof, and the deficiency (if any) shall be recoverable by the Local Authority in a summary manner before any Two or more Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act* from the occupier, and in the case of unoccupied premises the owner, of the premises, who shall be severally liable therefor.

Special provisions
as to stables,
mews, or
slaughter-yards.

75 Irrespective of the last preceding Section hereof, the following special provisions shall apply in the case of premises used as stables, mews, or slaughter-yards, or for the carrying on of any offensive trade :—

- i. It shall be the duty of the occupier of the premises to prevent manure, filth, refuse, or other offensive matter of any description from so accumulating on the premises as to become a nuisance or injurious to health :
- ii. For that purpose the occupier shall cause all such offensive matter to be removed at regular periodical intervals, and to be destroyed or otherwise disposed of so as to cease to be offensive :
- iii. The Local Authority may from time to time of its own motion, and shall, whenever the Chief Health Officer so recommends, prescribe in what manner and what periodical intervals such removal shall be effected :
- iv. The Local Authority may make such prescription as aforesaid either by by-laws, or by notification advertised in One or more newspapers published or circulating in its district :
- v. Such prescription may be either the same for all such premises within its district or different for different classes or descriptions of premises, but shall in every case be subject to the approval of the Chief Health Officer :
- vi. If the occupier of the premises makes any default in complying with this Section or any such prescription, he shall be liable to a penalty not exceeding One Pound for every day on which the default is made or continued :
- vii. If any such default is made, the provisions of Sub-sections Three to Five of the last preceding Section hereof shall, *mutatis mutandis*, apply in the same manner in all respects as if the default had been made under that Section by the occupier, and in the case of unoccupied premises the owner, after requisition to either of them by the Chief

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Health Officer, Assistant Inspector, or Inspector of A.D. 1903.
Nuisances, and the occupier, and in the case of unoccupied premises the owner, shall be severally liable accordingly.

76 Any Local Authority may, with the consent of the Chief Health Officer, or shall, if he recommends, from time to time direct that any well or other source of domestic water supply which may by an Officer of Health or by any legally qualified medical practitioner be certified in writing to be so polluted or unwholesome as to be unfit for human consumption, shall forthwith, and until the Local Authority, with the consent of the Chief Health Officer, have given a notice revoking such direction, be closed, and that the contents thereof shall not be used for human consumption; and any person so using or causing to be used any such well or other source of water supply as aforesaid while such direction remains in force shall be liable to a penalty not exceeding Five Pounds for each day during which such well or other source of water supply shall be so used.

Power to close polluted wells.

77 If any person throws or casts, or causes or allows to be thrown or cast, any nightsoil into any river, creek, or running stream, channel, lake, lagoon, swamp, or waterhole; or if any person places or causes, or allows to be placed, any nightsoil on any land whence such nightsoil flows or falls, or is liable to flow or fall, into any river, creek, or running stream, channel, lake, lagoon, swamp, or waterhole, not being within the limit of ebb and flow of tidal waters, he shall on conviction forfeit and pay a penalty not exceeding One hundred Pounds, or be imprisoned for any period not exceeding Six months.

Penalty for throwing nightsoil into or placing it near rivers or running streams.

78 The Local Authorities within their respective jurisdictions shall cause all sewers and drains to be constructed and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of clearing, cleansing, and emptying the same may construct and erect such works as appear necessary, and may cause all or any of such sewers to communicate with and be emptied into such places as they may deem fit or necessary; and no person shall without the consent of the Local Authority cause any private drain or sewer to be emptied or flow into any public drain or sewer under the control of such Local Authority, nor do any act, matter, or thing which in the opinion of such Local Authority tends to the injury or stoppage of any such drain or sewer.

Management of sewers and drains.

79 All houses within the jurisdiction of a Local Authority shall have such drains leading to such sewers or other places and having such a fall, and constructed of such materials, and in such manner as such Local Authority by notice directs. No drain shall, without the written consent of the Local Authority, be made under any house, or under the surface of any yard or premises; and such Local Authority may, in the case of there not being any sufficient drain to any house

Management of drains on private premises.

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or premises within its jurisdiction (whether erected at any time before or after the commencement of this Act), cause an Order to be served on the owner, his attorney, or agent, to construct, at the expense of the owner, a drain of such a nature and description as such Local Authority thinks necessary and describes in such Order.

Stagnant water
in cellars, &c.

80 No person shall suffer any waste or stagnant water to remain in any cellar or premises in or about any dwelling-house for Twenty-four hours after notice given and served upon him by the Local Authority or their officer to remove the same. If any Local Authority have reason to suspect that there is any waste or stagnant water in or about any house or premises, such Local Authority, after Twenty-four hours' notice in writing to the occupier or owner of any such house, may, by themselves or by any officer, make entry into or upon such house or premises, and may cause any floor or portion thereof to be opened up in order to ascertain whether there is in or about any such house any waste or stagnant water; if there be no waste or stagnant water found underneath any floor so removed, such Local Authority shall cause to be repaired and made good any such floor or portion thereof so removed as aforesaid; but if there be found any waste or stagnant water under any such floor, then in such case all expenses incurred in the removal and repair of such floor or portion thereof shall be chargeable to the owner or occupier of the house or premises, and may be recovered from such owner or occupier as hereinafter provided. Before any waste or stagnant water having an offensive smell is emptied from any cellar or other premises, the occupier of such premises shall cause such water to be thoroughly deodorised.

Cellars, asphalt-
ing, &c.

81 The owner or occupier of any house to which there is a cellar shall, if so required by the Local Authority, and within a time (being not less than Fourteen days) to be specified by the Local Authority, cause such cellar to be paved or asphalted in manner directed by and to the satisfaction of the Local Authority; and if such cellar be subject to the leakage of water thereinto, and there be no drain for the discharge of such water, such owner or occupier shall likewise, if so required by the Local Authority, construct in such cellar where, when, and as directed, and to the satisfaction of the Local Authority, a well for the gathering of such leakage, and upon completion of such well shall cause the same to be regularly and periodically emptied at intervals not exceeding Twenty-four hours. Provided that, in case the occupier of any such house has paved or asphalted any such cellar, or construct any such well, he may, subject to any agreement previously made between him and the owner of such house, recover, before any Two Justices, the moneys expended by him on such paving or asphaltting or in constructing such well, or may deduct the same from any rent payable by him to such owner.

Stagnant water-
holes.

82 The Local Authority shall cause to be drained, cleansed, covered, or filled up, all ponds, pools, open ditches, sewers, drains, and

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places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature, or likely to be prejudicial to health, by making and serving an Order upon the person causing any such nuisance, or upon the overseer, owner, or occupier of any premises whereon the same exists, requiring him, within a time to be specified in such Order, to drain, cleanse, cover, or fill up any such pond, pool, ditch, sewer, drain, or place, or to construct a proper sewer or drain for the discharge thereof, as the case may require. A.D. 1903.

83 Whenever it appears to the Local Authority of any city or town that the surface of any yard or land within such city or town, and not being a street therein, is lower than the level of the nearest street, or of the street, sewer, or drain into which the water off the said yard or land should in the opinion of the Local Authority flow, the Local Authority may order the owner of such yard or land to raise the surface thereof to such height, or to make such provision for sufficiently draining the soil in such manner, and within such time as the said Local Authority may by such Order direct. Low-lying land.

84 In case any street, lane, yard, or passage, or other premises formed or set out on private property, or in case any lane or passage formed or set out on public property on land of the Crown, in such manner as to afford means of back access to or drainage from property adjacent to such lane or passage, is not formed, paved, levelled, or drained to the satisfaction of the Local Authority, the said Local Authority may execute the works mentioned or referred to therein, and the expenses incurred by them in so doing shall be paid by the owners in default in such proportions as may be fixed by the said Local Authority, and shall be recoverable in a summary manner: Provided, however, that, in the case of lanes and passages only, such owners of premises fronting, abutting, or adjoining upon such lanes or passages as by themselves or their tenants have the right to use or commonly do use any such lane or passage, shall for the purposes of this Section be deemed to be owners of premises. Power of Local Authority to require owners to perform certain works on back streets, lanes, &c.

85 Any Local Authority may, by Order addressed to the owner or occupier of any land which has been excavated for brickmaking, quarrying, mining, or other purposes, whether before or after the commencement of this Act, direct such owner or occupier to have any excavation so made securely fenced round to the satisfaction of such Authority; and may further direct such owner or occupier to take such measures as are in the opinion of such Local Authority necessary, and as are specified in such Order for preventing any noxious or offensive drainage or other matter from flowing or being thrown or cast into any such excavation. Brickmaking and other excavations to be fenced in, &c.

86 No person shall keep any swine or pigsty within One hundred feet of any house in any City or Town, or within Fifty feet of any house in any Rural Municipality or portion thereof to which the Keeping of swine.

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provisions of this Section may be extended as aforesaid, or so as to be a nuisance to any person or injurious to the public health.

No person in charge of any slaughter-house shall keep or permit to be kept in or about any slaughter-house any swine, unless intended for immediate slaughter; or any dog, unless constantly chained when not being used for yarding purposes.

No such person shall permit any swine to feed on any blood, offal, manure, night-soil, filth, or other refuse matter. Provided that the Local Authority may grant written permission to any person to keep swine on the following conditions:—

- i. That such swine are to be kept at such distance from the slaughter-house as may be directed; and
- ii. That such swine may be fed with offal, if such offal has been first thoroughly cleansed and boiled.

Any person who commits any offence against the provisions of this Section shall be liable to a penalty not exceeding Ten Pounds.

Provided the Local Authority may define an area within the limit of any town in which no swine may be kept.

Restriction on
erection of stables,
&c.

87 No stable or cowshed shall be erected in any City or Town within Thirty feet of any dwelling-house, school, or workroom or factory, unless such stable be divided from such dwelling-house, school, or workroom or factory, by a wall as high at the least as the highest part of such stable or cowshed.

Definition of
nuisances.

88 A nuisance shall be deemed to be created in any of the following cases; that is to say—

- i. Where a pool, ditch, watercourse, privy, ashpit, or drain is so foul or out of repair, or otherwise in such a state as to be offensive to the public or injurious to health; or
- ii. Where any animal is so kept as to be injurious to health; or
- iii. Where there exists an accumulation or deposit which is offensive to the public or injurious to health; or
- iv. Where a house or part of a house is so overcrowded as to be injurious to the health of the inmates; or
- v. Where any factory, workroom, shop, office, warehouse, or other business-place —
 - (a) Is so unclean as to be offensive to the public, or injurious to health; or
 - (b) Is not so ventilated as to render harmless, as far as practicable, all gases, vapours, dust, or other impurities generated in the course of the work carried on therein; or
 - (c) Is so overcrowded as to be injurious to the health of the persons employed therein; or
 - (d) Is not provided with sufficient privy accommodation; or
- vi. Where an offensive trade is so carried on as to be injurious to health or unnecessarily offensive to the public; or

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vii. Where the drainage of any Town or building falls into any harbour or on to any foreshore so as to be offensive to the public or injurious to health :
and any such nuisance may be abated and dealt with under any of the provisions of this Act applicable for the purpose : —

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Provided that in proceedings before Justices of the Peace under this Act as hereinafter provided it shall be a sufficient defence if the defendant satisfies the Justices—

Defence in summary proceedings.

- (a) In the case of an alleged nuisance under Sub-section Three of this Section, that the accumulation or deposit is incident to the reasonable and proper carrying on of a trade, and also that it has not been kept longer than was necessary, and also that the best practicable means have been taken to prevent injury to health, and also that no danger to health exists ; or
- (b) In the case of an alleged nuisance under Sub-section Six of this Section that the offensiveness is not greater than might reasonably be expected, having regard to the nature of the trade, and also that the best practicable means have been used to minimise the offensiveness and abate any nuisance, and also that no danger to health exists ; or

89 If the Chief Health Officer is satisfied that the nuisance exists, and that immediate action for its abatement is necessary in order to check or prevent the spread of infectious disease, he may act under Section Thirty-two hereof, and in such case the provisions of that Section shall, *mutatis mutandis*, apply, and the provisions of the next succeeding Section hereof shall not apply.

Immediate action in respect of nuisances.

90 Subject as last aforesaid, any nuisance under Section Eighty-eight hereof may be dealt with in manner following ; that is to say :—

Mode of dealing with nuisances.

- I. On the report of the Chief Health Officer, or any Assistant Inspector or other person, that the nuisance exists on any premises, the Local Authority may of its own motion, and shall, if the Chief Health Officer so recommends, by requisition to the owner and occupier of the premises, require them to abate the nuisance in the manner and within the time specified in the requisition.
- II. The owner and occupier are hereby jointly and severally empowered and required to comply with the requisition, and do whatever is necessary in order to effectually abate the nuisance.
- III. If the requisition is not duly complied with within the time specified in that behalf, or if the nuisance, though abated, is, in the opinion of the Chief Health Officer or the local authority, likely to recur, then, in lieu of acting under the other provisions of this Act, the local authority may, if it thinks fit, and shall if the Chief Health

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Officer so recommends, take summary judicial proceedings against the owner and occupier for the abatement of the nuisance.

- iv. In case it is necessary for the proper drainage of any land, street, lane, right-of-way, yard, passage, private premises, or other place, that drains or sewers should be made through or under any one or more private premises, whether occupied or not, it shall be lawful for the Local Authority to make an order on the owner or owners of such premises requiring such owner or owners to permit the formation of such drains or sewers through or under such premises, and after the expiration of One month from the making of such order, the Local Authority may form or make through or under such premises such drains or sewers as may in the opinion of the said Local Authority be necessary for the proper drainage of any such land, street, lane, right-of-way, yard, passage, private premises, or other places as aforesaid. Provided, that such drains or sewers shall be made and maintained in good order so as not to be a nuisance or injurious to health. Where the Local Authority have, under the powers conferred by this section, formed or made any drain or sewer through or under private premises, there shall be paid by the said Local Authority to the owner or owners of such premises such equitable compensation as is agreed upon between such owner or owners and the said Local Authority, or as in case of dispute may be awarded on appeal by either side to the next Court of General Sessions of the Peace holden for the District in which such Local Authority has jurisdiction. The amount of compensation so paid, and all costs and expenses incurred by the said Local Authority, together with the cost of forming or making any drain or sewer under the provisions of this Section shall, in the case of the drainage of any land, yard, passage, or other premises be repaid to the said Local Authority by the owner of the land, yard, passage, or other premises for the drainage of which such drain or sewer has been formed or made, or if there be more than one owner then such compensation and expenses shall be repaid to the said Local Authority by such owners in such proportions as may be fixed by the said Local Authority; and in the case of the drainage of any street, lane, or right-of-way, such compensation and expenses shall be repaid to the said Local Authority, in such proportions as may be fixed by the said Local Authority, by the owner or owners of the land or premises fronting, adjoining, or abutting on such street, lane, or right-of-way; and such compensation and expenses

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shall be recoverable by the said Local Authority from such owners in a summary manner. A.D. 1903.

Provided that, if the local authority fails or neglects to take the proceedings when recommended so to do by the Chief Health Officer, he may take them himself.

91 With respect to such summary judicial proceedings the following provisions shall apply :—

Procedure as to
summary judicial
proceedings, and
action thereafter.

- i. The proceedings shall be heard before two or more Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act* :
- ii. The Justices, if satisfied that the nuisance exists on the premises, or that, though abated, it is likely to recur, shall by order—
 - (a) Require the owner and occupier to effectively abate the nuisance ; or, as the case may be,
 - (b) Prohibit the recurrence of the nuisance ; or
 - (c) Both require the abatement and prohibit the recurrence of the nuisance ; and
 - d) Specify the works to be done in order to abate the nuisance or prevent its recurrence, and the time within which they shall be done :
- iii. By the same or any subsequent order the Justices may also impose on the owner or occupier, or on each of them, a penalty not exceeding Five Pounds for the creation of the nuisance and a further penalty not exceeding Five Pounds for every day during which the nuisance continues unabated after the time specified in the requisition :
- iv. If the Justices are of opinion that by reason of the nuisance any house or building is unfit for human habitation, they may, by the same or any subsequent order, prohibit the use thereof for that purpose until the nuisance has been effectively abated to their satisfaction, or until provision has been made to their satisfaction to prevent its recurrence :
- v. Any order made under the last preceding subsection hereof may be rescinded by any two Justices of the Peace when they are satisfied that the nuisance has been effectively abated or, as the case may be, that due provision has been made to prevent its recurrence, but until the order is rescinded it shall not be lawful to let or inhabit the house or building to which the order relates :
- vi. Every person who makes default in duly complying with any order made under the foregoing provisions of this Section, shall be liable to a penalty not exceeding Five Pounds for every day on which the default occurs :
- vii. If the default consists of not doing the works necessary in order to effectually abate the nuisance or prevent its recurrence, then the Local Authority or the Chief Health

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Officer on behalf of the Local Authority, shall cause the works to be done at the expense in all things of the defaulting owner and occupier, who shall be jointly and severally liable therefor :

- viii. If the land or premises on which any such nuisance as aforesaid exists have no known owner or occupier, or if the owner or occupier cannot be found, then the Justices may, by order, direct that the nuisance be abated by the Local authority or the Chief Health Officer at the expense of the Local Authority :
- ix. All expenses incurred on behalf of the Local Authority under this Section shall be recoverable in a summary way, from the owner and occupier of the premises in respect of which the same are incurred, and until paid they shall by force of the Act be deemed to be a charge on such premises :
- x. All materials, refuse, and things removed by the Local Authority or the Chief Health Officer in abating any such nuisance, or doing any such works as aforesaid, shall be sold, destroyed, or otherwise disposed of as the Local Authority or the Chief Health Officer thinks fit :
- xi. All moneys arising therefrom shall be applied in or towards satisfaction of the expenses incurred, and the surplus, if any, shall be carried to the account of the fund or rate applicable to works relating to sanitation, or if there is no such fund or rate, then they shall form part of the general funds of the Local Authority :
- xii. For all or any of the purposes of this Section, the Justices may themselves examine the premises or authorise any other person to do so, and also may direct the owner and occupier of any other premises to be summoned in respect of the nuisance, and join them as parties to the proceedings.

Duties of
inspection and
enforcing Act.

92 Within the district of each Local Authority the Chief Health Officer and the Local Authority are hereby empowered and directed—

- i. To cause careful inspection to be regularly made in order to ascertain whether any nuisances or sanitary defects exist ; and also
- ii. To enforce the provisions of this Act for the abatement of all nuisances, the remedying of all sanitary defects, and the safeguarding of the public health.

Power to enter
and inspect.

93 For the purposes of this Act the Chief Health Officer, or any Assistant or Inspector under this Act, or any inspector or other authorised officer of the local authority, may at all reasonable times during the day enter and inspect any land or premises.

Rules as to entry
and inspection

94 Except where otherwise specially authorised by the Chief Health Officer or an order of a Justice of the Peace, the following rules shall

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be observed with respect to the entry and inspection of any premises other than vacant or unoccupied premises :— A.D. 1903.

- i. In the case of business premises, the entry and inspection shall be during ordinary business hours :
- ii. In the case of dwellings premises, the entry and inspection shall be between the hours of eleven in the forenoon and four in the afternoon, and no room of the dwelling-house shall be entered unless the occupier consents :
- iii. In every case the entry and inspection shall be so made as to interfere as little as possible with the occupier or his business.

95 Nothing in the last preceding Section hereof shall operate to prevent the Chief Health Officer, or any Assistant or Inspector under this Act, or Officer of the local authority, from entering on any land or premises with workmen and appliances at any time for the purpose of doing any sanitary works pursuant to any requisition duly issued or order duly made under this Act. Not to affect entry to do works under requisition or order.

96—(1.) The provisions of this Act relating to the abatement of nuisances and the remedying of sanitary defects shall be deemed to be in addition to, and shall not abridge or affect, any right, remedy, or proceeding that exists independently of this Act. Other rights or remedies not affected

(2.) In any case where the local authority or the Chief Health Officer is of opinion that proceedings under this Act would not give, or have not given, a sufficient remedy, the local authority or the Chief Health Officer on its behalf may, in lieu of proceeding under this Act, or after having proceeded under this Act, take proceedings in the Supreme Court to enforce the abatement of a nuisance or the remedying of any sanitary defect. Proceedings may be taken in Supreme Court.

(3.) In such case the expenses incurred by or on behalf of the local authority in connection with the proceedings shall be payable out of the fund or rate applicable for sanitary purposes, or, if there is no such fund, then out of its general funds.

97 In any case where it appears that a nuisance existing within the district of a local authority is wholly or partly caused by some act or default outside the district, proceedings may be taken against any person in respect of such act or default in the same manner and with the same incidents and consequences as if the act or default were wholly inside the district. Proceedings when nuisance caused by default outside district.

PART X.**OFFENSIVE TRADES.**

98 After the commencement of this Act it shall not be lawful to establish any offensive trade within the district of a local authority, unless with the consent in writing of the Local Authority. Consent necessary for establishing offensive trade.

99 Every person who establishes an offensive trade in breach of this Act shall be liable to a penalty not exceeding Fifty Pounds. Penalty for breach.

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Penalty for
illegally carrying
on offensive
trade.

100 Every person who carries on any offensive trade established in breach of this Act, or of any Act repealed by this Act, shall be liable to a penalty not exceeding Five Pounds for every day on which he carries it on, whether there has or has not been a conviction in respect of the establishing of the trade.

Governor may
define Areas.

101 The Governor may, upon the advice of the Chief Health Officer, from time to time by Proclamation in the *Gazette*, appoint such portions of the State as may be defined in such Proclamation Offensive Trades Areas for the purposes of this Act.

The owner or occupier of any place, building, or premises, used for the purpose of carrying on any noxious or offensive trade, business, or manufacture whether established before or after the commencement of this Act, shall register or cause the same to be registered as a "Noxious Trades Establishment," at the office of the Local Authority during *January* next following the passing of this Act, and shall so register or cause to be registered such establishment thereafter during *January* in each year, and shall pay to such Local Authority an annual registration fee of Twenty shillings; and if such owner or occupier fails to comply with the provisions of this Section he shall be liable to a penalty not exceeding Two Pounds per day for each day during which such provisions shall not be complied with.

Noxious trades
within Area not
deemed a
nuisance.

102 Any manufacture, trade, or business carried on within any area defined in any such Proclamation as aforesaid shall not be deemed to be a nuisance, and the person conducting or carrying on any such manufacture, trade, or business shall be free from all proceedings in respect thereof, any law to the contrary notwithstanding.

Provided always, that such person is conducting or carrying on such manufacture, trade, or business in conformity with the Regulations made as hereinafter provided.

Governor may
make Regulations.

103 The Governor may, from time to time, make, amend, or rescind Regulations for the following purposes :—

i. The conditions under which any person may obtain land within any such area as aforesaid to conduct or carry on any offensive trade, manufacture, or business :

ii. The mode or manner in which such trade, manufacture, or business shall be carried on.

All such Regulations, and all amendments thereof, shall be laid before both Houses of Parliament within Fourteen days of the making thereof, if Parliament is in Session, and if not, then within Fourteen days after the commencement of the next Session, and shall be published in the *Gazette*; and after such publication as aforesaid all such Regulations shall have the force of law, so far as they are not inconsistent with or repugnant to this Act or any other Act. And if in any case any Regulation made under this Act shall be disallowed by a Resolution of either House of Parliament it shall thereupon become void and cease to have force or effect.

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PART XI.**UNSOUND FOOD.**

104 The Chief Health Officer, or any Assistant or Inspector under this Act, or any Local Authority's Inspector may at all reasonable times enter on any land or premises and inspect and examine—

Power to inspect food offered for sale.

- i. Any animal offered for sale or slaughter or being prepared for sale or slaughter for human consumption ; or
- ii. Any carcase, meat, poultry, game, flesh, fish, fruit, vegetable, cornflour, bread, milk, cream, butter, cheese, or other article of food exposed or offered for sale, or deposited for the purpose of sale or of preparation for sale, or that has recently been sold, for human consumption, whether such articles are fresh or preserved, or are in tins or other closed packages or not.

105 If, on such inspection and examination, it appears to the Chief Health Officer or Local Officer of Health, or any authorised Assistant or Inspector under this Act, that any such animal or article is diseased, or unsound, or unwholesome, or unfit for human consumption, he may cause it to be seized and carried away in order that it may be dealt with in a summary manner as follows ; that is to say—

Diseased or unsound food may be seized and destroyed

- i. If the Chief Health Officer or Local Officer of Health or any authorised Assistant is satisfied that the animal or article is utterly unfit for human consumption and should be forthwith destroyed in order to prevent disease, he may cause it to be destroyed accordingly :
- ii. In any other case the animal or article shall be kept to abide the order of Two or more Justices of the Peace acting under the provisions of *The Magistrates Summary Procedure Act*, which shall be forthwith taken against the person in whose possession or on whose premises it was when seized :
- iii. If in such proceedings it appears to the Justices that the animal or article so seized is diseased, or unsound, or unwholesome, or unfit for human consumption he shall by order—
 - (a) Condemn it and direct it to be destroyed or otherwise disposed of, so as to prevent it being used for human consumption, at the expense in all things of the defendant ; and also
 - (b) Fix the expenses incurred in seizing and keeping the animal or article to abide the proceedings, and require the defendant to pay the same :
- iv. The Justices may also impose on the defendant a penalty not exceeding Twenty Pounds.
- v. For all the purposes of this Section it shall, until the contrary is proved, be presumed that the animal or article was intended to be sold or prepared for sale for human consumption.

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PART XII.**PUBLIC BUILDINGS.**

Theatres, hospitals, and public buildings.

106 For the purposes of this Section, the words "public building" whenever herein mentioned shall mean and include any hospital or benevolent or other asylum, or any theatre, opera house, concert room, music or assembly hall, whether forming part of or appurtenant to a public-house or not, or any church, chapel, or meeting house, or any building, structure, circus tent, gallery, or platform in or upon which numbers of persons are usually or occasionally assembled for the purpose of public amusement.

Whenever it is intended to build or open or extend any public building, the owner or occupier, or the manager, trustees, or other persons by whose authority such public building is intended to be so built or opened or extended, shall give notice of such intention to the Local Authority, and such notice shall be accompanied by a plan and specification or description showing the proposed mode of constructing, draining, and ventilating such public building; and no such public building shall be built or opened as aforesaid until the Chief Health Officer has approved thereof in writing.

Every public building heretofore built or hereafter to be built, opened, or extended, may from time to time be inspected by any officer appointed under this Act; and in the case of theatres, opera houses, music or assembly halls, circuses, or places of public amusement, such public buildings may be inspected by any such officer at any time during the day or night when such building is open for public amusement or entertainment.

The Chief Health Officer or Local Authority respectively may from time to time direct or order such means to be taken by the owner or occupier, or by the trustees of such public building, for the proper or better ventilation and draining thereof, and for the provision of proper privy and urinal accommodation therein, and for the safe and proper construction thereof, as he or they respectively think necessary, and may, if he or they so think necessary, from time to time direct or order other or better provision for ingress and egress to be made in any such public building; and may also from time to time direct or order the erection or provision therein of suitable appliances for the extinction of fire, and require and order the employment and attendance of skilled persons sufficient in number for the proper using of such appliances.

If any public building or addition thereto be opened without the written approval of the Chief Health Officer, the owner or occupier, or the manager, trustees, or other person by whose authority such building or addition has been so opened, shall be liable to a penalty not exceeding One hundred Pounds, and to a further penalty not exceeding Ten Pounds for every day or night during which such building or addition thereto remains opened without such approval.

After the Chief Health Officer has given his approval to the opening of any public building or addition thereto, no alteration shall, without the written approval of such officer, be made in the provision therein made for the safety or stability of such building, or for drainage, ventilation, means of ingress or egress, or the extinction of fire.

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PART XIII.**BY-LAWS.**

107 Every Local Authority may, and if recommended by the Chief Health Officer shall, make By-laws to provide for:— By-laws for certain purposes.

The removal by the occupier, or in case of his default by the Local Authority, of dust, mud, ashes, rubbish, filth, blood, offal, manure, dung, or soil collected, placed, or found in or about any house, stable, cow-house, pigsty, lane, yard, street, or place whatsoever, and for preventing the placing or depositing thereof in any place so as to be a nuisance to any person :

Requiring the occupiers of houses or premises to provide boxes or other specified receptacles for the temporary deposit of house refuse, and for authorising and directing the placing of such boxes or such other receptacles at or between certain specified hours in places at or contiguous to such houses or premises convenient for the discharge and removal of the contents of such boxes or receptacles :

Regulating the times and manner of cleansing, emptying, and managing of earth-closets, water-closets, privies, cesspools, and places for the deposit of nightsoil, offal, blood, or other refuse matter, and for regulating the disinfecting or the deodorising of the nightsoil, offal, blood, or other refuse matter contained therein or removed therefrom :

The prevention of nuisance or injury to health from the transport, deposit, or use as manure of nightsoil, offal, blood, or other offensive matter :

The rendering of the foundations of any new building, and the ground over which such building is to be placed, dry, sound, and well drained, so that no water, soakage, or damp shall lodge there :

The drainage and plumbing of buildings :

The mode of carriage of meat to or from abattoirs or butchers' shops or premises :

The registration annually with the Local Authority of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk, and the payment by each such person to the Local Authority of a reasonable fee not exceeding One Pound for each such registration : Provided that if such person is registered in the District in which his dairy is situate, he shall not be liable to pay a higher fee than Two Shillings and sixpence per annum to any other Local Authority as a purveyor of milk :

The inspection of the grazing ground or food of dairy cattle, and, if found to be likely to be prejudicial to health by affecting the milk or otherwise, to prohibit the use of the same, and for the inspection of cattle in dairies, and the prescribing and regulating of the lighting, ventilation, cleansing, drainage, and water supply

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of houses, dairies, butter factories, and cow-sheds in the occupation of persons following the trade of cowkeepers or dairymen :
The securing of the cleanliness of butter factories, milk stores, milk shops, and of milk vessels used for containing milk for sale by such persons :

The prescribing of precautions to be taken for protecting milk against infection or contamination, and for the registration and regulation of bakehouses and butchers' establishments :

The prevention of the storage or keeping of bone-dust or artificial or other manure so as to be a nuisance or injurious to health :

The prevention of the keeping of animals of any kind so as to be a nuisance or injurious to health :

The prevention of the feeding of swine or other animal intended for human consumption, on garbage, on uncooked offal from a slaughter-house, or on milk from a cow suffering from any disease of the udder :

The supply of a sufficient quantity of water to abattoirs or slaughter-houses :

The prevention of danger to the public from manufactories or places for the storage, keeping, or sale of inflammable materials :

The disinfection of, and the prevention of nuisance or injury to health from rags or other materials used or stored in marine stores, flock or bedding or furniture manufactories :

The regulation of noxious or offensive trades, businesses, or manufactories, whether established before or after the passing of this Act, in order to prevent or diminish the noxious or offensive effects thereof, and to prevent nuisance or injury to health arising therefrom :

The position and manner of construction of water or earth closets or urinals :

The prevention of the use of steam whistles at factories or other establishments so as to be a nuisance to any person :

And generally for the abatement and prevention of nuisances not hereinbefore specified, and for securing the healthfulness of the district and of its inhabitants.

Confirmation of
By-laws.
Ib.

108 No By-law made by the Local Authority under the authority of this Act shall be of any force until it shall have been confirmed by the Chief Health Officer, who is hereby empowered to allow or disallow the same as he thinks fit ; and no such By-laws shall be confirmed unless notice of the intention to apply for a confirmation of the same have been given in the City, Town, Rural Municipality, or other portion of *Tasmania* for which such By-law has been made One month at least before the making of such application by posting a copy of such By-laws in some conspicuous place in or upon the door of the office of such Local Authority.

By-laws to be
certified by
Attorney or
Solicitor-General;

109 No By-law made by the Local Authority under the authority of this Act shall be of any force unless, previous to the confirmation thereof by the Chief Health Officer, it shall have been certified by the

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Attorney or Solicitor-General not to be repugnant to any law in force **A.D. 1903.**
in *Tasmania*, or to the provisions of this Act.

No such By-law shall, if Parliament is sitting at the time of the **and laid before**
making thereof, be of any force until Fourteen days after the same, or **Parliament.**
a copy thereof signed by the Secretary to the Local Authority, has
been laid upon the Table of both Houses of Parliament; and if
Parliament or either House thereof disallows such By-law or any part
thereof, such By-law or the part thereof so disallowed shall not come
into operation: and if Parliament is not sitting at the time of the
making of any such By-law, the same shall, after Fourteen days from
the publication thereof in the *Gazette* as provided by this Act, be of
full force and effect, and a copy of every such By-law as last aforesaid.
signed as aforesaid, shall be laid upon the Table of both Houses of
Parliament within Five days after the commencement of the Session
thereof holden next after the making of such By-law; and if the
Parliament or either House thereof disallows any such By-law as last
aforesaid, or any part thereof, within One month after such By-law has
been laid upon the Table as aforesaid, such By-law or the part thereof
so disallowed shall, upon such disallowance thereof being notified in
the *Gazette*, thenceforth cease to be of any force or effect whatsoever.

110 With respect to By-laws made under this Act by a Local **By-laws of Local**
Authority, the following provisions shall apply:— **Authority.**

- i. All grazing grounds, dairy cattle, milk stores, dairies, and
cow sheds, belonging to or occupied by any person selling
milk or butter, or sending milk or butter to be sold, or
supplying milk or butter intended for sale by any other
person, within the District of any Local Authority shall be
held to be within the jurisdiction of such last-mentioned
Local Authority:
- ii. They may impose for any breach of the By-laws a penalty
not exceeding Five Pounds, and in the case of a continuous
breach an additional penalty not exceeding Five Pounds
for every day on which the breach is continued after the
first day:
- iii. The continued existence in a state contrary to any By-law of
any work or thing shall be deemed a continuous breach
within the meaning of this Section:
- iv. A person shall be deemed to commit an offence against this
Act if he commits any breach of a By-law for which the
By-laws themselves do not provide a penalty.

111 Every Inspector of any Local Authority shall and is hereby **Inspector to**
empowered, without any express order or direction of such Local **prosecute for**
Authority, to take proceedings against any person offending against **breach of By-**
this Act or any By-law made by such Local Authority; but this pro- **laws.**
vision shall not prevent any other person from taking proceedings
against any person offending against such Act or By-laws.

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PART XIV.

CEMETERIES AND BURIAL GROUNDS.

Penalty for bury-
ing the dead in
place other than
a Cemetery, &c.

112 Any person who shall bury the body of any dead person in any place other than a Cemetery or Public Burial Ground without the consent in writing of the Local Authority of the District in which the proposed place of burial is situate, shall be liable to a penalty not exceeding Five Pounds.

New cemeteries to
be approved by
Chief Health
Officer and
Local Authority.

113 No new Cemetery or Burial Ground shall be laid out or used for the burial of the dead without the approval of the Chief Health Officer and Local Authority of the District in which it is situated.

Local Authority
may order
Cemetery or
Burial Ground to
be closed.

114—(1.) If it shall appear to any Local Authority that any existing Cemetery or Burial Ground is from its position or condition injurious to the public health, such Local Authority may, with the approval of the Chief Health Officer, give notice to the Trustees or other persons in whom such Cemetery or Burial Ground is vested, or having charge of the same, that such Cemetery or Burial Ground shall, on a day to be named in such notice, being not less than Six months from the date of such notice, be closed.

(2.) Any Twenty ratepayers residing within a radius of half a mile of any Cemetery or Burial Ground outside of any City, and any Forty ratepayers residing within a radius of a quarter of a mile of any Cemetery or Burial Ground within any City, may petition the Local Authority that such Cemetery or Burial Ground is injurious to the public health; and such Local Authority may, if satisfied that such Cemetery or Burial Ground is injurious to the public health, give notice to the Trustees or other persons in whom such Cemetery or Burial Ground is vested, or having charge of the same, that such Cemetery or Burial Ground shall on a day to be named in such notice, being not less than Six months from the date of such notice, be closed.

(3.) If after having received any such Petition as aforesaid the Local Authority neglects or refuses without sufficient cause to order any such Cemetery or Burial Ground to be closed, the Chief Health Officer may, upon receipt of a like Petition, and if satisfied that such Cemetery or Burial Ground is injurious to the public health, order such Cemetery or Burial Ground to be closed, in the same manner as such Local Authority is hereby empowered to close such Cemetery or Burial Ground. Provided that in any case in which there is an exclusive right of interment in any vault or inclosure in any Cemetery or Burial Ground, the Chief Health Officer, may on application being made to him, grant permission for the exercise of such right after such Cemetery or Burial Ground has been closed as aforesaid during such time, and subject such to conditions and restrictions, as he may think fit.

Penalty for
burying corpse in
closed Cemetery,
&c.

115 It shall not be lawful to bury, or permit or suffer to be buried, any further corpses or coffins otherwise than as hereinbefore provided in any Cemetery or Burial Ground ordered to be closed in pursuance

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of this Act, after the day on which the same shall have been ordered to be closed ; and whosoever on or after such day buries, or causes to be buried, or permits or suffers to be buried, any corpse or coffin contrary to this enactment shall, for every such offence, forfeit and pay a penalty of not less than Five Pounds nor more than Fifty Pounds.

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116 Every Local Authority is hereby empowered, and shall, if the Chief Health Officer recommends, make such By-laws as they shall think necessary and proper for directing the depths of the graves, the construction of coffins to be admitted into vaults, and the covering of vaults so as to prevent the escape of any noxious exhalation or evaporation, in any Burial Ground not being a Cemetery under *The Cemeteries Act*, 1865.

Local Board to regulate depth of grave, &c., in Burial Grounds.

PART XV.**PREVENTION OF ADULTERATION OF ARTICLES OF FOOD OR DRUGS.**

117 No person shall mix, colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any article of food with any ingredient or material so as to render the article injurious to health with intent that the same may be sold in that state, and no person shall sell any such article so mixed, coloured, stained, or powdered, under a penalty in each case not exceeding Fifty Pounds for the first offence. Every offence under this Section after a conviction for a first offence hereunder shall be a Misdemeanor, for which the person on conviction shall be imprisoned for a period not exceeding Six Months with hard labour.

Prohibition of the mixing of injurious ingredients, and of selling the same. 38 & 39 Vict. c. 63, s. 3.

118 No person shall, except for the purpose of compounding as hereinafter described, mix colour, stain, or powder, or order or permit any other person to mix, colour, stain, or powder, any drug with any ingredient or material so as to affect injuriously the quality or potency of such drug with intent that the same may be sold in that state, and no person shall sell any such drug so mixed, coloured, stained, or powdered, under the same penalty in each case respectively as in the preceding Section for a first and subsequent offence.

Prohibition of the mixing of drugs with injurious ingredients, and of selling the same. *Ib.*, s. 4.

119 No person shall be liable to be convicted under either of the two last foregoing Sections of this Act in respect of the sale of any article of food or of any drug if he shows to the satisfaction of the Justice or Court before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, coloured, stained, or powdered as in either of those Sections mentioned, and that he could not with reasonable diligence have obtained that knowledge.

Exemption in case of proof of absence of knowledge. *Ib.*, s. 5.

120 No person shall sell to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and

Prohibition of the sale of articles of food and of drugs

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not of the proper
nature, substance,
and quality.
38 & 39 Vict.
c. 63, s. 10.

quality of the article demanded by such purchaser, under a penalty not exceeding Twenty Pounds: Provided that an offence shall not be deemed to be committed under this Section in the following cases; that is to say—

- i. Where any matter or ingredient not injurious to health has been added to the article of food or drug because the same is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the article of food or drug or conceal the inferior quality thereof:
- ii. Where the drug or food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent:
- iii. Where the article of food or drug is compounded as in this Part of this Act mentioned:
- iv. Where the article of food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation, or being of known instability has been unavoidably changed.

Reduction allowed
to the extent of 25
degrees under
proof for brandy,
whisky, or rum,
and 35 degrees
for gin.
42 & 43 Vict.
c. 30, s. 6.

121 In determining whether an offence has been committed under the preceding Section by selling to the prejudice of the purchaser spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove, except in the case of spirits sold under a trade mark, that such admixture has not reduced the spirit more than twenty-five degrees under proof for brandy, whisky, or rum, or thirty-five degrees under proof for gin.

Provision for the
sale of com-
pounded articles
of food and com-
pounded drugs.
38 & 39 Vict.
c. 63, s. 7.

122 No person shall sell any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser, under a penalty not exceeding Twenty Pounds.

Protection from
offences by giving
of label.
Ib., s. 8.

123 No person shall be guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended fraudulently to increase its bulk, weight, or measure, or conceal its inferior quality, if at the time of delivering such article of food or drug he supplies to the person receiving the same a notice by a label, distinctly and legibly written or printed on or with the article of food or drug, to the effect that the same is mixed, and stating the nature or composition of such mixture.

Prohibition of the
abstraction of any
part of an article
of food before
sale, and selling
without notice.
38 & 39 Vict.
c. 63, s. 9.

124 No person shall, with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it so as to affect injuriously its quality, substance, or nature, and no person shall sell any article so altered without making disclosure of the alteration, under a penalty in each case not exceeding Twenty Pounds.

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125 In any prosecution under this Part of this Act for selling to the prejudice of the purchaser any article of food or any drug which is not of the nature, substance, and quality of the article demanded by such purchaser, it shall be no defence to any such prosecution to allege that the purchaser having bought only for analysis was not prejudiced by such sale. Neither shall it be a good defence to prove that the article of food or drug in question, though defective in nature or in substance or in quality, was not defective in all three respects. Any person having in his possession for sale, and offering for sale, an inferior article of food for a genuine one shall, on conviction thereof, be liable to a penalty not exceeding Twenty Pounds.

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In sale of adulterated articles no defence to allege purchase for analysis.
42 & 43 Vict.
c. 30, s. 2.

Appointment and Duties of Analysts, and Proceedings to obtain Analysis.

126 The Local Authority of any district may, as soon as conveniently may be after the passing of this Act, and in all cases as and when vacancies in the office occur or when required so to do by the Chief Health Officer, shall for their respective districts appoint some person (not being persons engaged directly or indirectly in any trade or business connected with the sale of food or drugs within that district), possessing competent knowledge, skill, and experience, as Analyst of all articles of food and drugs sold within their districts respectively, and shall pay to such Analyst such remuneration as may be mutually agreed upon, and may remove him as they deem proper; but such appointments and removals shall at all times be subject to the approval of the Chief Health Officer, who may require satisfactory proof of competency to be supplied to him, and may give his approval absolutely or with modifications as to the period of the appointment and removal or otherwise.

Appointment of Analyst.
38 & 39 Vict.
c. 63, s. 11.

127 Any Local Authority may agree that the Analyst appointed by the Local Authority of any other district, or that any Analyst appointed by the Governor, may act for their district during such time as the said Local Authority think proper, and shall make due provision for the payment of his remuneration; and if such Analyst consent, he shall during such time be the Analyst for such district for the purposes of this Act.

Local Authority may engage the Analyst of another Local Authority.

128 Where, at the time of the commencement of this Act, any Analyst shall have been appointed under any former Act by any Local Body which by this Act is constituted a Local Authority, every such Analyst shall continue in office and be deemed to be duly appointed under the provisions of this Act.

Existing Analyst continued.

129 Any purchaser of an article of food or of a drug in any place being a district where there is any Analyst appointed under this Act shall be entitled on payment to such Analyst of a sum not exceeding Ten Shillings and Sixpence (or if there be no such Analyst then acting

Power to purchaser of an article of food to have it analysed.
Ib., s. 12.

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for such place, to the Analyst of any district where there is an Analyst appointed under this Act, on payment of such sum as may be agreed upon between such person and the Analyst), to have such article analysed by such Analyst, and to receive from him a certificate of the result of his analysis. No fee shall be required from any Local Authority for any certificate given by the Government Analyst for the purposes of this Act.

Officer may obtain a sample of food or drug to submit to Analyst. 38 & 39 Vict. c. 63, s. 13.

130 Any officer appointed under the provisions of this Act, or any police constable, may, at the cost of the Local Authority appointing such officer, or in whose district such constable then is, procure any sample of food or drugs, and if he suspect the same to have been sold to him contrary to any provision of this Act, shall submit the same to be analysed by the Analyst of the place being a district in which he then is, or if there be no such Analyst then acting for such place, to the Analyst of any district where there is an Analyst appointed under this Act, and such Analyst shall upon receiving payment as is provided in the last Section, with all convenient speed analyse the same, and give a certificate to such officer or constable wherein he shall specify the result of the analysis.

Officer or constable may obtain a sample of milk at the place of delivery to submit to Analyst. 42 & 43 Vict. c. 30, s. 3.

131 Any officer appointed under the provisions of this Act, or any police constable, may, at the cost of the Local Authority appointing such officer or in whose district such constable then is, purchase any milk intended for human consumption, and the sale of the milk to such officer or constable shall be held to be proof that it is intended for human consumption, and such officer or constable, if he suspect the same to have been sold contrary to any of the provisions of this Act, shall submit the same to be analysed.

Provision for dealing with the sample when purchased. 38 & 39 Vict. c. 63, s. 14.

132 The person purchasing any article with the intention of submitting the same to analysis shall, after the purchase has been completed, forthwith notify to the seller or his agent selling the article his intention to have the same analysed by an Analyst, and shall offer to divide the article into three parts, to be then and there separated, and each part to be marked and sealed, or fastened up in such manner as its nature will permit, and shall, if required to do so, proceed accordingly, and shall deliver one of the parts to the seller or his agent.

He shall afterwards retain one of the said parts for future comparison, and submit the third part, if he deems it right to have the article analysed, to the Analyst.

Provision when sample is not divided. *Ib.*, s. 15.

133 If the seller or his agent do not accept the offer of the purchaser to divide the article purchased in his presence, the Analyst receiving the article for analysis shall divide the same into two parts, and shall seal or fasten up one of those parts and shall cause it to be delivered either upon receipt of the sample, or when he supplies his certificate to the purchaser, who shall retain the same for production in case proceedings are afterwards taken in the matter.

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134 If the Analyst do not reside within Two miles of the residence of the person requiring the article to be analysed, such article may be forwarded to the Analyst through the Post Office; and the charge for the postage of such article shall be deemed one of the charges of this Act, or of the prosecution, as the case may be.

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Provision for sending article to the Analyst through the Post Office.

38 & 39 Vict.
c. 63, s. 16.

Person refusing to sell any article to any officer liable to penalty.

38 & 39 Vict.
c. 63, s. 17.
42 & 43 Vict.
c. 30, ss. 4 & 5.

135 If any such officer or constable as above described applies to purchase any article of food or any drug exposed for sale or on sale by retail on any premises, or in any shop or store, or in any street or open place of public resort, or to procure any sample of any milk in course of delivery to the purchaser or consignee in pursuance of any contract for the sale to such purchaser or consignee of such milk, and tender the price for the quantity which he requires for the purpose of analysis, not being more than is reasonably requisite, and the person exposing the said article of food or drug for sale refuses to sell the same to, or the seller or consignor, or any person or persons entrusted by him for the time being with the charge of such milk, refuse to allow the quantity required for the purpose of analysis to be taken by such officer or Constable, such person, seller, or consignor shall be liable to a penalty not exceeding Ten Pounds.

136 The certificate of the analysis shall be in the form set forth in the Schedule (4.) or to the like effect.

Form of the certificate.

38 & 39 Vict.
c. 63, s. 18.

137 Every Analyst appointed under this Part of this Act shall report quarterly to the Local Authority appointing him the number of articles analysed by him under this Act during the foregoing quarter, and shall specify the result of each analysis and the sum paid to him in respect thereof, and such report shall be presented at the next meeting of such Local Authority; and every such Local Authority shall annually transmit to the Chief Health Officer, at such time and in such form as he directs, a certified copy of such quarterly report.

Quarterly report of the Analyst.
Ib., s. 19.

Proceedings against Offenders.

138 When the Analyst, having analysed any article, shall have given his certificate of the result, from which it may appear that an offence against some one of the provisions of this Part of this Act has been committed, the person causing the analysis to be made, or any other person, may take proceedings for the recovery of the penalty herein imposed for such offence before any Two Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*.

Proceedings against offenders.
38 & 39 Vict.
c. 63, s. 20.
19 Vict. No. 8.

Every penalty herein imposed may be reduced or mitigated according to the judgment of the Justices.

139 In all prosecutions under this Part of this Act, and notwithstanding anything contained in *The Magistrates Summary Procedure Act*, the summons to appear before the Justices shall be served upon the person charged with violating the provisions of this Act within a reasonable time, and in the case of a perishable article not exceeding

Special provision as to time for proceedings.
42 & 43 Vict.
c. 30, s. 10.

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Twenty-eight days, from the time of the purchase from such person for test purposes of the food or drug for the sale of which in contravention to the terms of this Act the seller is rendered liable to prosecution ; and particulars of the offence or offences against this Act of which the seller is accused, and also the name of the prosecutor, shall be stated on the summons ; and the summons shall not be made returnable in a less time than seven days from the day it is served upon the person summoned.

Certificate of Analyst evidence for the prosecution, but Analyst to be called if required.

38 & 39 Vict.

c. 63, s. 21.

Power to Justices to have articles of food or drug analysed.

Ib., s. 22.

140 In any such proceeding the production of the certificate of the Analyst shall be sufficient evidence of the facts therein stated unless the defendant require the Analyst to be called as a witness, and the parts of the articles retained by the person who purchased the article shall be produced.

141 The Justices before whom any information may be heard, or the Court before whom any appeal may be heard under this Act may, upon the request of either party, in their discretion, cause any article of food or drug to be sent to the Chief Health Officer, who shall thereupon direct some person other than the Analyst who shall have made any analysis of such article of food or drug to make the analysis, and give a certificate to such Justices or Court of the result of the analysis ; and the expense of such analysis shall be paid by the complainant or the defendant as the Justices or Court may by Order direct.

In any prosecution defendant to prove that he is protected by exception or provision.

Ib., s. 24.

Defendant to be discharged if he prove that he bought the article in the same state as sold, and with a warranty.

No costs except on issues proved against him.

Ib. s. 25.

Punishment for forging certificate or warranty.

38 & 39 Vict.

c. 63, s. 27.

142 In any proceedings under this Act where the fact of an article having been sold in a mixed state has been proved, if the defendant shall desire to rely upon any exception or provision contained in this Act, it shall be incumbent upon him to prove the same.

143 If the defendant in any proceedings under this Act prove to the satisfaction of the Justices or Court that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the prosecutor, and with a written warranty to that effect that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as when he purchased it, he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence.

144 Any person who shall forge, or shall utter knowing it to be forged, for the purposes of this Part of this Act, any certificate or any writing purporting to contain a warranty, shall be guilty of a misdemeanour, and be punishable on conviction by imprisonment for a term of not exceeding Two years.

Punishment for wilful misapplication of warranty.

Every person who wilfully applies to an article of food or a drug in any proceedings under this Act a certificate or warranty given in relation to any other article or drug shall be guilty of an offence under this Act, and be liable to a penalty not exceeding Twenty Pounds.

Punishment for false warranty.

Every person who gives a false warranty in writing to any purchaser in respect of an article of food or a drug sold by him as principal or

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agent shall be guilty of an offence under this Act, and be liable to a penalty not exceeding Twenty Pounds. A.D. 1903.

And every person who wilfully gives a label with any article sold by him which shall falsely describe the article sold shall be guilty of an offence under this Act, and be liable to a penalty not exceeding Twenty Pounds. Punishment for false label.

145 Nothing in this Part of this Act contained shall affect the power of the Attorney-General to proceed by information, or take away any other remedy against any offender under this Act, or in any way interfere with contracts and bargains between individuals and the rights and remedies belonging thereto. Proceedings by Attorney-General and contracts not to be affected. 38 & 39 Vict. c. 63, s. 28.

In this Section the expression "Attorney-General" includes an officer appointed under the fifth Section of the Act of the Imperial Parliament of the 9th Geo. 4, Chapter 83, for the prosecution of crimes, misdemeanors, and offences cognizable in the Supreme Court.

146 In any action brought by any person for a breach of contract on the sale of any article of food or of any drug, such person may recover alone or in addition to any other damages recoverable by him the amount of any penalty in which he may have been convicted under this Act, together with the costs paid by him upon such conviction and those incurred by him in and about his defence thereto, if he prove that the article or drug the subject of such conviction was sold to him as and for an article or drug of the same nature, substance, and quality as that which was demanded of him, and that he purchased it not knowing it to be otherwise, and afterwards sold it in the same state in which he purchased it; the defendant in such action being nevertheless at liberty to prove that the conviction was wrongful, or that the amount of costs awarded or claimed was unreasonable. Person convicted under this Act may bring action against the original vendor. *Ib.*

147 The Governor may from time to time make Regulations for any purpose for which, in his opinion, they are contemplated or required by this Part of this Act, including, amongst other things, the purposes following :— Regulations under this Part.

- i. The inspection and analysis of drugs, chemicals, and patent medicines :
- ii. Prohibiting the sale and providing for the destruction of such drugs, and chemicals, and articles of food, as are adulterated :
- iii. Imposing penalties not exceeding Fifty Pounds for any breach of the Regulations :
- iv. Regulating and fixing the standards of the several ingredients of any food or drug :
- v. Prescribing what added substances to any article of food shall render such article of food injurious to health within the meaning of this Act :
- vi. Regulating and fixing the wording on labels on any article of food.

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PART XVI.**INFANT LIFE PROTECTION.**

Houses of persons
receiving infants
for nursing to be
registered.
35 & 36 Vict.
c. 38, s. 2.

148 From and after the commencement of this Act it shall not be lawful for any person to retain or receive for hire or reward in that behalf more than one infant, or in case of twins more than two infants, under the age of Two years, for the purpose of nursing or maintaining such infants apart from their parents for a longer period than Twenty-four hours, except in a house which is registered as herein provided.

Register to be
kept by Local
Authority.
35 & 36 Vict.
c. 38, s. 3.

149 Every Local Authority shall cause a Register to be kept, in which shall be entered the name of every person applying to register any house within its district for the purposes of this Part of this Act, and the situation of every such house; and every such Local Authority shall from time to time make regulations for fixing the number of infants who may be received into each house so registered; and may appoint an Inspector to enter any such house who shall report to the Local Authority the condition and treatment of the inmates therein and such registration shall remain in force for One year, and no fee shall be charged for such registration. Every person who receives or retains any infant in contravention of the provisions of this Act or of any regulations made thereunder shall be guilty of an offence against this Act.

Local Authority
may refuse to
register.
Ib., s. 4.

150 Any Local Authority may refuse to register any house unless they are satisfied that such house is suitable for the purposes for which it is to be registered, and unless they are satisfied by the production of certificates that the person applying to be registered is of good character, and able to properly maintain infants proposed to be maintained in such house.

Registered
persons to keep a
register of infants
and to produce it.
35 & 36 Vict.
c. 38, s. 5.

151 The person registered as aforesaid shall immediately enter in a Register to be kept by him the name, sex, and age of each infant under his care, and the date at which, and the names and addresses of the persons from whom they were received; and shall also enter in the said Register immediately after the removal of such infant the time of such removal, and the names and addresses of the persons by whom such infant received and retained as aforesaid was removed immediately after the removal of such infant; and shall produce the said Register when required to do so by any officer of the Local Authority; and in the event of his refusing so to produce the said Register, or neglecting to enter in a Register the name, sex, and age of each of the said infants, and the date at which, and the names and addresses of the persons from whom they were received and by whom they were removed respectively, such person shall be liable to a penalty not exceeding Five Pounds. The person registered shall be entitled to receive gratuitously from the Local Authority a book of forms for the registration of infants; such Register may be in the form contained in the Schedule (5.).

Schedule (5.).

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152 If any person make any false representation with a view to being registered under this Part of this Act, or forge any certificate for the purpose hereof, or make use of any forged certificate knowing it to be forged, or falsify any Register kept in pursuance of this part of this Act, he shall be guilty of an offence against this Act.

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Forgery of
certificate, &c.
35 & 36 Vict.
c. 38, s. 6.

153 If at any time it be proved to the satisfaction of the Local Authority that any person whose house has been registered as aforesaid has been guilty of serious neglect, or is incapable of providing the infants entrusted to his care with proper food and attention, or that the house specified in the Register has become unfit for the reception of infants, the Local Authority may strike his name and house off the Register.

Local Authority
may strike off
register.
Ib., s. 7.

154 The person registered as aforesaid shall, within Twenty-four hours after the death of an infant so retained or received, cause notice thereof to be given to a Coroner, and the Coroner shall hold an inquest on the body of such infant, unless there be produced to such Coroner a certificate under the hand of a legally qualified medical practitioner stating that such practitioner has personally attended or examined such infant, and specifying the cause of its death, and unless the Coroner be satisfied by such certificate that there is no ground for holding such inquest. No such infant shall be buried without the production of a certificate under the hand of the Coroner authorizing such burial. If the person so registered neglect to give notice as aforesaid, or if any person bury, or cause to be buried, any such child without the certificate of such Coroner as aforesaid, such person shall be guilty of an offence against this part of this Act.

Inquests to be
held.

Ib., s. 8.

155 Every person guilty of an offence against this Part of this Act shall, on conviction thereof before any Two Justices, be liable to imprisonment for not more than Six months, with or without hard labour, or to a penalty not exceeding Five Pounds, and shall, in addition be liable to have his name and house struck off the Register.

Penalties.

Ib., s. 9.

156 The provisions of this Part of this Act shall not extend to the relatives or guardians of any infant retained or received as aforesaid, nor to institutions established for the protection or care of infants or children.

Exceptions.

Ib., s. 13.

PART XVII.**DWELLING-HOUSES.**

157 Whenever any Officer of Health, or Chief Health Officer, or any Two legally qualified medical practitioners, certifies in writing to a Local Authority that any house or other building within their respective jurisdictions, or any part thereof, is unfit or unsafe for human occupation or habitation, such Local Authority may, and if recommended by the

Houses, &c., may
be declared unfit
for human
habitation, and
their occupation
forbidden.

18 & 19 Vict.

c. 121, ss. 12 & 13.

Public Health.

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Chief Health Officer, shall, by an Order in writing declare that such house or building or such part thereof is not fit for human occupation or habitation, and direct that such house or building or part thereof shall not after a time specified in such Order be occupied or inhabited by any person, and may cause such Order or a copy thereof to be affixed to some conspicuous part of such house or building before the expiration of the time mentioned in such Order.

Penalty.

Any person who, after the expiration of the time mentioned in such Order, lets, or occupies, or knowingly suffers to be occupied, such house or building, or (as the case may be) such part thereof, shall be guilty of an offence against this Act, and shall, on conviction thereof, be liable to a penalty not exceeding Five Pounds nor less than Ten Shillings for every day during which such house or building or (as the case may be) such part thereof is let, occupied, or knowingly suffered to be occupied by him in contravention of such Order.

Overcrowding in
houses.
35 & 36 Vict.
c. 121, s. 29.

158 Upon the certificate of the Chief Health Officer, Officer of Health, or of any two legally qualified medical practitioners, that any house or building, or any part thereof, is so overcrowded as to be dangerous or prejudicial to the health of the inmates or inhabitants or persons employed therein, the Local Authority shall cause complaint to be made before any Justice, who may summon before any Two Justices the person permitting such overcrowding; and the Justices shall thereupon make such order as they may think fit to abate such overcrowding; and the person permitting such overcrowding shall forfeit a sum not exceeding Five Pounds.

Prohibition of
occupying cellar
dwelling.
38 & 39 Vict.
c. 55, s. 71.
Penalty on
persons offending
against enact-
ment.
Ib., s. 73.

159 It shall not be lawful to let or occupy, or suffer to be occupied, separately as a dwelling, any cellar, vault, or underground room.

160 Any person who lets, occupies, or knowingly suffers to be occupied for hire or rent any cellar, vault, or underground room contrary to the provisions of this Part of this Act shall be liable for every such offence to a penalty not exceeding Twenty Shillings for every day during which the same continues to be so let or occupied after notice in writing from the Local Authority in this behalf.

Definition of
occupying as a
dwelling.
Ib., s. 74.

161 Any cellar, vault, or underground room in which any person passes the night shall be deemed to be occupied as a dwelling within the meaning of this Part of this Act.

Power to close
cellars in case of
two convictions.
Ib., s. 75.

162 Where Two convictions against the provisions of this Part of this Act relating to the occupation of a cellar, vault, or underground room as a separate dwelling-place have taken place with respect to the same cellar, vault, or underground room, within Three months (whether the persons so convicted were or were not the same), a Court of summary jurisdiction may direct the closing of the premises so occupied for such time as it may deem necessary, or may empower the Local Authority permanently to close the same, and to defray any expenses incurred by them in the execution of this Section.

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163 No dwelling-house shall be built within the limits of any city or town unless such dwelling-house have a clear space, uninterrupted by any house or building in other occupation, for the entire length or breadth of such dwelling-house, and access to a street which for its whole distance at and from such dwelling-house into some public street shall at the narrowest be Twenty feet in breadth, and open to the sky.

No building not originally built as and for a dwelling house within the limits of any City or Town, whether built before or after the commencement of this Act, shall be converted into or used as a dwelling-house without the previous consent of the Local Authority, who may grant such consent upon and subject to such conditions as they may see fit, or in their discretion may refuse the same.

Upon any complaint by the Local Authority to Justices of infringement of any of the provisions of this Section, the Justices may, in addition to the imposition of a penalty for an offence against this Part of this Act, declare such dwelling house a common nuisance, and order such dwelling-house to be removed by the owner thereof, and, in his default, by the Local Authority; and the costs of such removal, if effected by the Local Authority, to be paid to the Local Authority by the owner of such dwelling-house.

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Dwelling not to be erected in certain cases.

Buildings not hitherto used as dwellings not to be so used without consent.

PART XVIII.**NEW STREETS AND BUILDINGS.**

164 Every Local Authority may make By-laws with respect to the following matters; that is to say:—

- i. With respect to the level, width, and construction of new streets, and the provisions for the sewerage thereof:
- ii. 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:
- iii. With respect to the sufficiency of the space about buildings to secure free circulation of air, and with respect to the ventilation of buildings:
- iv. With respect to the drainage of buildings, to water-closets, earth-closets, privies, ash-pits, and cess-pools in connection 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 such Local Authority may further provide for the observance of such By-laws by enacting therein such provisions as they think necessary as to the giving of notices, as to the deposits of plans and sections by persons intending to lay out streets or to construct buildings, as to the inspection by such Local Board, and as to the power of such Board subject to the provisions of this Act, to remove, alter, or pull down any work begun or done in contravention of such By-laws.

Power to make By-laws respecting new streets, buildings, &c. 38 & 39 Vict. c. 55, s. 157.

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As to commencement of work and removal of work made contrary to By-laws.
38 & 39 Vict.
c. 55, s. 158.

165—(1.) Where a notice, plan, or description of any work is required by any By-law made by any Local Authority to be laid before such Authority, the Local Authority shall, within One month after the same has been delivered or sent to their Surveyor or Secretary, 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 approval, or before the expiration of such month without such approval, and is in any respect not in conformity with any By-law of the Local Authority, such Authority may cause so much of the work as has been executed to be pulled down or removed.

(2.) Where a Local Authority incur expenses in or about the removal of any work executed contrary to any By-law, such Authority may recover in the mode prescribed by this Act 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.

(3.) Where a Local Authority may under this Section pull down or remove any work begun or executed in contravention of any By-law, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable in respect of any By-law to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the By-law 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 By-law was broken.

What to be deemed a new building.
Ib., s. 159.

166 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.

PART XIX.**LEGAL PROCEEDINGS.**

Other proceedings not affected.

167 Nothing in this Act contained shall be held to affect the power of proceeding by information, or to take away any other remedy against any offender against any of the provisions of this Act.

Penalty if owner or occupier hinders the other.

168 If in the performance of any duty imposed on him by this Act the owner of any premises is in any way obstructed or hindered by the occupier, or the occupier by the owner, the one who obstructs or hinders the other shall be liable to a penalty not exceeding Five Pounds for every day on which he does so.

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169 If, when requested by the Chief Health Officer or any Assistant or Inspector so to do, the owner of any premises makes default in truly and fully disclosing the name of the occupier, or the occupier makes default in truly and fully disclosing the name of the owner when requested by the Chief Health Officer or any Assistant or Inspector to disclose such name, the person so making default shall be liable to a penalty not exceeding Five Pounds.

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Name of owner or occupier to be disclosed.

170 A person shall be deemed to commit an offence against this Act if in any way, directly or indirectly, he obstructs or hinders the Chief Health Officer, or any Assistant, Inspector, or other officer under this Act, or any Inspector or other officer of a Local Authority, in the exercise of any of his functions, powers, or duties under this Act.

Obstruction of Health or other officers an offence.

171 If any person commits any offence against this Act for which no penalty is by this Act provided elsewhere than in this Section, he shall be liable to a penalty not exceeding Five Pounds, and in the case of a continuous offence to an additional penalty not exceeding Five Pounds for every day on which the offence is continued after the first day.

General penalty.

172—(1.) All expenses incurred by the Chief Health Officer on behalf of a Local Authority, or for which a Local Authority is liable under this Act, shall be recoverable as a debt due to the Crown.

Recovery of expenses from Local Authority.

(2.) Without affecting any other mode of recovering such expenses they may, on the warrant of the Minister, be deducted and retained out of any moneys at any time payable by the Government to the Local Authority in respect of subsidy, or otherwise howsoever.

(3.) All expenses incurred by or on behalf of the Chief Health Officer in connection with the disinfection or destruction of any goods in consequence of the presence of infectious disease on any ship, or the replacing of any goods so destroyed shall be borne by the owners of the ship, and may be recovered as a debt due to the Crown.

173 All expenses which by this Act are declared to be recoverable in a summary way or manner, and all penalties under this Part of this Act, shall be recoverable before any Two or more Justices of the Peace in a mode prescribed by *The Magistrates Summary Procedure Act*.

Mode of recovery of expenses and penalties.

174—(1.) All penalties and other moneys recovered or received by or on behalf of the Department in the administration of this Act shall be paid into and form part of the Consolidated Revenue Fund.

Application of penalties and moneys recovered.

(2.) Except where herein otherwise directed, the Local Authority shall be entitled to all penalties recovered under the provisions of this Act.

175 With reference to notices, orders, or requisitions to owners or occupiers under this Act, and the service thereof, the following provisions shall apply :—

Requisitions to owners or occupiers—Form, service, proof, and validity.

- i. The notice, order, or requisition shall be in the prescribed form ; or, if no form or no sufficient form is prescribed,

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- then in such form as the officer by whom it is issued thinks fit; and every notice, order, or requisition requiring authentication by any Local Authority, shall be sufficiently authenticated if signed by the Secretary of such Local Authority, without the Common Seal of such Local Authority :
- ii. A notice, order, or requisition to the owner of any premises may be served on the owner in any of the following ways :
 - (a) By delivering the same to the owner personally, or at the owner's place of business or abode, if any, in the district, to any person appearing to be employed therein, or an inmate thereof ; or
 - (b) By posting the same in a registered letter, addressed to the owner at his last known place of business or abode, if any, in the district, or at the premises to which the notice, order, or requisition relates :
 - iii. A notice, order, or requisition to the occupier of any premises may be served on the occupier in the same manner, *mutatis mutandis*, as in the case of an owner :
 - iv. If service is effected by registered letter, the date on which the letter would be delivered in ordinary course of post shall be deemed to be the date of service :
 - v. It shall be sufficient if the owner or occupier is described by his usual name or style, or in the case of a firm, by the usual name or style of the firm.
 - vi. If there are more owners than one, it shall be sufficient if the notice, order, or requisition is served on any one of them and the name of any one of them is specified, with the addition of the words "and others:"
 - vii. The provisions of the last preceding Subsection hereof shall, *mutatis mutandis*, apply where there are more occupiers than one :
 - viii. Non-service on the owner shall not affect the validity of service on the occupier, and non-service on the occupier shall not affect the validity of service on the owner :
 - ix. If the name of the owner or occupier is not known, it shall be sufficient if he is described generally as "owner" or "occupier" of the premises to which the notice, order, or requisition relates :
 - x. In all proceedings against the owner or occupier in which the notice, order, or requisition has to be proved, the defendant shall be deemed to have received notice to produce it ; and, until the contrary is shown, the notice, order, or requisition and its due service may be sufficiently proved by or on behalf of the plaintiff or informant by the production of what purports to be a copy, bearing what purports to be a certificate under the hand of the officer authorised to issue the original that the copy is a true copy of the original, and that the original was served on the date specified in the certificate :

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- xi. The validity of the notice, order, or requisition, or of the service thereof, shall not be affected by any error, misdescription, or irregularity which is not calculated to mislead, or which, in fact, does not mislead. A.D. 1903.

176 In every case where, under this Act, or any requisition or Justices' order under this Act, the owner and occupier of any house, building, land, or other premises— Liability of owner and occupier under requisition or order.

- i. Are jointly and severally liable to do any cleansing, disinfecting, or other sanitary work of any description ; or
- ii. Are severally liable to a penalty for any default in connection with any such work ; or
- iii. Are jointly and severally liable for any expenses incurred by or on behalf of the Department, or any officer of the Department, or any Local Authority, or any officer of the Local Authority, in connection with any such work—

then, for the purpose of regulating the rights and obligations of the owner and occupier, as between one another, the provisions of the next succeeding Section hereof shall apply.

177 The provisions last hereinbefore referred to are as follows:—

- i. The owner who does or pays for the work, or pays the penalty or expenses, shall be entitled to recover from the occupier as a debt the cost of the work so done or the amount so paid, if he satisfies the Court in which he seeks to recover the debt that the work was rendered necessary through no fault of his own, or of any person for whose acts or defaults he was responsible, but solely through the fault of the occupier or some person for whose acts or defaults the occupier was responsible : Payment for works done as between owner and occupier.
- ii. The occupier who does or pays for the work, or pays the penalty or expenses, shall be entitled to recover from the owner as a debt the cost of the work so done or the amount so paid, if he satisfies the Court in which he seeks to recover the debt that the work was rendered necessary through no fault of his own, or of any person for whose acts or defaults he was responsible, but solely through the fault of the owner or some person for whose acts or defaults the owner was responsible :
- iii. The amount of the debt recoverable as aforesaid by the occupier may be set off against rent due or to accrue due by him to the owner :
- iv. In determining the rights and obligations of the owner and occupier under this Section, regard shall be had to the conditions or covenants of any written instrument :
 Provided that any condition or covenant to indemnify the owner against his obligations under this Section shall be void :
- v. Except as provided by the last preceding Sub-section hereof, the rights and obligations of the owner and occupier under this Section shall not be affected by any agreement between the parties.

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Provisions as to
charge on land
or premises.

178 In every case where by this Act any expenses are declared to be a charge on land or premises, the following provisions shall apply :—

- i. If any question or dispute arises as to the fact or amount of the charge, or as to the land or premises subject thereto, or as to the persons liable to pay the same, then the question shall be determined in a summary manner by Two or more Justices of the Peace, whose decision shall be final :
- ii. Subject to the Justices' decision under the last preceding Sub-section hereof, a certificate under the hand of the Chief Health Officer, or of the Clerk or Secretary of the Local Authority, shall be sufficient evidence of the amount of the charge, the land and premises subject to the charge, and the persons liable to pay the charge :
- iii. Such certificate, or, as the case may be, a certificate of the Justices' decision under the hand of the Justices, may be registered against the land affected thereby :
- iv. The charge shall be enforced and be discharged in such manner as is prescribed by Regulations under this Act.

Continued
operation of
notices and orders.

179 All notices or orders required under this Act to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from or under such owner or occupier to the same extent as if such order or notice had been served on such last-mentioned persons respectively.

Proceedings
where nuisance is
caused by two or
more persons.
38 & 39 Vict.
c. 55, s. 255.

180 Where any nuisance under this Act appears to be wholly or partially caused by the acts or defaults of Two or more persons, it shall be lawful for the Local Authority within whose District such nuisance is caused, or for any other complainant, to institute proceedings against any one of such persons, or to include all or any Two or more of such persons in one proceeding ; and any one or more of such persons may be ordered to abate such nuisance so far as the same appears to the Court having cognizance of the case to be caused by his or their acts or defaults, or may be prohibited from continuing any acts or defaults which in the opinion of such Court, contributes to such nuisance, or may be fined or otherwise punished, notwithstanding that the acts or defaults of any one of such persons would not separately have caused a nuisance ; and the costs may be distributed as to such Court may appear fair and reasonable.

Proceedings against several persons included in one complaint shall not abate by reason of the death of any among the persons so included, but all such proceedings may be carried on as if the deceased person had not been originally so included.

Whenever in any proceeding under the provisions of this Act, whether written or otherwise, it becomes necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate him as the "owner" or "occupier" of such premises without name or further description.

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181 Where under this Act it is directed that any By-law, Order, or Regulation shall be published in the *Gazette*, the production of a copy of the *Gazette* containing a copy of such By-law, Order, or Regulation shall be evidence in all legal proceedings of the due making and approval of such By-law, Order, or Regulation without further or other proof.

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Evidence.

182 In any proceeding instituted by or against a Local Authority under this Act it shall not be necessary for the plaintiff or complainant to prove the corporate name of such Local Authority or the constitution or limits of their district.

Name of authority need not be proved.
38 & 39 Vict.
c. 55, s. 260.

183 Any Local Authority may appear before any Court or in any legal proceeding by their Secretary, or by any officer or person authorised generally, or, in respect of any special proceeding, by resolution of such Authority, and their Secretary or any officer or person so authorised shall be at liberty to institute and carry on any proceeding which such Local Authority is authorised to institute and carry on under this Act.

Appearance of local authorities in legal proceedings.
Ib. s. 259.

184 No order, conviction, or thing made or done or relating to the execution of this Act, shall be vacated, quashed, or set aside for want of form, or (unless otherwise expressly provided by this Act) be removed or removable by *certiorari* or any other writ or process whatsoever into the Supreme Court. Provided that nothing in this Section shall prevent the removal of any case stated for the opinion of such Court, or of any order, conviction, or thing to which such special case relates.

Proceedings not to be quashed for want of form.
Ib. s. 262.

Any person who feels himself aggrieved by any conviction or order of any Justices under this Act may appeal from such conviction or order, unless otherwise expressly provided, in the mode prescribed by *The Appeals Regulation Act*.

Appeal.

19 Vict. No. 10.

185 Any person who on any examination on oath under any of the provisions of this Act wilfully and corruptly gives false evidence shall be liable to the penalties inflicted on persons guilty of wilful and corrupt perjury.

False evidence punishable as perjury.
38 & 39 Vict.
c. 55, s. 263.

186 No matter or thing done, and no contract entered into by any Local Authority, and no matter or thing done by any member of such Authority, or by any officer of any such Authority, or other person whomsoever acting under the direction of any such Authority, shall, if the matter or thing were done, or the contract were entered into *bonâ fide* for the purpose of executing this Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever; and any expense incurred by any such Authority, member, officer, or other person acting as last aforesaid, shall be borne and repaid out of the fund or rate applicable by such Authority to the general purposes of this Act.

Protection of sanitary authority and their officers from personal liability.
Ib. s. 265.

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SCHEDULE.**(1.)**

Section 2.

OFFENSIVE TRADES.

Blood or offal boiling or treating.
 Bone boiling or crushing.
 Candle-making, where tallow is rendered on the premises.
 Chemical or acid-making.
 Copper or lead-smelting.
 Fellmongering.
 Slaughtering.
 Soap-boiling.
 Tallow-melting, where refined tallow is not used.
 Tanning.
 Gut-scraping.
 Gut-spinning.
 Glue-making.
 Manure manufacturing.

And any trade that, unless preventive measures are adopted, may become a nuisance or injurious to the health of the inhabitants of the district.

(2.)

Section 4.

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
49 Vict. No. 18.	"The Public Health Act, 1885."	The whole Act.
51 Vict. No. 35.	"The Public Health Act, 1887."	The whole Act.
53 Vict. No. 39.	"The Public Health Act, 1889."	The whole Act.
60 Vict. No. 38.	"The Public Health Amendment Act, 1896."	The whole Act.

(3.)

FORM No. 1.

Under "The Public Health Act, 1903."

Section 31.

MEDICAL ATTENDANT'S NOTICE OF ACTUAL OR SUSPECTED INFECTIOUS DISEASE.

PURSUANT to Section Thirty-one of the abovementioned Act, I herewith give you notice that [*name of disease*] exists, or is suspected to exist, as follows:—

Locality of house [*town, street, and number of house (if any)*].

Name of occupier of house.

Name, age, and sex of patient in the house.

Nature of disease from which the patient is suffering or is suspected to be suffering.

Dated at _____, this _____ day of _____, 19 _____
 Medical Practitioner.

To the Chief Health Officer,
 also to the Secretary of the Local Authority.

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(4.)

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FORM OF CERTIFICATE.

Section 136.

To *

I, the undersigned, Public Analyst for the do hereby certify
 that I received on the day of 19 from †
 a sample of for analysis, (which then weighed †) and have analysed
 the same, and declare the result of my analysis to be as follows:—

I am of opinion that the same is a sample of genuine

Or,

I am of opinion that the said sample contained the parts as under, or the per-
 centage of foreign ingredients as under:—

Observations. §

As witness my hand this

day of

A.B.

at

* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the same.

‡ When the article cannot be conveniently weighed this passage may be erased, or the blank left unfilled.

§ Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

(5.)

Section 151.

Date at which received.	Name.	Sex.	Age.	Name and Address of Person from whom received.	Date at which removed.	Name and Address of Person by whom removed.

