

Malawi

## Public Health Act

### Chapter 34:01

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# Malawi

## Public Health Act

### Chapter 34:01

Commenced on 29 July 1948

*[This is the version of this document at 31 December 2014.]*

*[Note: This version of the Act was revised and consolidated in the Forth Revised Edition of the Laws of Malawi (L.R.O. 1/2015), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]*

#### An Act to amend and consolidate the law regarding the preservation of public health

#### 1. Short title

This Act may be cited as the Public Health Act.

#### 2. Application of this Act

This Act, or specified provisions thereof only, shall apply to such part or parts of Malawi as the Minister may direct by notice published in the *Gazette*

#### 3. Application

The Minister may by notice published in the *Gazette* suspend or rescind the application of this Act, or of specified provisions thereof, to any part or parts of Malawi to which it, or such specified provision, has or have been applied.

### Part I – Interpretation of terms

#### 4. Interpretation

In this Act and in any Rules made under this Act, unless the context otherwise requires, the following terms have the following meanings-

“**adult**” means a person who is over or appears to be over eighteen years of age;

“**assisted hospital**” means a hospital or any other health facility which is maintained in whole or in part by grants-in-aid;

“**Board or Board of Governors**” means a Board of Governors established under Part IIA;

*[21 of 1992]*

“**building**” includes any structure whatsoever whether permanent or temporary for whatsoever purpose used;

“**burial**” means burial in earth, interment or any other form of sepulture, or the cremation or any other mode of disposal of a dead body, and “buried” has a corresponding meaning;

“**carrier of a disease**” means one in whose body the infection of a disease is still present and liable to be transmitted to another person, although the carrier is not himself suffering from the disease in an active form;

“**child**” means a person who is under or appears to be under eighteen years of age;

“**dairy**” includes any farm-house, cow shed, milk-stall, milk-shop or other place from which milk is supplied or in which milk is kept or used for purposes of sale or is manufactured into butter, ghee, cheese, dried milk or condensed milk for sale;

“**dairyman**” includes any cow-keeper, purveyor of milk, or occupier of a dairy, and in cases where a dairy is owned by a corporation or company, the secretary or other person actually managing such dairy;

“**district**” means in relation to a local authority, the area which is under the jurisdiction of that local authority;

“**drain**” means any drain together with its appurtenances used for the drainage of one building only, or of premises within the same curtilage and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which drainage of two or more buildings or premises occupied by different persons is conveyed, and includes any pipe or channel whether opened or closed, used or intended to be used for the drainage of land;

“**dwelling**” means any house, room, shed, hut, cave, tent, vehicle, vessel or boat or any other structure or place whatsoever, any portion whereof is used by any human being for sleeping or in which any human being dwells;

“**to erect**” in reference to a dwelling or room includes “to alter”, “add to” or “convert into” and “erected” has a corresponding meaning;

“**factory**” means any premises wherein, or within the close or curtilage or precincts of which, steam, water, or other power whether mechanical or manual is used in aid of the manufacturing process there carried on;

“**food**” means any article used for food or drink other than drugs or water, but includes ice, and any article which ordinarily enters into or is used in the composition or preparation of human food, and includes flavouring matters and condiments, and “foodstuffs” has a corresponding meaning;

“**guardian**” means, any person having by reason of the death, illness, absence or incapacity of a parent or any other cause, the custody of a child;

“**health officer**” means a medical officer of health and a health inspector;

“**health inspector**” means a health inspector of the Ministry of Health or one employed by a local authority;

“**infected**” means suffering from, or in the incubation stage of, or contaminated with the infection of, any infectious disease;

“**infectious disease**” means any disease which can be communicated directly or indirectly by any person suffering therefrom to any other person;

“**isolation**” means the segregation and the separation from, and interdiction of communication, with others, of persons, who are or are suspected of being infected, and isolated has a corresponding meaning;

“**keeper of a lodging-house**” means any person keeping a hotel or lodging-house;

“**land**” includes any right over or in respect of land or any interest therein;

“**latrine**” includes privy, urinal, earth-closet and water-closet;

“**lodging-house**” means a building or part of a house including the veranda thereof, if any, which is let or sublet in lodgings or otherwise, either by storeys, by flats, by rooms, or by portions of rooms;

“**medical observation**” means the isolation of persons in a suitable place;

“**medical officer**” means any registered or licensed medical practitioner in the employment of the Government and includes any person authorized by the Secretary for Health to act as a medical officer;

“**medical officer of health**” means the Secretary for Health or any medical officer appointed by the Secretary for Health to act as such in any area;



“**medical practitioner**” means a person who is registered or licensed as such under any law in force in Malawi governing the registration of medical practitioners;

“**medical surveillance**” means the keeping of a person under medical supervision. Persons under such surveillance may be required by the medical officer of health or any officer duly authorized by the Secretary for Health to remain within a specified area or to attend for medical examination at specified places and times;

“**occupier**” shall include any person in actual occupation of land or premises without regard to the title under which he occupies and, in case of premises subdivided and lot to lodgers or various tenants the person receiving rent payable by the lodgers or tenants whether on his own account or as an agent for any person entitled thereto or interested therein;

“**offensive trade**” includes the trade of blood-boiler, bone-boiler, fell-monger, soap-boiler, tallow-melter, tripe-boiler, tanner, preparer or storer of hides, manure manufacturer, and any other noxious or offensive trade, business or manufacture declared by the Minister by notice published in the *Gazette* to be a noxious or offensive trade;

“**owner**” shall, as regards immovable property, include any person, other than the Government, receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rent or profits if such land or premises were let whether on his own account or as agent for any person other than the Government entitled thereto or interested therein. The term includes any lessee or licensee from the Government and any superintendent, overseer, or manager, of such lessee or licensee residing on the lands or premises;

“**parent**” means and includes the father and mother of a child whether legitimate or not;

“**premises**” includes any building or tent together with the land on which it is situated and the adjoining land used in connexion therewith, and includes any vehicle, conveyance or vessel;

“**proprietor**” in relation to an assisted hospital, includes a former proprietor;

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“**public building**” means a building used or constructed or adapted to be used either ordinarily or occasionally as a place of public worship or as a hospital, college, school, theatre, public hall, or as a public place of assembly or entertainment for persons admitted by ticket or otherwise, or used or adapted to be used for any other public purpose;

“**public vehicle**” means any vehicle which plies or stands for hire, or is from time to time let out for hire or is intended to be let out for hire and includes any railway coach or aircraft or vessel;

“**slaughter-house**” means any premises set apart for the purpose of a slaughter-house by a local authority;

“**stock**” means and includes all domesticated animals of which the flesh or milk is used for human consumption;

“**street**” means any highway, road or sanitary lane, and includes any bridge, footway, square, court, alley or passage whether a thoroughfare or a part of one or not;

“**trade premises**” means any premises (other than a factory) used or intended to be used for carrying on any trade or business;

“**vehicle**” means every means of conveyance or of transit or parts thereof manufactured for use or capable of being used on land, water or in the air and in whatever way driven or propelled or carried;

“**veranda**” includes any stage, platform or portico projecting from the external wall of any building;

“**veterinary officer**” means the Director of Veterinary Services or any veterinary officer in the employment of the Government or any member of the Government veterinary staff appointed by the Director of Veterinary Services to act as such in any area;

“**workshop**” means any building or part of a building or any premises in which manual labour is exercised for the purposes of trade.

## **Part II – Administration**

### **5. Power to direct inquiries**

The Minister may cause to be made such inquiries as he may see fit in relation to any matters concerning the public health in any place.

### **6. Power of persons directed to make inquiries**

When the Minister directs any inquiry to be made, the person directed to make such inquiry shall have free access to all books, plans, maps; documents, and other things relevant to the inquiry, and shall have in relation to witnesses and their examination and the production of documents similar powers to those conferred upon Commissioners by the Commissions of Inquiry Act, and may enter and inspect any building, premises, or place, the entry or inspection whereof appears to him requisite for the purpose of such inquiry.

### **7. General duties of local authorities**

It shall be the duty of every local authority to take all lawful, necessary and under its special circumstances reasonable and practicable measures for preventing the occurrence or dealing with any outbreak or prevalence of any infectious, communicable or preventable disease, to safeguard and promote the public health, and to exercise the powers and perform the duties in respect of the public health conferred or imposed on it by this Act or by any other law.

### **8. Proceedings on complaint against local authorities**

Whenever any complaint is made that the public health in any locality is endangered by the failure or refusal on the part of the local authority to exercise the powers or perform the duties devolving upon it under this Act, the Minister, if satisfied after due inquiry that the local authority is guilty of default, may make an order directing the local authority to perform its duty in the matter of such complaint and prescribing a time for such performance. If such order is not obeyed within the time prescribed the Minister may appoint some person to carry out such order, and the cost of carrying out the order may be recovered as a debt due to the Government from the local authority.

### **9. Powers of person appointed under preceding section**

Any person appointed under the last preceding section to perform the duty of a defaulting local authority shall, in the performance and for the purpose of such duty have all the powers of such local authority other than the powers of levying rates vested in any local authority pursuant to the provision of any Act in that behalf, and the Minister may from time to time by order change any person so appointed.

### **10. This Act in relation to other Acts**

Save as is specially provided in this Act, this Act shall be deemed to be in addition to and not in substitution for any provisions of any other Act which are not in conflict or inconsistent with this Act.

## Part IIA – Management of assisted hospitals

### 10A. Board of Governors of assisted hospitals

- (1) Where, in the opinion of the Minister, it is desirable that a Board of Governors should be set up to manage an assisted hospital or a group of assisted hospitals, he shall cause proposals for that purpose to be placed before the proprietor of that hospital or group of hospitals.
- (2) Where, in the opinion of the proprietor of any assisted hospital or group of assisted hospitals, it is desirable that a Board of Governors be set up to manage the hospital or group of hospitals, the proprietor shall submit proposals for that purpose to the Minister.
- (3) The Minister may, by order published in the *Gazette* establish a Board of Governors for the hospital or group of hospitals to which such proposals relate in accordance with any agreement which may be reached between him and the proprietor.

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### 10B. Contents of order

- (1) An order establishing a Board of Governors under section 10A shall provide for—
  - (a) the name of the Board;
  - (b) the exercise by the Board of the duty of management of the assisted hospital or group of hospitals specified in the order, subject to such limitations or restrictions as may be specified;
  - (c) the membership of the Board, including representation on the Board of the Ministry, the proprietor, the community or communities served by the hospital or group of hospitals and such bodies or organizations as may be agreed upon by the Minister and the proprietor, all in such numbers and proportions as may be so agreed;
  - (d) the method by which the continuity of the membership of the Board may be provided;
  - (e) the revocation of the appointment of, the retirement and resignation of, members of the Board and the appointment of new members thereof and of temporary members thereof in case of absence or inability to act of any members thereof;
  - (f) the respective responsibilities, duties and powers of the Board and of the other persons (if any) in whom any land or other property is vested in trust for or for the benefit of any hospital affected by the order and in respect of the use of the buildings and grounds of any such hospital at times when they are not required to be used for purposes of health services;
  - (g) such other matters as the Minister may, in agreement with the proprietor, consider necessary in respect of the constitution, functions or procedure of the Board.
- (2) A Board of Governors established under subsection (1) shall be a body incorporated by the name of the Board, unless the order by which it is established otherwise provides. Such body corporate shall have perpetual succession and may sue and be sued by its name and shall have power to make contracts and to own land.
- (3) All or any property of the proprietor may be vested by an order made under section 10A in the Board of Governors thereby established or in trustees for the assisted hospital or group of assisted hospitals thereby affected.
- (4) In any case in which property is or remains vested in trustees for an assisted hospital or group of assisted hospitals, the order establishing a Board of Governors thereof may provide that the

Board shall have sole responsibility for management of the assisted hospital or group of assisted hospitals and in such case the trustees shall, notwithstanding any other provision of this Act or of any other written law, be under no liability as proprietors for any act or omission in relation to the management of the assisted hospital or group of assisted hospitals by the Board of Governors thereof, who shall be solely responsible for their own acts and omissions.

- (5) An order made under [section 10A](#) may be amended by the Minister at any time with the agreement of the proprietor of the assisted hospital or group of assisted hospitals thereby affected:

Provided that if such proprietor has died or ceased to exist, such amendment may be made without any such agreement.

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### Part III – Notification of infectious diseases

#### 11. Notifiable diseases

The provisions of this Act, unless otherwise expressed, shall, so far as they concern notifiable infectious diseases, apply to anthrax; blackwater fever; cerebro-spinal meningitis or cerebro-spinal fever; cholera; diphtheria or membranous croup; dysentery (bacillary); encephalitis lethargica; enteric or typhoid fever (including paratyphoid); erysipelas; hydrophobia or human rabies; influenza; measles; plague; acute primary pneumonia; acute anterior poliomyelitis; acute poliomyelitis; puerperal fever (including septicemia, pyemia, septic pelvic cellulitis or other serious septic condition occurring during the puerperal state); relapsing fever; scarlet fever or scarlatina; sleeping sickness or human trypanosomiasis; smallpox or any disease resembling smallpox; all forms of tuberculosis which are clinically recognizable apart from reaction to the tuberculin test; typhus fever; whooping-cough and yellow fever.

#### 12. Declaration of notifiable diseases by Minister

The Minister may by notice published in the *Gazette*—

- (a) declare that any infectious disease other than those specified in [section 11](#) shall be a notifiable disease under this Act;
- (b) declare that only such provisions of this Act as are mentioned in such notice shall apply to any such notifiable disease;
- (c) restrict the provisions of this Act, as regards the notification of any disease, to the district of any local authority or to any area defined.

#### 13. Notification of infectious diseases

- (1) Where an inmate of any dwelling in Malawi is suffering from any notifiable infectious disease, unless such dwelling is a hospital in which persons suffering from any notifiable infectious diseases are received, the following provisions shall have effect—
  - (a) the head of the family to which such inmate (in this Act referred to as "the patient") belongs and in his default the nearest relatives of the patient present in the building or in their default the person in charge of or in attendance on the patient, and in default of any such person the occupier of the dwelling shall, as soon as he becomes aware that the patient is suffering from any notifiable infectious disease to which this Act applies, send notice thereof to the nearest medical officer of health;
  - (b) whenever any child attending any school, orphanage or like institution, or any person residing in any hotel, boardinghouse or other like institution, shall be known to be suffering from any infectious disease (whether such infectious disease is specified in this Act or

not) the manager, principal or person in charge of such school, orphanage or other like institution, or the manager or proprietor or person in charge of such hotel, boarding-house or other like institution shall forthwith send notice thereof to the nearest medical officer of health and shall furnish to him on his request a list of scholars or residents thereat, together with their addresses;

- (c) every medical practitioner attending on or called in to visit a patient shall forthwith on becoming aware that the patient is suffering from any notifiable infectious disease to which this Act applies, send to the nearest medical officer of health a certificate stating the name of the patient, the situation of the building and the notifiable infectious disease from which, in the opinion of such medical practitioner, the patient is suffering;
  - (d) in any case in which a medical practitioner has been called in, the obligation to notify an infectious disease shall rest on such medical practitioner only;
  - (e) every medical practitioner, who becomes aware by postmortem examination or otherwise that any person has died of a notifiable infectious disease shall immediately furnish a written certificate thereof to the nearest medical officer of health and shall also inform the head of the household or the occupier of the premises or any person who has been in attendance on such diseased person of the infectious nature of the disease and the precautions to be taken to prevent its conveyance to others.
- (2) Every person required by this section to give a notice or certificate who fails to give the same shall be liable to a fine of £5:

Provided that if a person is not required to give notice in the first instance, but only in default of some other person, he shall not be liable to any fine if he satisfies the court that he had reasonable cause to suppose that the notice had been duly given.

#### 14. Regulations for the notification of infectious diseases

The Minister may, in respect of the notification of infectious disease, make Regulations as to—

- (a) the duties of owners or occupiers of land tire owners or managers of mines, employers of labour and all Chiefs or Headmen or others in regard to reporting the occurrence of any infectious disease;
  - (b) the duties of the person in charge of any school, orphanage or similar institution in regard to the reporting of such diseases or any other communicable disease specified in the Regulations to the local authority;
  - (c) the circumstances in which notification of particular infectious diseases shall not be required;
  - (d) the duties of the local authority in respect to the keeping of registers and records of such notifications;
  - (e) the duties of registrars of death in respect of furnishing the local authority with notification of returns of deaths notified with such registrars;
  - (f) the forms to be used and the particulars to be furnished by medical practitioners when making such notifications to the local authority;
  - (g) the forms to be used and the particulars to be furnished by the local authorities when transmitting returns and reports to the Secretary for Health,
- and generally for better carrying out the provisions and attaining the objects and purposes of this Part. Any person who contravenes or fails to comply with any such Regulation shall be guilty of an offence.

**15. Fees for certificates**

The local authority shall pay to every medical practitioner, other than a Government medical officer, for each certificate duly sent by him in accordance with this Act a fee of five shillings.

**Part IV – Prevention and suppression of infectious diseases****16. Powers of medical officer of health to inspect premises and persons**

A medical officer of health may at any time enter and inspect any premises in which he has reason to believe that any person suffering or who has recently suffered from any infectious disease is or has recently been present, or any inmate of which has recently been exposed to the infection of any infectious disease, and may medically examine any person in such premises for the purpose of ascertaining whether such person is suffering or has recently suffered from or is a carrier of any such disease and may cause a post-mortem examination to be made on any corpse for the purpose of ascertaining if the cause of death has been any infectious disease.

**17. Cleansing and disinfection of premises and articles therein**

- (1) If a local authority is satisfied upon a certificate of a medical officer of health or a health inspector that the cleansing and disinfection of any premises, and the disinfection and destruction of any articles therein likely to retain infection, would tend to prevent the spread of any infectious disease, the authority shall give notice to the occupier of the premises that it will at his cost cleanse and disinfect the premises and disinfect or, as the case may require, destroy any such articles therein.
- (2) The authority may, twelve hours after the delivery of such notice, or at any time with the consent of the occupier, cause the premises to be cleansed and disinfected and the articles to be disinfected or destroyed, as the case may require, and may, if it thinks fit, recover from him the expenses reasonably incurred by it in so doing.
- (3) Where a local authority has under this section disinfected any premises or article, or destroyed any articles, it may if it thinks fit, pay compensation to any person who has suffered damage by its action.
- (4) For the purpose of this section, the owner of unoccupied premises shall be deemed to be in occupation thereof.

**18. No compensation for deprivation during disinfection**

Compensation shall not be payable in respect of the deprivation of the occupation or use of any building or part thereof or of the use of any article occasioned by disinfection, if no undue delay has occurred.

**19. Provision of means of disinfection**

Any local authority may provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding, clothing or other articles which have become infected, and may cause any articles brought for disinfection to be dealt with free of charge.

**20. Provision of conveyance for infected persons**

Any local authority may provide and maintain a conveyance or conveyances for the carriage of persons suffering from any infectious disease and may pay the expenses of carriage therein of any person so suffering to a hospital or other place of detention.

## 21. Provision for removal to hospital of persons suffering from infectious diseases where serious risk

Where the local authority is satisfied on a certificate of the medical officer of health that a person is suffering from an infectious disease and—

- (a) that his circumstances are such that proper precautions to prevent the spread of infection cannot be taken, or that such precautions are not being taken; and
- (b) that serious risk of infection is thereby caused to other persons; and
- (c) that accommodation for him is available in a suitable hospital or institution, the local authority may order him to be removed thereto and maintained at the cost of the authority, and to be there detained until such medical officer of health is satisfied that he is free from infection or can be discharged without danger to the public health.

## 22. Penalty on exposure of persons and articles liable to convey infectious disease

Any person who—

- (a) while suffering from any infectious disease wilfully exposes himself without proper precautions against spreading the said disease in any street, public place, shop, inn or public conveyance, or enters any public vehicle without previously notifying the owner, conductor or driver thereof that he is so suffering; or
- (b) being in charge of a person so suffering exposes such sufferer; or
- (c) gives, lends, sells, transmits or exposes, without previous disinfection, any clothing, bedding or rags which he knows to have been exposed to infection from any such disease, or any other article which he knows to have been so exposed,

shall be liable to a fine of £15 and to imprisonment for three months; and a person who, while suffering from any such disease, enters any public vehicle without previously notifying to the owner or driver that he is so suffering, shall in addition be ordered by the court to pay such owner or driver the amount of any loss and expenses he or they may incur in carrying into effect the provisions of this Act with respect to disinfection of the vehicle:

Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags or other things for the purpose of having the same disinfected.

## 23. Penalty on failing to provide for disinfection of vehicle

Every owner or driver of a vehicle shall immediately notify a medical officer of health, and provide for the disinfection of such vehicle to the satisfaction of such medical officer of health, after it has to his knowledge conveyed any person suffering from an infectious disease, and if he fails to do so he shall be liable to a fine of £20; but no such driver or owner shall be required to convey any person so suffering until he has been paid a sum sufficient to cover any loss or expenses incurred by him in carrying this section into effect.

## 24. Penalty for letting infected house

Any person who knowingly lets for hire any dwelling or premises or part thereof in which, within the previous six weeks, any person has been suffering from an infectious disease without having the same, and all articles therein liable to retain infection, efficiently disinfected to the satisfaction of the medical officer of health as testified by a certificate signed by him shall be liable to a fine of £50.

This section shall apply to any owner or keeper of a lodging house.



## 25. Duty of person letting house lately infected to give true information

Any person letting for hire or showing for the purpose of letting for hire any building or part thereof who on being questioned by any person negotiating for the hire of such building or part as to the fact of there being or within six weeks previously having been therein any person suffering from any infectious disease knowingly makes a false answer to such question shall be liable to a fine of £50.

## 26. Notification of deaths and removal of bodies of persons dying of infectious disease

- (1) In every case of death from an infectious disease it shall be the duty of the occupier of the building in which the death has occurred immediately to notify the local authority of the death and on receipt of such notification the local authority shall at once transmit the information received to the nearest medical officer of health and make the best arrangements practicable pending the removal of the body and the carrying out of thorough disinfection for preventing the spread of such disease.
- (2) It shall be an offence against this Act for the occupier of any premises to keep any dead body in any room in which food is kept or prepared or eaten, or to keep any dead body for more than twenty-four hours in any room in which any person lives, sleeps or works or to keep the body of any person who is known to have died of an infectious disease in any place other than a mortuary or other place set apart for the keeping of dead bodies, without first obtaining the sanction of the local authority or a medical officer of health.
- (3) Where any person dies of an infectious disease it shall be an offence against this Act to remove the body except to a mortuary or for the purpose of immediate burial; and it shall be the duty of any person who removes the body to take it direct to the mortuary or to the place of interment for burial.
- (4) Nothing in this section shall be deemed to prevent the removal by due authority of any dead body from a hospital to a mortuary.

## 27. Removal and burial of bodies of persons who have died of an infectious disease

A medical officer of health, a health officer, a health inspector, a local authority or any administrative or police officer on a certificate from a medical practitioner that a person has died from an infectious disease, is empowered to direct that the dead body of a person who has so died be removed to a mortuary or other suitable place whenever such body—

- (a) is retained in contravention of the preceding section in a room in which any person lives, sleeps, or works, or in which food is kept or prepared or eaten; or
- (b) is retained in any premises in circumstances which, in the opinion of a medical officer of health, are likely to cause nuisance or endanger health.

Any person who obstructs the execution of any order or direction given under this section shall be guilty of an offence.

## 28. Local authority to remove and bury unclaimed bodies

A local authority shall be responsible for the removal and burial of bodies of destitute persons and of unclaimed bodies within its own district.

## 29. Rules

The Minister may make Rules applicable to all infectious diseases or only to such infectious diseases as may be specified therein, regarding the following matters—



- (a) the closing of any school or any place of public entertainment, where deemed necessary for the purpose of preventing the spread of any infectious disease, and the regulation and restriction of school attendance;
- (b) the duties of parents or guardians, of school children who are suffering or have recently suffered from or been exposed to the infection of any infectious disease, and the duties of persons in charge of schools in respect of such children;
- (c) the establishment, maintenance, management, and inspection of isolation hospitals, convalescent homes or other institutions for the accommodation or treatment of persons suffering from or who have recently suffered from any infectious disease, the removal of persons to such institutions and their discharge therefrom and the classification and control of the patients and staff of such institutions;
- (d) the imposition and enforcement of quarantine or of medical observation or surveillance in respect of persons suffering or suspected to be suffering from an infectious disease who are not removed to a hospital or place of isolation, the premises in which such persons are accommodated, those in charge of or attendance on such persons, and other persons living in or visiting such premises or who may otherwise have been exposed to the infection of any such disease;
- (e) the duties in respect of the prevention of infectious diseases therefrom, of owners of land on which other persons reside and of employers of labour and of Chiefs or headmen and others;
- (f) the measures to be taken for the prevention of the spread of any infectious disease requiring to be dealt with in a special manner;
- (g) the conveyance by rail or otherwise of persons suffering from, or bodies of persons who have died of, an infectious disease;
- (h) the prevention of the spread from any animal or the carcass or product of any animal to man, of rabies, glanders, anthrax, plague, tuberculosis, trichinosis or any other disease communicable by any animal, or the carcass or product of any animal, to man;
- (i) the prevention of the spread of disease by flies or other insects and the destruction and the removal of or the abatement of conditions permitting or favouring the prevalence or multiplication of such insects;
- (j) the destruction of rodents and other vermin and the removal or abatement of conditions permitting or favouring the harbourage or multiplication thereof;
- (k) the prevention of the spread of ancylostomiasis, schistosomiasis or other disease in man caused by an animal or vegetable parasite;
- (l) the prevention of the spread of any infectious disease by the carrying on of any business, trade or occupation;
- (m) the prevention of the spread of any infectious disease by carriers, and the keeping under medical surveillance and the restriction of the movements of such carriers;
- (n) the prohibition of spitting in public places or in public vehicles, except into receptacles provided for the purpose;
- (o) the regulation and restriction of any trade or occupation entailing special danger to the health of those, engaged, therein, whether from infectious disease or otherwise, and the institution of measures for preventing or limiting such danger;
- (p) the establishment maintenance and management of cleansing stations and the cleansing of dirty or verminous persons, the disinfection or fumigation of buildings, clothing or other articles which have been exposed to or are believed to be contaminated with the infection of any infectious

- disease, or which are dirty or verminous, and the prohibition of the carrying out of any fumigation which involves the use of poisonous gas except under licence;
- (q) the disposal of any refuse, waste matters or other matter or thing which has been contaminated with or exposed to the infection of any infectious disease;
  - (r) the giving compulsorily of any information or the production compulsorily only of any documentary or other evidence required for the purpose of tracing the source or preventing the spread of any infectious disease, and generally for better carrying out the provisions and attaining the objects and purposes of this Part.

### **Part V – Special provisions regarding certain formidable epidemic or endemic diseases**

#### **30. Formidable epidemic or endemic diseases**

This Part shall apply to smallpox, plague, cholera, yellow fever, cerebro-spinal meningitis, typhus, sleeping sickness or human trypanosomiasis and any other disease which the Minister may by notice declare to be a formidable epidemic or endemic disease for the purpose of this Part.

#### **31. Power to make Rules for prevention of disease**

Whenever any part of Malawi appears to be threatened by any disease described in the last preceding section, the Minister may declare such part an infected area and may make Rules for all or any of the following purposes, namely—

- (a) for the speedy interment of the dead;
- (b) for house to house visitation;
- (c) for the provision of medical aid and accommodation, for the promotion of cleansing, ventilation and disinfection and for guarding against the spread of disease;
- (d) for preventing any person from entering or leaving any infected area without undergoing all or any of the following—  
medical examination, disinfection, inoculation, vaccination or passing a specified period in an observation camp or station;
- (e) for the formation and regulation of hospitals and observation camps or stations, and for the placing therein and reception of persons who are suffering from or have been in contact with persons suffering from infectious disease;
- (f) for the destruction or disinfection of buildings, furniture, goods, or other articles, which have been used by persons suffering from infectious disease, or which are likely to spread the infection;
- (g) for the removal of persons who are suffering from an infectious disease and persons who have been in contact with such persons;
- (h) for the removal of corpses;
- (i) for the destruction of rats, the means and precautions to be taken on shore or on board vessels for preventing them passing between vessels and from vessels to the shore or from the shore to vessels and the better prevention of the danger of spreading infection by rats;
- (j) for the destruction of mosquitoes, the means and precautions to be taken in respect of aircraft arriving at or departing from Malawi and for preventing mosquitoes from passing from aircraft to land or from land to aircraft, and the better prevention of the danger of spreading infection by mosquitoes;

- (k) for the removal and disinfection of articles which have been exposed to infection;
- (l) for prohibiting any person from living, in any building or using any building for any purpose whatsoever, if in the opinion of a medical officer of health any such use is liable to cause the spread of any infectious disease; any Rules made under this section may give a medical officer of health power to prescribe the conditions on which such a building may be used;
- (m) for the compulsory medical examination of persons suffering or suspected to be suffering from infectious disease;
- (n) for the registration of residents in an infected area;
- (o) for the registration of vehicles in an infected area;
- (p) for the compulsory confiscation and disposal of canoes and fishing gear used by any person in breach of any rule relating to the disease known as sleeping sickness;
- (q) for the control of wood cutting in an infected area;
- (r) for the restriction of residence in, immigration to or emigration from, an infected area;
- (s) for the control of fishing and hunting in an infected area;
- (t) for any other purpose whether of the same kind or nature as the foregoing or not having for its object the prevention, control or suppression of infectious disease, and may by order declare all or any of the Rules so made to be in force within the whole or any part or parts of the infected area.

### **32. Local authority to see to the execution of Rules**

The local authority of any area within which or part of which Rules made under this Part are declared to be in force, shall do and provide all such acts, matters and things as may be necessary for mitigating any such disease, or aiding in the execution of such Rules, or for executing the same, as the case may require. A local authority may from time to time direct any prosecution or legal proceedings for or in respect of the wilful violation or neglect of any such Rules.

### **33. Power of local authority or medical officer of health to enforce Rules**

Any local authority or medical officer of health or any person duly authorized by any local authority or medical officer of health shall have power of entry on any premises or vehicle, for the purpose of executing or superintending the execution of any Rules so made by the Minister as aforesaid.

### **34. Notification of sickness or mortality in animals suspected of plague**

- (1) Any person who becomes aware of any unusual sickness or mortality among rats, mice, cats, dogs or other animals susceptible to plague or other formidable epidemic diseases not due to poison or other obvious cause, shall immediately report the fact to a medical officer of health, where practicable, and where impracticable, to a local authority.
- (2) Any such person who fails so to report shall be guilty of an offence.

### **35. Local authorities to report notification of formidable epidemic disease by telegraph**

Every local authority shall immediately report to the Secretary for Health or the nearest medical officer of health by telegraph, or other expeditious means, particulars of every notification received by such authority of a case or suspected case of any formidable epidemic or endemic disease, or of any unusual sickness or mortality in animals made under the last preceding section.

**36. Secretary for Health may requisition buildings**

- (1) Where there exists or is threatened an outbreak of any disease to which this Part applies it shall be lawful for the Secretary for Health to require any person owning or having charge of any land or any premises, or any person owning or having charge of tents, transport, bedding, hospital equipment, drugs, food or other appliances, materials or articles urgently required in connexion with the outbreak, to hand over the use of any such land or premises or to supply or make available any such article, subject to the payment of a reasonable amount as hire or purchase price.
- (2) Any person who, without reasonable cause, fails or refuses to comply with any such requirement, shall be guilty of an offence.

**37. Penalties for offences against this Part**

Any person guilty of an offence against this Part shall be liable to a fine of £100 and to imprisonment for twelve months.

**Part VI – Prevention of introduction of infectious diseases****38. Power to enforce precautions at borders of Malawi**

- (1) For the purpose of preventing the introduction of infectious disease into Malawi the Minister may by order—
  - (a) regulate, restrict or prohibit the entry into Malawi or any part thereof of any person or of persons of any specified class or description or from any specified country, locality or area;
  - (b) regulate, restrict or prohibit the introduction into Malawi or any specified part thereof of any animal, article or thing;
  - (c) impose requirements or conditions regards the medical examination, detention, quarantine, disinfection, vaccination, isolation or medical surveillance, or otherwise of persons entering, or the examination detent on or disinfection or otherwise of such persons as aforesaid or of articles and things introduced into Malawi or any part thereof.
- (2) Any person who contravenes or fails to comply with any such order shall be liable to a fine of £50 and to imprisonment for six months.

**39. Removal of infected persons from railway trains**

- (1) Where any person arriving in Malawi by railway train or other vehicle is found to be suffering from any infectious disease, and in the opinion of a medical officer of health cannot be accommodated or cannot be nursed or treated so as to guard against the spread of the disease or to promote recovery, the medical officer of health may order the removal of such person to a hospital or place of isolation for such period as may be necessary in the interests of the patient or to prevent the spread of infection.
- (2) All expenses necessarily incurred in dealing with a patient under this section shall be a charge against the said patient and may be recovered from him as a debt due to the Government. In the case of a person unable to pay any or all of such expenses necessarily incurred on his behalf, such expenditure or balance thereof shall be a charge on the Consolidated Fund.

#### 40. Isolation or surveillance of persons exposed to infection

- (1) Where any person arriving by railway train or other vehicle within Malawi is believed to have been recently exposed to the infection, or to be in the incubation stage of, any notifiable disease, a medical officer of health may require such person to be removed to some hospital or place of isolation until considered free from infection, or alternatively may allow such person to proceed to his place of destination and there report himself to the local authority for medical surveillance by such local authority until considered free from infection.
- (2) The medical officer of health shall in each instance notify the local authority of the district of such person's destination, of the fact that such person is believed to have been recently exposed to infection and has been allowed to proceed to his destination.

#### 41. Powers of medical officers of health to inspect railway trains and medically examine passengers

- (1) Any medical officer of health may at any time board any railway train or other vehicle arriving within Malawi, and may inspect any portion thereof or anything therein, and may medically examine any person travelling by such train or vehicle and require any such person to answer any question for the purpose of ascertaining if such person is infected by or has recently been exposed to the infection of any notifiable infectious disease.
- (2) Any person who refuses to allow any such officer to board any railway train or other vehicle or to make any inspection or medical examination as aforesaid or otherwise obstructs or hinders any such officer in the execution of his duty, or who fails or refuses to give any information which he may lawfully be required to give, or who gives false or misleading information to any such officer, knowing it to be false or misleading, shall be guilty of an offence.

### Part VII – Smallpox

#### 42. Definition of “protected person” “public vaccinator” “unprotected person” and “vaccination” in this Part

For the purposes of this Part—

“**protected person**” means a person or child who is protected;

“**public vaccinator**” means a public vaccinator appointed by the Secretary for Health and any person appointed by the Secretary for Health to assist or act for a public vaccinator and includes any registered or licensed medical practitioner;

“**unprotected person**” includes a child and means a person who has not been protected from smallpox either by having had the disease, or by having been successfully vaccinated not less than fourteen days nor more than three years previously; and

“**vaccination**” means the introduction into the skin of smallpox vaccine virus contained in a pure and tested vaccine lymph.

#### 43. Vaccination of children

The parent or guardian of every child born in Malawi shall, after six months and within twelve months from birth, unless such child is unfit or has suffered from smallpox, cause such child to be successfully vaccinated by a public vaccinator.

#### 44. Vaccination of persons in declared areas or entering Malawi

- (1) The Minister may by notice published in the *Gazette* declare any area to be a compulsory vaccination area and shall in such notice specify a period within which the vaccination of all unprotected persons dwelling in such area shall take place.
- (2) Every unprotected adult and the parent or guardian of every unprotected child in any area declared to be a compulsory vaccination area shall cause himself and such child to be vaccinated within the period specified.
- (3) Every unprotected adult and the parent or guardian of every unprotected child entering Malawi shall cause himself and such child to be vaccinated within one month:

Provided that—

- (a) this section shall not require the vaccination of any adult or child who, in the opinion of a public vaccinator, is not in a fit state to be vaccinated;
- (b) this section shall not apply to any person who can prove that reasonable facilities for vaccination were not available.

#### 45. If adult or child unfit for vaccination certificate to be given

If any public vaccinator shall be of opinion that any adult or child is not in a fit state to be vaccinated, he shall give to the adult or to the parent or guardian of the child a certificate under his hand that the adult or child is then in a state unfit for vaccination.

The said certificate shall remain in force for six months only but shall be renewable for successive periods of six months until the public vaccinator shall deem the adult or child to be fit for vaccination, when the adult or child shall with all reasonable despatch be vaccinated.

#### 46. Certificates to be given for successful vaccination

Every public vaccinator who shall have performed the operation of vaccination upon any adult or child, and shall have ascertained that the same has been successful shall deliver to such adult or the parent or guardian of such child a certificate certifying that the said adult or child has been successfully vaccinated.

#### 47. No fee to be charged for a certificate or for vaccination by public vaccinator

No fee or remuneration shall be charged to the person vaccinated by any public vaccinator for any certificate granted under this Act, nor for any vaccination done by him in pursuance of this Act.

#### 48. Vaccination of inmates of institutions

Every superintendent or person in charge of a leprosy settlement, mental hospital, chronic sick hospital, goal, prison, reformatory, or other similar institution, shall where practicable, cause to be vaccinated within fourteen days following his admission to such institution every inmate thereof who, being in a fit state of health to undergo vaccination, fails to prove satisfactorily that he has been successfully vaccinated within the three years immediately preceding; if such person is at the time unfit to undergo vaccination, he shall be vaccinated as soon as he is so fit.

#### 49. School attendance

- (1) Subject to [section 45](#), no child shall be admitted to or attend any school until there has been produced to the school manager or other person in charge thereof a certificate or other satisfactory

evidence that the child is a protected person and any school manager or other person who admits or permits such child to be admitted shall be guilty of an offence.

- (2) For the purpose of ascertaining whether subsection (1) is being observed, every public vaccinator shall, whenever instructed by the Secretary for Health, visit any school and make therein such inspection of the children attending thereat as will enable him to furnish such particulars as the Secretary for Health may require as to the children who are unprotected.

## 50. Supply of vaccine lymph and inoculation from arm to arm, etc., forbidden

Any person who inoculates himself or any other person against smallpox with material taken from a person suffering from smallpox or from a vaccine vesicle on another person shall be guilty of an offence.

## 51. Power to order vaccination of all persons at anytime

- (1) The Minister may, at any time when he considers it necessary as a result of an outbreak, or to prevent the outbreak of smallpox in any area, direct that all persons or any class of persons within Malawi, or within any place, area, municipality, town, village or community therein, or all persons entering Malawi shall, unless they can give satisfactory evidence that they have, within such period as the Minister may specify, already been vaccinated, be vaccinated forthwith.
- (2) Where the Minister has issued directions under subsection (1) the local authority having jurisdiction in any place, area, municipality, town or village or in respect of any community specified in such directions shall require all persons therein to attend, or all parents or guardians of children to cause such children to attend at centres or vaccination posts according to instructions issued there to undergo inspection by a public vaccinator and if found to be unprotected, and subject to [section 45](#), to undergo vaccination. Such instructions may be issued by notice in the press, or by notices posted in public places, or otherwise as may be deemed sufficient by the local authority. Any person, parent or guardian failing to comply with such instructions shall be guilty of an offence.
- (3) The Minister may make rules for the purpose of regulating or enforcing vaccination under this section and such rules may confer powers on public vaccinators in respect of persons passing vaccination centres or posts, who require vaccination.

## 52. Power to make Rules

The Minister may make Rules—

- (a) prescribing forms of certificates, notices, returns and books of record to be used in connexion with public vaccination, and defining the information to be furnished therein, and requiring the furnishing and prescribing the manner of use thereof by registrars of deaths, public vaccinators, local authorities, medical practitioners, parents or guardians of children, persons in charge of schools, employers of labour and others;
- (b) conferring powers and imposing duties, in connexion with the carrying out of enforcement of vaccination, on magistrates, administrative officers, members of the police force, or other Government officers, local authorities, persons in charge of schools, employers of labour, Chiefs and village headmen and others;
- (c) prescribing and defining the duties in connexion with vaccination of public vaccinators;
- (d) prescribing the manner in which vaccination shall be performed and the precautions to be observed by those performing it and by the persons or the parents or the guardians of children vaccinated;
- (e) providing for the vaccination of persons and assigning where deemed desirable the responsibility for the carrying out of such vaccination to local authorities or employers of labour; and



- (f) generally for the better carrying out of this Part and attaining the objects and purposes thereof.

## Part VIII – Venereal diseases

### 53. Venereal diseases

The provisions of this Act, unless otherwise expressed, in so far as they concern venereal diseases, shall be deemed to apply to primary or secondary syphilis, acute and chronic gonorrhoea, gonorrhoeal ophthalmia, soft chancre, lymphogranuloma inguinale, ulcerating granuloma and any other disease that may be declared by the Minister by notice published in the *Gazette* to be a venereal disease.

### 54. Employment of infected persons

- (1) Any person who, while suffering from any venereal disease in a communicable form, accepts or continues in employment either as an employee or on his own account in or about any factory, shop, hotel, restaurant, dwelling-house, or any place in any capacity entailing the care of children or the handling of food intended for consumption or of food utensils for use by any other person shall be guilty of an offence, unless he proves that he did not know or suspect, and had no reasonable means of knowing or suspecting, that he was so suffering.
- (2) Every person shall be guilty of an offence who employs or continues to employ any person suffering from any venereal disease in a communicable form, if by reason of such employment such person is required or is permitted to have the care of children or to handle any food intended for consumption or food or household utensils, unless the employer proves that he did not know or suspect, and had no reasonable means of knowing or suspecting that the person so employed by him was suffering from such disease.
- (3) If an employee who is employed in any manner set out in the preceding subsections is shown by a certificate signed by a registered or licensed medical practitioner to be suffering from a venereal disease, or if any employer has reasonable cause to suspect that such employee is suffering from a venereal disease and the said employee refuses to submit himself to medical examination, it shall be lawful for the employer summarily to dismiss the employee with payment of wages up to the date of dismissal.

### 55. Publication of advertisements of cures

- (1) No person shall publish, exhibit or circulate any advertisement or statement intended to promote the sale of any medicine, appliance or article for the alleviation or cure of any venereal disease or disease affecting the generative organs or functions, or of sexual impotence or of any complaint or infirmity arising from or relating to sexual intercourse.
- (2) No person shall hold out or recommend to the public by any notice or advertisement, or by any written or printed papers or handbills, or any label or words written or printed, affixed to or delivered with, any packet, box, bottle, phial or other enclosure containing the same, any pills, capsules, powders, lozenges, tinctures, potions, cordials, electuaries, plasters, unguents, salves, ointments, drops, lotions, oil, spirits, medicated herbs and waters or chemical and official preparations whatsoever, to be used or applied externally or internally as medicines or medicaments for the prevention, cure, or relief of any venereal disease or disease affecting the generative organs or functions, or sexual impotence, or of any complaint or infirmity arising from or relating to sexual intercourse.
- (3) This section shall not apply to publications by or under the authority of the Secretary for Health, or by any local authority, public hospital, or other public body in the discharge of its lawful duties or by any society or person acting with the authority of the Government first obtained, or to any books, documents or papers published in good faith for the advancement of medical science.



#### **56. Prevention of the treatment of venereal disease otherwise than by registered or licensed persons**

No person, unless he is a registered or licensed medical practitioner, or a State registered nurse, or other person certified by the Secretary for Health to be competent to diagnose and treat venereal disease, shall for reward treat any person for venereal disease or suspected venereal disease or prescribe any remedy therefor, or give any advice in connexion with the treatment thereof, whether the advice is given to the person to be treated or to any other person.

#### **57. Conveyance of infection an offence**

No person shall wilfully or by culpable negligence infect any other person with venereal disease or do or permit or suffer any act likely to lead to the infection of any other person with such disease.

#### **58. Offences and penalties**

- (1) Any person who contravenes or fails to comply with any of the provisions of this Part shall be liable to a fine of £150 and to imprisonment for two years.
- (2) When a person is convicted of an offence against this Part, the court may order any advertisement or written matter specified in [section 55](#), or drugs, poisons, medicines, needles, syringes or surgical, medical or diagnostic instruments or appliances, published or used by, belonging to, or in the possession of the person convicted, to be forfeited, and to be destroyed or otherwise disposed of.

### **Part IX – Sanitation and housing**

#### **59. Nuisances prohibited**

No person shall cause a nuisance, or shall suffer to exist on any land or premises owned or occupied by him or of which he is in charge, any nuisance or other condition liable to be injurious or dangerous to health.

#### **60. Duties of local authorities to maintain cleanliness and prevent nuisances**

It shall be the duty of every local authority to take all lawful, necessary and reasonably practicable measures for maintaining its area at all times in clean and sanitary condition, and for preventing the occurrence therein of, or for remedying or causing to be remedied, any nuisance or condition liable to be injurious or dangerous to health and to take proceedings at law against any person causing or responsible for the continuance of any such nuisance or condition.

#### **61. Duty of local authorities to prevent or remedy danger to health arising from unsuitable dwellings**

It shall be the duty of every local authority to take all lawful, necessary and reasonably practicable measures for preventing or causing to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from the erection or occupation of unhealthy dwellings or premises, or the erection of dwellings or premises on unhealthy sites or on sites of insufficient extent, or from overcrowding, or from the construction, condition or manner of use of any factory or trade premises, and to take proceedings under the law or rules in force in its area against any person causing or responsible for the continuance of any such conditions:

Provided that no action shall be taken by any local authority in pursuance of this Part in respect of any factory if such action is calculated to interfere with the construction of any building or with the condition or manner of use of any machinery without the consent of the Chief Inspector of Factories.

## 62. What constitutes a nuisance

The following shall be deemed to be nuisances liable to be dealt with in the manner provided in this Part –

- (1) any vehicle in such a state or condition as to be injurious or dangerous to health;
- (2) any dwelling or premises or part thereof which is or are of such construction or in such state or so situated or so dirty or so verminous or so damp as to be likely to be injurious or dangerous to health or which is or are liable to favour the spread of any infectious disease;
- (3) any street, road or any part thereof, stream, pool, ditch, gutter, watercourse, sink, water tank, cistern, latrine, cesspool, soak-away pit, septic tank, cesspit, soil-pipe, waste-pipe, drain, sewer, garbage receptacle, dust bin, dung pit, refuse pit, slop tank or manure heap so foul or in such a state or so situated or constructed as to be offensive or to be likely to be injurious or dangerous to health;
- (4) any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by human beings for drinking or domestic purposes or in connexion with any dairy, or in connexion with the manufacture or preparation of any article of food intended for human consumption, which is in a condition liable to render any such water injurious or dangerous to health;
- (5) any noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or into any gully, swamp, or watercourse or irrigation channel not approved for the reception of such discharge;
- (6) any collection of water, sewage, rubbish, refuse, ordure, or other fluid or solid substances which are offensive or which are dangerous or injurious to health or which permit or facilitate the breeding or multiplication of animal or vegetable parasites of men or domestic animals, or of insects or of other agents which are known to carry such parasites or which may otherwise cause or facilitate the infection of men or domestic animals by such parasites;
- (7) any collection of water found to contain any of the immature stages of the mosquito;
- (8) any cesspit, latrine, urinal, dung pit, or refuse pit found to contain any of the immature stages of the mosquito;
- (9) any stable, cow shed or other building or premises used for keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or which is injurious or dangerous to health;
- (10) any animal or bird so kept as to be offensive or injurious to health;
- (11) any accumulation of stones, timber, or other material of any nature whatever if such is likely, in the opinion of a medical officer of health, to harbour rats and other vermin, and any premises in such a state or condition and any building so constructed as to be likely to harbour rats;
- (12) any dwelling or premises so overcrowded as to be injurious or dangerous to the health of the inmates, or dilapidated or defective in lighting or ventilation, or not provided with or so situated that such dwelling or premises cannot be provided with sanitary accommodation to the satisfaction of a medical officer of health;
- (13) any public or other building which is so situated, constructed, used or kept as to be unsafe or injurious or dangerous to health;

- (14) any occupied dwelling for which a proper, sufficient and wholesome water supply is not available within a reasonable distance;
- (15) any factory or trade premises not kept in a cleanly state and free from offensive smell arising from any drain or latrine, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein;
- (16) any factory or trade premises causing or giving rise to smells or effluvia which are injurious or dangerous to health;
- (17) any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infectious, communicable or preventable disease or injury or danger to health;
- (18) any machinery sending forth smoke in such quantity or in such manner as to be offensive or injurious or dangerous to health;
- (19) any cemetery, burial place, crematorium or other place of sepulture so situated or so crowded or otherwise so conducted as to be offensive or injurious or dangerous to health;
- (20) any gutter, drain, shoot, stack pipe, down spout, water tank or system which by reason of its insufficiency or its defective condition shall cause damp in any dwelling;
- (21) any deposit of material in or on any building or lane which shall cause damp in any building so as to be dangerous or injurious to health;
- (22) any dwelling, public building, trade premises, workshop or factory not provided with sufficient and sanitary latrines;
- (23) any act, omission, or thing which is or may be offensive, dangerous to life or injurious to health.

### **63. Author of nuisance**

The author of a nuisance means the person by whose act, default or sufferance the nuisance is caused, exists or is continued, whether he be the owner or occupier or both owner and occupier or any other person.

### **64. Notice to abate nuisance**

A local authority or a medical officer of health, if satisfied of the existence of a nuisance, may serve a notice on the author of the nuisance, or, if he cannot be found, then on the occupier or owner of the dwelling or premises on which the nuisance arises or continues, requiring him to abate it within the time specified in the notice, and if the local authority or medical officer of health thinks it desirable (but not otherwise) any work to be executed to abate or prevent a recurrence of the said nuisance may be also specified in the notice:

Provided that—

- (a) where the nuisance arises from any want or defect of a structural character, or where the dwelling or premises are unoccupied, the notice shall be served on the owner;
- (b) where the author of the nuisance cannot be found or it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier or owner of the dwelling or premises, the local authority shall abate the nuisance and may do what is necessary to prevent the recurrence thereof.

## 65. Procedure in case owner fails to comply with notice

- (1) If the person on whom a notice to abate a nuisance has been served as aforesaid fails to comply with any of the requirements thereof within the time specified, or if the nuisance although abated since the service of the notice is, in the opinion of the local authority, likely to recur on the same premises, the local authority may cause a complaint relating to such nuisance to be made before a Resident Magistrate's court or a subordinate court of the first or second grade and such court may thereupon issue a summons requiring the person on whom the notice was served to appear before it.
- (2) If the court is satisfied that the alleged nuisance exists, or that although abated it is likely to recur on the same premises the court shall make an order on the author thereof, or the occupier or owner of the dwelling or premises, as the case may be, requiring him to comply with all or any of the requirements of the notice or otherwise to abate the nuisance within a time specified in the order and to do any works necessary for that purpose; or an order prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence, or an order both requiring abatement and prohibiting the recurrence of the nuisance.
- (3) The court may by such order impose a fine of £20 on the person on whom the order is made and may also give directions as to the payment of all costs incurred up to the time of the hearing or making of the order for the abatement of the nuisance.
- (4) Before making any order, the court may, if it thinks fit, adjourn the hearing or further hearing of the summons until an inspection, investigation or analysis in respect of the nuisance alleged has been made by some competent person.
- (5) Where the nuisance proved to exist is such as to render a dwelling unfit, in the judgment of the court, for human habitation, the court may issue a closing order prohibiting the use thereof as a dwelling until in its judgment the dwelling is fit for that purpose; and may further order that no rent shall be due or payable by or on behalf of the occupier of that dwelling in respect of the period in which the closing order exists; and on the court being satisfied that such dwelling has again been rendered fit for use as a dwelling the court may terminate the closing order and by a further order declare the dwelling habitable, and from the date thereof such dwelling may be let or inhabited.

Notwithstanding any such last-mentioned order, further proceedings may be taken in accordance with this section in respect of the same dwelling in the event of any nuisance occurring or of the dwelling being again found to be unfit for human habitation.

## 66. Penalties in relation to nuisance

- (1) Any person who fails to obey an order by a court to comply with the requirements of a local authority or medical officer of health or otherwise to abate the nuisance, shall, unless he satisfies the court that he has used all diligence to carry out such order, be liable to a fine of £5 for every day during which the default continues; any person wilfully acting in contravention of a closing order issued under the last preceding section shall be liable to a fine of £5 for every day during which the contravention continues.
- (2) The local authority may in such a case enter the premises to which any such order relates and abate the nuisance or do whatever may be necessary in the execution of such order and recover in a Resident Magistrate's court or a subordinate court of the first or second grade the expenses incurred from the person on whom the order is made.

**67. Court may order local authority to execute works in certain cases**

Whenever it appears to the satisfaction of the court that the person by whose act or default the nuisance arises, or that the owner or occupier of the premises is not known or cannot be found, the court may at once order the local authority to execute the works thereby directed and the cost of executing the same shall be a charge on the property on which the said nuisance exists.

**68. Provision in case of two orders for overcrowding relating to same premises**

Where the court has twice within a period of three months issued an order as specified in [section 65 \(2\)](#) relating to overcrowding of the same premises or part of the same premises the court may, on the application of a local authority, order such premises to be closed for such period as the court may deem necessary.

**69. Power of sale**

Any matter or thing removed by a local authority in abating any nuisance under this Part may be sold by public auction, and the money arising from the sale may be retained by the local authority, and applied in payment of the expenses incurred by them in reference to such nuisance, and the surplus (if any) shall be paid, on demand, to the owner of such matter or thing if he shall establish his claim thereto within two years from the date of such sale, failing which such surplus shall be paid into the Consolidated Fund.

**70. Persons jointly responsible for nuisances may be proceeded against**

- (1) Where any nuisance liable to be dealt with in the manner provided in this Part appears to be wholly or partly caused by the acts or defaults of two or more persons, a local authority may institute proceedings against any one of such person or may include all or any two or more of them in one proceeding, and any one or more of such persons may be ordered to abate the nuisance, so far as it appears to be caused by his or their acts or defaults or may be prohibited from continuing any acts or defaults which contribute to the nuisance, or may be fined or otherwise dealt with notwithstanding that the acts or default of any one of such persons would not separately have caused a nuisance, and the costs may be distributed as may appear to the court fair and reasonable.
- (2) Proceedings under the preceding subsection against several persons included in one complaint shall not abate by reason of the death of any of the persons so included, but all such proceedings may be carried on as if such deceased person had not been originally so included.
- (3) Where some only of the persons by whose act or default any nuisance has been caused or partly caused have been proceeded against under this Part, they shall, without prejudice to any other remedy, be entitled to recover from any other persons who were not so proceeded against and by whose act or default the said nuisance was caused or partly caused a proportionate part of the costs of and incidental to such proceedings and abating such nuisance, and of any fine and costs ordered to be paid in such proceedings.

**71. Demolition of unfit buildings**

- (1) Where in the opinion of the Minister a nuisance exists with respect to premises which in his opinion are so dilapidated or so defectively constructed or so situated that repairs to or alterations of such premises are not likely to remove the nuisance the Minister may issue a demolition order ordering the owner of the premises to commence to demolish them on or before a specified day, being at least one month from the date of issuing the order, and to complete the demolition and to remove the materials which comprised the premises from the site before another specified day:

Provided that at least one month before issuing such a demolition order notice of the intention to issue such an order shall be served on the owner of the premises who may make representations

in respect thereof to the Minister. The Minister shall consider any representations so made before issuing a demolition order under this section.

- (2) The Minister shall give notice to the occupier of the premises in respect of which a demolition order has been issued requiring him to vacate the premises within a time to be specified in such notice, and if any person fails to comply with the notice or enters the premises, without lawful excuse, after the date specified in the notice, he shall be guilty of an offence.
- (3) If any person fails to comply with an order for demolition issued under this section he shall be guilty of an offence and be liable to pay the daily fine provided in [section 66](#) (1), and the Minister may cause the premises to be demolished and may recover from the owner the expenses incurred in doing so after deducting the net proceeds of the sale of the materials which the Minister may sell by auction.
- (4) No compensation shall be paid to the owner or occupier of any premises in respect of the demolition thereof as aforesaid.
- (5) For the purposes of this section the Minister means the Minister for the time being responsible for land.

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## 72. Prohibitions in respect of back-to-back dwellings and rooms without through ventilation

- (1) The Minister may, by notice published in the *Gazette*, prohibit within any area defined in such notice—
  - (a) the erection of any premises intended to be used as a dwelling constructed on the back-to-back system; or
  - (b) the erection of any room intended to be used as a sleeping or living or work room which is not provided with an external window or windows having a total area not less than one-tenth of the floor area, at least half of such window or windows being capable of being opened:  
Provided that—
    - (i) any such room which is without a fireplace and flue shall in addition be provided with a fresh air inlet having an unobstructed sectional area of at least thirty square inches;
    - (ii) such windows or inlets shall be so placed as to secure through or cross ventilation; or
  - (c) the erection of any premises intended to be used as a dwelling on made ground containing street sweepings, refuse, rubbish or other matter liable to decomposition unless the approval of the local authority has been obtained and such measures for safeguarding health have been taken as such local authority may require.
- (2) Any person who contravenes any provision of this section shall be liable to a fine of £50 and to a further fine of £2 for every day during which such contravention continues after the date fixed in any written notice in respect thereof from the local authority.

## 73. Cost of execution of provisions relating to nuisances

- (1) All reasonable costs and expenses incurred in serving a notice, making a complaint or obtaining a nuisance order, or in carrying the order into effect, shall be deemed to be money paid for the use and at the request of the person on whom the order is made; or, if no order is made but the nuisance is proved to have existed when the notice was served or the complaint made, then of the author of the nuisance.

- (2) Such costs and expenses incurred in relation to any such nuisance may be recovered as a civil debt, and the court shall have power to divide such costs and expenses between the authors as to it may seem just.
- (3) Where, in accordance with this Act, a local authority has itself abated a nuisance, or done what is necessary to prevent a recurrence thereof, if no owner or occupier of the premises can be found, or appears or pays the expenses thereby incurred within six months after the completion of the abatement of such nuisance, the court may order the premises upon which the work shall have been done, or any part thereof, or any movable property found thereon, to be sold by public auction, and the amount realized by such sale shall be applied in defraying such costs and expenses, and the balance (if any) paid over to the owner or occupier if he shall establish his claim thereto within two years after the date of such sale failing which such balance shall be paid into the Consolidated Fund.

#### **74. Examination of premises**

A local authority or a health officer may, at all reasonable times, enter any premises for the purpose of ascertaining the existence of any nuisance therein; and the local authority may, if necessary, open up the ground of such premises and cause the drains to be tested, or such other work to be done as may be necessary for the effectual examination of the said premises:

Provided that if no nuisance is found to exist the local authority shall restore the premises at their own expense.

#### **75. Power to make Rules**

The Minister may make Rules, and may confer powers and impose duties in connexion with the carrying out and enforcement thereof on local authorities, owners and others as to—

- (a) the inspection of land, dwellings, buildings factories and trade premises, and for securing the keeping of the same clean and free from nuisance and so as not to endanger the health of the inmates or the public health;
- (b) the construction of buildings the provision of proper lighting and ventilation, and the prevention of overcrowding;
- (c) the periodical cleansing and white-washing or other treatment of premises and the cleansing of land attached thereto and the removal of rubbish or refuse therefrom;
- (d) the drainage of land, streets premises, the disposal of offensive liquids and the removal and disposal of rubbish, refuse, manure and waste matters;
- (e) the standard or standards of purity of any liquid which, after treatment in any purification works, may be discharged therefrom as effluent;
- (f) the keeping of animals or birds and the construction, cleanliness and drainage of places where animals or birds are kept;
- (g) the establishment and carrying on of offensive trades, factories or trade premises which are liable to cause offensive smells or effluvia, or to discharge liquid or other material liable to cause such smells or effluvia, or to pollute streams, or are otherwise liable to be a nuisance or injurious or dangerous to health and for prohibiting establishment or carrying on of such factories or trade premises in unsuitable localities or so as to be a nuisance or injurious or dangerous to health;
- (h) the subdivision and general lay-out of land intended to be used as building sites, the level, construction, number, direction, and the width of streets and thoroughfares, the limitation of the number of dwellings or other buildings to be erected on such land, the proportion of any building site which may be built upon and the establishment of zones within which different limitations



shall apply and zones within which may be prohibited the establishment or conduct of occupations or trades likely to cause nuisance or annoyance to persons residing in the neighbourhood;

- (i) the inspection of the district of any local authority by that local authority with a view to ascertain whether the lands and buildings thereon are in a state to be injurious or dangerous to health and the preparation, keeping, and publication of such records as may be required;
- (j) the control of houses let in lodgings, the fixing of the maximum number of lodgers, the minimum floor space allotted to each lodger, the adequate ventilation and lighting and periodical cleansing and lime washing at stated intervals of the premises, the provision of adequate sanitary appliances and other requirements having for their object the protection of the health of the lodgers or surrounding inhabitants;
- (k) the sanitary control of markets and market buildings.

## 76. Rules as to buildings

- (1) The power under [section 75](#) to make Rules relating to the construction of buildings shall include the power to regulate all or any of the following matters—
  - (a) as regards building—
    - (i) the materials to be used in the construction of buildings;
    - (ii) the space about buildings and the dimensions of rooms intended for human habitation;
    - (iii) the height of buildings; the height of chimneys, not being separate buildings, above the roof of the building of which they form part;
  - (b) as regards works and fittings—
    - (i) sanitary conveniences in connexion with buildings, the drainage of buildings, including the means for conveying soil, waste, storm and subsoil water from buildings and their curtilages and cesspools and other means for the reception or disposal of foul matter in connexion with buildings;
    - (ii) refuse pits in connexion with buildings;
    - (iii) wells, tanks and cisterns for the supply of water for human consumption in connexion with buildings;
    - (iv) stoves and other fittings in buildings (not being electric stoves or fittings), in so far as rules with respect to such matters are required for the purpose of health and the prevention of fire;
    - (v) private and public sewers and communications between drains and sewers and between sewers.
- (2) Any Rules to which this section relates may include provisions as to—
  - (a) the giving of notices and the deposit of plans, sections, specifications and written particulars;
  - (b) the inspection of work, the protection and testing of drains and private sewers, and the taking by the local authority of samples of materials to be used in the construction of buildings, or in the execution of other works;
  - (c) the protection of public sewers; and
  - (d) the examination and licensing of plumbers and drain layers.



## 77. Power to require removal or alteration of work not in conformity with Rules

- (1) If any work to which any Rules referred to in [section 76](#) are applicable contravenes any of those Rules, the local authority, without prejudice to its right to take proceedings for a fine in respect of the contravention, may by notice require the owner either to pull down or remove the work or, if he so elects, to effect such alterations therein as may be necessary to make it comply with the Rules.
- (2) If a person to whom a notice has been given under the foregoing provisions of this section fails to comply with the notice before the expiration of twenty-eight days, or such longer period as the authority may allow, the authority may pull down or remove the work in question, or effect such alterations therein as it deems necessary, and may recover from him the expenses reasonably incurred by it in so doing.
- (3) No such notice as is mentioned in subsection (1) shall be given after the expiration of twelve months from the date of the completion of the work in question, and, in any case where plans were deposited, it shall not be open to the authority to give such a notice on the ground that the work contravenes any building rule, if either the plans were passed by the authority, or notice of their rejection was not given within the prescribed period from the deposit thereof, and if the work has been executed in accordance with the plans and of any requirement made by the authority as a condition of passing the plans.

## Part X – Conservancy, sewerage and drainage

### 78. Interpretation of Part X

- (1) In this Part unless the context otherwise requires the following terms shall have the following meanings—
  - “**cesspool**” means a tank or receptacle for the reception of sewage and foul matter for which no automatic outlet is provided;
  - “**earth-closet**” means a closet for the reception of faecal matter into a movable receptacle in which it is deodorized by the use of earth, ashes, chemicals or by some other method;
  - “**lateral drain**” means that portion of a system of drains or private sewers, which—
    - (a) in the case of a sewer for soil and waste water, lies between the intercepting chamber and the public sewer (including the intercepting trap and sewer connexion); or
    - (b) in the case of a sewer for stem water, in between the last inspection chamber and the public sewer, or, if there be no inspection chamber, between the curtilage of the premises and the public sewer;
  - “**prejudicial to health**” means injurious or likely to cause injury to health;
  - “**private sewer**” means a sewer which is not a public sewer;
  - “**privy**” means a closet for the reception of faecal matter into a non--movable receptacle and includes a pit latrine or a bored-hole latrine;
  - “**public sewer**” means any sewer vested in or constructed by or on behalf of or under the control of a local authority;
  - “**septic tank**” means a tank or receptacle for the reception of sewage or foul matter for the effluent from which an automatic outlet is provided;
  - “**sewer**” does not include a drain as defined in [section 3](#) but, save as aforesaid, includes all sewers and drains used for the drainage of buildings and yards appurtenant to buildings and their curtilages;

“**soil water**” means any discharge from water-closets or urinals and all water containing excremental liquid or substance;

“**storm water**” includes surface or rain water;

“**waste water**” means liquid waste of a non-excremental nature but does not include storm water;

“**water-closet**” means latrine accommodation used, adapted or intended to be used in connexion with a water carriage system and comprising provision for the flushing of the receptacle by means of water;

“**workplace**” does not include a factory or workshop but save as aforesaid includes any place in which persons are employed otherwise than in domestic service.

- (2) Any reference in this Part to a drain or sewer shall be construed as including a reference to any manholes, ventilating shafts, pumps or other accessories belonging to that drain or sewer.
- (3) For the purpose of this Part, a building or proposed building shall not be deemed to have a public sewer available unless—
  - (a) there is or there is in course of construction within one hundred feet of the curtilages of the building or proposed building, and at a level which makes it reasonably practicable to construct a drain to communicate therewith, a public sewer or other sewer which the owner of the building or proposed building is, or will be, entitled to use; and
  - (b) the intervening land is land through which he is entitled to construct a drain, and shall not be deemed to have a sufficient water supply available unless it has sufficient supply of water laid on or unless such a supply can be laid on to it from a point within one hundred feet of the curtilage of the building or proposed building, and the intervening land is land through which the owner of the building or proposed building is, or will be, entitled to lay a communication pipe:

Provided that, for the purposes of this definition, the limit of one hundred feet shall not apply, if the local authority undertakes to bear so much of the expenses reasonably incurred in constructing a drain to communicate with a public sewer or, as the case may be, in laying a pipe for the purpose of obtaining a supply of water, as may be attributable to the fact that the distance of the public sewer, or of the point from which a supply of water can be laid on, exceeds one hundred feet as aforesaid.

## Public sewers

### 79. Provision of public sewers and sewerage disposal work

- (1) A local authority may within its district and also, subject to the prior approval of the Minister without its district—
  - (a) construct and maintain a public sewer—
    - (i) in, under or over any street, or under any cellar or vault below any street; and
    - (ii) in, or over any land not forming part of a street, after giving reasonable notice to every owner and occupier of that land;
  - (b) construct sewage disposal works on any customary land or public land or land acquired, or lawfully appropriated for the purpose.
- (2) In the exercise of its powers under subsection 1 (a) (ii), the local authority shall not be liable to pay any compensation to an owner or occupier of any private lands but shall make good, or, at its option, shall pay for any damage done or occasioned by reason of the exercise of the said powers.

**80. Duty of local authority to keep map showing public sewers**

- (1) Every local authority shall keep deposited at its offices, for inspection by any person at all reasonable hours, free of charge, a map showing and distinguishing all public sewers existing or in course of construction within its district or under its control.
- (2) Where some of the public sewers are reserved for soil and waste water only or for storm water only, the map referred to in this section shall show also the purposes which each sewer is intended to serve.

**81. Power of local authority to alter or close public sewers**

A local authority may alter the size or course of any public sewer vested in it, or may discontinue and prohibit the use of any such public sewer, either entirely, or for the purpose of soil and waste water drainage, or for the purpose of storm water drainage, but, before any person who is lawfully using the public sewer for any purpose is deprived by the authority of the use of the sewer for that purpose, the authority shall provide a public sewer equally effective for his use for that purpose and shall at its expense make his drains or sewers to communicate with the sewer so provided.

**82. Certain matters not to be passed into sewers or drains**

- (1) No person shall throw, empty or turn, or suffer or permit to be thrown or emptied or to pass, into any public sewer, or into any drain or private sewer communicating with a public sewer—
  - (a) any matter likely to injure the sewer or drain, or to interfere with the free flow of its contents or to affect prejudicially the treatment and disposal of its contents; or
  - (b) any chemical refuse or waste steam, or any liquid of a temperature higher than one hundred and ten, degrees Fahrenheit being refuse or steam, which, or a liquid wind, when so heated, is, either alone or in combination with the contents of the sewer or drain, dangerous or the cause of a nuisance, or prejudicial to health; or
  - (c) any petroleum spirit, or carbide of calcium.
- (2) A person who contravenes any of the provisions of this section shall be liable to a fine of £10 and to a further fine of £5 for each day on which the offence continues after conviction therefor.

**Right to connect with public sewers****83. Right of owners and occupiers within district of local authority to drain into public sewers**

Subject to this section and [section 86](#), the owner or occupier of any premises, or the owner of any private sewer, within the district of a local authority shall be entitled to have his drains or private sewer made to communicate with any available public sewer of that authority, and thereby to discharge soil and waste water and storm water from those premises or that private sewer:

Provided that nothing in this section shall entitle any person—

- (a) to discharge directly or indirectly into any public sewer—
  - (i) any liquid from a manufacturing process or any liquid from a factory, other than domestic sewage or storm water except by agreement with the local authority;
  - (ii) any liquid or other matter the discharge of which into public sewers is prohibited under this Act or any other law; or

- (b) where separate public sewers are provided for soil and waste water and for storm water, to discharge directly or indirectly—
  - (i) soil or waste water into a sewer provided for storm water; or
  - (ii) except with the approval of the authority, storm water into a sewer provided for soil and waste water; or
- (c) to have his drains or private sewer made to communicate directly with a storm water overflow; or
- (d) to have his drains or private sewer made to communicate with a public sewer provided for soil and waste water unless and until he satisfies the authority that the premises to be drained have a sufficient water supply available; or
- (e) to have his drains or private sewer made to communicate with any public sewer if such sewer is situated in excess of one hundred feet of the curtilage of the premises.

#### **84. Use of public sewers by owners and occupiers without the district of local authority**

Subject as hereinafter provided, the owner or occupier of any premises and the owner of any private sewer without the district of a local authority shall have the like rights with respect to drainage into the available public sewers of the authority as he would have had under [section 82](#) if his premises or private sewer were situate within its district and that section shall apply accordingly:

Provided that, without prejudice to the prohibition contained in [section 83](#) against the discharge of certain liquids or other matters into public sewers or into some public sewers or the right of a local authority under [section 86](#) to refuse to permit a communication to be made on any of the grounds set out in subsection (1) of that section and to require the drain or private sewer to be laid open for inspection, the authority may, in the case of a drain or private sewer from premises outside its district, refuse to permit a communication to be made except upon such reasonable terms and conditions as may be prescribed or as the Minister may approve. Such terms and conditions may include—

- (a) compliance with any reasonable requirements of the authority that the premises to be drained shall be sanitary or in a proper state of repair; and
- (b) such reasonable payment or periodical payment as subject to any special or general directions of the Minister, the authority may see fit to impose.

#### **85. Sewer connexions in streets and through private land**

For the purpose of making or maintaining a communication with a public sewer it shall be lawful for a local authority to construct or repair a lateral drain or, with the prior consent of the local authority and in such manner as it may approve, for the owner of any building to construct or repair a drain or private sewer, as the case may be, in, on or over any land, but where such land does not form part of a street, such authority or owner shall give to every owner or occupier of such land reasonable notice and shall be liable to make good or, at the option of the authority or the owner undertaking the works, to pay for any damage done or occasioned by reason of the exercise of the said power:

Provided that the works intended to be carried out in exercise of the powers herein conferred shall not interfere unduly with the amenities or future development of the land or any adjacent land and, in case of dispute, a person aggrieved may appeal in the manner set out in [section 132](#) (e) and (f).

#### **86. Procedure in regard to making communication with public sewers**

- (1) A person who wishes or who is required to have his drains or private sewers made to communicate with a public sewer shall give to the local authority notice of his proposals in writing in such manner as may be prescribed and at any time within twenty-one days of the receipt thereof the authority may by notice to him refuse to make the communication if it appears to the authority

that the mode of construction of the drain or private sewer is not in conformity with the rules in force governing the same or that the condition of the drain or private sewer or the matter carried or to be carried thereby is such that the making of the communication would be prejudicial to the sewerage system of the authority and for the purpose of examining the mode of construction and condition of the drain or private sewer the authority may, if necessary, require it to be laid open for inspection.

- (2) If no such notice as aforesaid is served on such person, the authority shall, with all reasonable despatch, cause the communication to be made by means of a lateral drain to the public sewer in such manner as may be prescribed or as the authority may decide, but it shall not be obligatory on the authority to make the communication until the estimated cost of the work has been paid to it or security for payment has been given to its satisfaction.
- (3) If any payment so made to the authority exceeds the expenses reasonably incurred by it in the execution of the work, the excess shall be repaid by it and, if and so far as those expenses are not covered by the payment made to it, the authority may recover the expenses, or the balance thereof, from the person for whom the work was done.
- (4) For the purposes of this section, the making of the communication between a drain or private sewer and a public sewer includes all such work as involves the breaking open of a street and the taking of any steps which the authority may consider necessary for repairing, relaying or safeguarding any pipes, drains, lines or any other works which may be or are liable to be disturbed or damaged by or in the course of making such communication.
- (5) Any lateral drain so constructed shall vest in the local authority (but shall not thereby become a public sewer) and the maintenance, repair and renewal of the same from time to time shall be carried out by the authority at the expense of the owner of the premises served by such drain.
- (6) Any person (other than a person lawfully acting on behalf of a local authority) who causes a drain or sewer to communicate with a public sewer and any person who fails to comply with or acts in contravention of any of the provisions of this section, shall be liable to a fine of £20, and, whether proceedings have or have not been taken in respect of that offence, the local authority may close any communication made in contravention of any of such provisions, and recover from the offender any expenses reasonably incurred by it in so doing.

### **Drainage and latrines or new buildings**

#### **87. New buildings to be provided with any necessary drains, etc.**

- (1) Where plans of a building or of an extension of a building are, in accordance with any building rules, deposited with a local authority, the authority shall reject the plans unless either the plans show that satisfactory provision will be made for the drainage of the building or of the extension, as the case may be, or the authority is satisfied that in the case of the particular building or extension it may properly dispense with any provision for drainage.

In this section the expression “drainage” includes the conveyance, by means of a drain, of soil and waste water and the conveyance of storm water and subsoil water from the building and its curtilage.

- (2) A proposed drain shall not be deemed to be a satisfactory drain for the purposes of this section unless it is proposed to be made, as the authority may require, to connect with an available public sewer, or, if there be no such sewer, to discharge into a cesspool, septic tank or other place which the local authority may approve.

## 88. Latrine accommodation to be provided for new buildings

Where plans of a building or of an extension of a building are, in accordance with any building rules, deposited with a local authority, the authority shall reject the plans unless either the plans and the prescribed particulars deposited therewith show that the prescribed or sufficient and satisfactory latrine accommodation will be provided, or the authority is satisfied that in the case of a particular building or extension it may properly dispense with the provision of latrine accommodation:

Provided that—

- (a) unless a sufficient water supply and public sewer are available, the authority shall not reject the plans on the ground only that the proposed accommodation consists of or includes an earth-closet or earth-closets or a privy or privies of a type approved by the authority; and
- (b) if the plans and the deposited particulars show that the proposed building or extension is likely to be used as a factory, workshop, workplace, club place of entertainment or other place on which persons of both sexes will be employed, or will be in attendance, the authority shall reject the plans, unless either the authority is satisfied that sufficient and satisfactory separate latrine accommodation for persons of each sex will be provided, or that in the circumstances of the particular case it may properly dispense with the provision of such separate accommodation.

## Drainage and latrines of existing buildings

### 89. Provisions as to drainage, etc., of existing buildings

- (1) If it appears to a local authority that in the case of any building—
  - (a) satisfactory provision has not been, and ought to be, made for drainage; or
  - (b) any cesspool, septic tank, private sewer, drain, soil-pipe, rain-water-pipe, spout, sink or other necessary appliance provided for the building is defective or insufficient; or
  - (c) any cesspool, septic tank or other such work or appliance as aforesaid provided for the building is in such a condition as to be prejudicial to health or a nuisance; or
  - (d) any cesspool, septic tank, private sewer or drain formerly used for the drainage of the building, but no longer used therefor, is prejudicial to health or a nuisance, it shall by notice require the owner of the building to make satisfactory provision for the drainage of the building, or, as the case may be, require either the owner or the occupier of the building to do such work as may be necessary for renewing, repairing, or cleansing the existing cesspool, septic tank, sewer, drain pipe, spout, sink or other appliances, or for filling up, removing or otherwise rendering innocuous the disused cesspool, septic tank, sewer or drain.
- (2) Except in cases where the local authority is satisfied that in the case of any particular building it may properly dispense with any provision for drainage, for the purposes of subsection (1), “satisfactory provision for drainage” means that the drainage system and appliances of the building comply with the rules for the time being in force relating to the same and that the drainage systems of the premises connect with available public sewers, or, if there be no such sewers, discharge into cesspools or other places which the authority may approve.

### 90. Replacement of earth-closets, etc., by water-closets

If any existing building in the district of a local authority has a sufficient water supply and a public sewer is available, the authority may, subject to [section 78 \(3\)](#), by notice to the owner of the building require that any latrines, other than water-closets, provided for, or in connexion with, the building shall be replaced by water-closets and that the owner shall make an application within a specified time to have his

drain made to communicate with a public sewer under [section 86](#), notwithstanding that the latrines are not insufficient in number and are not prejudicial to health or a nuisance.

### **91. Building or land having insufficient latrines or latrines so defective as to require reconstruction**

If it appears to a local authority, having due regard to the purposes for which any building or land is used, that—

- (a) such building or land is without sufficient latrine accommodation; or
- (b) latrines provided for or in connexion with such building or land are in such a state as to be prejudicial to health or a nuisance and cannot without reconstruction be put into a satisfactory condition,

the authority shall, by notice to the owner of the building or land, require him to provide the building or land with such latrines or additional latrines, or such substituted latrines, as the authority may approve and may consider necessary:

Provided that, unless a sufficient water supply and public sewer are available, the authority shall not require the provision of a water-closet except in substitution for an existing water-closet.

*[30 of 1969]*

### **92. Buildings having defective latrines capable of repair**

- (1) If it appears to a local authority that any latrines provided for or in connexion with a building are in such a state as to be prejudicial to health or a nuisance, but that they can without reconstruction be put into a satisfactory condition, the authority shall by notice require the owner or the occupier of the building to execute such works, or to take such steps by cleansing the latrines or otherwise, as may be necessary for that purpose.
- (2) In so far as such a notice requires a person to take any steps other than the execution of works, he shall, if he fails to comply with the notice, be liable to a fine of £5 and to a further fine of £2 for each day on which the offence continues after conviction therefor:

Provided that in any proceedings under this subsection it shall be open to the defendant to question the reasonableness of the authority's requirements, or of its decision to address the notice to him and not to the occupier or, as the case may be, the owner of the building.

## **Drainage of buildings in combination**

### **93. Drainage of buildings in combination**

- (1) Where a local authority might under this Part require each of two or more buildings to be drained separately into an existing public sewer, but it appears to the authority that those buildings may be drained more economically or advantageously in combination, the authority may, when the drains of the buildings are first laid, require that the buildings be drained in combination into the existing public sewer by means of a private sewer to be constructed either by the owners of the buildings in such manner as the authority may direct, or, if the authority so elects, by the authority on behalf of the owners:

Provided that an authority shall not, except by agreement with the owners concerned, exercise the powers conferred by this subsection in respect of any building for the drainage of which plans have been previously passed by it.

- (2) An authority who makes such a requirement as aforesaid shall fix the proportions in which the expenses of constructing, and of maintaining and repairing, the private sewer are to be borne by



the owners concerned, or, in a case in which the distance of the existing public sewer from the curtilage of any of the buildings in question is or exceeds one hundred feet, the proportions in which those expenses are to be borne by the owners concerned and the local authority, and shall forthwith give notice of the decision to each owner affected.

- (3) An owner aggrieved by a decision of an authority may appeal to the High Court in such manner as may be prescribed by Rules made by the High Court. Subject to any such appeal, any expenses reasonably incurred in constructing, or in maintaining or repairing, the private sewer shall be borne in the proportions so fixed, and those expenses, or, as the case may be, contributions thereto, may be recovered accordingly by the person, whether the authority or owners, by whom they were incurred in the first instance.
- (4) A sewer constructed by a local authority under this section shall not be deemed to be a public sewer by reason of the fact that the expenses of its construction are in the first instance defrayed by the authority, or by reason of the fact that some part of those expenses is borne by it.

#### **94. Payment of advances for defraying drainage expenses**

- (1) In any case where it shall appear to a local authority that the owner or occupier of any premises is unable to make a present payment of the amount of the expenses necessary to be incurred for the drainage and sewerage of such premises and the communication thereof with an available public sewer, the local authority may, subject to any general or special directions of the Minister in that behalf, make an agreement in the prescribed form with such owner or occupier for the advance of a sum of money for such necessary expenses at such interest as may be prescribed and for its repayment in such and so many instalments as the authority may determine.
- (2) Any sum of money so advanced shall be a charge on the premises and all estates and interests therein in respect of which the advance is made and [section 135](#) shall apply, *mutatis mutandis*, as if the sum advanced were expenses incurred by a local authority under this Act.

#### **95. Rules**

The Minister may make Rules for the purpose of prescribing any matters required to be prescribed including the method of construction of any cesspool, earth-closet, privy, septic tank or sewer, or any other structure mentioned in this Part, and generally for carrying out the purposes of this Part.

### **Part XI – The prevention and destruction of mosquitoes**

#### **96. Breeding places of mosquitoes to be nuisances**

For the purpose of this Act—

- (a) any collection of water, sewage, rubbish, refuse ordure or other fluid or solid substance, which permits or facilitates the breeding or multiplication of animal or vegetable parasites of human beings or domestic animals, or of insects or of other agents which are known to carry such parasites or which may otherwise cause or facilitate the infection of human beings or domestic animals by such parasites;
  - (b) any collection of water any well, pool, gutter, channel, depression, excavation, barrel, tub, bucket, or any other article, found to contain any of the immature stages of the mosquito;
  - (c) any cesspool, latrine, urinal, dung pit or refuse pit found to contain any of the immature stages of the mosquito,
- shall be nuisances liable to be dealt with in the manner hereinbefore provided for the treatment of nuisances.



**97. Yards to be kept free from bottles whole or broken, etc.**

The occupier or owner of any premises shall keep such premises free from all bottles, whole or broken, whether fixed on walls or not, tins, boxes, calabashes, earthenware vessels, shells, or any other articles, and trees, standing or fallen, and tree stumps, in such a state or position as to be likely to retain water. Any occupier or owner of any premises failing to comply with this section shall be guilty of an offence and liable to a fine of £5.

**98. Clearance of bush or long grass**

No person shall permit any premises or lands owned or occupied by him or over which he has control to become so overgrown with bush or long grass as, in the opinion of a medical officer of health, to be likely to harbour mosquitoes.

**99. Wells, etc., to be covered**

It shall not be lawful for any person to keep, or for the occupier or owner of any premises to allow to be kept thereon, any collection of water in any well, barrel, tub, bucket, tank or other vessel intended for the storage of water, unless such well, barrel, tub, bucket, tank or other vessel is fitted with a sufficient cover, the said cover to be kept in good repair and properly protected or screened to the satisfaction of a medical officer of health so as to prevent the ingress of mosquitoes into the same. Any person offending against this section shall be liable to a fine of £5, and, after notice received from a local authority or a medical officer of health, to a further fine of £1 for each day during which he shall make default in complying with such notice:

Provided that this section shall not apply to the keeping of water in a swimming pool the use of which has been authorized in writing by a local authority or medical officer of health.

**100. Cesspits to be screened or protected**

The occupier or owner of any premises upon or attached to which is any cesspool or septic tank shall cause such cesspool to be properly protected or screened to the satisfaction of a medical officer of health so as to prevent the ingress of mosquitoes. Any persons offending against this section shall be guilty of an offence and liable to a fine of £5, and to a further fine of £1 for each day during which he shall continue to make default after notice received from the local authority to comply with this section.

**101. Larvae, etc., may be destroyed**

- (1) Where any of the immature stages of the mosquito are found on any premises it shall be lawful for the local authority or a health officer to take immediate steps to destroy any such immature stages of the mosquito.
- (2) It shall be lawful for the local authority or a health officer to take such action as is necessary to render any pools or collections of water unfit to become breeding places for mosquitoes.

**102. Mere presence of mosquito larvae an offence**

Notwithstanding any provision of this Act, the occupier or owner of any house or premises or the owner or person having the charge of any vessel, timber, cask, or other articles in or about which there is any collection of water found by a health officer, or any person authorized by him, to contain any of the immature stages of the mosquito, shall be liable in respect of each and every such collection of water to a fine of £5.

## Part XII – Protection of foodstuffs

### 103. Construction and regulation of buildings used for the storage of foodstuffs

- (1) All warehouses or buildings of whatever nature in regular use for the storage of foodstuffs for trade purposes shall be constructed of such materials and in such manner as shall render such warehouses or buildings rat-proof.
- (2) Where any warehouse or building intended for the storage of foodstuffs as aforesaid has fallen into a state of disrepair, or does not afford sufficient protection against rat invasion on account of its design or construction or by reason of the materials used being defective, a local authority may by written notice require the owner to effect such repairs and alterations as the notice shall prescribe within a time to be specified in the said notice, and if such requirement is not complied with the local authority may enter upon the premises and effect such repairs and alterations, and may recover all costs and expenses incurred from the owner.
- (3) Where in the opinion of a medical officer of health any such foodstuffs within a warehouse or building are insufficiently protected against rats, vermin or pollution the owner thereof shall observe all written instructions and directions of the medical officer of health within a time to be specified in the notice for the better protection of the same, and any owner failing so to do shall be guilty of an offence:

Provided that in the case of any prosecution under this section the court may in its discretion acquit the accused if it is satisfied that all reasonable steps have been taken to exclude rats having regard to all the circumstances of the case.

### 104. No person to reside or sleep in any room in which foodstuffs are stored, etc.

- (1) No person shall reside or sleep in any kitchen or room in which foodstuffs for sale are prepared or stored for sale.
- (2) If it appears to a medical officer of health that any kitchen or room is being used contrary to this section, or that any part of the premises adjoining the room in which foodstuffs are stored or exposed for sale is being used as a sleeping apartment under such circumstances that the foodstuffs are likely to be contaminated or made unwholesome, he may serve upon the offender or upon the owner of the house or upon both a notice calling for such measures to be taken as shall prevent the improper use of such kitchen and premises within a time to be specified in the notice, and if such notice be not complied with the party upon whom it was served shall be guilty of an offence.

## Part XIII – Water and food supplies

### 105. Duty of local authorities as to polluted water supplies

It shall be the duty of every local authority to take all lawful, necessary and reasonably practicable measures—

- (a) for preventing any pollution dangerous to health of any supply of water which the public within its district has a right to use and does use for drinking or domestic purposes (whether such supply is derived from sources within or beyond its district); and
- (b) for purifying any such supply which has become so polluted, and to take measures (including if necessary, proceedings at law) against any person so polluting any such supply or polluting any stream so as to be a nuisance or danger to health.

### 106. Sale of unwholesome food prohibited

- (1) No person shall sell or expose for sale or bring into Malawi or into any market or have in his possession without reasonable excuse any food for man in a tainted, adulterated, diseased or unwholesome state, or which is unfit for use, or any food for any animal which is in an unwholesome state or unfit for its use and any medical officer of health, veterinary officer, health inspector, or any administrative officer or police officer of or above the rank of a sub-inspector may seize any such food, and any magistrate, on the recommendation of a health officer or veterinary officer, may order it to be destroyed, or to be so disposed of as to prevent it from being used as food for man or animal as the case may be.
- (2) No person shall collect, prepare, manufacture, keep, transmit or expose for sale any foodstuffs without taking adequate measures to guard against or prevent any infection or contamination thereof.

### 107. Seizure of unwholesome food

Any health officer or local authority or person duly authorized by such in writing, may, at any time between the hours of 6 a.m. and 6 p.m. enter any shop or premises used for the sale or preparation for sale, or for the storage of food, to inspect and examine any food found therein which he shall have reason to believe is intended to be used as food for man, and should such food appear to such officer or authority to be unfit for such use, he may seize the same, and any magistrate may order it to be disposed of as in the last foregoing section. The onus of proving that such food was not intended to be used as food for man shall be upon the person charged.

### 108. Penalty

Any person in whose possession there shall be found any food liable to seizure under sections [106](#) and [107](#) shall be liable to a fine of K200 and to imprisonment for six months.

### 109. Rules

- (1) The Minister may make Rules regarding all or any of the following matters—
  - (a) the inspection of dairy stock and of animals intended for human consumption, and of dairies, stock-sheds or yards, milk vessels and slaughterhouses, and of factories, stores, shops and any other places where any article of food is manufactured or prepared or kept;
  - (b) the taking and examination of samples of milk, dairy produce, meat or other articles of food and the removal or detention, pending examination or inquiry, of animals or articles which are suspected of being diseased or unsound or unwholesome or unfit for human consumption and the seizure and destruction, or treatment or disposal so as not to endanger health, of any such article which is found to be unwholesome or unsound, or diseased or infected or contaminated and of diseased animals sold or intended or offered or exposed for sale for human consumption;
  - (c) the veterinary inspection of dairy stock, the sampling and bacteriological examination of milk and dairy produce and the prevention of the sale, or the keeping, transmission, or exposure for sale of milk from a diseased or infected animal;
  - (d) the duties of dairymen in connexion with the occurrence of infectious disease amongst persons residing or employed in or about their premises and the furnishing by them of the names and addresses of their customers, and in connexion with reporting the occurrence, in animals on the premises or any dairy cattle, of diseases which are communicable to man and of any disease of the udder;

- (e) the inspection and examination of, and the regulation, inspection and supervision of the manufacture preparation, storage, keeping and transmission of any article of food intended for sale or for export from Malawi and the prohibition of the manufacture, preparation, storage, keeping, transmission, sale or export from Malawi of any such article which is, or contains, an ingredient which is diseased or unsound or unfit for human consumption, or which has been exposed to any infection or contamination;
  - (f) the prohibition of the importation into Malawi of any article of food which is not clean, wholesome, sound and free from any disease, infection or contamination, and the seizure and disposal by destruction or otherwise of any such article so imported;
  - (g) the preparation, manufacture or importation and the storage and sale of or trade in articles of food which are packed in air-tight receptacles or are otherwise preserved, and the marking of any such article or receptacle with the date of manufacture or preparation, or with other information;
  - (h) the prohibition of the importation, sale, possession or use of vessels which are intended to contain milk or any liquid or semi-solid article of food and which are rusty or defectively soldered or are made of material containing in any part likely to come in contact with the contents, lead or other poisonous or injurious substance in such proportion as to be likely to cause injury or danger to health, and fixing the maximum proportions of such substances which may be used in such vessels;
  - (i) the licensing, regulation and inspection of hotels, restaurants, cafes, and eating-houses;
  - (j) the licensing, regulation and inspection of the preparation and sale of foods by hawkers;
  - (k) the licensing, regulation and inspection of aerated water factories and ice manufacture;
  - (l) the licensing, regulation and inspection of the premises of fishmongers
  - (m) the licensing, regulation and inspection of the premises of butchers and retailers of meat;
  - (n) the licensing, regulation and inspection of bakehouses and bakeries;
  - (o) the fixing of fees and the prescribing of forms in regard to any matters prescribed.
- (2) Before making Rules relating to dairies, dairy stock, dairymen, milk and milk products, the Minister shall act on the advice of the Minister responsible for agriculture and natural resources.

*[43 of 1971]*

*[3 of 1975]*

#### **110. Fixing of standards for foodstuffs or other articles**

- (1) The Minister may specify by order standards of quality, composition and condition, and minimum standards, in respect of any foodstuffs, goods or other articles.
- (2) Any person who imports, manufactures, sells or barter any foodstuffs, goods or other articles which do not comply with any standard specified in respect thereof by an order made under subsection (1) shall be guilty of an offence.

#### **111. Medical officer of health's powers to make orders for protection of public health**

A medical officer of health, if he reasonably considers such action necessary for the protection of the public health, may—

- (a) prohibit the employment by any dairyman or other person in connexion with the collection, preparation, storage, distribution or sale of milk or dairy produce or any article of food of any person who has been proved to be a carrier of the infection of typhoid or enteric fever or other infectious disease, while so infected;
- (b) make orders requiring the closing of any stock-shed or yard or dairy, or the exclusion from any stock-shed or dairy premises of any animal the milk from which is believed to have conveyed or to be liable to convey any infectious disease.

### 112. Power to make orders

The Minister, may make orders—

- (a) prohibiting the sale or exposure for sale of milk by any dairyman who has been three times convicted of offences under this Part or any Rules made thereunder;
- (b) requiring the medical examination of any persons in any premises in which any milk or dairy produce or other article of food intended for sale is collected, kept, sold or exposed for sale, or of any person who is or has been engaged in the collection, preparation, keeping, conveyance or distribution of any such milk or produce or article.

## Part XIV – Cemeteries

### 113. Cemeteries and crematoria to be appointed

- (1) It shall be lawful for the Minister to select and appoint and to notify in the *Gazette* sufficient and proper places to be the sites of, and to be used as, cemeteries or crematoria for townships and rural areas; and it shall be obligatory where such cemeteries or crematoria exist to bury or cremate the dead in such cemeteries or crematoria in conformity with the provisions of Rules made by the local authority concerned. Any person who shall be guilty of a breach of any such Rule shall be liable to a fine of £75.
- (2) No person shall export any corpse from Malawi, or cremate any corpse within Malawi, without, in the case of export, the written permission of the Minister, or, in the case of cremation, of a medical officer first had and obtained.

### 114. List of authorized cemeteries

All cemeteries now being used as such and such other cemeteries as may be authorized by the Minister, notice whereof shall be published in the *Gazette*, shall be deemed authorized cemeteries.

### 115. Permit to exhume

- (1) Subject to this Act it shall not be lawful to exhume any body or the remains of any body which may have been interred in any authorized cemetery or in any other cemetery, burial ground or other place without a permit.
- (2)
  - (a) Such permit shall be granted only to the legal personal representative or next of kin of the person buried, or to his or their duly authorized agent.
  - (b) Such permit may be granted by the Minister in respect of any body or the remains of any body interred in any cemetery or burial ground or any other place.

- (3) The Minister may prescribe such precautions as he may deem fit as the condition of the grant of such permit, and any person who shall exhume any body or the remains of any body contrary to this Act, or who shall neglect to observe the precautions prescribed as the condition of any such permit, shall be liable to a fine of £150:

Provided always that nothing herein contained shall be deemed to affect the right of a coroner to order the exhumation of a body or the remains of any body for the purpose of holding an inquiry into the cause of death of any person.

#### **116. Exhumation needed for execution of public works**

- (1) It shall be lawful for the Minister whenever he shall deem it expedient for the execution of any public work or any public purpose, to order removal of any body or the remains of any body from any grave whether in an authorized cemetery or elsewhere, and by order under his hand to direct such removal to be made in such manner as he shall think fit.
- (2) No such order shall be made in respect of any grave situated in an authorized cemetery until six months' notice of the intention to make it shall have been given by notification in the *Gazette*. Copies of such notice shall be posted at or near the grave, and copies shall be sent by post in a registered letter to the legal personal representative or next of kin of the person buried, if his or their address can be ascertained. Such copies shall be accompanied by a translation in the language of the race to which such personal representative or next of kin belongs.
- (3) When an order is made directing a removal from any grave aforesaid elsewhere than in an authorized cemetery, due notice of such order shall, so far as it is possible to do so, be given to the legal personal representative or next of kin of the person buried before the work of removal is undertaken and to the local authority of the area in which the grave is situated.
- (4) The Minister shall cause proper and fitting arrangements to be made for the re-interment of any body or remains of any body removed under this section, and for the removal and re-erection of any monument, all charges in connexion therewith being defrayed out of the public revenue.

#### **117. Record of permit for exhumation**

There shall be kept at the office of the Registrar General of Births, Deaths and Marriages, a record of every permit granted and of every order made under the last two sections other than an order made by a magistrate. Such record shall contain particulars, so far as the same can be ascertained, of the race, nationality, name, sex and age of the persons buried, date of burial and of the place of original burial and re-burial or removal. Such record shall be open during office hours to inspection by any person.

#### **118. Closing of cemeteries by Minister**

It shall be lawful for the Minister to notify in the *Gazette* that any authorized crematorium or cemetery shall, from a time in such notification to be specified, be closed, and the same shall be closed accordingly and whoever, after the said specified time, shall burn or bury any body or the remains of any body in the said crematorium or cemetery shall be liable to a fine of £75.

#### **119. Cremations in places where no crematorium provided**

In places where no crematorium is provided, it shall be permissible for cremations to be carried out at such places and under such conditions as are laid down by the local authority with the concurrence of the medical officer of health.

## Part XV – General

### 120. Basements not to be occupied without permission

It shall not be lawful without the written permission of the local authority on the advice of the medical officer of health to live in, occupy or use or to let or sublet, or to suffer or permit to be used any basement for habitation, nor to use such basement as a shop, office, workshop, or factory or for the preparation or storage of food, and no basement shall be used unless it is well lit and ventilated and is free from damp and is rendered ratproof to the satisfaction of a medical officer of health.

### 121. Lodging-houses

The Minister may make Regulations for the conduct and inspection of lodging-houses and no person shall open or keep open a lodging-house unless the house is registered and the keeper thereof is licensed by the local authority.

### 122. Nursing homes

- (1) No person shall open or keep open a nursing home, maternity home, mental home, convalescent home, private hospital, infirmary or any institution where invalids, mental patients or convalescents are treated or received upon payment of fees or charges unless the premises thereof are approved by the Secretary for Health and a permit has been obtained from him. Permits granted shall be in accordance with any conditions laid down by the Secretary for Health and shall be liable to cancellation by him on violation or non-fulfilment of any of the conditions laid down.
- (2) The Secretary for Health may authorize a medical practitioner on his behalf to visit any such premises as in this section mentioned and to report to the Secretary for Health upon any matter or thing connected with the premises or the use thereof.
- (3) Any person who knowingly obstructs an authorized medical practitioner in any such inspection as is authorized by the Secretary for Health shall be guilty of an offence.

### 123. Maternity and child welfare

The Minister may make Rules for the proper control and administration of clinics or institutions open or kept open by any person for the welfare and care of children or the care of expectant or nursing mothers.

### 124. Regulation of public washermen

Any local authority may by public notice prohibit the washing of clothes by washermen in the exercise of their calling except at public wash-houses or at such other places as may be appointed for the purpose.

### 125. Control of irrigated land

- (1) Where it is shown to the satisfaction of the Minister, that the growing of any crop or the irrigation of any land in any area is unhealthy or insanitary, the Minister may, by notice published in the *Gazette*, prohibit the growing of any crop or the irrigation of any land within such area, and may cause any permit or authorization issued for the diversion, abstraction or use of water for such purpose to be cancelled upon such terms as may appear to him equitable.
- (2) The Minister may make Rules for ensuring that the health of the inhabitants of a district may be safeguarded in respect of—
  - (a) the prevention of pools of standing water;

- (b) the drainage and control of such pools when they exist;
- (c) the inspection, repair and cleansing of open channels, canals and drains.

#### **126. Supervision of importation or manufacture of vaccines, etc.**

- (1) The Minister may provide for the inspection, sampling and examination, by officers of the Ministry of Health, of vaccines, vaccine lymphs, sera, and similar substances imported into or manufactured in Malawi and intended to be used for the prevention or treatment of human diseases, and may prohibit the importation, manufacture, or use of any such substance which is considered to be unsafe or to be liable to be harmful or deleterious.
- (2) The Minister may make such Rules as he may consider necessary for properly carrying out this section.

### **Part XVI – Miscellaneous provisions**

#### **127. Authentication of notices, etc.**

- (1) Any notice, order, consent, demand, complaint or other document which is required or authorized by or under this Act may be signed or authenticated in the case of a local authority by—
  - (a) the secretary or executive officer;
  - (b) the surveyor, engineer, health officer or financial officer of or acting on behalf of the authority as respects documents relating to matters within their respective provinces;
  - (c) any other officer authorized by the authority in writing to sign documents of the particular kind or the particular document as the case may be.
- (2) The Minister may by Rule prescribe the form of any notices, orders, consents, demands or other documents to be used for any of the purposes of this Act and if forms are so prescribed those forms or forms to a like effect may be used in all cases to which those forms are applicable.

#### **128. Service of notices, etc.**

Any notice, court summons, order or other document required or authorized to be served or issued under this Act may be served by delivering the same at the residence of the person to whom it is addressed, or, where it is addressed to the owner or occupier of premises, by delivering the same, or a true copy thereof, to some person on the premises, or, if there is no person on the premises who can be served, by fixing the same on some conspicuous part of the premises; it may also be served by post in a registered letter, and if so served shall *prima facie* be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice, court summons, order or other document was properly addressed and put in the post.

#### **129. Powers and duties of the officers of the Ministry of Health**

Any duties imposed or powers conferred by this Act on medical officers of health or health officers may be carried out or exercised by the Secretary for Health or any person designated by him for that purpose.

#### **130. Defect in form not to invalidate notices, etc.**

No defect in the form of any notice or order made under this Act shall invalidate or render unlawful the administrative action taken or be a ground for exception to any legal proceedings which may be taken in



the matter to which such notice or order relates, provided the requirements thereof are substantially and intelligibly set forth.

### **131. Powers of entry and inspection of premises and penalties for obstruction**

- (1) Any health inspector, medical officer of health, administrative officer, or police officer of the rank of sub inspector or above, or any person generally or specially authorized in writing by the Secretary for Health, may, at any reasonable hour for the proper performance of the duty, enter any land or premises to make any inspection or to perform any work or to do anything which is required or authorized by this Act, if such inspection, work or thing is necessary for or incidental to the performance of his duties or the exercise of his powers.
- (2) Any person who fails to give or refuses access to any officer, inspector, or person mentioned in or authorized under subsection (1), if he requests entrance on any land or premises; or obstructs or hinders him in the execution of his duties under this Act; or who fails or refuses to give information that he may lawfully be required to give to such officer, inspector or person; or who gives to such officer, inspector or person false or misleading information knowing it to be false or misleading; or who prevents the owner or any of his servants or workmen from entering any land or dwelling or premises for the purpose of complying with any requirement under this Act, shall be guilty of an offence.

### **132. Provisions as to appeals against and the enforcement of notices requiring execution of works**

The following provisions of this section shall, subject to any express modifications specified in the section under which the notice is given, apply with respect to appeals against, and the enforcement of, notices requiring the execution of works under this Act—

- (a) Any such notice shall indicate the nature of the works to be executed, and state the time within which they are to be executed.
- (b) Any person served with such a notice as aforesaid may appeal in the manner hereinafter provided on any of the following grounds which are appropriate in the circumstances of the particular case —
  - (i) that the notice or requirement is not justified by the terms of the law under which it purports to have been given or made;
  - (ii) that there has been some defect or error in, or in connexion with, the notice;
  - (iii) that the works required by the notice to be executed are unreasonable in character or extent;
  - (iv) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
  - (v) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served.
- (c) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in connexion with the notice, the appeal shall be dismissed, if it is shown that the informality, defect or error was not a material one.
- (d) Where the grounds upon which an appeal under this section is brought include a ground specified in paragraph (b) (v), the appellant shall serve a copy of his notice of appeal on each other person referred to, and in the case of any appeal under this section may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question, and on the hearing of the appeal an order may be made with respect to the person by whom any work is to

be executed or as to the proportions in which expenses which may become recoverable by the authority are to be borne by the appellant and such other person.

In the exercise of the powers conferred by this subsection, regard shall be had as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required.

- (e) Subject to this Act, any appeal in pursuance of this section shall be preferred, in the case of notices requiring the execution of works issued by a local authority, to the court of a magistrate of the first or second class exercising jurisdiction in the place where the premises are situated in pursuance of any Rules made in that behalf by the High Court.
- (f) The time within which any such appeal may be brought shall be two months from the date on which notice requiring the works was served upon the person desiring to appeal.

### **133. Execution of works**

- (1) Subject to a right of appeal, if the person required by the notice to execute works fails to execute the works indicated within the time thereby limited, the local authority may itself execute the works and recover from that person the expenses reasonably incurred by it in so doing and, without prejudice to its right to exercise that power, he shall be liable to a fine of £5, and to a further fine of £2 for each day on which the default continues after conviction therefor.
- (2) In proceedings by a local authority against the person served with the notice for the recovery of any expenses which the authority is entitled to recover from him, it shall not be open to him to raise any question which he could have raised on an appeal against such notice.

### **134. Certain expenses recoverable from owners to be a charge on the premises; power to accept payment by instalments**

- (1) Where a local authority has incurred expenses for the repayment of which the owner of the premises in respect of which the expenses were incurred is liable under this Act, or by agreement with the authority, those expenses, together with interest from the date of service of a demand for the expenses, may be recovered by the authority from the person who is the owner of the premises at the date when the works are completed, or, if he has ceased to be the owner of the premises, before the date when a demand for the expenses is served, either from him or from the person who is the owner at the date when the demand is served, and, as from the date of the completion of the works, the expenses and interest accrued due thereon shall, until recovered, be a charge on the premises and on all estates and interests therein. The charge hereby created shall be deemed to extend to any expenses lawfully paid to the Deeds Registrar in connexion with the registration or withdrawal of the charge in pursuance of the other provisions of this section.
- (2) The charge created by subsection (1) shall be in favour of the local authority as the case may be if such authority is a body corporate entitled to hold land and in all other cases the charge shall be in favour of the Minister and the local authority or the Minister shall have all powers and remedies conferred on mortgagees by the Deeds Registration Act and any other law for the time being in force.

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- (3) The local authority shall, prior to the commencement of any work the cost of which will constitute a charge on the land on or in respect of which the same is done, serve on the Deeds Registrar a notice stating that such work is about to be commenced and specifying the property that will be the subject of such charge and thereupon the Registrar shall enter such notice in the appropriate Volume and Folio of the Register Book (hereinafter referred to as "the Register").
- (4) On the completion of such work the said local authority shall serve on the Deeds Registrar a further notice specifying the amount in respect of which such land by virtue of subsection (1)

stands charged and thereupon the Deeds Registrar shall protect the interest of the said local authority or of the Minister, as the case may be, on the Register in such manner as shall appear to him appropriate.

- (5) A notice or entry on the Register pursuant to subsection (3) or (4) shall be deemed to constitute actual notice to all persons that a charge against the land comprised in the Volume and Folio of the Register in which such notice or entry appears is pending or existent but such charge shall be void as against a *bona fide* purchaser for money or moneys worth of a legal estate in such land unless the notice referred to in subsection (3) has been served on the Deeds Registrar before the date of lodgment with him of the instrument of transfer executed in pursuance of such purchase.
- (6) In making any entry on the Register pursuant to subsection (4) the Deeds Registrar shall accept as conclusive the statement in writing relating to such charge of any duly constituted officer of any such local authority.
- (7) Any person having any registered estate in land in respect of which any such notice or entry appears on the register or any interest protected by the entry of a *caveat* may summon such local authority, or the Attorney General on behalf of the Minister as the case may be, to appear before the High Court and show cause why such notice or entry should not be removed from the Register and such Court may make such order in the premises either *ex parte* or otherwise and as to costs as to it seems fit.
- (8) A local authority may, subject to the approval of the Minister of Finance, or some other officer whom the Minister may charge with such duty, agree that any expenses recoverable by the authority under this section shall be payable with interest by instalments within such period as it thinks fit, until the whole amount is paid. Any such instalments and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred, and, if recovered from the occupier, may be deducted by him from the rent of the premises:  
  
Provided that an occupier shall not be required to pay at any time any sum in excess of the amount which was due from him on account of rent, or has become due from him on account of rent since the date on which he received a demand from the authority together with a notice requiring him not to pay rent to his landlord without deducting the sum so demanded.
- (9) The rate of interest chargeable under subsection (1) or subsection (8) shall be such rate as the Minister may determine.
- (10) Every local authority shall keep at its offices a register of all expenses incurred and advances made under this section, and shall show in such register the total amounts thereof, the instalments in which the same are payable, the land or premises in respect of which the same have been incurred or made, and the balances for the time being outstanding; and shall keep such register open at all reasonable times to the inspection of any person, free of charge. Such register and any extract therefrom, certified by any other person authorized by the local authority in that behalf, shall, in any proceedings for the recovery of such expenses, advances or interest thereon or any instalments thereof, be *prima facie* evidence of the matters contained therein.

### 135. Power to make a charge in respect of establishment expenses

Where under this Act a local authority is empowered to execute works and to recover from any person the expenses incurred by it in so doing, it may include in, and recover as part of, the expenses an additional sum to cover customs duties and other charges and departmental expenses on such scale or in such manner as may be prescribed or as the Minister may direct.

**136. Recovery of expenses, etc.**

- (1) Any sum which a local authority is entitled to recover under this Act and with respect to the recovery of which no other provision is made, may be recovered as a simple contract debt in any court of competent jurisdiction.
- (2) The time within which summary proceedings may be taken for the recovery of any such sums shall, except where otherwise expressly provided, be reckoned from the date of the service of a demand therefor.

**137. Protection of local authorities and their officers from personal liability**

No matter or thing done and no contract entered into by any local authority, and no matter or thing done by any member of any such authority or by any officer of or acting on behalf of such authority or other person whomsoever acting under the direction of such authority, shall, if the matter or thing were done or the contract entered into *bona fide* for the purpose of executing this Act, subject any member, officer or person as aforesaid personally, to any action, liability, claim or demand whatsoever.

**138. Penalties where not expressly provided**

Any person guilty of an offence against or contravention of, or default in complying with, any provision of this Act or any Rules made hereunder, shall, if no penalty is expressly provided for such offence, contravention or default, be liable to a fine of £100, and if the offence, contravention or default is of a continuing nature, to a further fine of £5 for each day during which he shall make default.

**139. Liability of secretary or manager of company**

Where a contravention of any of the provisions of this Act or any Rule made hereunder is committed by any company or corporation, the secretary or manager thereof may be summoned and may be held liable for such contravention and the consequences thereof.

**140. Proceedings against several persons**

Where proceedings under this Act are competent against several persons in respect of the joint act or default of such persons, it shall be sufficient to proceed against on or more of them without proceeding against the others.

**141. Prosecution**

- (1) A local authority may, by any of its officers or by any person generally or specially authorized in writing by such local authority, prosecute for any contravention of, offence against, or default in complying with, any provision of this Act or any Rule made or deemed to be made hereunder, if the contravention, offence, or default is alleged to have been committed within or affects its district.
- (2) Where an officer or person authorized by a local authority has under subsection (1) prosecuted any person for any contravention of, offence against or default in complying with any provision of this Act, or any Rule made or deemed to be made hereunder and the accused has been convicted of a contravention, offence or default, all fines and penalties imposed may be recovered by such officer or person authorized by a local authority as a civil judgment debt.

**142. Power of local authority outside its district**

Nothing in any law specially governing any local authority shall be construed as preventing such local authority from exercising any power or performing any duty under this Act by reason only that in

exercising such power or performing such duty it must do some act or thing or incur expenditure outside its district.

#### **143. Power to make rules for purposes of this Act**

- (1) The Minister may make Rules for any purpose having as its object the preservation of health or prevention of disease, and generally for the carrying out of the purposes of this Act.
- (2) Without prejudice to the generality of the foregoing power, the Minister may make rules regarding the following matters—
  - (a) the licensing, regulation and inspection of the premises of hairdressers;
  - (b) the licensing, regulation and inspection of laundries and wash-houses;
  - (c) the regulation, inspection and control of cemeteries and crematoria;
  - (d) the disposal and burial of corpses;
  - (e) the fixing of fees and the prescribing of forms in regard to any matters prescribed.

#### **144. Saving**

All Rules, orders, proclamations, notices and appointments made under the Public Health Ordinance, 1932 (now repealed) shall, in so far as they are not inconsistent with this Act, be deemed to have been made hereunder, and shall continue in force until replaced by Rules, orders, proclamations, notices and appointments made under this Act.

*[5 of 1932]*