

(4) The Commissioner in deciding whether a declaration should be made under sub-section (1) shall have regard to all the circumstances of the case and, in particular, to the following considerations :—

(a) whether the drain or works in question is or are adapted to, or required for, any general system of drainage or drainage disposal or sewage disposal which the Commissioner has provided, or proposes to provide, for the City or any part thereof;

(b) whether the drain is constructed under a street or under land reserved by or under the provisions of this Act or any other law for the time being in force for a street ;

(c) the number of buildings which the drain is intended to serve, and whether, regard being had to the proximity of other buildings or the prospect of future development, it is likely to be required to serve additional buildings;

(d) the method of construction and state of repair of the drain or works; and

(e) whether the making of the proposed declaration would be seriously detrimental to the owner of the drain or works in question.

(5) Any person who immediately before the making of a declaration under sub-section (1) was entitled to use the drain in question shall be entitled to use it, or any drain substituted therefore, to the same extent as if the declaration had not been made.

(6) When the Commissioner is about to take into consideration the question of making a declaration under sub-section (1) with respect to a drain or drainage or sewage disposal works situate within the jurisdiction of some local authority other than the Corporation or situate within the City but serving an area, or part of an area, within the jurisdiction of such local authority, he shall give notice to that authority and no declaration shall be made by him until either that authority has consented thereto or the ¹[State] Government, on an application made to it, has dispensed with the necessity of such consent, either unconditionally or subject to such conditions as it may think fit to impose.

(7) When the Commissioner has made a declaration under sub-section (1) with respect to a drain or drainage disposal or sewage disposal works situate within the jurisdiction of some local authority other than the Corporation he shall forthwith give notice of the fact to such authority.

(8) The Commissioner shall not make a declaration under sub-section (1) with respect to any drain or part of a drain or any works if that drain or part of a drain or those works is or are vested in some local authority other than the Corporation or in the Central Government or a railway administration except on the request of the authority, Government or administration concerned.

Powers for making drains.

155. (1) The Commissioner may carry any municipal drain through, across or under any street, or any place laid out as or intended for a street or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the City, or, for the purpose of outfall or distribution of sewage, without the City.

(2) The Commissioner may enter upon, and construct any new drain in the place of an existing drain in, any land wherein any municipal drain has been already lawfully constructed, or repair or alter any municipal drain so constructed.

Alteration and discontinuance of drains.

156. The Commissioner may enlarge, after the course of, lessen, arch over or otherwise improve any municipal drain, and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or for the purpose of surface drainage:

Provided that, if by reason of anything done under this section any person is deprived of the lawful use of any drain, the Commissioner shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed or the use of which has been prohibited.

1. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.