



Public Health (Scotland) Act 1897

1897 CHAPTER 38

PART II

SANITARY PROVISIONS.

Offensive Trades.

- 32 Prohibition or regulation of certain offensive businesses, and byelaws as to offensive businesses.**
- (1) If any person after the commencement of this Act -establishes, without the sanction of the local authority, the following businesses, or any of them; that is to say, the business of blood boiler, bone boiler, manure manufacturer, soap boiler, tallow melter, knacker, tanner, tripe boiler, gut or tripe cleaner, skinner or hide factor, slaughterer of cattle or horses, or any other business which the local authority may declare, by order confirmed by the Board and published in the Edinburgh Gazette, to be an offensive business, he shall be liable to a fine not exceeding fifty pounds in respect of the establishment thereof, and any person carrying on the same after a conviction for the establishment thereof shall be liable to a penalty not exceeding twenty-five pounds for every day during which he so carries on the same.
 - (2) The local authority shall give their sanction by order, but, at least fourteen days before making any such order, shall make public the application for it, by advertisement in one or more local newspapers, or by the posting of handbills in the locality, setting forth the time and place at which they will be willing to hear all persons objecting to the order, and they shall consider any objections made at that time and place, and shall grant or withhold their sanction as they think expedient, and where the local authority grants or withholds such sanction, any person aggrieved may appeal to the Board, whose decision shall be final, but, in the case of a district other than a burgh, the appeal to the Board shall only arise after the county council has given its determination on the matter, and a local authority may appeal to the Board against the determination of the county council.

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- (3) The local authority may make byelaws for regulating the conduct of any businesses within the meaning of this section, and of section thirty-seven of this Act, which are for the time being lawfully carried on in their district, and the structure of the premises in which any such business is being carried on, in order to prevent or diminish the noxious or injurious effect thereof, and the mode in which the said application is to be made.
- (4) Any such byelaw may, in addition to any pecuniary penalty imposed by such byelaw, empower a sheriff by summary order to deprive any person, either temporarily or permanently, of the right of carrying on any business to which such byelaw relates, as a punishment for breaking the same, and any person disobeying such order shall be liable to a penalty not exceeding twenty-five pounds for every day during which such disobedience continues; and the decision of the sheriff under this sub-section shall be appealable to the Lord Ordinary on the Bills in manner provided by section one hundred and fifty-six of this Act.
- (5) There shall be charged for an order of the local authority under this section, such fee not exceeding forty shillings as the local authority may fix.
- (6) For the purposes of this section a business shall be deemed to be established after the commencement of this Act not only if it is established newly, but also if it is removed from any one set of premises to any other premises, or if it is renewed on the same set of premises after having been discontinued for a period of twelve months or upwards, or if any premises on which it is for the time being carried on are enlarged without the sanction of the local authority; but a business shall not be deemed to be established anew on any premises by reason only that the ownership or occupancy of such premises is wholly or partially changed, or that the building in which it is established having been wholly or partially pulled down or burnt down has been reconstructed without any extension of its area.

33 Licensing of slaughter-houses.

- (1) A person carrying on the business of a slaughterer of cattle or horses, or knacker, shall not use any premises as a slaughter-house or knacker's yard without a licence from the local authority, and if he does he shall for each offence be liable to a penalty not exceeding five pounds, and the fact that cattle or horses have been taken into unlicensed premises shall be prima facie evidence that an offence under this section has been committed.
- (2) A licence under this section shall expire on such day in every year as the local authority fix, and when a licence is first granted shall expire on the day so fixed which secondly occurs after the grant of the licence, and a fee not exceeding five shillings, may be charged for the licence or any renewal thereof.
- (3) Not less than twenty-one days before a new licence for any premises is granted under this section, notice of the intention to apply for it shall be advertised as provided in sub-section two of the immediately preceding section by the local authority of the district in which the premises are situate, and any person interested may show cause against the grant or renewal of the licence.
- (4) An objection shall not be entertained to the renewal of a licence under this section, unless seven days previous notice of the objection has been served on the applicant, save that, on an objection being made of which notice has not been given, the local authority may, if they think it just so to do, direct notice thereof to be served on

the applicant, and adjourn the question of the renewal to a future day, and require the attendance of the applicant on that day, and then hear the case, and consider the objection, as if the said notice had been duly given.

- (5) For the purposes of this section a licence shall be deemed to be renewed where a further licence is granted in immediate succession to a prior licence for the same premises.
- (6) The local authority shall have right to enter any slaughterhouse or knacker's yard at any hour by day, or at any hour when business is in progress or is usually carried on therein, for the purpose of examining whether there is any contravention therein of this Act or of any byelaw made thereunder.
- (7) Where any person carrying on the business of a slaughterer of cattle or horses or knacker at the passing of this Act is refused by the local authority a licence for the premises where such business is carried on, or where any person has been refused a renewal of any licence, such person may appeal to the Board against such refusal, and the decision of the Board shall be final, but in the case of a district other than a burgh the appeal to the Board shall only arise after the county council has given its determination on the matter, and a local authority may appeal to the Board against the determination of the county council.

34 Local authorities may provide a slaughter-house.

The local authority of any district other than a burgh may provide, establish, improve, or extend and maintain within or without their district, and two or more such local authorities may combine to so provide, establish, improve, or extend and maintain fit shambles or slaughter-houses for the purpose of slaughtering cattle, and for that purpose may borrow such sums of money as they shall find necessary on the security of the public health general assessment, and of the rates to be taken and levied for the use of such shambles or slaughter-houses and ground on which the same are erected, or on any one or more thereof, and the provisions of section one hundred and forty-one of this Act shall, with the necessary modifications, apply to such borrowing.

35 and make byelaws as to pigstyes.

The local authority may make byelaws regulating the construction of pigstyes, the places in which they may be erected, and the mode of cleansing them at proper intervals so as to prevent them from becoming a nuisance or dangerous to public health.

36 Duty of local authority to complain to sheriff, &c. of nuisance arising from offensive trade.

- (1) Where it appears to the local authority upon a certificate by their medical officer, or from a representation by a parish council, or on a requisition in writing under the hands of any ten ratepayers within the district that any trade, business, process, or manufacture carried on in any manufactory, building, or premises, and causing effluvia is a nuisance or injurious or dangerous to the health of any of the inhabitants of the district, such authority may, if they think proper, and, if required by the Board shall, apply to the sheriff by summary petition, and if it appears to such sheriff that any trade, business, process, or manufacture carried on in such manufactory, building, or premises is causing a nuisance, or any effluvia which is a nuisance or injurious or dangerous to the health of any of the inhabitants within the district, then, unless it is

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shown that the best practicable means have been used for removing the nuisance, or preventing or counteracting the effluvia, the author of the nuisance, and failing him the occupier and failing him the owner of the premises, shall be liable to a penalty not exceeding fifty pounds.

- (2) Provided that the court may suspend its final determination on condition that the person so offending undertakes to adopt, within a reasonable time, such means as the court may deem practicable, and may order to be carried into effect, for removing the nuisance, or mitigating or preventing the injurious or dangerous effects of the effluvia.
- (3) The local authority may, if they think fit, on such certificate as is in this section mentioned, cause proceedings to be taken in the Court of Session against any person in respect of the matters alleged in such certificate.
- (4) The local authority may take proceedings under this section in respect of a manufactory, building, or premises situate without their district, so, however, that the summary proceedings shall be had before a sheriff having jurisdiction in the district where the manufactory, building, or premises are situate.

37 Provision as to nuisance created by local authority in dealing with refuse.

- (1) The removal of house refuse and street refuse by a local authority when collected or deposited by that authority, or by any contractor or other person authorised by such local authority, shall be deemed to be a business carried on by that authority, or by such contractor or other person, within the meaning of this Act, and a complaint or proceedings in relation to any such business may be made or taken by the county council of the district, other than a burgh, where such business is carried on, or, in the case of any district, by any person authorised by the Board in like manner as if such county council or such person were a local authority.
- (2) Any premises used by a local authority, or by any contractor or other person authorised by such local authority, for the treatment or disposal of any street refuse or house refuse, as distinct from the removal thereof, which are a nuisance or injurious or dangerous to health, shall be a nuisance liable to be dealt with summarily under this Act, and for the purpose of the application thereto of the provisions of this Act relating to such nuisances the county council, in the case of a district other than a burgh, and any person authorised as aforesaid by the Board shall be deemed to be a local authority.