



# Environmental Protection Act 1990

## 1990 CHAPTER 43

### PART III

#### STATUTORY NUISANCES AND CLEAN AIR

##### *Termination of existing controls over offensive trades and businesses*

#### **84 Termination of Public Health Act controls over offensive trades etc.**

- (1) Where a person carries on, in the area or part of the area of any local authority—
- (a) in England or Wales, a trade which—
    - (i) is an offensive trade within the meaning of section 107 of the <sup>M1</sup>Public Health Act 1936 in that area or part of that area, and
    - (ii) constitutes a prescribed process designated for local control for the carrying on of which an authorisation is required under section 6 of this Act; or
  - (b) [<sup>F1</sup>in Scotland, a business which—
    - (i) is mentioned in section 32(1) of the Public Health (Scotland) Act 1897 (or is an offensive business by virtue of that section) in that area or part of that area; and
    - (ii) constitutes a prescribed process designated for local control for the carrying on of which an authorisation is required under the said section 6,
- subsection (2) below shall have effect in relation to that trade or business as from the date on which an authorisation is granted under section 6 of this Act or, if that person has not applied for such an authorisation within the period allowed under section 2(1) above for making applications under that section, as from the end of that period.]
- (2) Where this subsection applies in relation to the trade or business carried on by any person—

*Status: Point in time view as at 01/10/2009.*

*Changes to legislation: Environmental Protection Act 1990, Cross Heading: Termination of existing controls over offensive trades and businesses is up to date with all changes known to be in force on or before 27 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) nothing in section 107 of the Public Health Act 1936 [<sup>F2</sup>or in section 32 of the Public Health (Scotland) Act 1897] shall apply in relation to it, and
- (b) no byelaws or further byelaws made under section 108(2) of the said Act of 1936, [<sup>F3</sup>or under subsection (2) of the said section 32], with respect to a trade or business of that description shall apply in relation to it;

but without prejudice to the continuance of, and imposition of any penalty in, any proceedings under the said section 107 [<sup>F3</sup>or the said section 32] which were instituted before the date as from which this subsection has effect in relation to the trade or business.

- (3) Subsection (2)(b) above shall apply in relation to the trade of fish frying as it applies in relation to an offensive trade.
- (4) When the Secretary of State considers it expedient to do so, having regard to the operation of Part I and the preceding provisions of this Part of this Act in relation to offensive trades or businesses, he may by order repeal—
  - (a) sections 107 and 108 of the <sup>M2</sup>Public Health Act 1936; and
  - (b) [<sup>F4</sup>section 32 of the <sup>M3</sup>Public Health (Scotland) Act 1897;]

and different days may be so appointed in relation to trades or businesses which constitute prescribed processes and those which do not.

- (5) In this section—
  - “prescribed process” has the same meaning as in Part I of this Act; and
  - “offensive trade” or “trade” has the same meaning as in section 107 of the Public Health Act 1936.

#### Textual Amendments

- F1** S. 84(1)(b) repealed (S.) (1.10.2009) by The Public Health etc. (Scotland) Act 2008 (Commencement No. 2, Savings and Consequential Provisions) Order (S.S.I. 2009/319), art. 2(c), {Sch. 3}
- F2** Words in s. 84(2)(a) repealed (S.) (1.10.2009) by The Public Health etc. (Scotland) Act 2008 (Commencement No. 2, Savings and Consequential Provisions) Order (S.S.I. 2009/319), art. 2(c), {Sch. 3}
- F3** Words in s. 84(2)(b) repealed (S.) (1.10.2009) by The Public Health etc. (Scotland) Act 2008 (Commencement No. 2, Savings and Consequential Provisions) Order (S.S.I. 2009/319), art. 2(c), {Sch. 3}
- F4** S. 84(4)(b) repealed (S.) (1.10.2009) by The Public Health etc. (Scotland) Act 2008 (Commencement No. 2, Savings and Consequential Provisions) Order (S.S.I. 2009/319), art. 2(c), {Sch. 3}

#### Marginal Citations

- M1** 1936 c. 49.
- M2** 1936 c. 49.
- M3** 1897 c. 38.

**Status:**

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