



Alkali, &c. Works Regulation Act 1906

1906 CHAPTER 14

PART III

(iv) Procedure

16 Provision as to calculation of acid

In calculating the proportion of acid to a cubic foot of air, smoke, or gases for the purposes of this Act, such air, smoke, or gases shall be calculated at the temperature of sixty degrees of Fahrenheit's thermometer, and at a barometric pressure of thirty inches.

17 Recovery of fines for offences against Act in county court

The following regulations shall have effect with respect to the recovery of fines for offences under this Act other than fines recoverable summarily :—

- (1) Every such fine shall be recovered by action in the county court having jurisdiction in the district in which the offence is alleged to have been committed :
- (2) The action shall not be brought without the sanction of the central authority, nor by any person other than the chief inspector or such other inspector as the Local Government Board may in any particular case direct, nor, except as respects a fine for the contravention of the provisions of this Act as to the registration of works, after the expiration of three months from the commission of the offence, and for the purposes of such action the fine shall be deemed to be a debt due to such inspector :
- (3) The plaintiff in any action for a fine under this Act shall be presumed to be an inspector authorised under this Act to bring the action, until the contrary is proved by the defendant:
- (4) The court may, on the application of either party, appoint a person to take down in writing the evidence of the witnesses, and may award to that person such remuneration as the court thinks just; and the amount so awarded shall be deemed to be costs in the action :

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- (5) If either party in any action under this Act feels aggrieved by the decision or direction of the court in point of law, or on the merits, or in respect of the admission or rejection of any evidence, he may appeal to the High Court:
- (6) Subject to the provisions of this section, all the enactments, rules, and orders relating to proceedings in ' actions in county courts, and to enforcing judgments in county courts, and to appeals shall apply as if the action related to a matter within the ordinary jurisdiction of the court.

18 Further provisions as to recovery of fines in county court

- (1) In any proceeding under this Act in relation to a hue for an offence other than an offence against a special rule—
 - (a) It shall be sufficient to allege that any work is a work to which this Act applies, without more ; and
 - (b) It shall be sufficient to state the name of the registered or ostensible owner of the work, or the title of the firm by which the employer of persons in such work is usually known.
- (2) A person shall not be subject to a fine under this Act for more than one offence in respect of the same work or place in respect of any one day.
- (3) Not less than twenty-one days before the hearing of any proceeding against an owner to recover a fine under this Act for failing to secure the condensation of any gas to the satisfaction of the chief inspector, or for failing to use the best practicable means as required by this Act, an inspector shall serve on the owner proceeded against a notice in writing stating, as the case requires, either the facts on which such chief inspector founds his opinion, or the means which such owner has failed to use, and the means which, in the chief inspector's opinion, would suffice, and shall produce a copy of such notice before the court having cognisance of the matter.
- (4) A person shall not be liable under this Act to an increased fine in respect of a second offence, or in respect of a third or any subsequent offence, unless a fine has been recovered within the preceding twelve months against such person for the first offence, or for the second or other offence, as the case may be.

19 Application of fines

All fines recovered under this Act, other than those recovered summarily, shall be paid into the Exchequer.

20 Discharge of owner on conviction of actual offender

The owner of a work in which an offence under this Act other than an offence against a special rule has been proved to have been committed shall in every case be deemed to have committed the offence, and shall be liable to pay the fine, unless he proves, to the satisfaction of the court before which any proceeding is instituted to recover such fine, that he has used due diligence to comply with and to enforce the execution of this Act, and that the offence in question was committed, without his knowledge, consent, or connivance, by some agent servant or workman, whom he shall charge by name as the actual offender ; in which case such agent servant or workman shall be liable to pay the fine, and proceedings may be taken against him for the recovery thereof and

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of the costs of all proceedings which may be taken either against himself or against the owner under this Act :

Provided that it shall be lawful for the inspector to proceed against the person whom he believes to be the actual offender, without first proceeding against the owner, in any case where the inspector is satisfied that the owner has used all due diligence to comply with and to enforce the provisions of this Act, and that the offence has been committed by that person without the knowledge, consent, or connivance of the owner.

21 Service of notices

Any notice, summons, or other document required or authorised for the purposes of this Act to be delivered to or served on or sent to the owner of any work, may be served by post or by delivering the same to the owner, or at his residence or works ; and the document shall be deemed to be properly addressed if addressed to the registered address of an owner, or, when required to be served on or sent to the owner of any works, if addressed to the owners of the works at the works, with the addition of the proper postal address, but without naming the person who is the owner.

22 Complaint by sanitary authority in cases of nuisance

- (1) Where complaint is made to the central authority by any sanitary authority, on information given by any of their officers, or any ten inhabitants of their district, that any work to which this Act applies is carried on (either within or without the district) in contravention of this Act, or that any alkali waste is deposited or discharged (either within or without the district) in contravention of this Act, and that a nuisance is occasioned thereby to any of the inhabitants of their district, the central authority shall make such inquiry into the matters complained of, and after the inquiry may direct such proceedings to be taken by an inspector as they think fit and just.
- (2) The sanitary authority complaining shall, if so required by the central authority, pay the expense of any such inquiry.

23 Actions in case of contributory nuisance

- (1) Where a nuisance arising from the discharge of any noxious or offensive gas or gases is wholly or partially caused by the acts or defaults of the owners of several works to which any of the provisions of this Act applies, any person injured by such nuisance may proceed against any one or more of such owners, and may recover damages from each owner made a defendant in proportion to the extent of the contribution of that defendant to the nuisance, notwithstanding that the act or default of that defendant would not separately have caused a nuisance.
- (2) This section shall not authorise the recovery of damages from any defendant who can produce a certificate from the chief inspector that in the works of that defendant the requirements of this Act have been complied with and were complied with when the nuisance arose.