



Public Health Act 1936

1936 CHAPTER 49

PART III

NUISANCES AND OFFENSIVE TRADES.

Smoke nuisances.

101 Smoke nuisances.

For the purposes of this Part of this Act—

- (a) any installation for the combustion of fuel which is used in any manufacturing or trade process, or for working engines by steam, and which does not so far as practicable prevent the emission of smoke to the atmosphere and
- (b) any chimney (not being the chimney of a private house) emitting smoke in such quantity as to be a nuisance,

shall be statutory nuisances and are in this Act referred to as " smoke nuisances."

102 Notice to occupier of existence of smoke nuisance.

Where in the opinion of an authorised officer of a local authority a smoke nuisance exists, he shall, as soon as practicable after he has become aware thereof, notify the occupier of the premises on which the nuisance exists, and if that notification was not in writing, shall, within twenty-four hours after he became aware of the nuisance, confirm the notification in writing.

103 Procedure with respect to smoke nuisances.

- (1) Subject to the provisions of this section, where a smoke nuisance exists on any premises, an abatement notice may be served and a complaint with respect to the nuisance may be made in like manner, and thereupon the like proceedings shall be had, with the like incidents and consequences as to the making of orders, penalties for disobedience of orders and otherwise, as in the case of any other statutory nuisance.

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- (2) Where proceedings are brought by virtue of this section in respect of such a nuisance as is mentioned in paragraph (a) of the last but one preceding section, it shall be a defence for the defendant to prove that the installation complained of embodies the best practicable means for preventing the emission of smoke to the atmosphere, and that the installation has been carefully attended to by the person having the charge thereof.
- (3) Where proceedings are brought by virtue of this section in respect of the emission from a chimney of smoke, other than black smoke, in such quantity as to be a nuisance, it shall be a defence for the defendant to prove that the best practicable means have been taken for preventing the nuisance.

For the purposes of this subsection, the expression " best practicable means " has reference not only to the provision and efficient maintenance of adequate and proper plant for preventing the creation and emission of smoke, but also to the manner in which that plant is used.

- (4) Where byelaws made under the next succeeding section are in force for regulating the emission of smoke of such colour, density or content as may be prescribed by the byelaws, the emission of smoke of the character so prescribed for such period as may be so prescribed either from buildings generally to which the enactments relating to smoke nuisances apply, or from such classes of those buildings as may be so prescribed, shall, until the contrary is proved, be deemed to be a statutory nuisance and a smoke nuisance.
- (5) In the case of a smoke nuisance, the fine which may be imposed by the court in respect of a failure to comply with an abatement notice shall be a fine not exceeding fifty pounds, and the fines which may be imposed by a court in respect of a failure to comply with, or a contravention of, a nuisance order shall be a fine not exceeding ten pounds and a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.

104 Byelaws as to smoke.

- (1) A local authority may, and if so required by the Minister shall, make byelaws regulating the emission of smoke of such colour, density, or content as may be prescribed by the byelaws.
- (2) Building byelaws may require the provision in new buildings, other than private houses, of such arrangements for heating or cooking as are calculated to prevent or reduce the emission of smoke.
- (3) A local authority who propose to apply to the Minister for confirmation of any byelaws made under this section shall, in addition to complying with the requirements of section two hundred and fifty of the Local Government Act, 1933, publish in the London Gazette at least one month before the application is made notice of their intention to apply for confirmation.

105 Power of local authority to investigate problems relating to atmospheric pollution.

Subject to such restrictions or conditions, if any, as the Minister may by regulations prescribe, a local authority may undertake investigations and research into problems relating to atmospheric pollution and the abatement of smoke nuisances, and may

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contribute towards the cost of similar investigations and research undertaken by other bodies or persons.

106 Application to Crown of provisions as to smoke nuisances.

If it appears to a local authority that a smoke nuisance within, or affecting any part of, their district exists on any premises occupied for the public service of the Crown, they shall report the circumstances to the appropriate Government department, and, if the Minister responsible for that department is satisfied after due inquiry that such a nuisance exists, he shall cause such steps to be taken as may be necessary to abate the nuisance and to prevent a recurrence thereof.