



Public Health Act 1936

1936 CHAPTER 49

PART III

NUISANCES AND OFFENSIVE TRADES.

Smoke nuisances.

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.
- (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

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

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.