



Public Health (Scotland) Act 1897

1897 CHAPTER 38

PART II

SANITARY PROVISIONS.

General Nuisances.

22 Proceedings by local authority when nuisances are ascertained to exist.

In any case where the existence of a nuisance is ascertained to their satisfaction by the local authority, or where the nuisance in the opinion of the local authority did exist, and, although the same may have been since removed or discontinued, is in their opinion likely to recur or to be repeated, they may apply to the sheriff or to any magistrate or justice, by summary petition in manner herein-after directed, and if it appear to his satisfaction that the nuisance exists, or, if removed or discontinued, that it is likely to recur or to be repeated, he shall decern for the removal or remedy or discontinuance or interdict of the nuisance as herein-after mentioned; provided that if it appear to the sheriff or magistrate or justice that the nuisance arose from the wilful fault or culpable negligence either of the owner or occupier of the premises, and that a notice in respect thereof had previously been served on such author, the sheriff or magistrate or justice may, in addition to making a decree as aforesaid, impose a fine not exceeding five pounds on such owner or occupier; provided that in the cases under sub-sections (6) and (8) in section sixteen of this Act such application shall be made only on medical certificate, or on a representation by a parish council, or on a requisition in writing under the hands of any ten ratepayers of the district of the local authority, and that in these cases and the cases under sub-sections (9) and (10) in said section, it shall be made only to the sheriff; and farther, that in the cases under sub-section (11) in section sixteen it shall not be necessary to cite any person as the author of the nuisance, but such application shall be proceeded with by the sheriff (to whom alone it shall be made) after such intimation to the collector of the churchyard or other dues, or to such other person as to the sheriff shall seem meet; and such person or persons as shall appear after such intimation shall, if the sheriff think proper, be allowed to be heard and to object to such application in the same manner as if he or they were the author of the alleged nuisance within the meaning of this Act.