



Public Health Act 1936

1936 CHAPTER 49

PART III

NUISANCES AND OFFENSIVE TRADES.

Nuisances which may be dealt with summarily.

94 Power of court to make nuisance order if abatement notice disregarded.

- (1) If the person on whom an abatement notice has been served makes default in complying with any of the requirements of the notice, or if the nuisance, although abated since the service of the notice, is, in the opinion of the local authority, likely to recur on the same premises, the authority shall cause a complaint to be made to a justice of the peace, and the justice shall thereupon issue a summons requiring the person on whom the notice was served to appear before a court of summary jurisdiction.
- (2) If on the hearing of the complaint it is proved that the alleged nuisance exists, or that although abated it is likely to recur on the same premises, then, subject to the provisions of subsections (4) and (5) of this section the court shall make an order (hereafter in this Act referred to as "a nuisance order ") for either, or both, of the following purposes—
 - (a) requiring the defendant to comply with all or any of the requirements of the abatement notice, or otherwise to abate the nuisance, within a time specified in the order, and to execute any works necessary for that purpose;
 - (b) prohibiting a recurrence of the nuisance, and requiring the defendant, within a time specified in the order, to execute any works necessary to prevent a recurrence;

and may also impose on the defendant a fine not exceeding five pounds.

Where a nuisance proved to exist is such as to render a building, in the opinion of the court, unfit for human habitation, the nuisance order may prohibit the use of the building for that purpose until a court of summary jurisdiction, being satisfied that it has been rendered fit for human habitation, withdraws the prohibition.

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- (3) Where on the hearing of a complaint under this section it is proved that the alleged nuisance existed at the date of the service of the abatement notice and that at the date of the making of the complaint it either still existed or was likely to recur, then, whether or not at the date of the hearing it still exists or is likely to recur, the court shall order the defendant to pay to the local authority such reasonable sum as the court may determine in respect of the expenses incurred by the authority in, or in connection with, the making of the complaint and the proceedings before the court.
- (4) Where proceedings are brought under this section in respect of a nuisance under paragraph (c) of subsection (1) of section ninety-two of this Act (which relates to certain accumulations or deposits) it shall be a defence for the defendant to prove that the accumulation or deposit complained of was necessary for the effectual carrying on of a business or manufacture and has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best practicable means have been taken for preventing it from being prejudicial to the health of, or a nuisance to, the inhabitants of the neighbourhood.
- (5) Where proceedings are brought under this section in respect of a nuisance under paragraph (d) of subsection (1) of section ninety-two of this Act (which relates to dust or effluvia caused by any trade, business, manufacture or process), it shall be a defence for the defendant to prove that the best practicable means have been taken for preventing, or counteracting the effect of, the dust or effluvia.
- (6) If it appears to the court that the person by whose act or default the nuisance arises, or the owner or occupier of the premises, cannot be found, the nuisance order may be addressed to, and executed by, the local authority.