



# Public Health (Scotland) Act 1897

1897 CHAPTER 38 60 and 61 Vict

An Act to consolidate and amend the Laws relating to the Public Health in Scotland. [6th August 1897]

## Modifications etc. (not altering text)

- C1** Act extended by [Factories Act 1961 \(c. 34\), s. 182\(9\)](#) and [Health Services and Public Health Act 1968 \(c. 46\), s. 62](#); amended by [Health Services and Public Health Act 1968 \(c. 46\), s. 73](#) and [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 142](#)
- C2** Act amended (S.) (27.8.1993) by [1993 c. 11, ss. 17\(1\), 68\(2\)](#) (with [s. 66\(1\), Sch. 3 para. 2](#))

## *Preliminary*

### **1 Short title.**

This Act may be cited as the Public Health (Scotland) Act 1897.

### **2 Extent and commencement of Act.**

This Act shall extend to Scotland only . . . <sup>F1</sup>

## Textual Amendments

- F1** Words repealed by [Statute Law Revision Act 1908 \(c. 49\)](#)

### **3 Definitions.**

In this Act the following words and expressions have the meanings herein-after assigned to them, unless such meaning is inconsistent with the context:

The word “Board” means the Local Government Board for Scotland:

The word “secretary” includes assistant secretary:

..... <sup>F2</sup>

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Wherever in this Act the expression “legally qualified medical practitioner” is used, it shall mean a registered medical practitioner qualified, as the case may be:

F3

The expressions “veterinary surgeon” and “qualified veterinary surgeon” mean a member of the Royal College of Veterinary Surgeons:

F3

[<sup>F4</sup>Except in section 12 and, where it second occurs in section 36(4) of this Act, the word “district” means the area of the local authority for the purposes of this Act.]

F3

The word “magistrate” means a magistrate or judge having police jurisdiction under the <sup>M1</sup>Burgh Police (Scotland) Act 1892 or under any general or local Police Act:

The word “decree” or “decern” includes any warrant, sentence, judgment, order, or interlocutor:

The word “premises” includes lands, buildings, vehicles, tents, vans, structures of any kind, streams, lakes, seashore, drains, ditches, or places open, covered, or inclosed, whether built on or not, and whether public or private, and whether natural or artificial, and whether maintained or not under statutory authority, and any ship, lying in any sea, river, harbour, or other water, or ex adverso of any place within the limits of the local authority:

The word “land” in this Act and in the Acts incorporated herewith as after-mentioned, shall include water and any right or servitude to or over land or water:

The word “ship” includes any sailing or steam ship, vessel, or boat not belonging to Her Majesty or any foreign Government:

[<sup>F5</sup>The word “road” has the meaning ascribed to it by section 151 of the Roads (Scotland) Act 1984:]

F6

The word “house” means a dwelling-house, and includes schools, also factories and other buildings in which persons are employed:

The word “factory” includes workshop and workplace:

The word “ashpit” means any receptacle for the deposit of ashes or refuse matter:

The expression “knacker” means a person whose business it is to kill any horse, ass, mule, or cattle not killed for the purpose of the flesh being used [<sup>F7</sup>for sale for human consumption]; and the expression “knacker’s yard” means any building or place used for the purpose of such business:

The expression “slaughterer of cattle or horses” means a person whose business it is to kill any description of cattle or horses, asses or mules, for the purpose of the flesh being used [<sup>F7</sup>for sale for human consumption]; and the expression “slaughter-house” means any building or place used for the purpose of such business:

The word “owner” means the person for the time entitled to receive, or who would, if the same were let, be entitled to receive, the rents of the premises, and includes a trustee, factor, tutor, or curator, and in case of public or municipal property applies to the persons to whom the management thereof is entrusted:

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The word “occupier” means in the case of a building or part of a building the person in occupation or having the charge, management, or control thereof, either on his own account or as the agent of another person, and in the case of a ship means the master or other person in charge thereof:

The word “company” includes commissioners:

The expression “author of a nuisance” means the person through whose act or default the nuisance is caused, exists, or is continued, whether he be the owner or occupier or both:

The expression “common lodging-house” means a house or part thereof where lodgers are housed at an amount not exceeding fourpence per night, or such other sum as shall be fixed under the provisions of this Act, for each person whether the same be payable nightly or weekly, or for any period not longer than a fortnight, and shall include any place where emigrants are lodged and all boarding-houses for seamen, irrespective of the rate charged for lodging or boarding:

The expression “keeper of a common lodging-house” includes any person having or acting in the care and management of a common lodging-house:

The word “cattle” means bulls, cows, oxen, heifers, and calves, and includes sheep, goats, and swine:

The word “dairy” includes any farm, farmhouse, cowshed, milk store, milk shop, or other place from which milk is supplied, or in which milk is kept for purposes of sale:

The word “dairyman” includes any cow-keeper, purveyor of milk, or occupier of a dairy:

The word “burial” includes cremation:

The expressions “day” and “daytime” mean between nine o’clock in the morning and six o’clock in the evening.

[<sup>F8</sup>The word “ratepayer” means a person who either is liable to pay any of the community charges or community water charges imposed under the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (or would be so liable but for any enactment or anything provided or done under any enactment) or is a non-domestic ratepayer.]

#### Textual Amendments

- F2** Definitions repealed by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Sch. 7 Pt. II**
- F3** Definitions repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F4** Definition substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27 Pt. II para. 26(b)**
- F5** Definition inserted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 17(2)**
- F6** Definition of “street” repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), **Sch. 11**
- F7** Words substituted by [Slaughter of Animals \(Amendment\) Act 1954 \(c. 59\)](#), **Sch. 2 Pt. I**
- F8** Definition in s. 3 added (1. 4. 1991) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), **Sch. 15 para. 1; S.I. 1991/1042; art. 2**

#### Modifications etc. (not altering text)

- C3** Functions of Local Government Board for Scotland now exercisable by Secretary of State: [Scottish Board of Health Act 1919 \(c. 20\)](#), s. 4(1)(a), [Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\)](#), s. 1(1) and [Reorganisation of Offices \(Scotland\) Act 1939 \(c. 20\)](#), s. 1(1)
- C4** Reference to “fourpence” to be read as reference to equivalent amount in new currency: [Decimal Currency Act 1969 \(c. 19\)](#), s. 10(1)

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**C5** Functions of burgh magistrates now exercisable by justice of the peace: [District Courts \(Scotland\) Act 1975 \(c. 20\), s. 1\(2\)](#)

#### Marginal Citations

**M1** 1892 c. 55.

4

F9

#### Textual Amendments

**F9** Ss. 4, 7, 9, 10 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\), s. 381, Sch. 14](#)

## PART I

### AUTHORITIES FOR EXECUTION OF ACT

#### *Central Authority*

#### 5 Local Government Board to be central authority.

The Local Government Board for Scotland (in this Act referred to as the Board) shall be the central authority for the execution of this Act. In addition to the powers conferred on or transferred to it by the <sup>M2</sup>Local Government (Scotland) Act 1894, the Board shall have the powers herein-after mentioned.

#### Modifications etc. (not altering text)

**C6** Functions of Local Government Board for Scotland now exercisable by Secretary of State: [Scottish Board of Health Act 1919 \(c. 20\), s. 4\(1\)\(a\)](#), [Reorganisation of Offices \(Scotland\) Act 1928 \(c. 34\), s. 1\(1\)](#) and [Reorganisation of Offices \(Scotland\) Act 1939 \(c. 20\), s. 1\(1\)](#)

#### Marginal Citations

**M2** 1894 c. 58.

#### 6 Powers of Board to inquire into sanitary conditions of district.

It shall be lawful for the Board, upon written application by a [<sup>F10</sup>local authority], or ten ratepayers, or upon the report of any of the inspecting officers of the Board, to inquire into the sanitary condition of any district or part of a district, and for this purpose the Board are hereby empowered to make inquiries, . . . <sup>F11</sup>

#### Textual Amendments

**F10** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 27 Pt. II para. 27](#)

**F11** Words repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\), s. 381, Sch. 14](#)

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7 ..... F12

**Textual Amendments**

F12 Ss. 4, 7, 9, 10 repealed by Local Government (Scotland) Act 1947 (c. 43), s. 381, Sch. 14

8 **Power to Board to appoint commissioners for conducting special inquiries.**

It shall be lawful for the Board, whenever it may seem fitting to them, to appoint some person or persons [<sup>F13</sup>not being an officer of the Department] . . . <sup>F14</sup> for the purpose of conducting any special inquiry for a limited period, and to report thereon, . . . <sup>F14</sup>

**Textual Amendments**

F13 Words substituted by S.R. & O. 1928/1043 (Rev. XV, p. 186: 1928, p. 632), Sch.

F14 Words repealed by Local Government (Scotland) Act 1947 (c. 43), s. 381, Sch. 14

9, 10. .... F15

**Textual Amendments**

F15 Ss. 4, 7, 9, 10 repealed by Local Government (Scotland) Act 1947 (c. 43), s. 381, Sch. 14

11 ..... F16

**Textual Amendments**

F16 S. 11 repealed by Reorganisation of Offices (Scotland) Act 1939 (c. 20), Sch.

*Local Authorities*

[<sup>F17</sup>12 **Local authorities for the purposes of the Act.**

The islands or district council shall be the local authority for the purposes of this Act.]

**Textual Amendments**

F17 S. 12 substituted by Local Government (Scotland) Act 1973 (c. 65), Sch. 27 Pt. II para. 28

13, 14. .... F18

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#### Textual Amendments

**F18** Ss. 13, 14 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**

**15** ..... **F19**

#### Textual Amendments

**F19** S. 15 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**

## PART II

### SANITARY PROVISIONS

#### Modifications etc. (not altering text)

**C7** Part II amended by [Mines and Quarries Act 1954 \(c. 70\)](#), s. **151(2)(3)(5)**, and [Clean Air Act 1956 \(c. 52\)](#), s. **16**

#### *General Nuisances*

#### **16 Definition of nuisances.**

For the purposes of this Act,

- (1) Any premises or part thereof of such a construction or in such a state as to be a nuisance or injurious or dangerous to health:
  - (2) Any [<sup>F20</sup>road], pool, ditch, gutter, watercourse, sink, cistern, watercloset, earth-closet, privy, urinal, cesspool, drain, dung-pit, or ashpit so foul or in such a state or so situated as to be a nuisance or injurious or dangerous to health:
  - (3) Any well or water supply injurious or dangerous to health:
  - (4) Any stable, byre, or other building in which any animal or animals are kept in such a manner or in such numbers as to be a nuisance or injurious or dangerous to health:
  - (5) Any accumulation or deposit, including any deposit of mineral refuse, which is a nuisance or injurious or dangerous to health, or any deposit of offensive matter, refuse, or offal, or manure (other than farmyard manure or manure from byres or stables, or spent hops from breweries), within fifty yards of any . . . <sup>F21</sup>road wherever situated, or any offensive matter, refuse, or offal, or manure other than aforesaid contained in uncovered trucks, or waggons standing or being at any station or siding or elsewhere on a railway or in canal boats so as to be a nuisance or injurious or dangerous to health:
- [<sup>F22</sup>(5A) Any fumes (“fumes” meaning airborne solid matter smaller than dust), gases or vapours emitted, so as to be a nuisance or injurious or dangerous to health, from any premises, or part thereof, used or intended to be used as a dwelling house.

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- (5B) Any dust caused by any trade, business, manufacture or process, being a nuisance or injurious to health.]
- (6) Any work, manufactory, trade, or business, injurious to the health of the neighbourhood or so conducted as to be injurious or dangerous to health, or any collection of rags or bones injurious or dangerous to health:
- (7) Any house or part of a house so overcrowded as to be injurious or dangerous to the health of the inmates:
- (8) Any schoolhouse, or any factory which is not a factory subject to the provisions of [<sup>F23</sup>the <sup>M3</sup>Factories Act 1961], or any Act amending the same, with respect to cleanliness, ventilation, or overcrowding, and
- (i) is not kept in a cleanly state and free from effluvia arising from any drain, privy, watercloset, earth-closet, urinal, or other nuisance, or
  - (ii) is not ventilated in such a manner as to render harmless so far as practicable any gases, vapours, dust, or other impurities generated in the course of the work carried on therein that are a nuisance or injurious or dangerous to health, or
  - (iii) is so overcrowded while work is carried on as to be injurious or dangerous to the health of those therein employed:
- (9) ..... <sup>F24</sup>
- (11) Any churchyard, cemetery, or place of sepulture so situated or so crowded or otherwise so conducted as to be offensive or injurious or dangerous to health;  
shall be deemed to be nuisances liable to be dealt with summarily in manner provided by this Act: Provided that—
- (a) a penalty shall not be imposed as herein-after provided on any person in respect of any accumulation or deposit necessary for the effectual carrying on of any business, trade, or manufacture, if it be proved to the satisfaction of the court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business, trade, or manufacture, and that the best available means have been taken for preventing injury or danger thereby to the public health: and
  - (b) in considering whether any dwelling-house or part thereof which is also used as a factory, or whether any factory, used also as a dwelling-house, is a nuisance by reason of overcrowding, the court shall have regard to the circumstances of such other use.
- [<sup>F25</sup>(c) paragraphs (2) and (3) above shall not apply in relation to the supply of water for domestic purposes within the meaning of section 7 of the Water (Scotland) Act 1980.]

#### Textual Amendments

- F20** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 17(3)(a)**
- F21** Word repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1)(3), **Sch. 9 para. 17(3)(b)**, Sch. 11
- F22** [S. 16\(5A\)\(5B\)](#) inserted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), **s. 83(2)**
- F23** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), **s. 17(2)(a)**
- F24** [S. 16\(9\)\(10\)](#) repealed by [Clean Air Act 1956 \(c. 52\)](#), **Sch. 4**

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**F25** Paragraph (c) in the proviso to s. 16 inserted by Water Act 1989 (c. 15, SIF 130), s. 190(1), Sch. 25 para. 4 (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)

**Modifications etc. (not altering text)**

**C8** S. 16 amended by Radioactive Substances Act 1960 (c. 34), s. 9, **Sch. 1 Pt. II para. 13** and Transport Act 1968 (c. 73), **s. 108(2)**

**C9** Power to apply s. 16 conferred by Transport Act 1968 (c. 73), **s. 112(3)**

**C10** S. 16 excluded by Clean Air Act 1956 (c. 52), **s. 18(2)(5)**  
s. 16 excluded (27.8.1993) by 1993 c. 11, **ss. 42(4)(5), 68(2)**.

**C11** S. 16 amended (27.8.1993) by 1993 c. 12, **ss. 40, 51(2), Sch. 3 Pt. II para.11** (with ss. 42, 46).

**Marginal Citations**

**M3** 1961 c. 34.

**17 Duty of local authority to inspect district for detection of nuisances.**

It shall be the duty of every local authority to cause to be made from time to time inspection of their district, with a view to ascertain what nuisances exist calling for removal under the powers of this Act, and to enforce the provisions of this Act in order to remove the same, and otherwise to put in force the powers vested in them relating to public health, so as to secure the proper sanitary condition of all premises within their district.

**Modifications etc. (not altering text)**

**C12** S. 17 amended by Radioactive Substances Act 1960 (c. 34), s. 9, **Sch. 1 Pt. II para. 13**  
S. 17 amended (27.8.1993) by 1993 c. 12, **ss. 40, 51(2), Sch. 3 Pt. II para.11** (with ss. 42, 46).

**18 Power of entry to local authority or their officers.**

If the local authority, or [<sup>F26</sup>designated medical officer], or [<sup>F27</sup>proper officer of a local authority] have reasonable grounds for believing that nuisance exists in any premises, such local authority, or [<sup>F26</sup>designated medical officer], or [<sup>F27</sup>proper officer of a local authority] may demand admission for themselves, the chief constable or superintendent of police, or any other person or persons whom the local authority may desire to enter and inspect such premises, and, if necessary, to open up the ground of such premises, or for any or all of them, to inspect the same at any hour between nine in the morning and six in the evening, or at any hour when the operations suspected to cause the nuisance are believed to be in progress or are usually carried on; and may cause the ground or surface to be opened, and the drains to be tested, or such other work to be done as may be necessary for an effectual examination of the said premises: provided always, that if no nuisance be found to exist, the local authority shall restore the premises at their own expense, and if admission be refused, the local authority, or [<sup>F26</sup>designated medical officer], or [<sup>F27</sup>proper officer of a local authority] may apply to the sheriff, or to any . . . <sup>F28</sup> justice of the peace having jurisdiction in the place, stating on oath such belief; and such sheriff, . . . <sup>F28</sup>, or justice may, after intimation to the owner and occupier, or person in charge of the premises, by order in writing, require the occupier or person having the custody of such premises to admit the local authority and others aforesaid; and if such occupier or person refuse or fail to obey such order, he shall, on [<sup>F29</sup>summary] conviction of such offence, be liable to [<sup>F30</sup>a fine



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not exceeding level 3 on the standard scale]; and on being satisfied of such failure or refusal, the sheriff, . . . <sup>F28</sup> or justice may grant warrant to such local authority, officers, or person or persons for immediate forcible entry into the premises; and if no such occupier or person can be discovered, or if no person is found on the premises to give or refuse admission, the local authority or [<sup>F26</sup>others aforesaid] may enter the premises without any order or warrant, and forcibly if need be.

Provided that if no nuisance be found to exist, the local authority shall restore the premises at their own expense.

Any order made by a sheffiff, . . . <sup>F28</sup> or justice, for the admission of the local authority or [<sup>F26</sup>others aforesaid] under this section shall continue in force until the nuisance has been removed, or the work for which the entry was necessary has been done.

#### Textual Amendments

- F26** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 43](#)
- F27** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27 Pt. I para. 2](#)
- F28** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)
- F29** Word inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 15 para. 6\(a\)](#)
- F30** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 15 para. 6\(b\)](#)

## 19 Information of nuisances to local authority.

Information of any nuisance under this Act in the district of any local authority may be given to such local authority by any person, and it shall be the duty of every officer of such authority, and of any constable or officer of police . . . <sup>F31</sup>, in accordance with the regulations of the authority having control over him, to give that information, and it shall be the duty of the said authority to make the said regulations. The local authority shall give such directions to their officers as will secure the existence of the nuisance being immediately brought to the knowledge of any person who may be required to remove it, and such officer shall do so by an intimation as herein-after provided.

#### Textual Amendments

- F31** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

## 20 Notice requiring removal of nuisance.

- (1) On the receipt of any information respecting the existence of a nuisance liable to be dealt with summarily under this Act, the local authority shall, if satisfied of the existence of a nuisance, serve a notice on the author of the nuisance, or, if such author cannot be found, on the occupier or owner of the premises on which the nuisance arises or continues, requiring him to remove the same within the time specified in the notice, and to execute such works and do such things as may be necessary for that purpose, and if the local authority think it desirable (but not otherwise) specifying any works to be executed.
- (2) The local authority may also by the same or another notice served on such occupier, owner, or person, require him to do what is necessary for preventing the recurrence of the nuisance, and, if they think it desirable, may specify any works to be executed for that purpose, and may serve that notice, notwithstanding that the nuisance may for

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the time have been removed, if the local authority consider that it is likely to recur on the same premises.

(3) Provided that—

- (a) where the nuisance arises from any want or defect of a structural character, or where the premises are unoccupied, the notice shall be served on the owner;
- (b) where the person causing the nuisance cannot be found, and it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier or owner of the premises, the local authority may themselves remove the same, and may do what is necessary to prevent the recurrence thereof.

## 21 On non-compliance with notice local authority to proceed summarily.

If the person on whom a notice to remove a nuisance has been served as aforesaid makes default in complying with any of the requisitions thereof within the time specified, and if the nuisance, although removed since the service of the notice is, in the opinion of the local authority, likely to recur on the same premises, the local authority shall proceed by summary petition as hereinafter provided.

## 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 . . . <sup>F32</sup> justice, by summary petition in manner hereinafter 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 hereinafter mentioned; provided that if it appear to the sheriff or . . . <sup>F32</sup> 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 . . . <sup>F32</sup> justice may, in addition to making a decree as aforesaid, impose a fine not exceeding [<sup>F33</sup>£100] 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, . . . <sup>F32</sup>, 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 . . . <sup>F34</sup>, 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 . . . <sup>F32</sup> to such . . . <sup>F32</sup> 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.

### Textual Amendments

**F32** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

**F33** Words substituted by [Control of Pollution Act 1974 \(c. 40\)](#), [Sch. 2 para. 1](#)

**F34** Words repealed by [Clean Air Act 1956 \(c. 52\)](#), [Sch. 4](#)

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## 23 Form of interlocutor.

It shall not be necessary to restrict such decree to any special remedy prayed for in the petition, but, as the case shall require, the author of the nuisance or owner or occupier of the premises may be ordained to execute such works or to do or to abstain or cease from doing such acts or things as are necessary to remove the nuisance complained of, in such manner and within such time as shall be specified; and if the sheriff . . .<sup>F35</sup>, or justice, is of opinion that such or the like nuisance is likely to recur, he may further grant interdict against the recurrence of it, or do otherwise, as the case may in his judgment require; and if the nuisance proved to exist be such as to render a house or building unfit for human habitation or use, he may prohibit such habitation or use until in his judgment it is rendered fit therefor, and on the sheriff . . .<sup>F35</sup>, or justice being satisfied that it has been rendered fit for that purpose he may declare the house or building habitable, and from the date thereof such house or building may be let or occupied, or the sheriff . . .<sup>F35</sup>, or justice may do otherwise as the case may in his judgment require.

### Textual Amendments

**F35** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

## 24 Penalty for contravention of decree and of interdict.

If the said decree be not complied with in good and sufficient manner, and within the time appointed, the author of the nuisance, or the owner or occupier, as the case may be, shall be liable, in the case of nuisances under sub-sections (1), (2), (3), (4), (5), (7), . . .<sup>F36</sup> and (11) in section sixteen of this Act, [<sup>F37</sup>on summary conviction to a fine not exceeding level 2 on the standard scale]; and if the said interdict be knowingly infringed by the act or authority of the owner or occupier, such owner or occupier shall be liable for every such offence [<sup>F38</sup>on summary conviction to a fine not exceeding level 2 on the standard scale]; and in the case of nuisances under sub-sections (6), (8), . . .<sup>F36</sup> in the said section, the party not complying with or infringing such decree shall be liable to a penalty not exceeding [<sup>F39</sup>[<sup>F40</sup>level 5 on the standard scale] and to a further fine not exceeding £50 for every day on which the offence continues after conviction therefor] . . .<sup>F36</sup>

### Textual Amendments

**F36** Words repealed by [Clean Air Act 1956 \(c. 52\)](#), [Sch. 4](#)

**F37** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 15 para. 7\(a\)](#)

**F38** Words substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, [Sch. 15 para. 7\(b\)](#)

**F39** Words substituted by [Control of Pollution Act 1974 \(c. 40\)](#), [Sch. 2 para. 2](#)

**F40** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)

## 25 Order when structural works are required.

When it shall appear to the sheriff . . .<sup>F41</sup>, or justice that the execution of structural works is required for the removal or remedy of a nuisance, he may appoint such works to be carried out under the direction or remedy of a nuisance, he may appoint such works to be carried out under the direction and subject to the approval of any person he may appoint; and he may, before making his order, require the local authority, within a

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time to be specified by him, to furnish him with an estimate of the cost of the required works.

**Textual Amendments**

**F41** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

**26 Local authority to do works on owner’s or occupier’s default, or if person causing nuisance cannot be found.**

In case of non-compliance with or infringement of any decree aforesaid, the sheriff . . . <sup>F42</sup>, or justice may, on application by the local authority, grant warrant to such person or persons as he may deem right to enter the premises to which such decree relates, and remove or remedy the nuisance thereby condemned or interdicted, and do whatever may be necessary in execution of such decree; or if in the original application it appears to his satisfaction that the author of the nuisance is not known or cannot be found, then such decree may at once ordain the local authority to execute the works thereby directed; and all expenses incurred by the local authority in executing the works may be recovered from the author of the nuisance and failing him from the owner of the premises.

**Textual Amendments**

**F42** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

**27 Articles removed to be sold.**

Any matter or thing removed by the local authority in pursuance of this Act may be sold by public roup, after not less than five days notice by printed handbills posted in the locality, except in cases where delay would be prejudicial to health, or in which the matter or thing is not of the value of two pounds or upwards, in which cases the sheriff . . . <sup>F43</sup>, or justice may, by writing under his hand, order the immediate removal, sale, or destruction of the matter or thing, and the proceeds of the sale shall be retained by the local authority, and applied pro tanto in payment of all expenses incurred under this Act with reference to such nuisance; and the surplus, if any, shall be paid, on demand, by the local authority, to the owner of such matter or thing; and the balance of such expenses shall be defrayed, if such proceeds are insufficient for that purpose, by the author of the nuisance or the owner of the premises.

**Textual Amendments**

**F43** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

**28** ..... <sup>F44</sup>

**Textual Amendments**

**F44** [S. 28](#) repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

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*Changes to legislation: There are currently no known outstanding effects for the Public Health (Scotland) Act 1897. (See end of Document for details)*

29 ..... F45

**Textual Amendments**

**F45** S. 29 repealed by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43, SIF 81:2\)](#), s. 66(2), [Sch. 4 Pt. I](#)

**30 Penalty for injuring closet, &c. so as to cause nuisance.**

If a person causes any drain, watercloset, earth-closet, privy, urinal, or ashpit to be a nuisance or injurious or dangerous to health, by wilfully destroying or damaging the same or any water-supply, apparatus, pipe, or work connected therewith, or by otherwise wilfully stopping up, or wilfully interfering with, or improperly using the same, or any such water-supply, apparatus, pipe, or work, he shall be liable to a penalty not exceeding [<sup>F46</sup>level 1 on the standard scale].

**Textual Amendments**

**F46** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

**31 Waterclosets, &c. used in common.**

The following provisions shall have effect with respect to any watercloset, earth-closet, privy, or similar convenience used in common by the occupiers of two or more separate dwelling-houses, or by other persons:—

- (1) If any person injures or improperly fouls any such convenience, or anything used in connection therewith, he shall for each offence be liable to a penalty not exceeding [<sup>F47</sup>level 1 on the standard scale];
- (2) If any such watercloset, earth-closet, privy, or similar convenience, or the approaches thereto, or the walls, floors, seats, or fittings thereof, is or are, in the opinion of the local authority . . . <sup>F48</sup>, in such a state as to be a nuisance or annoyance to any of the persons using, or entitled to use, the same for want of the proper cleansing thereof, such of the persons having the use thereof in common as may be in default, or in the absence of proof satisfactory to the court as to which of the persons having the use thereof in common is in default, each of those persons shall be liable to a penalty not exceeding [<sup>F49</sup>level 1 on the standard scale] and to a penalty not exceeding [<sup>F50</sup>25p] for every day during which the offence continues after a conviction for the offence.

**Textual Amendments**

**F47** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

**F48** Words repealed by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 7 Pt. II](#) and [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

**F49** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

**F50** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), s. 10(1)

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### *Offensive Trades*

## **32 Prohibition or regulation of certain offensive businesses, and byelaws as to offensive businesses.**

- (1) If any person after the commencement of this Act establishes, without the sanction of the local authority, the following businesses, or any of them; that is to say, the business of blood boiler, bone boiler, manure manufacturer, soap boiler, tallow melter, knacker, tanner, tripe boiler, gut or tripe cleaner, skinner or hide factor, slaughterer of cattle or horses, or any other business which the local authority may declare, by order confirmed by the Board and published in the Edinburgh Gazette, to be an offensive business, he shall be liable to a fine not exceeding [<sup>F51</sup>level 2 on the standard scale] in respect of the establishment thereof, and any person carrying on the same after a conviction for the establishment thereof shall be liable to a penalty not exceeding twenty-five pounds for every day during which he so carries on the same.
- (2) The local authority shall give their sanction by order, but, at least fourteen days before making any such order, shall make public the application for it, by advertisement in one or more local newspapers, or by the posting of handbills in the locality, setting forth the time and place at which they will be willing to hear all persons objecting to the order, and they shall consider any objections made at that time and place, and shall grant or withhold their sanction as they think expedient, and where the local authority grants or withholds such sanction, any person aggrieved may appeal to the Board, whose decision shall be final . . . <sup>F52</sup>
- (3) The local authority may make byelaws for regulating the conduct of any businesses within the meaning of this section, and of section thirty-seven of this Act, which are for the time being lawfully carried on in their district, and the structure of the premises in which any such business is being carried on, in order to prevent or diminish the noxious or injurious effect thereof, and the mode in which the said application is to be made.
- (4) Any such byelaw may, in addition to any pecuniary penalty imposed by such byelaw, empower a sheriff by summary order to deprive any person, either temporarily or permanently, of the right of carrying on any business to which such byelaw relates, as a punishment for breaking the same, and any person disobeying such order shall be liable to a penalty not exceeding twenty-five pounds for every day during which such disobedience continues; and the decision of the sheriff under this sub-section shall be appealable to the Lord Ordinary on the Bills in manner provided by section one hundred and fifty-six of this Act.
- (5) There shall be charged for an order of the local authority under this section, such fee not exceeding [<sup>F53</sup>£2] as the local authority may fix.
- (6) For the purposes of this section a business shall be deemed to be established after the commencement of this Act not only if it is established newly, but also if it is removed from any one set of premises to any other premises, or if it is renewed on the same set of premises after having been discontinued for a period of twelve months or upwards, or if any premises on which it is for the time being carried on are enlarged without the sanction of the local authority; but a business shall not be deemed to be established anew on any premises by reason only that the ownership or occupancy of such premises is wholly or partially changed, or that the building in which it is established, having been wholly or partially pulled down or burnt down has been reconstructed without any extension of its area.

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**Textual Amendments**

- F51** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G**
- F52** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27**
- F53** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), **s. 10(1)**

**Modifications etc. (not altering text)**

- C13** Reference to Lord Ordinary on the Bills to be construed as reference to a judge sitting in the Outer House: [Administration of Justice \(Scotland\) Act 1933 \(c. 41\)](#), **s. 3**
- C14** [S. 32](#) amended by [Radioactive Substances Act 1960 \(c. 34\)](#), s. 9, **Sch. 1 Pt. II para. 13**  
[S. 32](#) amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para.11** (with ss. 42, 46).
- C15** [S. 32](#) excluded by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), **s. 84(2)(a)**
- C16** Power to repeal conferred by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#) s. 84(4)(b)

**33** ..... <sup>F54</sup>

**Textual Amendments**

- F54** [S. 33](#) repealed by [Slaughter of Animals \(Scotland\) Act 1980 \(c. 13, SIF 112\)](#), s. 24(2), **Sch. 3**

**34** ..... <sup>F55</sup>

**Textual Amendments**

- F55** [S. 34](#) repealed by [Slaughterhouses Act 1954 \(c. 42\)](#), **Sch. 2**

**35 Local authorities may make byelaws as to pigstyes.**

The local authority may make byelaws regulating the construction of pigstyes, the places in which they may be erected, and the mode of cleansing them at proper intervals so as to prevent them from becoming a nuisance or dangerous to public health.

**36 Duty of local authority to complain to sheriff, &c. of nuisance arising from offensive trade.**

- (1) Where it appears to the local authority upon a certificate by [<sup>F56</sup>the designated medical officer or [<sup>F57</sup>the proper officer of a local authority]] . . . <sup>F58</sup> or on a requisition in writing under the hands of any ten ratepayers within the district that any trade, business, process, or manufacture carried on in any manufactory, building, or premises, and causing effluvia is a nuisance or injurious or dangerous to the health of any of the inhabitants of the district, such authority may, if they think proper, . . . <sup>F59</sup> apply to the sheriff by summary petition, and if it appears to such sheriff that any trade, business, process, or manufacture carried on in such manufactory, building, or premises is causing a nuisance or any effluvia, which is a nuisance or injurious or dangerous to the health of any of the inhabitants within the district, then, unless it is shown that



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the best practicable means have been used for removing the nuisance, or preventing or counteracting the effluvia, the author of the nuisance, and failing him the occupier and failing him the owner of the premises, shall be liable to a penalty not exceeding [<sup>F60</sup>level 4 on the standard scale].

- (2) Provided that the court may suspend its final determination on condition that the person so offending undertakes to adopt, within a reasonable time, such means as the court may deem practicable, and may order to be carried into effect, for removing the nuisance, or mitigating or preventing the injurious or dangerous effects of the effluvia.
- (3) The local authority may, if they think fit, on such certificate as is in this section mentioned, cause proceedings to be taken in the Court of Session against any person in respect of the matters alleged in such certificate.
- (4) The local authority may take proceedings under this section in respect of a manufactory, building, or premises situate without their district, so, however, that the summary proceedings shall be had before a sheriff having jurisdiction in the district where the manufactory, building, or premises are situate.

#### Textual Amendments

- F56** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 44](#)
- F57** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27 Pt. I para. 2](#)
- F58** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)
- F59** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), s. 41, [Sch. 4](#)
- F60** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)

### 37 Provision as to nuisance created by local authority in dealing with refuse.

- (1) The removal of house refuse and street refuse by a local authority when collected or deposited by that authority, or by any contractor or other person authorised by such local authority, shall be deemed to be a business carried on by that authority, or by such contractor or other person, within the meaning of this Act, and a complaint or proceedings in relation to any such business may be made or taken . . . <sup>F61</sup> by any person authorised by the Board in like manner as if . . . <sup>F61</sup> such person were a local authority.
- (2) Any premises used by a local authority, or by any contractor or other person authorised by such local authority, for the treatment or disposal of any street refuse or house refuse, as distinct from the removal thereof, which are a nuisance or injurious or dangerous to health, shall be a nuisance liable to be dealt with summarily under this Act . . . <sup>F61</sup>.

#### Textual Amendments

- F61** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

### *Scavenging and Cleansing*



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**Textual Amendments**

**F62** S. 38 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**

**39** ..... <sup>F63</sup>

**Textual Amendments**

**F63** S. 39 repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), **Sch. 11**

**40 Houses in filthy state to be purified.**

Where it appears to any local authority that any house or part thereof, or any article of bedding or clothing therein, is in . . . <sup>F64</sup> a filthy or unwholesome condition . . . <sup>F64</sup> or that the whitewashing, cleansing or purifying of any house or part thereof, or any article of bedding or clothing therein, would tend to prevent or check infectious disease, the local authority shall give notice in writing to the owner or occupier of such house or part thereof to whitewash, cleanse, or purify the same, or any such article, as the case may require.

If the person to whom notice is so given fails to comply therewith within the time therein specified, he shall be liable to a penalty not exceeding [<sup>F65</sup>£20] for every day during which he continues to make default; and the local authority may, if they think fit, cause such house or part thereof to be whitewashed, cleansed, or purified, and may recover in a summary manner the expenses incurred by them in so doing from the person in default.

**Textual Amendments**

**F64** Words repealed by [Housing, Town Planning, &c. \(Scotland\) Act 1919 \(c. 60\)](#), s. 46

**F65** Words substituted by virtue of [Criminal Justice Act 1967 \(c. 80\)](#), s. 92, **Sch. 3 Pt. I**

**41 Provision for obtaining order for cleansing offensive ditches lying near to or forming boundaries of districts.**

Where any watercourse or open ditch lying near to or forming the boundary between the district of any local authority and any adjoining district is foul and offensive, so as injuriously or dangerously to affect the district of such local authority, any sheriff having jurisdiction in such adjoining district may, on the application of such local authority, summon the local authority of such adjoining district to appear to show cause why an order should not be made for cleansing such watercourse or open ditch, and for executing such permanent or other structural works as may appear to such sheriff to be necessary; and such sheriff, after hearing the parties, or ex parte in case of the default of any of them to appear, may make such order with reference to the execution of the works, and the persons by whom the same shall be executed, and by whom and in what proportions the costs of such works shall be paid, and also as to the amount thereof, and the time and mode of payment, as to such sheriff may seem reasonable.

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#### Modifications etc. (not altering text)

- C17** S. 41 amended by [Radioactive Substances Act 1960 \(c. 34\)](#), s. 9, **Sch. 1 Pt. II para. 13**  
S. 41 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para.11** (with ss. 42, 46).

## 42 Periodical removal of manure from mews and other premises.

Notice may be given by any local authority (by public announcement in the district or otherwise) for the periodical removal of manure or other refuse matter from mews, stables, or other premises, except cattle courts . . . <sup>F66</sup> and where any such notice has been given any person to whom the manure or other refuse matter belongs who fails so to remove the same, or permits a further accumulation, and does not continue such periodical removal at such intervals as the local authority direct, shall be liable without further notice to a penalty not exceeding [<sup>F67</sup>£1] for each day during which such manure or other refuse matter is permitted to accumulate, and where . . . <sup>F66</sup> it appears to the [<sup>F68</sup>proper officer of the local authority] that any accumulation of manure, dung, soil, or filth, or other offensive or noxious matters ought to be removed, he shall give notice to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove the same; and if such notice is not complied with within forty-eight hours from the service thereof, the manure, dung, soil, filth, or matter referred to shall be vested in and be sold and disposed of by the local authority, and the proceeds thereof shall be applied in payment of the expenses incurred by them in the execution of this section; and the surplus (if any) shall be paid on demand to the owner of the matter removed, and the expenses of removal by the local authority of any such accumulation, if and so far as they are not covered by the sale thereof may be recovered by the local authority in a summary manner from the person to whom the accumulation belonged, whom failing, from the occupier or owner of the premises.

#### Textual Amendments

- F66** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27**  
**F67** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), **s. 10(1)**  
**F68** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), **s. 17(2)(a)**

#### Modifications etc. (not altering text)

- C18** S. 42 amended by [Radioactive Substances Act 1960 \(c. 34\)](#), s. 9, **Sch. 1 Pt. II para. 13**  
S. 42 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), **Sch. 3 Pt. II para.11** (with ss. 42, 46).

## 43 ..... <sup>F69</sup>

#### Textual Amendments

- F69** S. 43 repealed by [Food and Drugs \(Scotland\) Act 1956 \(c. 30\)](#), **Sch. 3**

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## PART III

### GENERAL PREVENTION AND MITIGATION OF DISEASE

#### *Infectious Diseases.—Notification*

#### 44 Notification of infectious disease.

From and after the commencement of this Act the provisions of the <sup>M4</sup>Infectious Disease (Notification) Act 1889, shall extend to and take effect in every district in Scotland, whether it has or has not been adopted before the said commencement.

#### Marginal Citations

M4 1889 c. 72.

#### *Infectious Diseases—Prevention*

#### 45 ..... <sup>F70</sup>

#### Textual Amendments

F70 S. 45 repealed by [Health Services and Public Health Act 1968 \(c. 46\)](#), [Sch. 4](#)

#### 46 Provision of means for disinfecting bedding, &c.

- (1) Every local authority may, and when required by the Board shall, provide, either within or without their district, proper premises with all necessary apparatus and attendance for the destruction and for the disinfection, and carriages or vessels for the removal, of articles (whether bedding, clothing, or other) which have become infected by any infectious disease, and shall cause any such articles brought for destruction or disinfection to be destroyed, or to be disinfected and returned, and may remove, and may destroy, or disinfect and return, such articles free of charge.
- (2) Any local authorities may execute their duty under this section by combining for the purposes thereof, or by contracting for the use by one of the contracting authorities of any premises, or of any apparatus or appliances, provided for the purpose of this section by another of such contracting authorities, and may so combine or contract upon such terms as may be agreed upon.

#### Modifications etc. (not altering text)

C19 S. 46 amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#)

#### 47 Cleansing and disinfecting of premises, &c.

- (1) Where it appears to the local authority, upon the certificate of the [<sup>F71</sup>designated medical officer], that the cleansing and disinfecting of any house, or part thereof, and

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of any articles therein likely to retain infection, or the destruction of such articles would tend to prevent or check any infectious disease, the local authority may serve notice on the occupier, or where the house or part thereof is unoccupied on the owner, of such house or part thereof that the same and any such articles therein will be cleansed and disinfected, or (as regards the articles) destroyed, by the local authority, unless the person so notified informs the local authority, within a time to be specified in the notice from the receipt of the said notice, that he will cleanse and disinfect the house or part thereof and any such articles, or destroy such articles, to the satisfaction of the [F71 designated medical officer], as testified by certificate by him, within a time fixed in the notice.

- (2) If either—
- (a) within the time specified as aforesaid from the receipt of the notice, the person on whom the notice is served does not inform the local authority as aforesaid; or
  - (b) having so informed the local authority, he fails to have the house or part thereof and any such articles disinfected, or such articles destroyed, as aforesaid within the time fixed in the notice; or
  - (c) the occupier or owner, as the case may be, without such notice gives his consent;

the house, or part thereof, and articles, shall be cleansed and disinfected, or such articles destroyed by the officers, of, and at the cost of, the local authority.

- (3) For the purpose of carrying into effect this section the local authority may enter by day on any premises.
- (4) If the local authority deem it necessary to remove from any house or part thereof, or from any tenement of houses, all or any of the residents not being themselves sick, on account of the existence or recent existence therein of infectious disease, or for the purpose of disinfecting such house or part thereof, of such tenement or part thereof, they may make application to a sheriff, . . . F72, or justice, and the sheriff, . . . F72, or justice, if satisfied of the necessity of such removal, may grant a warrant authorising the local authority to remove such residents, and imposing such conditions as to time and otherwise as to him may seem fit. Provided always that no such warrant shall be necessary when the removal is carried out with the consent of any such resident or his parent or guardian. The local authority shall, and they are hereby empowered, to provide temporary shelter or house accommodation, and, if necessary, maintenance with any necessary attendants, free of charge, for such persons while prevented from returning to such house or part thereof or such tenement or part thereof.
- (5) When the local authority have disinfected any house, part of a house, or any article, under the provisions of this section, they shall compensate the occupier or owner of such house, or part of a house, or the owner of such article, for any unnecessary damage thereby caused to such house, part of a house, or article; and when the authority destroy any article under this section they shall reasonably compensate the owner thereof; and the amount of any such compensation shall be recoverable in a summary manner.

For the purpose of this section the word “house” includes any tent or van or any ship lying in any sea, river, harbour, or other water or ex adverso of any place within the limits of the local authority.

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#### Textual Amendments

F71 Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 46](#)

F72 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

#### Modifications etc. (not altering text)

C20 [S. 47](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#)

### 48 Disinfection of bedding. &c.

- (1) Any local authority may serve a notice on the owner of any bedding, clothing, or other articles which have been exposed to the infection of any infectious disease, requiring the delivery thereof to an officer of the local authority for removal for the purpose of destruction or disinfection; and if any person fails to comply with such notice he shall be liable to a penalty not exceeding [<sup>F73</sup>level 1 on the standard scale].
- (2) The bedding, clothing, and articles if so disinfected by the local authority, shall be brought back and delivered to the owner free of charge, and if any of them suffer any unnecessary damage, the authority shall compensate the owner for the same, and the authority shall also reasonably compensate the owner for any articles destroyed; and the amount of compensation shall be recoverable in a summary manner.

#### Textual Amendments

F73 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

#### Modifications etc. (not altering text)

C21 [S. 48](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#) [Sch. 6 para. 45](#)

### 49 Persons engaged in washing or mangling clothes to furnish list of owners of clothes in certain cases.

Whenever it shall be certified to the local authority by the [<sup>F74</sup>designated medical officer] that it is desirable, with a view to prevent the spread of infectious disease, that they should be furnished with a list of the customers of any person or company earning a livelihood or deriving gain by the washing or mangling of clothes, the local authority may require such person or company to furnish to them a full and complete list of the names and addresses of the owners of clothes for whom such person or company washes or mangles, or has washed or mangled, during the past six weeks, and such person or company shall furnish such list accordingly, and the local authority shall pay to him, her, or them, for every such list, the sum of [<sup>F75</sup>2½p], and at the rate of [<sup>F75</sup>2½p] for every twenty-five names contained therein, but no such payment shall exceed [<sup>F75</sup>15p], and every person who shall wilfully or knowingly offend against this enactment shall, for each such offence, be liable to a penalty not exceeding [<sup>F76</sup>level 1 on the standard scale], and to a daily penalty not exceeding [<sup>F75</sup>£1].

#### Textual Amendments

F74 Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 47](#)

F75 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), [s. 10\(1\)](#)

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**F76** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

**Modifications etc. (not altering text)**

**C22** [S. 49](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Sch. 6 para. 45**

**50 Infectious matter thrown into ash-pits, &c. to be disinfected.**

(1) If a person knowingly casts, or causes or permits to be cast, into any ash-pit, or otherwise exposes any matter or article infected by infectious disease, he shall be liable to a penalty not exceeding [<sup>F77</sup>level 1 on the standard scale], and, if the offence continues, to a further penalty not exceeding [<sup>F78</sup>£2], for every day during which the offence so continues after the notice hereafter in this section mentioned.

(2) The local authority shall cause their officers to serve notice of the provisions of this section on the occupier of any house, or part of a house, in which they are aware that there is a person suffering from an infectious disease.

**Textual Amendments**

**F77** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

**F78** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), **s. 10(1)**

**Modifications etc. (not altering text)**

**C23** [S. 50](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Sch. 6 para. 45**

**51 Penalty on letting houses in which infected persons have been lodging.**

(1) Any person who knowingly lets for hire any house, or part of a house, in which any person has been suffering from any infectious disease, without having such house or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of the [<sup>F79</sup>designated medical officer] as testified by a certificate signed by him, or (as regards the articles) destroyed, shall be liable to a penalty not exceeding [<sup>F80</sup>level 2 on the standard scale].

(2) For the purposes of this section, the keeper of an inn or hotel shall be deemed to let for hire part of a house to any person admitted as a guest into such inn or hotel.

**Textual Amendments**

**F79** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Sch. 6 para. 48**

**F80** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

**Modifications etc. (not altering text)**

**C24** [S. 51](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Sch. 6 para. 45**

**52 Penalty on persons letting houses making false statements as to infectious disease.**

Any person letting for hire, or showing for the purpose of letting for hire, any house or part thereof, who, on being questioned by any person negotiating for the hire as to the fact of there being, or within six weeks previously having been, therein any

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person suffering from any infectious disease, knowingly makes a false answer to such question, shall be liable, at the discretion of the sheriff, . . . <sup>F81</sup> or justice, to a penalty not exceeding [<sup>F82</sup>level 2 on the standard scale] or, where the proceedings are before a sheriff, to imprisonment . . . <sup>F83</sup>, for a period not exceeding one month.

#### Textual Amendments

- F81** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)  
**F82** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)  
**F83** Words omitted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21\)](#), [s. 221\(2\)](#)

### 53 **Penalty on ceasing to occupy house without disinfection or notice to owner, or on making false answer.**

- (1) Where a person cease to occupy any house, or part of a house, in which any person has within six weeks previously been suffering from any infectious disease, and either—
- (a) fails to have such house, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of the [<sup>F84</sup>designated medical officer], as testified by a certificate signed by him, or such articles destroyed; or
  - (b) fails to give to the owner or occupier of such house, or part of a house, notice of the previous existence of such disease; or
  - (c) on being questioned by the owner or occupier of, or by any person negotiating for the hire of, such house or part of a house, as to the fact of there having within six weeks previously been therein any person suffering from any infectious disease, knowingly makes a false answer to such question,
- he shall be liable to a penalty not exceeding [<sup>F85</sup>level 2 on the standard scale].
- (2) The local authorities shall cause their officers to serve notice of the provisions of this section on the occupier of any house, or part of a house, in which they are aware that there is a person suffering from an infectious disease.

#### Textual Amendments

- F84** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 49](#)  
**F85** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

#### Modifications etc. (not altering text)

- C25** [S. 53](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#).

### 54 **Removal to hospital of infected persons without proper lodging.**

- (1) A person suffering from any infectious disease, who is without proper lodging or accommodation, or is so lodged that proper precautions cannot be taken for preventing the spread of the disease, or is lodged in a tent or van, or in a room occupied by others besides those necessarily in attendance on such person, or is on board a ship, may, on a certificate signed by the [<sup>F86</sup>designated medical officer] be removed by order of a sheriff, . . . <sup>F87</sup> or justice, on the application . . . <sup>F88</sup> of the local authority of the district where such person is found, [<sup>F89</sup>to any hospital vested in the Secretary of State][<sup>F90</sup>or to any hospital managed by a National Health Service trust established under section 12A



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of the National Health Service (Scotland) Act 1978] or the sheriff, . . . <sup>F87</sup> or justice may direct the removal from the room or house occupied by such person of all others not in attendance on him, the local authority providing suitable accommodation for such person or persons; and such person may be detained in such hospital so long as he continues in an infected condition. Provided always that no such order shall be necessary where the removal is carried out with the consent of the patient or his parent or guardian.

- (2) The order may be addressed to any constable or officer of the local authority as the sheriff, . . . <sup>F87</sup> or justice making the same, thinks expedient; and if any person wilfully disobeys or obstructs the execution of such order, he shall be liable to a penalty not exceeding [<sup>F91</sup>level 1 on the standard scale].
- [<sup>F92</sup>(3) A sheriff, . . . <sup>F87</sup> or justice may order that a person removed to a hospital under this section be transferred to any other hospital vested in the Secretary of State [<sup>F90</sup> or to any hospital managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978], and any person so transferred may be detained in that other hospital so long as he continues in an infected condition. The provisions of subsection (2) of this section shall apply to any such order in like manner as they apply to an order under subsection (1) of this section.]

#### Textual Amendments

- F86** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 6 para. 50](#)
- F87** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 27](#)
- F88** Words repealed by [National Health Service \(Scotland\) Act 1947 \(c. 27\), Sch. 11 Pt. I](#)
- F89** Words substituted by [National Health Service \(Scotland\) Act 1947 \(c. 27\), Sch. 11 Pt. I](#)
- F90** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 1\(1\)](#)
- F91** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)
- F92** [S. 54\(3\)](#) added by [National Health Service \(Scotland\) Act 1947 \(c. 27\), Sch. 11 Pt. I](#)

#### Modifications etc. (not altering text)

- C26** [S. 54](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 6 para. 45](#)

## 55 Detention of infected persons without proper lodging in hospital.

- (1) A sheriff, . . . <sup>F93</sup>, or justice, on being satisfied on the application of the local authority that a person suffering from any infectious disease is in a hospital [<sup>F94</sup> vested in the Secretary of State or managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978], and would not on leaving the hospital be provided with lodging or accommodation in which proper precautions could be taken to prevent the spreading of the disease by such person, may direct such person to be detained in the hospital . . . <sup>F95</sup>, during the time limited by the sheriff, . . . <sup>F93</sup>, or justice, who may enlarge the time as often as appears to him necessary for preventing the spread of the disease.
- (2) The direction may be carried into execution by any officer of any local authority, or by any police constable, or any officer of the hospital.
- [<sup>F96</sup>(3) A person detained in a hospital under this section may if a sheriff, . . . <sup>F93</sup> or justice so directs be removed to any other hospital vested in the Secretary of State [<sup>F97</sup> or managed by a National Health Service trust established under section 12A of the National Health



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Service (Scotland) Act 1978], and may be detained therein during the time limited or enlarged under subsection (1) of this section. The provisions of subsection (2) of this section shall apply to any such direction in like manner as they apply to a direction under subsection (1) of this section.]

#### Textual Amendments

- F93** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)
- F94** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), [Sch. 9, para. 1\(2\)](#)
- F95** Words repealed by [National Health Service \(Scotland\) Act 1947 \(c. 27\)](#), [Sch. 11 Pt. II](#)
- F96** [S. 55\(3\)](#) added by [National Health Service \(Scotland\) Act 1947 \(c. 27\)](#), [Sch. 11 Pt. I](#)
- F97** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), [Sch. 9, para. 1\(3\)](#)

#### Modifications etc. (not altering text)

- C27** [S. 55](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#)

## 56 Penalty on exposure of infected persons and things.

(1) If any person—

- (a) while suffering from any infectious disease wilfully exposes himself without proper precautions against spreading the said disease in any [<sup>F98</sup>road], public place, shop, inn, hotel, church, or any place used in common by persons other than members of the family or household to which such infected person belongs; or
- (b) being in charge of any person so suffering, so exposes such sufferer; or
- (c) knowingly gives, lends, sells, pawns, transmits, removes, or exposes, or permits to be washed or exposed in any wash-house or washing green which is used in common by persons other than the family or household to which the infected person belongs, without previous disinfection, to the satisfaction of the [<sup>F99</sup>designated medical officer] or of some legally qualified medical practitioner as certified by him in writing, any bedding, clothing, or other articles which have been exposed to infection from any such disease; or
- (d) wakes or permits to be waked in any house, room, or place over which he has control the body of any person who has died of any infectious disease;

he shall be liable to a penalty not exceeding [<sup>F100</sup>level 1 on the standard scale].

(2) Provided that proceedings under this section shall not be taken against persons transmitting with proper precautions any bedding, clothing, or other articles for the purpose of having the same disinfected.

#### Textual Amendments

- F98** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 17\(4\)](#)
- F99** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 51](#)
- F100** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289F, 289G](#)

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#### Modifications etc. (not altering text)

C28 S. 56 amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#)

### 57 Penalty on sending child to school, so as to spread infection.

Every parent or person having care or charge of a child who is or has been suffering from infectious disease, or who resides in a house where such disease exists or has existed within a period of three months, who shall knowingly or negligently permit such child to attend school without procuring and producing to the teacher or other person in charge of such school a certificate from the [<sup>F101</sup>designated medical officer], which he shall grant free of charge, or from some legally qualified medical practitioner [<sup>F102</sup>that proper precautions against spreading disease or infection have been taken, and that such child may attend school without the risk of infecting others], shall be liable to a penalty not exceeding [<sup>F103</sup>level 1 on the standard scale].

Provided that if a person is not required to send notice in the first instance but only in default of some other person, he shall not be liable to any penalty, if he satisfies the court that he had reasonable cause to suppose that the notice had been duly sent.

Any teacher or person in charge of any school, who shall knowingly permit any child to attend such school in contravention of the provisions of this section, shall be liable to a penalty not exceeding [<sup>F103</sup>level 1 on the standard scale].

#### Textual Amendments

F101 Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 52](#)

F102 Words substituted by [Public Health \(Scotland\) Amendment Act 1907 \(c. 30\)](#), [s. 1\(1\)](#)

F103 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

#### Modifications etc. (not altering text)

C29 S. 57 amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#)

### 58 Prohibitions on infected person carrying on business

No person suffering from an infectious disease, or who is living in an infected house, [<sup>F104</sup>shall (a) without proper precautions against spreading such disease or infection, milk any animal, or pick fruit, or engage in any occupation connected with food, or shall (b)] carry on any trade or business in such a manner as to be likely to spread such disease [<sup>F104</sup>or infection, and any person who knowingly] contravenes this section shall be liable to a penalty not exceeding [<sup>F105</sup>level 1 on the standard scale].

#### Textual Amendments

F104 Words substituted by [Public Health \(Scotland\) Amendment Act 1907 \(c. 30\)](#), [s. 1\(2\)](#)

F105 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [s. 289G](#)

### 59 Prohibition on conveyance, &c. of infected person in public conveyance.

It shall not be lawful for any owner or person in charge of a public conveyance or ship knowingly to convey therein, or for any other person knowingly to place therein, a person suffering from any infectious disease, or for a person suffering from any

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such disease to enter any public conveyance or ship, [<sup>F106</sup>unless in every such case as aforesaid proper precautions have been taken against spreading such disease or infection; and any person contravening any of the foregoing provisions shall be liable to a penalty not exceeding [<sup>F107</sup>level 1 on the standard scale]; and if without such precautions] any person so suffering is conveyed in any public conveyance or ship, the owner or person in charge thereof, as soon as it comes to his knowledge, shall give notice to the local authority, and shall cause such conveyance or ship to be disinfected, and if he fails so to do he shall be liable to a fine not exceeding [<sup>F107</sup>level 1 on the standard scale], and such owner or person in charge shall be entitled to recover in a summary manner from the person so conveyed by him, or from the person causing that person to be so conveyed, a sum sufficient to cover any loss and expense incurred by him in connexion with such disinfection. It shall be the duty of the local authority, when so requested by such owner or person in charge, to provide for the disinfection of the same, and they may do so free of charge. But nothing contained in this section shall prevent the removal by railway train or by ship of persons suffering from infectious disease, if they are conveyed within an ambulance-waggon, or other proper vehicle provided or approved [<sup>F108</sup>by the Secretary of State or] by the local authority.

**Textual Amendments**

**F106** Words substituted by [Public Health \(Scotland\) Amendment Act 1907 \(c. 30\), s. 1\(3\)](#)

**F107** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

**F108** Words inserted by [National Health Service \(Scotland\) Act 1947 \(c. 27\), Sch. 11 Pt. I](#)

**Modifications etc. (not altering text)**

**C30** [S. 59](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 6 para. 45](#)

**60, 61.** ..... <sup>F109</sup>

**Textual Amendments**

**F109** [Ss. 60, 61](#) repealed by [Milk and Dairies \(Scotland\) Act 1914 \(c. 46\), s. 31, Sch.](#)

**62 Prohibition of retention of dead body in certain cases.**

- (1) A person shall not without the sanction in writing of the [<sup>F110</sup>designated medical officer], or of a legally qualified medical practitioner, retain unburied for more than forty-eight hours elsewhere than in a room not used at the time as a dwelling-place, sleeping-place, or workroom, the body of any person who has died of any infectious disease.
- (2) If a person acts in contravention of this section he shall be liable to a penalty not exceeding [<sup>F111</sup>level 1 on the standard scale].

**Textual Amendments**

**F110** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\), Sch. 6 para. 53](#)

**F111** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

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#### Modifications etc. (not altering text)

C31 S. 62 amended by National Health Service (Scotland) Act 1972 (c. 58), Sch. 6 para. 45

### 63 Body of person dying of infectious disease in hospital, &c. to be removed only for burial.

- (1) If a person dies in a hospital or place of temporary accommodation for the sick from any infectious disease, and the [<sup>F112</sup>designated medical officer] or any legally qualified medical practitioner, certifies that in his opinion it is desirable, in order to prevent the risk of communicating such disease or of spreading infection, that the body be not removed from such hospital or place except for the purpose of being forthwith buried, it shall not be lawful for any person to remove the body except for that purpose; and the body when taken out of such hospital or place shall be forthwith taken direct to the place of burial and there buried.
- (2) If any person wilfully offends against this section he shall be liable to a penalty not exceeding [<sup>F113</sup>level 1 on the standard scale].
- (3) Nothing in this section shall prevent the removal of a dead body from a hospital to a mortuary, and such mortuary shall, for the purposes of this section, be deemed part of such hospital.

#### Textual Amendments

F112 Words substituted by National Health Service (Scotland) Act 1972 (c. 58), Sch. 6 para. 54

F113 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G

#### Modifications etc. (not altering text)

C32 S. 63 amended by National Health Service (Scotland) Act 1972 (c. 58), Sch. 6 para. 45

### 64 Disinfection of public conveyances if used for carrying corpses.

If—

- (a) a person hires or uses a public conveyance, or a conveyance that is let for hire, other than a hearse, for conveying the body of a person who has died from any infectious disease, without previously notifying to the owner or driver of the conveyance that such person died from such disease; or
- (b) the owner or driver, immediately on its coming to his knowledge that such conveyance is being or has been used for conveying such body, does not take all reasonable precautions to prevent the spread of infection, or does not forthwith give intimation to the local authority and provide for the disinfection of the conveyance to the satisfaction of the local authority,

such person or such owner or driver shall be liable to a penalty not exceeding [<sup>F114</sup>level 1 on the standard scale], and, if the offence continues, to a further penalty not exceeding [<sup>F115</sup>£2] for every day during which the offence continues.

#### Textual Amendments

F114 Words substituted by virtue of Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G

F115 Words substituted by virtue of Decimal Currency Act 1969 (c. 19), s. 10(1)

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**Modifications etc. (not altering text)**

C33 S. 64 amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#)

**65 Byelaws as to public conveyances.**

The local authority may make byelaws for securing the cleanliness and sanitary condition of public conveyances plying within its district, [<sup>F116</sup>and for preventing overcrowding in such conveyances]

**Textual Amendments**

F116 Words repealed, so far as they relate to tramcars or trolley vehicles, by Transport Charge &c. (Miscellaneous Provisions) Act 1954 (c. 64), Sch. 2 Pt. IV

**Modifications etc. (not altering text)**

C34 S. 65 repealed, so far as it relates to public service vehicles, by [Road Traffic Act 1930 \(c. 43\)](#), [Sch. 5](#)

*Hospitals and Ambulances*

**66 Power of local authority to provide hospitals.**

- (1) Any local authority may, and if required by the Board shall, provide, furnish, and maintain for the use of inhabitants of their district suffering from infectious disease, hospitals, temporary or permanent, and houses of reception for convalescents from infectious diseases, or for persons who have been exposed to infection, and for that purpose may—
  - (a) themselves build such hospitals or houses; or
  - (b) contract for the use of any such hospital or house or part thereof; or
  - (c) enter into any agreement with any person having the management of any such hospital or house or part thereof on payment of such annual or other sum as may be agreed on;
  - (d) any local authority, with the consent of the Board, may also or in place of providing such hospitals or houses as aforesaid, employ nurses to attend the persons suffering from infectious disease in their own houses, and also supply medicines and medical attendance for such sick.
- (2) Two or more local authorities may, and if required by the Board shall, combine in providing, furnishing and maintaining a common hospital or house of reception, or in employing nurses on terms to be agreed on, and failing agreement to be fixed by the Board, whose determination shall be binding.
- (3) No contract for the use of any such hospital or house or part thereof shall be entered into without the consent of the Board, and no such hospital or house of reception shall be provided, unless and until the site and plans for the construction thereof have been approved by the Board. Provided always that such site shall be in or within a convenient distance of the district of the local authority, or, in the case of a combination in terms of this section, in or within a convenient distance of the combined district.
- (4) A local authority may with the sanction and subject to regulations made by the Board provide and maintain one or more portable hospitals for the use of their district.

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#### Modifications etc. (not altering text)

- C35** S. 66 repealed, except so far as relating to houses of reception for persons who have been exposed to infection, by [National Health Service \(Scotland\) Act 1947 \(c. 27\)](#), [Sch. 11 Pt. II](#)
- C36** S. 66 amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#)

**67** ..... <sup>F117</sup>

#### Textual Amendments

- F117** Ss. 67, 77 repealed by [National Health Service \(Scotland\) Act 1947 \(c. 27\)](#), [Sch. 11 Pt. II](#)

### *Mortuaries, &c.*

#### **68 Power of local authority to provide mortuaries.**

Every local authority may provide and fit up a proper place or places for the reception of dead bodies before interment (in this Act called a mortuary), and may make byelaws with respect to the management and charges for the use of the same.

#### **69 Power of sheriff, &c. in certain cases to order removal of dead body to mortuary.**

(1) Where either—

- (a) the body of a person who has died of any infectious disease is retained in a room in which persons live or sleep; or
- (b) the body of a person who has died of any infectious disease is retained without the sanction in writing of the [<sup>F118</sup>designated medical officer] or any legally qualified medical practitioner for more than forty-eight hours, elsewhere than in a room not used at the time as a dwelling-place, sleeping-place, or workroom; or

(c) any dead body is retained in any house or room or ship under circumstances which, if continued, may endanger the health of the inmates thereof, or of any adjoining or neighbouring house or building; . . . <sup>F119</sup>

(d) . . . <sup>F119</sup>

a sheriff . . . <sup>F120</sup> or justice may, on a certificate signed by a [<sup>F118</sup>designated medical officer] or other legally qualified medical practitioner, direct that the body be removed, at the cost of the local authority, to any available mortuary, and be buried within the time limited by the sheriff, . . . <sup>F120</sup> or justice; and may if it is the body of a person who has died of an infectious disease, or if he considers immediate burial necessary, direct that the body be buried immediately, without removal to the mortuary.

(2) Unless the friends or relations of the deceased undertake to bury, and do bury, the body within the time so limited, it shall be the duty of the local authority to bury such body, and any expense so incurred may be recovered by them in a summary manner from any person legally liable to pay the expenses of such burial.

(3) It shall not be lawful to transport the body of any person who has died of any infectious disease by railway or other public conveyance, not being a conveyance reserved for such purpose, unless and until the [<sup>F118</sup>designated medical officer] or other legally



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qualified medical practitioner, has certified that every precaution necessary for the public safety has been adopted to his satisfaction, and any undertaker or other person who shall without such certificate knowingly remove or assist in removing, and any person who shall procure or endeavour to procure the removal of such dead body without having obtained such certificate shall be liable to the penalty herein-after mentioned in this section.

- (4) If any person obstructs the execution of any direction given by a sheriff, . . . <sup>F120</sup> or justice, under this section, he shall be liable to a penalty not exceeding [<sup>F121</sup>level 1 on the standard scale].

#### Textual Amendments

**F118** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Sch. 6 para. 55**

**F119** Word and s. 69(1)(d) repealed by [National Assistance Act 1948 \(c. 29\)](#), **Sch. 7 Pt. III**

**F120** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27**

**F121** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

#### Modifications etc. (not altering text)

**C37** [S. 69](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Sch. 6 para. 45**

### 70 Power of local authority to provide places for post-mortem examinations.

- (1) Any local authority may provide and maintain a proper building . . . <sup>F122</sup> for the reception of dead bodies during the time required to conduct any post-mortem examination ordered by a lawful authority, and may make regulations with respect to the management of such building.
- (2) Any such building may be provided in connexion with a mortuary, but this enactment shall not authorise the conducting of any post-mortem examination in a mortuary.

#### Textual Amendments

**F122** Words repealed by [National Assistance Act 1948 \(c. 29\)](#), **Sch. 7 Pt. III**

#### Modifications etc. (not altering text)

**C38** [S. 70](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), **Sch. 6 para. 45**

### 71 Power to sanitary authorities to unite for providing mortuary.

Any local authorities may, with the approval of the Board, execute their duty under this Act with respect to mortuaries and buildings for post-mortem examinations by combining for the purpose thereof, or by contracting for the use by one of the contracting authorities of any such mortuary or building provided by another of such contracting authorities, and may so combine or contract upon such terms as may be agreed upon.

*Status: Point in time view as at 01/04/1991.*

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### *Byelaws as to Houses let in Lodgings*

## **72 Power of local authority to make byelaws as to lodging-houses.**

- (1) Every local authority may, and if required by the Board shall, make and enforce for the whole or any part of their district such byelaws as are requisite for the following matters; (that is to say),
- (a) for fixing the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family:
  - (b) for the registration of houses so let or occupied:
  - (c) for the inspection of such houses:
  - (d) for enforcing sufficient privy or watercloset accommodation and other appliances and means of cleanliness in proportion to the number of lodgers or occupiers, drainage for such houses, and for promoting cleanliness and ventilation in such houses, and for the cleansing and ventilation of the common passages and staircases:
  - (e) for the cleansing and limewashing at stated times of the premises:
  - (f) for the giving of notices and the taking of precautions in case of any infectious disease.
- (2) This section shall not apply to common lodging-houses within the provisions of this Act relating to common lodging-houses, but shall apply to farmed-out houses, that is to say, to houses of one or two apartments taken on lease by any person and let or rented to several occupiers for limited periods as furnished apartments, as also to all boarding-houses for seamen and emigrants, irrespective of the charge made for the board and lodging therein.

#### **Modifications etc. (not altering text)**

**C39** S. 72 extended by [Housing \(Scotland\) Act 1966 \(c. 49\), s. 169\(1\)](#)

**C40** S. 72 extended by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\), ss. 313, 335](#)

### *Tents and Vans*

## **73 Tents and vans used for human habitation.**

- (1) A tent, van, shed, or similar structure, used for human habitation, which is in such a state as to be a nuisance or injurious or dangerous to health, or is so overcrowded as to be injurious or dangerous to the health of the inmates, shall be a nuisance liable to be dealt with summarily under this Act.
- (2) A local authority may make byelaws for promoting cleanliness in, and the habitable condition of, tents, vans, sheds, and similar structures, used for human habitation, and for preventing the spread of infectious disease by the persons inhabiting the same, and generally for the prevention of nuisances in connexion with the same.
- (3) Where the [<sup>F123</sup>designated medical officer] or [<sup>F124</sup>the proper officer of the local authority] has reasonable cause to believe either—
- (a) that any tent, van, shed, or similar structure, used for human habitation, is in such a state or so overcrowded as aforesaid, or that there is any contravention therein of any byelaw made under this section; or



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- (b) that there is any such tent, van, shed, or structure, any person suffering from an infectious disease, or that any infectious disease has recently existed therein, he may enter at reasonable times in the daytime, such tent, van, shed, or structure, and examine the same and every part thereof, and the [<sup>F123</sup>designated medical officer] may examine any person found therein, in order to ascertain whether such tent, van, shed, or structure, is in such a state or so overcrowded as aforesaid, or whether there is therein any such contravention, or a person suffering from an infectious disease, and the provisions of this Act with respect to the entry into any premises by an officer of the local authority [<sup>F125</sup>or the designated medical officer] shall be in force for the purposes of this section.
- (4) Nothing in this section shall apply to any tent, van, shed, or structure, erected or used by any portion of Her Majesty's naval or military forces.

#### Textual Amendments

**F123** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 56](#)

**F124** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27 Pt. I para. 2](#)

**F125** Words inserted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 56](#)

#### Modifications etc. (not altering text)

**C41** [S. 73](#) extended by [S.I. 1965/1536](#), [Sch. 3](#)

### *Underground Dwellings*

#### **74 Rules as to underground dwellings.**

It shall not be lawful to let separately, except as a warehouse or storehouse, or to suffer to be occupied as a dwelling-place, any cellar or any vault or underground room, whether conjoined or not with another apartment not having one of its external sides entirely above the level of the [<sup>F126</sup>road] or ground adjoining the same, and not having a window or other opening in such side, which cellar, vault, or room in every part shall be less in height from the floor to the ceiling than eight feet in the case of houses built prior to the commencement of this Act, or less in height than nine feet in the case of houses built subsequently to the commencement of this Act, or which shall be less than one-third of its height above the level of the [<sup>F126</sup>road] or ground adjoining the same, or otherwise shall not have three feet at least of its height from the floor to the ceiling above the said level, with an open area of two feet six inches wide from the level of the floor of such cellar, vault, or room up to the level of the said [<sup>F126</sup>road] or ground, or which shall not have appurtenant thereto the use of a watercloset or earth-closet or privy and ashpit, or which shall not also have a glazed window made to open to the full extent of the half thereof, the area of which is not less than nine superficial feet clear of the frame, and a fireplace with a chimney or flue, or which cellar, vault or underground room, being an inner or back vault or cellar let or occupied along with a front vault or room as part of the same letting or occupation, has not a ventilating flue (unless such inner or back vault or cellar shall be part of a house built before the commencement of this Act) or which shall not be well and effectually drained by means of a drain, constructed of a gas-tight pipe or otherwise effectually sealed, the uppermost part of which is one foot at least below the level of the floor of such vault, cellar, or room, after the local authority have given notice to the owners thereof that the letting or occupation of such cellars, vaults or underground rooms, as dwelling-

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places is prohibited from that time forth, and it shall be the duty of the local authority to issue such notices from time to time, as soon as is convenient, until such notice has been given with respect to every cellar, vault, or underground room, occupied as a dwelling-house within the district; and it shall not be lawful, after such notice, to let or continue to let, or to occupy or suffer to be occupied, separately as a dwelling-house any such vault, cellar or underground room.

**Textual Amendments**

**F126** Word substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), **Sch. 9 para. 17(5)**

**75 Penalty on letting underground dwellings.**

Every person who lets separately, or who knowingly suffers to be occupied for hire, or permits to be occupied as a dwelling, any vault, cellar, or underground room, contrary to the provisions of this Act, shall be liable to a penalty not exceeding [<sup>F127</sup>£1] for every day during which such vault, cellar, or room, is so occupied after conviction of the first offence.

**Textual Amendments**

**F127** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), s. 10(1)

**76 Cases in which two convictions have occurred within three months.**

Where two convictions against the provisions of this Act relating to the overcrowding of any house, or the occupation of any cellar, vault, or underground room, as a separate dwelling-place, shall have taken place within the period of three months, whether the person so convicted was or was not the same, it shall be lawful for the sheriff to direct the closing of such premises for such time as he may deem necessary, and, in the case of cellars occupied as aforesaid, to empower the local authority to permanently close the same in such manner as they may deem fit.

77 ..... F128

**Textual Amendments**

**F128** [Ss. 67, 77](#) repealed by [National Health Service \(Scotland\) Act 1947 \(c. 27\)](#), **Sch. 11 Pt. II**

**PART IV**

78 ..... F129

88.

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#### Textual Amendments

**F129** Ss. 78–88 repealed with saving by [Public Health \(Scotland\) Act 1945 \(9 & 10 Geo. 6 c. 15\), s. 2](#)

## PART V

### REGULATION OF COMMON LODGING-HOUSES

#### 89 Common lodging-houses to be registered.

The local authority shall cause a register to be kept, in which shall be entered the names and residences of the keepers of all common lodging-houses within the district of the local authority, and the situation of every such house, and the number of lodgers authorised according to this Act to be kept therein, and in each apartment thereof; provided that the keeper of every common lodging-house shall apply to the local authority at or previous to the fifteenth day of May in every year for a renewal of such registration; and the local authority may refuse to register any house which they do not consider suitable for the purposes of a common lodging-house, and as the keeper of a common lodging-house any person who does not produce to the local authority a certificate of character in such form as the local authority shall direct, but notwithstanding such certificate the local authority may, if they see fit, make further inquiry, and may thereafter refuse to register, if they are satisfied that the person applying is not qualified to be the keeper of a common lodging-house; and the local authority may from time to time, with the approval of the Board, raise or diminish the sum payable per night, according to which, as in this Act mentioned, it is ascertained whether a house or part thereof is a common lodging-house, but so as not to exceed [<sup>F130</sup>2½p] per night.

#### Textual Amendments

**F130** Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

#### 90 No lodger to be received in common lodging-house till it has been inspected and registered.

It shall not be lawful to keep or use as a common lodging-house any house, or to receive or retain any lodgers therein, unless such house shall have been inspected for that purpose by [<sup>F131</sup>the proper officer of the local authority,] and approved by the local authority, and shall have been and be registered as by this Act provided: and if any person shall contravene this enactment he shall be guilty of an offence under this Act, and if, in the opinion of the local authority, any common lodging-house on the register, or the keeper thereof, shall cease to be suitable for the purpose, the local authority may present a petition to the sheriff for authority to remove such house from the register either permanently or until there is a change of circumstances, and the sheriff, if he thinks fit, may grant warrant accordingly.

#### Textual Amendments

**F131** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 27 Pt. I para. 2](#)

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## 91 Evidence of register.

A copy of an entry made in a register kept under this Act, purporting to be certified by the person having the charge of such register to be a true copy, shall be received in all courts and on all occasions whatsoever as evidence, and shall be prima facie proof of all things therein registered, without the production of the register, or of any document, act, or thing, on which the entry is founded, or proof of the signature; and every person applying at a reasonable time shall be furnished by the person having such charge with a certified copy of any such entry for payment of twopence.

### Modifications etc. (not altering text)

**C42** Reference to “twopence” to be read as reference to equivalent amount in new currency: [Decimal Currency Act 1969 \(c. 19\), s. 10\(1\)](#)

## 92 Power to local authority to make byelaws.

The local authority may from time to time make byelaws respecting common lodging-houses within its jurisdiction for the keeping and well ordering of such houses, and for the separation of the sexes therein, and for fixing the number of lodgers which may be received in each such house, and in each room therein, and for enforcing sufficient privy or watercloset accommodation and other appliances and means of cleanliness in proportion to the number of lodgers and occupiers, as also proper drainage and ashpits for such houses, and for promoting the cleanliness and ventilation of such houses, and with respect to the inspection thereof, and the conditions and restrictions under which such inspection may be made.

## 93 Copy of bye-laws, to be furnished gratis to keepers.

A copy of all such byelaws made by the local authority in pursuance of this Act, when confirmed . . . <sup>F132</sup> shall be furnished gratis to every keeper of a common lodging-house, and such keeper shall be bound to keep a copy thereof hung up in some conspicuous place in each room in which lodgers are received.

### Textual Amendments

**F132** Words repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\), s. 381, Sch. 14](#)

## 94 Power to local authority to require additional supply of water.

Where it appears to the local authority that a common lodging-house is without a proper supply of water or without sufficient privy or watercloset accommodation for the use of the lodgers, and that such a supply of water can be furnished thereto at a reasonable rate, the local authority may, by notice in writing, require the owner or keeper of the common lodging-house, within a time specified therein, to obtain such supply, and to execute all works necessary for those purposes; and if such notice be not complied with accordingly, the local authority may remove the common lodging-house from the register until it be complied with. It shall be competent to any person interested to appeal to the sheriff against any resolution of the local authority removing a common lodging-house from the register under this section; . . . <sup>F133</sup>

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#### Textual Amendments

F133 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

### 95 Power to local authority to order reports from keepers.

The keeper of a common lodging-house shall from time to time if required by any order of the local authority served on such keeper, report to the local authority, or to such person or persons as the said local authority shall direct, every person who resorted to such house during the preceding day or night, and for that purpose schedules shall be furnished by the local authority to the persons so ordered to report, which schedules they shall fill up with the information required, and transmit to the local authority.

### 96 Local authority may remove sick persons to hospitals, &c.

When a person in a common lodging-house is ill of any infectious disease, the local authority may, [F134 on the certificate of the designated medical officer that the disease is infectious and that the patient may be safely removed, cause him to be removed to a hospital vested in the Secretary of State [F135 or managed by a National Health Service trust established under section 12A of the National Health Service (Scotland) Act 1978], but if removal be considered dangerous to life by such officer and is so certified,], no lodger shall be admitted to such lodging-house until it is certified free from infection; and the local authority may, so far as they think requisite for preventing the spread of disease, cause any clothes or bedding used by such person to be disinfected or destroyed, and may pay to the owners of the clothes and bedding so disinfected or destroyed reasonable compensation for the injury or destruction thereof.

#### Textual Amendments

F134 Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 57](#)

F135 Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), [Sch. 9](#), para. 1(4)

#### Modifications etc. (not altering text)

C43 S. 96 amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#)

### 97 As to giving notice of fever, &c. occurring.

The keeper of a common lodging-house shall, when a person in such house is ill of any infectious disease, give immediate notice thereof either to the [F136 designated medical officer] or to [F137 the proper officer of the local authority], who shall forthwith inform the [F136 designated medical officer] and if he is satisfied that the person is suffering from an infectious disease, he shall cause the patient to be removed without delay, and shall cause the premises to be disinfected.

Provided always, that if the [F136 designated medical officer] considers the patient not fit to be removed with safety, until it is certified by him that the premises are free from infection the house shall not be used as a common lodging-house, except such part thereof as may be certified by the [F136 designated medical officer] to be free from infection, and the local authority may make provision for the temporary shelter or house accommodation, and, if necessary, maintenance at a rate not exceeding the same

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payment per night as usually paid by persons frequenting said lodging-house while such persons are prevented from returning to such common lodging-house.

#### Textual Amendments

**F136** Words substituted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 58](#)

**F137** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27 Pt. I para. 2](#)

#### Modifications etc. (not altering text)

**C44** [S. 97](#) amended by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 45](#)

### 98 Inspection.

The keeper of a common lodging-house shall, at all times when required by any officer of the local authority, [<sup>F138</sup>or by the designated medical officer] give him free access to such house and every part thereof.

#### Textual Amendments

**F138** Words inserted by [National Health Service \(Scotland\) Act 1972 \(c. 58\)](#), [Sch. 6 para. 59](#)

### 99 Cleansing.

The keeper of a common lodging-house shall thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, waterclosets, earth-closets, privies, ashpits, cesspools, and drains thereof, to the satisfaction of [<sup>F139</sup>the proper officer of the local authority], and so often as shall be required by or in accordance with any regulation or byelaw of the local authority, and shall well and sufficiently, and to the like satisfaction, lime-wash the walls and ceilings thereof in the first week of each of the months of April and October in every year, and at such other times as the local authority may by special order appoint or direct.

#### Textual Amendments

**F139** Words substituted by virtue of [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27 Pt. I para. 2](#)

### 100 Conviction for third offence, &c. to disqualify persons from keeping common lodging-houses.

Where a keeper of a common lodging-house is convicted of a third or any subsequent offence under this Act, it may be adjudged as the punishment or part of the punishment for such offence that he shall not, at any time within five years, or any shorter period after such conviction, keep or have or act in the care or management of a common lodging-house.

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## PART VI

### SEWERS, DRAINS, AND WATER SUPPLY

#### *Sewers and Drains*

101— ..... F140  
112.

#### Textual Amendments

F140 Ss. 101–112 repealed by Sewerage (Scotland) Act 1968 (c. 47), Sch. 2

113 ..... F141

#### Textual Amendments

F141 S. 113 repealed by Local Government (Scotland) Act 1947 (c. 43), s. 381, Sch. 14

114, ..... F142  
115.

#### Textual Amendments

F142 Ss. 114, 115, 117 repealed by Sewerage (Scotland) Act 1968 (c. 47), Sch. 2

#### 116 Distilleries, &c. to deposit refuse.

[<sup>F143</sup>Subject to the provisions of Part II of the <sup>M5</sup>Sewerage (Scotland) Act 1968] the owners or occupiers of distilleries, manufactories, and other works shall be compelled, where possible, to dig, make, and construct pools or reservoirs within their own ground, or as near their works as possible, for receiving and depositing the refuse of such works so far as offensive or injurious or dangerous to the health of those living in the vicinity thereof . . . <sup>F144</sup>

#### Textual Amendments

F143 Words inserted by Sewerage (Scotland) Act 1968 (c. 47), Sch. 1 para. 2

F144 Words repealed by Sewerage (Scotland) Act 1968 (c. 47), Sch. 2

#### Modifications etc. (not altering text)

C45 S. 116 amended by Radioactive Substances Act 1960 (c. 34), s. 9, Sch. 1 Pt. II para. 13

S. 116 amended (27.8.1993) by 1993 c. 12, ss. 40, 51(2), Sch. 3 Pt. II para.11 (with ss. 42, 46).

#### Marginal Citations

M5 1968 c. 47.

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117 ..... F145

**Textual Amendments**

F145 Ss. 114, 115, 117 repealed by Sewerage (Scotland) Act 1968 (c. 47), **Sch. 2**

118 ..... F146

**Textual Amendments**

F146 S. 118 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

119, ..... F147  
120.

**Textual Amendments**

F147 Ss. 119, 120 repealed by Sewerage (Scotland) Act 1968 (c. 47), **Sch. 2**

121 ..... F148

**Textual Amendments**

F148 S. 121 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

122 ..... F149

**Textual Amendments**

F149 S. 122 repealed by Sewerage (Scotland) Act 1968 (c. 47), **Sch. 2**

**123 Works of distribution of sewage to be deemed a land improvement.**

The making of works of distribution and service for the supply of sewage to lands for agricultural purposes shall be deemed an improvement of land authorised by the <sup>M6</sup>Improvement of Land Act 1864, and the provisions of that Act shall apply accordingly.

**Marginal Citations**

M6 1864 c. 114.



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124— ..... F150  
130.

**Textual Amendments**

F150 Ss. 124–130 repealed by [Water \(Scotland\) Act 1946 \(c. 42\)](#), [Sch. 5](#)

131 ..... F151

**Textual Amendments**

F151 S. 131 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, [Sch. 14](#)

132 ..... F152

**Textual Amendments**

F152 S. 132 repealed by [Water \(Scotland\) Act 1946 \(c. 42\)](#), [Sch. 5](#)

**PART VII**

**RATING AND BORROWING POWERS**

133, ..... F153  
134.

**Textual Amendments**

F153 Ss. 133, 134 repealed by [Burgh Sewerage, Drainage and Water Supply \(Scotland\) Act 1901 \(c. 24\)](#), [Sch.](#) and [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, [Sch. 14](#)

135, ..... F154  
136.

**Textual Amendments**

F154 Ss. 135, 136 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, [Sch. 14](#)

137 ..... F155

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**Textual Amendments**

**F155** S. 137 repealed by [Water \(Scotland\) Act 1946 \(c. 42\)](#), **Sch. 5**

**138** ..... **F156**

**Textual Amendments**

**F156** S. 138 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 138, **Sch. 14**

*Borrowing Powers*

**139** ..... **F157**

**Textual Amendments**

**F157** S. 139 repealed by [Sewerage \(Scotland\) Act 1968 \(c. 47\)](#), **Sch. 2**

**140** ..... **F158**

**Textual Amendments**

**F158** S. 140 repealed by [Water \(Scotland\) Act 1946 \(c. 42\)](#), **Sch. 5**

**141 Power of borrowing for hospitals, &c.**

It shall be lawful for the local authority to borrow for the purpose of providing offices for the use of the local authority, and for providing and furnishing such . . . <sup>F159</sup> disinfecting premises and apparatus, houses of reception, or mortuaries as are herein-before authorised . . . <sup>F160</sup> such sums of money and at such times as they shall deem necessary for that purpose . . . <sup>F160</sup>

**Textual Amendments**

**F159** Words repealed by [National Health Service \(Scotland\) Act 1947 \(c. 27\)](#), **Sch. 11 Pt. II**

**F160** Words repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**

**142,** ..... **F161**

**143.**

**Textual Amendments**

**F161** Ss. 142, 143 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**

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## PART VIII

### ACQUISITION OF LANDS

#### 144 Power to acquire lands.

A local authority may for any of the purposes of Part II., Part III., and Part VI. of this Act in terms of the Lands Clauses Acts, and whether by agreement or otherwise, purchase any lands within or without their district . . . <sup>F162</sup> they may also buy up any water-mill, dam, or weir, which interferes with the proper drainage of . . . <sup>F163</sup> their district . . . <sup>F162</sup>

#### Textual Amendments

**F162** Words repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\), s. 381, Sch. 14](#)

**F163** Words repealed by [Water \(Scotland\) Act 1946 \(c. 42\), Sch. 5](#)

#### 145 Regulations as to compulsory purchase of land, &c.

[<sup>F164</sup>The provisions of the <sup>M7</sup>Acquisition of Land (Authorisation Procedure) Act 1946 shall have effect] with respect to the purchase and taking of land otherwise than by agreement by local authorities for the purposes herein-before mentioned.

(1) . . . . . <sup>F165</sup>

(16) The Board shall in their annual report include a statement of any proceedings under this section.

#### Textual Amendments

**F164** Words substituted by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\), s. 6, Sch. 4](#)

**F165** [S. 145\(1\)–\(15\)](#) repealed by [Acquisition of Land \(Authorisation Procedure\) Act 1946 \(c. 49\), Sch. 6](#)

#### Marginal Citations

**M7** [1946 c. 49.](#)

## PART IX

### LEGAL PROCEEDINGS

#### *Enforcement of and Procedure under Act*

#### 146 Procedure if local authority neglect its duty under Act. Procedure under 18 & 19 Vict. c. 68.

(1) If any nuisance shall exist upon or in premises possessed or managed by the local authority, or in which the local authority have any interest, or if the local authority shall fail or neglect to perform any duty imposed upon them by this Act, or to take all due proceedings in this Act authorised for the removal of nuisances or preservation of health, or due regulation of lodging-houses, or for any other of the purposes of

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this Act, it shall be competent for any ten ratepayers residing within the district, . . . <sup>F166</sup> or for the procurator fiscal of the sheriff court . . . <sup>F166</sup> or for the Board, to give written notice to such local authority of the matters in which such neglect exists; and if the local authority do not within fourteen days after such notice, or, in the case of neglect to enforce any regulation or direction of the Board under Part IV. of this Act, within two days after such notice, remove or remedy the nuisance referred to, or in any other case neglect to take the steps authorised or required by or under this Act, it shall be competent for the parties aforesaid, or any one of them, to apply to the sheriff by summary petition, and the sheriff shall thereupon inquire into the same, and may make such decree as shall in his judgment be required to enforce the removal or remedy of the nuisance, or otherwise to compel execution of or carry out the provisions and purposes of this Act, and may appoint the same to be carried into effect by and at the sight of such persons as he may think fit, and at the expense of the local authority, or of other parties on whom the expense ought in his opinion to be laid, and for payment of the expenses of such application by the petitioners or by the local authority or other party, as justice may require: Provided always, that in regard to any nuisance for the removal of which drainage works are necessary, the sheriff may suspend consideration of the complaint for such time as may seem proper, in order to enable a general system of drainage under any general or local Act or otherwise to be carried out, the better to remove such nuisances.

- (2) It shall be competent for the Board, or for any local authority, . . . <sup>F166</sup> to present a petition to the sheriff, under the fourth section of the <sup>M8</sup>Burial Grounds (Scotland) Act 1855, to the same effect, and to be followed out in like manner, as if presented by any of the persons or parties therein mentioned.

#### Textual Amendments

**F166** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

#### Marginal Citations

**M8** 1855 c. 68.

147 ..... <sup>F167</sup>

#### Textual Amendments

**F167** Ss. 147, 152, 159, 160, 167 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, [Sch. 14](#)

#### 148 Procurator fiscal may sue by directions of Board.

In any place within the jurisdiction of a local authority the procurator fiscal of the sheriff court, on the Board being satisfied that the local authority have made default in doing their duty, may, with the approval of the Lord Advocate, institute and follow out proceedings against the local authority for compelling them to do their duty, and may institute and follow out in all respects any proceeding which the local authority of such place might institute with respect to the removal of nuisances or otherwise; and the expense as between agent and client of all such proceedings shall be paid by the local authority, but with such relief to them against the author of any nuisance or any other party as may be competent.

*Status: Point in time view as at 01/04/1991.*

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**149 Procedure where nuisance beyond district.**

Where a nuisance is situated in a district the local authority of which does not cause the same to be removed, which nuisance is offensive, or injurious, or dangerous to another district, the local authority of the latter district may call on the first-mentioned local authority to take all competent steps for removal of such nuisance, and the said first-mentioned local authority shall be bound to do so accordingly; and any expense thereby occasioned to the said second-mentioned local authority shall be reimbursed by the first-mentioned local authority, the amount of such reimbursement in the case of dispute to be finally determined by the Board.

**150 Local authority may require payment of costs, &c from owner or occupier, and occupier paying to deduct from rent.**

It shall be lawful for the local authority, at their discretion, to require the payment of any costs or expenses which the owner of any premises may be liable to pay under this Act either from the owner or from any person who then or at any time thereafter occupies such premises, and such owner or occupier shall be liable to pay the same, and the same shall be recovered in manner authorised by this Act, and the owner shall allow such occupier to deduct the sums of money which he so pays out of the rent from time to time becoming due in respect of the said premises, as if the same had been actually paid to such owner as part of such rent: Provided always, that no such occupier who shall not be the author of a nuisance shall be required to pay any further sum than the amount of rent for the time being due from him, or which, after such demand of such costs or expenses from such occupier, and after notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, becomes payable by such occupier unless he refuse, on application being made to him for that purpose by or on behalf of the local authority, truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable, but the burden of proof that the sum demanded from any such occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall lie upon such occupier: Provided also, that nothing herein contained shall be taken to affect as between the contracting parties any contract made or to be made between any owner, tenant, or occupier of any house, building, or other property, whereby it is or may be agreed that the tenant or occupier shall pay or discharge all rates, dues, and sums of money payable in respect of such house, building, or other property, or to affect as between the contracting parties any contract whatsoever between landlord and tenant.

**151 Penalty for wilful damage of works.**

If any person wilfully damages any works or property belonging to any local authority, he shall be liable to a penalty not exceeding [<sup>F168</sup>level 1 on the standard scale] in addition to the cost of repairing such works or property.

**Textual Amendments**

**F168** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. **289G**

*Status: Point in time view as at 01/04/1991.*

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#### Textual Amendments

**F169** Ss. 147, 152, 159, 160, 167 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**

### 153 Recovery of penalties.

All penalties under this Act, and also all sums of money and expenses herein directed to be recovered in a summary manner, may, unless otherwise provided in this Act, be recovered at the suit of the local authority, and may be applied for the purposes of this Act: Provided always, that nothing contained in this section shall impair or affect any other mode of recovery allowed by this Act: Provided also, that all contraventions of the provisions contained in this Act relating to overcrowding of houses, and all contraventions of the provisions in this Act or of the byelaws, rules and regulations made under the authority of this Act relating to common lodging-houses may be prosecuted as police offences before any judge or magistrate having police jurisdiction, and in the same way and manner as police offences are prosecuted before him under any general or local police Act; and in the event of the offender being convicted, and failing to make immediate payment of the penalty which may have been imposed, he shall be liable to imprisonment in accordance with the provisions of the Summary Jurisdiction (Scotland) Acts, without prejudice to diligence by poinding or arrestment, if no imprisonment has followed on the conviction.

### 154 Form of applications to the sheriff, &c.

All applications to enforce any provision of this Act, or for the recovery of penalties herein imposed, or other sums of money becoming due to the local authority in virtue of this Act, in so far as not herein otherwise provided for, may be by summary petition, and such petition may refer to the sections of this Act on which it is founded, without setting forth the same; and the sheriff, . . . <sup>F170</sup> or justice shall thereupon, if he see fit, appoint the petition to be answered within three days after service, or may order the parties to attend him in person, and on advising such answer, or hearing the parties, or on the respondent failing to appear, he may at once decern, or may appoint any competent person to examine the premises and report to him, and may decern on such report, or he may, if either party desire it, order proof to be led before himself on any specified points, and shall in that case appoint a day, not more than five days thereafter, for hearing such proof, and if the proof be not on that day completed may adjourn the same from time to time until completed, and within three days after such completion he shall give decree, and he may find either party liable in expenses, or in any modified sum of expenses, and may, without prejudice to diligence by poinding or arrestment, grant warrant for the imprisonment of the person convicted or found liable in a penalty or sum of money, unless he shall pay the whole sums found due within a specified time, until the same be paid, such imprisonment to be in accordance with the provisions of the Summary Jurisdiction (Scotland) Acts.

#### Textual Amendments

**F170** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27**

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## 155 No written pleadings &c. allowed.

No written pleadings, other than the petition and answers (when ordered), shall be allowed, and the sheriff, . . . <sup>F171</sup> or justice shall have power to grant diligence in common form to cite witnesses and havers, and in cases under sub-sections (9), (10), and (11) of section sixteen of this Act the sheriff shall take the evidence in like manner as in civil proofs: Provided always, that no decree under this Act against any party shall bar his right to relief against any other party legally liable therein.

### Textual Amendments

**F171** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

## 156 Appeal in certain cases.

Where in cases under sub-sections (9), (10), and (11) in section sixteen it shall appear to the [<sup>F172</sup>sheriff principal] that the true value of the subject complained of as a nuisance, or the cost of the operations necessary to remove or amend it as ordered, or the value of the trade or business interfered with, exceeds the sum of twenty-five pounds but does not exceed the sum of fifty pounds, he shall certify his opinion to that effect in his decree, and the parties shall thereupon be entitled to appeal from the [<sup>F172</sup>sheriff] where the judgment has been pronounced by him to the [<sup>F172</sup>sheriff principal] on lodging, within three days after the decree, a note of appeal with the sheriff clerk, and serving the same on the opposite party or the agent acting in such proceedings for such party, and such note shall operate as a sist of execution until the appeal be determined; and on such note being lodged the sheriff clerk shall transmit the process, together with the evidence, to the [<sup>F172</sup>sheriff principal], whose decision thereon shall be final where the value certified is not above fifty pounds; and in the event of such value or cost being so certified to exceed the sum of fifty pounds, the parties shall be entitled to present a note of appeal to the Lord Ordinary on the bills against the judgment either of the [<sup>F172</sup>sheriff] or of the [<sup>F172</sup>sheriff principal], whether this last be an original judgment or on appeal: Provided that, along with such note, the appellants shall lodge a sufficient bond of caution by one or more obligants, to the amount of fifty pounds sterling, for payment or performance of any judgment that may be pronounced under his appeal; and also provided that such note be lodged in the Bill chamber, and a copy thereof served on the opposite party or his said agent within eight days after the date of the sentence or judgment complained of, which note shall in like manner operate as a sist of execution until a judgment be pronounced by the Lord Ordinary, which judgment shall be final unless the Lord Ordinary shall allow a reclaiming note to the inner house, and the judgment of the inner house shall be final.

### Textual Amendments

**F172** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), [s. 4](#)

### Modifications etc. (not altering text)

**C46** Reference to Lord Ordinary on the Bills to be construed as reference to a judge sitting in the Outer House: [Administration of Justice \(Scotland\) Act 1933 \(c. 41\)](#), [s. 3](#)



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### 157 No appeal otherwise.

Save in so far as otherwise provided, no appeal shall be competent from any decree or order of any . . . <sup>F173</sup> justice, or from the decree or order of any sheriff, except in cases certified in terms of the preceding section; and no decree or order, or any other proceeding, matter, or thing done in the execution of this Act shall, excepting as herein provided, be subject to review in any way whatever.

#### Textual Amendments

**F173** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

### 158 Justices, &c. being members of local authority may act.

The sheriff, justices of the peace, . . . <sup>F174</sup> may in all cases, notwithstanding their being members of the local authority, exercise the jurisdiction vested in them under this Act.

#### Textual Amendments

**F174** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

### 159, . . . . . <sup>F175</sup> 160.

#### Textual Amendments

**F175** Ss. 147, 152, 159, 160, 167 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, [Sch. 14](#)

### 161 One or more joint owners may be proceeded against alone.

In case of any demand or complaint under this Act to which two or more parties, whether as owners or occupiers of premises, may be jointly answerable, it shall be sufficient to proceed against any one or more of them without proceeding against the others or other of them, and any one or more of such persons may be proceeded against, notwithstanding that the acts or defaults of any one or more of them would not separately be an offence against this Act; but nothing herein contained shall prevent the parties so proceeded against from recovering relief in any case in which they would now be entitled to relief by law. Proceedings against several persons included in one demand or complaint shall not lapse by reason of the death of any one or more of such persons, but all such proceedings may be carried on as if the deceased persons had not been originally so included. Whenever in any proceeding under the provisions of this Act relating to nuisances it becomes necessary to mention or refer to the owner or occupier of any premises, it shall be sufficient to designate him as the owner or occupier of such premises without name or further description.

#### Modifications etc. (not altering text)

**C47** S. 161 applied (27.8.1993) by [1993 c. 11](#), [ss. 62\(2\)\(a\)\(i\)](#), [68\(2\)](#).

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## 162 Penalty on occupier obstructing owner.

If the occupier of any premises prevent the owner thereof from obeying or carrying into effect the provisions of this Act, the sheriff or any . . . <sup>F176</sup> justice to whom application is made shall, by order in writing, require such occupier to permit the execution of the works required to be executed, provided that such works appear to such sheriff, . . . <sup>F176</sup> or justice to be necessary for the purpose of obeying or carrying into effect the provisions of this Act; and if within a reasonable time after the making of such order the occupier against whom it is made refuse to comply therewith, he shall be liable to a penalty not exceeding five pounds for every day afterwards during the continuance of such refusal.

### Textual Amendments

**F176** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

## 163 Penalty for violating Act or obstructing its execution.

Whoever wilfully violates or contravenes any provision of this Act to which a pecuniary penalty is not herein attached, obstructs any person acting under the authority or employed in the execution of this Act, or wilfully violates any direction or regulation issued by the Board under this Act, shall be liable for every such offence to a penalty not exceeding [<sup>F177</sup> [<sup>F178</sup>level 1 on the standard scale]] for a first offence and [<sup>F178</sup>level 1 on the standard scale] for a second or subsequent offence].

### Textual Amendments

**F177** Words substituted by virtue of [Criminal Justice Act 1967 \(c. 80\)](#), s. 92, [Sch. 3 Pt. I](#)

**F178** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), [ss. 289E–289G](#)

## 164 Compensation to be made.

Full compensation shall be made, out of any fund or assessment applicable to the purposes of this Act, to all persons sustaining any damage by reason of the exercise of any of the powers of this Act, except when otherwise specially provided; and in case of dispute, if the sum claimed do not exceed the sum of fifty pounds sterling, the same may be ascertained on a summary application by either party to the [<sup>F179</sup>sheriff or sheriff principal], whose decision shall be final and not subject to review, unless when pronounced by the [<sup>F179</sup>sheriff], in which case it may be reviewed by the [<sup>F179</sup>sheriff principal] on appeal; and when the sum claimed exceeds fifty pounds sterling, such compensation shall be ascertained and disposed of by a sole arbiter appointed in manner set forth in sub-section eleven of section one hundred and forty-five of this Act.

### Textual Amendments

**F179** Words substituted by virtue of [Sheriff Courts \(Scotland\) Act 1971 \(c. 58\)](#), [s. 4](#)

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**Modifications etc. (not altering text)**

**C48** S. 164 applied (27.8.1993) by 1993 c. 11, ss. 62(2)(a)(i), 68(2).

**165 Convictions not void for want of form.**

No conviction or other legal proceeding under this Act shall be void for want of form, or for want of any previous notice, provided in this latter case the party proceeded against or convicted has appeared or the charge had come to his knowledge; and the charge may be amended at any time, and the proceedings may be adjourned on the ground of want of sufficient notice, or for other good cause.

**166 Local authority or Board not liable for irregularity of their officers.**

The local authority and the Board shall not be liable in damages for any irregularity committed by their officers in the execution of this Act, or for anything done by themselves in the bona fide execution of this Act; and every officer acting in the bona fide execution of this Act shall be indemnified by the local authority under which he acts in respect of all costs, liabilities, and charges to which he may be subjected . . . <sup>F180</sup>; provided that nothing in this section shall exempt any member of any local authority from being surcharged with the amount of any payment which may be disallowed by the auditor in the accounts of such authority, and which such member authorised or joined in authorising.

**Textual Amendments**

**F180** Words repealed by [Law Reform \(Limitation of Actions &c.\) Act 1954 \(c. 36\)](#), **Sch.**

**167** . . . . . <sup>F181</sup>

**Textual Amendments**

**F181** Ss. 147, 152, 159, 160, 167 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, **Sch. 14**

**168 Exemption from stamp duties.**

All bonds, assignations, conveyances, instruments, agreements, . . . <sup>F182</sup>, or other writings made or granted by or to or in favour of the local authority [<sup>F183</sup> for the purposes of this Act] shall be exempt from all stamp duties.

**Textual Amendments**

**F182** Words repealed by [Finance Act 1970 \(c. 24\)](#), **Sch. 8 Pt. V**

**F183** Words substituted by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 377(5)

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**169 Police constables to aid in executing Act.**

The constabulary and police force in their respective jurisdictions shall aid the authorities and officers acting in execution of this Act, or any directions or regulations issued as aforesaid.

**170 Act not to impair right of action, &c.**

Nothing in this Act shall be construed to impair any right of action in respect of nuisances at common law.

**171 Powers of Act cumulative.**

All powers given by this Act shall be deemed to be in addition to, and not in derogation of, any power conferred by Act of Parliament not hereby specifically repealed, or any law or custom; and such last-mentioned powers may be exercised in the same manner as if this Act had not passed, but without prejudice to the powers conferred by this Act.

## PART X

### PORT SANITARY AUTHORITY

**172 Constitution of port local authorities.**

The Board may by order constitute any local authority whose district or part of whose district forms part of or abuts on any part of a port in Scotland or the waters of such port, or any persons having authority in or over such port or any part thereof, the local authority of the whole of such port or of any part thereof (in this Act referred to as the “port local authority”).

The Board may also by order constitute a joint port local authority for the whole or any part of a port by combining any two or more local authorities having jurisdiction within the proposed area or part thereof to act together for the purposes of this Part of the Act, and may prescribe the mode of such joint action; or by forming a joint port local authority consisting of representative members of any two or more of such local authorities in the same manner. Further the Board may by order constitute a joint port local authority for any two or more ports consisting of representative members of all or any of the local authorities having jurisdiction within such port or any part thereof.

The Board may from time to time alter, vary, renew, or rescind said order, and a copy of said orders when made shall be forthwith laid before both Houses of Parliament.

Any order constituting a port local authority or joint port local authority may assign to such authority any powers, rights, duties, capacities, liabilities and obligations under this Act, and direct the mode in which the expenses of such authority are to be paid, and where such order constitutes a joint port local authority, it may contain all the regulations with respect to the carrying out of the provisions of this Act by such authority.

A port shall mean a port as established for the purposes of the laws relating to the Customs of the United Kingdom.

*Status: Point in time view as at 01/04/1991.*

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**Modifications etc. (not altering text)**

- C49** S. 172 extended by [Food and Drugs \(Scotland\) Act 1956 \(c. 30\), s. 26\(2\)](#)  
S. 172 extended (27.8.1993) by [1993 c. 11, ss. 61\(2\), 68\(2\)](#)

**173 Jurisdiction of port local authority.**

The order of the Board constituting a port local authority or joint port local authority shall be deemed to give such authority jurisdiction over all waters within the limits specified in the order, and also over the whole or such portion of the district within the jurisdiction of any local authority as may be so specified.

**174 Delegation of powers by port local authority.**

A port local authority or joint port local authority may, with the sanction of the Board, delegate to any local authority within or bordering on their district the exercise of any powers conferred on such authority by the order of the Board, but, except in so far as such delegation may extend, no other authority shall exercise any powers conferred on a port local authority or joint port local authority by the order of the Board within the district of such authority.

**175 Expenses of port local authority.**

Any expenses incurred by a joint port local authority shall be defrayed out of a common fund to be contributed by the local authorities in such proportions as the Board thinks just.

A port local authority, if itself a local authority under this Act, independently of its character of a port local authority, shall raise the proportion of expenses due in respect of its own district in the same manner as if such expenses had been incurred by it in the ordinary manner for the purposes of this Act.

For the purposes of obtaining payment from the contributory local authorities of the sums to be contributed by them a port local authority or joint port local authority shall issue their requisition to each such authority, requiring such authority, within a time limited by the requisition, to pay the amount therein mentioned to such authority, or to such person as such authority may direct.

Any contribution payable by a local authority to such port local authority or joint port local authority shall be a debt due from them, and may be recovered accordingly, such contribution being deemed general expenses of that authority. If any local authority makes default in complying with the requisition addressed to it by such port local authority or joint port local authority such authority may, instead of instituting proceedings for the recovery of the debt, or in addition to such proceedings as to any part of the debt which may for the time being be unpaid, proceed in the summary manner in this Part of this Act mentioned to raise within the district of the defaulting authority such sum as may be sufficient to pay the debt due.

Where several local authorities are combined in the district of one port local authority or joint port local authority, the Board may by order declare that one or more of such authorities shall be exempt from contributing to the expenses incurred by such authorities.

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**176 Proceedings for raising a sum for payment of debt within district of a defaulting authority.**

Where any port local authority, joint port local authority, or other authority, are authorised in pursuance of this Act to proceed in a summary manner to raise within the district of a defaulting authority such sum as may be sufficient to pay any debt due to them, the authority so authorised for the purpose of raising such sum shall, within the district of the defaulting authority, have, so far as relates to the raising such sum, the same powers as if they were the defaulting authority, and as if such sum were expenses properly incurred by the defaulting authority within the district of such authority; and the port local authority, joint port local authority, or other authority, may raise the amount by assessment, in like manner and with all the powers of imposition, levy, and recovery of the defaulting local authority.

The authority so authorised as aforesaid may, in making an estimate of the sum to be raised for the purpose of paying the debt due to them, add such sums as they think sufficient, not exceeding ten per cent. on the debt due, and may defray thereout all costs, charges, and expenses (including the remuneration to any person they may employ) to be incurred by such authority by reason of the default of the defaulting authority; and the authority so authorised as aforesaid shall apply all moneys raised by them in payment of the debt due to them, and such costs, charges, and expenses as aforesaid, and shall pay to the defaulting authority the balance, if any, remaining in their hands after such application.

**PART XI**

MISCELLANEOUS

*Provisions as to Ships*

**177 Provision as to ships within the jurisdiction of local authority.**

Any ship lying in any river, harbour, or other water shall be subject to the local authority of the district within or ex adverso of which such river, harbour, or other water is situate, and to the sheriff, . . . <sup>F184</sup>, and justices of the peace having jurisdiction in such district, and shall be within the provisions of this Act in the same manner as if such ship were a house within such district, but this section shall not apply to any ship belonging to Her Majesty or to any foreign government.

**Textual Amendments**

**F184** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)

**178 Provision as to district of local authority extending to places where ships are lying.**

For the purposes of this Act, any ship that is in a place within three miles of the coast of Scotland, and not within the district of a local authority, shall be deemed to be within the district of such local authority as may be prescribed by the Board, and until a local authority has been prescribed then of the local authority whose district nearest adjoins the place where such ship is lying.

*Status: Point in time view as at 01/04/1991.*

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**179,** ..... **F185**  
**180.**

**Textual Amendments**  
**F185** Ss. 179, 180 repealed by [National Health Service \(Scotland\) Act 1947 \(c. 27\)](#), [Sch. 11 Pt. II](#)

**181,** ..... **F186**  
**182.**

**Textual Amendments**  
**F186** Ss. 181, 182 repealed by [Building \(Scotland\) Act 1959 \(c. 24\)](#), [Sch. 10](#)

**183—** ..... **F187**  
**188.**

**Textual Amendments**  
**F187** Ss. 183–188 repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\)](#), s. 381, [Sch. 14](#)

**PART XII**

SAVING CLAUSES AND REPEALS

*Saving Clauses*

**189 Act not to affect navigation of rivers or canals, or irrigation of lands.**

Nothing in this Act contained shall prejudice or affect, or shall enable any local authority or other person to injuriously affect—

- (1) The irrigation of lands in a rural district, or the supply of water used for such irrigation;
- (2) Any supply of water which has been conducted to and is being used for any house or building used in connexion with such house or occupied for agricultural purposes;
- (3) The supply of water required for the purposes of any waterworks established by or under the provisions of any Act of Parliament, or of the compensation water required to be given by the owners of such waterworks, unless the local authority shall have previously obtained the consent of such owners;
- (4) The navigation on or use of any river, canal, dock, harbour, lock, reservoir, or basin, in respect of which any persons are by virtue of any Act of Parliament entitled to take tolls or dues, or the supply of water to the same, or any bridges crossing the same, or any towing path thereon;



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- (5) The purification of any river or stream in respect of which any persons are by virtue of any Act of Parliament authorised to exercise jurisdiction, or the rights, powers, jurisdictions, and authorities conferred by such Act.

Provided always, that it shall not be lawful for the local authority to execute any works in, through, or under any wharves, quays, docks, harbours, locks, reservoirs, or basins without the consent in writing in every case of the persons entitled by virtue of any Act of Parliament to take tolls or dues in respect thereof, and such persons may at their own expense, and on substituting other sewers, drains, culverts, and pipes equally effectual, and certified as such by the inspector to the local authority, take up, divert, or alter the level of any sewers and drains, culverts or pipes, constructed by any local authority, and passing under or interfering with such rivers, canals, docks, harbours, reservoirs, or basins, or the towing-paths thereof, and do all such matters and things as may be necessary for carrying into effect such taking up, diversion, or alteration.

### 190 Saving of certain Acts.

Except in so far as expressly provided, nothing in this Act shall prejudice or affect the provisions of the Local Government (Scotland) Acts, . . . <sup>F188</sup> or of the <sup>M9</sup>Burgh Police (Scotland) Act 1892, as amended, or of the <sup>M10</sup>Public Health (Scotland) Amendment Act 1891, or of the Anatomy Acts 1832 and 1871.

#### Textual Amendments

**F188** Words repealed by [Local Government \(Scotland\) Act 1947 \(c. 43\), s. 381, Sch. 14](#)

#### Marginal Citations

**M9** 1892 c. 55.

**M10** 1891 c. 52.

191, ..... <sup>F189</sup>  
192.

#### Textual Amendments

**F189** Ss. 191, 192 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

### 193 Reference to Public Health Acts.

Where, in any public general, or local Act the Public Health Acts or any sections thereof are referred to, such reference shall be deemed to mean and include a reference to this Act or the corresponding sections of this Act and any amendments thereof; and the expression “public health rate” in any such Act shall mean, and a reference to any of the assessments mentioned in section ninety-five of the <sup>M11</sup>Public Health (Scotland) Act 1867 shall be deemed to be a reference to, the public health general assessment under this Act.

*Status: Point in time view as at 01/04/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Public Health (Scotland) Act 1897. (See end of Document for details)*

#### Marginal Citations

M11 1867 c. 101.

### 194 Exemption of Government property from building regulations.

Without prejudice to any existing right of the Crown, there shall be exempted from so much of the provisions of this Act as relates to buildings and structures, every building, structure, or work vested in, or in the occupation of, Her Majesty, her heirs and successors, either beneficially or as part of the hereditary revenues of the Crown, or in trust for the public service or for public services; also any building, structure, or work vested in, or in the occupation of, any department of Her Majesty's Government for public purposes or for the public service.

#### Modifications etc. (not altering text)

C50 S. 194 extended by S.I. 1965/1536, Sch. 3

### 195 ..... F190

#### Textual Amendments

F190 S. 195 repealed by Aberdeen Corporation (Administration Finance &c.) Order Confirmation Act 1940 (c. iii), s. 244, Sch. 20

### *Repeal of Acts*

### 196 Repeal of Acts.

- (1) . . . <sup>F191</sup> so much of any public general Act as is inconsistent with this Act is . . . <sup>F191</sup> hereby repealed.
- (2) The repeal of the said Acts shall not annul or in any wise prejudice or affect any purchase, sale, conveyance, grant, lease, bond, security, act, matter, or thing, heretofore made, done, executed, commenced, or instituted, under or by virtue or in pursuance of the said Acts; but all such purchases, sales, conveyances, grants, leases, bonds, securities, acts, matters, and things shall have priority and be as good, valid, and effectual to all intents and purposes as if the said Acts had not been repealed.

#### Textual Amendments

F191 Words repealed by Statute Law Revision Act 1908 (c. 49)

*Status: Point in time view as at 01/04/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Public Health (Scotland) Act 1897. (See end of Document for details)*

F192F192 FIRST SCHEDULE

**Textual Amendments**

F192 Sch. 1 repealed by Statute Law Revision Act 1908 (c. 49)

F192

F193F193 SECOND SCHEDULE

**Textual Amendments**

F193 Sch. 2 repealed by Local Government (Scotland) Act 1947 (c. 43), s. 381, Sch. 14

F193

**Status:**

Point in time view as at 01/04/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Public Health (Scotland) Act 1897.