



Public Health (Scotland) Act 1897

1897 CHAPTER 38 60 and 61 Vict

PART II

SANITARY PROVISIONS

Modifications etc. (not altering text)

C1 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

^{F1}16

Textual Amendments

F1 [S. 16](#) repealed (1.4.1996) by [1995 c. 25, s. 120\(3\)](#), [Sch. 24](#) (with [ss. 7\(6\)](#), [115](#), [117](#)); [S.I. 1996/186, art. 3](#)

^{F2}17

Textual Amendments

F2 [S. 17](#) repealed (1.4.1996) by [1995 c. 25, s. 120\(3\)](#), [Sch. 24](#) (with [ss. 7\(6\)](#), [115](#), [117](#)); [S.I. 1996/186, art. 3](#)

^{F3}18

Status: Point in time view as at 01/04/1996.

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

Textual Amendments

F3 S. 18 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

F4¹⁹

Textual Amendments

F4 S. 19 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

F5²⁰

Textual Amendments

F5 S. 20 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

F6²¹

Textual Amendments

F6 S. 21 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

F7²²

Textual Amendments

F7 S. 22 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

F8²³

Textual Amendments

F8 S. 23 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

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F⁹24

Textual Amendments

F9 S. 24 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

F¹⁰25

Textual Amendments

F10 S. 25 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

F¹¹26

Textual Amendments

F11 S. 26 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

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 . . . ^{F12}, 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

F12 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27**

28 ^{F13}

Textual Amendments

F13 S. 28 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**

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29 F14

Textual Amendments

F14 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 [^{F15}level 1 on the standard scale].

Textual Amendments

F15 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 [^{F16}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 . . . ^{F17}, 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 [^{F18}level 1 on the standard scale] and to a penalty not exceeding [^{F19}25p] for every day during which the offence continues after a conviction for the offence.

Textual Amendments

F16 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

F17 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](#)

F18 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

F19 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 [^{F20}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 . . . ^{F21}
- (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 [^{F22}£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

- F20 Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G**
- F21 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 27**
- F22 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), **s. 10(1)**

Modifications etc. (not altering text)

- C2 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**
- C3 [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).
- C4 [S. 32](#) excluded by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), **s. 84(2)(a)**
- C5 Power to repeal conferred by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#) s. 84(4)(b)

33 F23

Textual Amendments

- F23 [S. 33](#) repealed by [Slaughter of Animals \(Scotland\) Act 1980 \(c. 13, SIF 112\)](#), s. 24(2), **Sch. 3**

34 F24

Textual Amendments

- F24 [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.

^{F25}**36**

Textual Amendments

- F25 [S. 36](#) repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

^{F26}**37**

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Textual Amendments

F26 S. 37 repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I 1996/186, art. 3

Scavenging and Cleansing

38 **F27**

Textual Amendments

F27 S. 38 repealed by Local Government (Scotland) Act 1947 (c. 43), s. 381, **Sch. 14**

39 **F28**

Textual Amendments

F28 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 . . . ^{F29} a filthy or unwholesome condition . . . ^{F29} 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 [^{F30}£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

F29 Words repealed by Housing, Town Planning, &c. (Scotland) Act 1919 (c. 60), s. 46

F30 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

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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.

Modifications etc. (not altering text)

- C6 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 . . . ^{F31} 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 [^{F32}£1] for each day during which such manure or other refuse matter is permitted to accumulate, and where . . . ^{F31} it appears to the [^{F33}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

- F31 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 27](#)
- F32 Words substituted by virtue of [Decimal Currency Act 1969 \(c. 19\)](#), [s. 10\(1\)](#)
- F33 Words substituted by virtue of [Interpretation Act 1978 \(c. 30\)](#), [s. 17\(2\)\(a\)](#)

Modifications etc. (not altering text)

- C7 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).

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Textual Amendments

F34 S. 43 repealed by [Food and Drugs \(Scotland\) Act 1956 \(c. 30\)](#), **Sch. 3**

Status:

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