

THE TOWNS NUISANCES PREVENTION ACT

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SCHEDULES

THE TOWNS NUISANCES PREVENTION ACT

Cap. 385.

[21st May, 1887.]

1. This Act may be cited as the Towns Nuisances Prevention Act. Short title.

2. In this Act "Council" means the Parish Council of any parish wherein the thing or property declared or liable to be declared a public nuisance under this Act is situated, and in the cases of the parishes of Kingston and St. Andrew, shall include the Council of the Kingston and St. Andrew Corporation, appointed and constituted under the Kingston and St. Andrew Corporation Act. Interpretation.

3. Whenever the Council shall be of opinion that any house, wall, fence, or other erection or building, is so dilapidated as to be immediately dangerous, it shall be lawful for the said Council, notwithstanding anything herein contained to the contrary, and without prejudice to the other powers of the said Council under this Act, to cause the same to be pulled down forthwith and without notice, and to take any measure in relation thereto, as the said Council shall think expedient for preventing or removing all danger to the public, to the inmates, or to any neighbours, or to any adjoining building. Power to abate forthwith any imminently dangerous nuisance.

And the owner, and the said land, and all things and materials thereon, shall be liable to pay and satisfy all expenses to which the Council shall have been put; and the Council may cause the materials pulled down to be sold at such time and in such manner as they may think fit, and the proceeds to apply in payment of the expense incurred in removing and abating such nuisance, and any surplus to pay over to the owner, if known, and if the owner be unknown to lodge in the Treasury to the credit

of the parish; and if claimed by the owner, or any person equitably entitled to the possession of the property, within twelve months of such lodgment, to pay to such person, but otherwise the money to become the property of the parish.

Power to
declare land
to be a
public
nuisance on
certificate of
Parochial
Officer.

4. Whenever any lot, piece or parcel, of land situated within the limits of any town is certified by the City Engineer, or Superintendent of Parochial Roads and Works, to be wholly unenclosed or not sufficiently enclosed, or any land has standing on it any house, erection or building, which is certified as aforesaid to be so dilapidated as to be dangerous to the public, or to the neighbours, or to persons who may enter it, or to adjoining buildings, it shall be lawful for the Council of the parish within which such town is situated, by resolution to declare such lot, piece or parcel of land, a public nuisance. And thereupon, or at any time thereafter, the said Council shall give notice thereof, and require the abatement of such nuisance. Such notice shall be in writing, and shall be in the form or to the effect of the notice given in Schedule A, and shall be signed by the Chairman and Secretary or Clerk of the said Council, and be posted on some conspicuous part of the said land, and if the same be occupied a copy of such notice shall also be delivered to the person, or one of the persons, apparently in possession or occupation thereof.

Schedule A.

Procedure
if nuisance
not abated.

5. Unless such land be sooner well and sufficiently cleaned and enclosed, or such house, erection or building, be sooner removed or repaired, as may respectively be required or indicated in such notice, it shall be lawful for the said Council, at any time after the expiration of fourteen days to be computed from the time of posting such notice, to apply to the Supreme Court or Resident Magistrate's Court *ex parte* by summons, for an order that the land referred to in such notice as having been declared a public nuisance be sold. And the Court shall have

power and is hereby required in such case to make a conditional order that the same be sold accordingly.

Conditional order for sale.

6. Such order shall, in the first instance, be conditioned that if any person having, or claiming to have, any estate, interest, charge or lien, in or upon the said land shall within three months, or such other time as may be limited therein, or further time as the Court may appoint, abate the nuisance to the satisfaction of the Council, and pay all costs, charges and expenses incurred by the Council, or enter an appearance in the said Court, and show either that the alleged nuisance does not exist or that it has been abated, then and in such case the order shall be vacated, otherwise it shall be lawful for the Court, on proof of the publication, posting and delivering (if requisite) of the said conditional order in accordance with the directions hereinafter contained to make the said order absolute for the sale of the said lot, piece or parcel of land.

Powers of the Court in dealing with conditional order.

7. The Court shall have power, from time to time, by order to enlarge the time limited in the said conditional order for sale, and to rescind or vary any order granting further time, on such terms as may appear just.

Power to grant further time.

8. Every conditional order for sale shall, within three months from the date thereof, or within such further time as the Court may appoint, be published twice in an Island newspaper, and for six consecutive weeks in the *Gazette*, and be posted and delivered in such cases and in such manner as is prescribed in section 4 with regard to the notices therein mentioned.

Publication of conditional order of sale.

9. After such conditional order, if no appearance shall be entered, the Council may cause the said land to be cleaned and well and sufficiently enclosed, or such house, erection or building, to be removed or repaired.

Powers of Council after conditional order.

Absolute
order of
sale binds
all interests.

10. When an absolute order for the sale of any land has been made, all persons claiming to be interested in such land, whether they are within or without the jurisdiction of the Court (including persons under disability), shall be bound by the proceedings as if they had been in all respects duly served with the conditional order for sale.

Schedule B.

And it shall be lawful for the said Council to sell the same, with all buildings and materials thereon, by public auction, to the highest and best bidder; and the Court shall, at the request of the Council, expressed as in manner in Schedule B provided, and without any other order or formality, give the purchaser a title therefor, in or to the effect of the Form in Schedule B, and which title shall be subject to stamp duty, and shall give to the purchaser an indefeasible estate of inheritance in the land so purchased, and shall discharge the same from all former and other estates, rights, titles, charges and incumbrances whatsoever, of Her Majesty, and of all persons whomsoever, and no title given under this Act shall be set aside on the ground of any irregularity or want of jurisdiction.

Provision
for expenses
of the
Council.

11. All costs, charges and expenses, incurred or laid out by the Council in or about the cleaning and enclosing of the land, or the removal or repairs of the house, erection or building, if the absolute order for sale be not made shall be ordered to be paid to the Council by the owner or other person claiming to be interested; and default in payment of such costs shall entitle the Council to procure an absolute order for sale; and if an absolute order for sale be made all such costs, charges and expenses, and all costs, charges and expenses, in and about any sale, and in and about any proceeding or measure taken by the Council in execution or in intended execution of any of the powers under this Act, or under any order of Court, or otherwise howsoever in relation to the premises, shall be a first charge on the proceeds of such sale.

12. The purchase money on every such last mentioned sale shall be paid by the purchaser into the Savings Bank of this Island forthwith, or at such time as the Court shall direct, and shall be carried to an account, to bear interest, to be opened in the name of the Council, to the credit in each case of the land (describing the same by its abuttals, or in any other way the Court shall think fit), and the Court may make such orders as to such purchase money, and the payment out, as by this Act empowered.

Investment
of purchase
money.

13. Any person may, within three years after such investment of the purchase money, apply to the Court for payment out to such person of the said money, and on such application (of which the Council which procured the sale shall get notice) if the Court be satisfied that the person applying was legally or equitably entitled to the lands sold, make such order as to the money invested as may seem right, regard being had to the title of parties to the land so converted.

Application
for payment
out of
money
invested.

Such investment shall be deemed to have been made upon the day appointed for the first payment where more than one payment shall be directed.

14. Until the principal money shall be paid out as aforesaid, the interest shall be paid, or put annually on the thirtieth day of September in each year, to the credit of the parish which procured the sale.

Disposal
of interest

15. If no order has been made under section 13 within such three years, then the Council which procured the sale shall be entitled to an order to have the said money paid out to it.

Disposal of
principal if
no order for
payment
within three
years.

16. Before any order for payment shall be made (except orders for payment to the Council, which may be made without notice), the person intending to apply for the same shall cause a notice of his intended application to

Notice of
application
for pay-
ment.

be given to the Council which procured the sale, and also to be published for three consecutive weeks in the *Gazette*.

Costs of
litigated
claims to
money.

17. In all cases of litigated claims to any such money the Court may make such order as to costs, and direct them to be paid out of the Fund, or by either party, or otherwise, as the Court may deem equitable.

Offences as
to notices
and orders
and pos-
session of
lands sold.

18. Any person damaging, destroying, obliterating or tearing, or pulling down, any notice or order under this Act, or any copy thereof, shall be liable, for each offence, to a penalty not exceeding ten dollars, on summary conviction.

And any person refusing to quit any land sold under the provisions of this Act, or to give up possession thereof to the purchaser thereof, or to his servants or agents, shall be liable, on conviction in like manner, to a penalty not exceeding forty dollars nor less than twenty dollars, and, in default of payment, to imprisonment for a term not exceeding six calendar months.

Prohibition
of certain
kinds of
fences.

19. It shall not be lawful to enclose any land, within such limits of any town as may be fixed under the provisions of the Parish Councils Act for the purposes of this section, by any penguin, or dingo, or other growing or quick set fence; and every such fence may be pulled down and removed by the Council without notice, and the person or persons erecting such fence shall be liable to a penalty not exceeding ten dollars.

When
building,
wall or land
within the
limits of
any town
may be
declared a
public
nuisance.

20. If the City Engineer or Superintendent of Parochial Roads and Works certifies—

(a) that any building or wall situated within the limits of any town is in a ruinous state; or

(b) that any land situated within the limits of any town has on it any unsightly ruins,

it shall be lawful for the Council of the parish within which

such building, wall or land is situated by resolution to declare such building, wall or land a public nuisance and thereupon the said Council shall give notice thereof and require the abatement of such nuisance in the manner prescribed by section 4 and all the provisions of this Act shall apply to the said building, wall or land in the same manner as if the same were land declared by resolution of the Council to be a public nuisance within the meaning of section 4.

21.—(1) If the Medical Officer (Health) for the parish of Kingston or the Chief Medical Officer (Health) in a parish other than Kingston certifies that the foreshore of any premises fronting on the sea, from which any wharf, jetty or other building is extended into or over the sea, is insanitary in consequence of the absence of a wall along the frontage or in consequence of the ruinous or dilapidated condition or irregular construction of any such wall already existing, it shall be lawful for the Council of the parish within which such premises are situated by resolution to declare such premises a nuisance and thereupon the Council shall give notice thereof and require the abatement of such nuisance in the manner prescribed by section 4.

When premises fronting on the sea may be declared a nuisance.

(2) In requiring the abatement of the nuisance, it shall be lawful for the Council to require the construction along the foreshore of such premises of a substantial wall of a design to be approved by the Council, having its outer footing below the level of low water and its alignment as shall be prescribed by the Council, and the filling up of the land behind such wall to a level, to be approved by the Council:

Provided that before the owner of any premises shall be required to build a foreshore wall under the provisions of this section the Council shall have prepared a general plan showing the alignment on which the required

foreshore walls and all other foreshore walls that may then or in future be required to be erected, shall be laid out, and that such plan shall have been submitted to and approved by the Minister.

When
Parish
Council may
execute the
necessary
work to
abate
nuisance.

(3) Unless such nuisance be sooner well and sufficiently abated in the manner indicated in such notice it shall be lawful for the Council at any time after the expiration of sixty days to be computed from the time of posting such notice to enter on the premises and execute the necessary works and the Council may recover the expenses thereby incurred from the owner of the premises as a civil debt and until recovery of such expenses the same shall subject to any charge for property tax due to the Consolidated Fund be a charge on the premises in respect of which they were incurred in priority to all other charges and mortgages thereon.

Penalty
when owner
or occupier
of premises
having a
foreshore
wall refuses
or neglects
to keep the
same in
proper and
sanitary
repair.

22. If the owner or occupier of any premises having a foreshore wall refuses or neglects to keep the same in proper and sanitary repair as may be reasonably required by a Council, he shall be guilty of an offence, and shall be liable on summary conviction before a Resident Magistrate to a penalty not exceeding ten dollars and in default of payment to imprisonment for a term not exceeding fourteen days and the offence shall be a continuing offence.

SCHEDULE A

(Section 4)

This notice was posted on the _____ day of _____, 19____.

Take notice that this lot, piece or parcel of land containing from _____ east to west _____ feet, and from north to south _____ feet, be the same more or less, and butting and bounding (*here describe land*), was on the _____ day of _____, 19____, by resolution of the Kingston and St. Andrew Corporation (*or the Parish Council of the parish of _____*) declared a public nuisance and that, unless the same be well and sufficiently cleaned and enclosed (*or unless the houses, erections and buildings thereon be removed or repaired—as the case may be*) within fourteen days after the posting of this notice, an application will be made to a Judge of the Supreme Court or a Resident Magistrate's Court for an order for the sale of such land under the provisions of the Towns Nuisances Prevention Act. Further particulars may be obtained by any person interested in this land on application at the office of the Kingston and St. Andrew Corporation (*or the Parish Council of the parish of _____*, *as the case may be*) at _____ (*state the situation of the office.*)

Dated this _____ day of _____, 19____.

A.B. (Mayor).
(Chairman).
C.D., (Clerk).
(Secretary).

SCHEDULE B

(Section 10)

In the	Court
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Whereas the land hereafter described (or described in the plan hereto annexed) was, under the provisions of the Towns Nuisances Prevention Act, pursuant to the absolute order for sale made herein by (Mr. Justice _____ or the Resident Magistrate's Court) on the _____ day of _____ 19____, sold at public auction to (A.B.) of _____ for the sum of _____, which sum (he) has duly paid into the Savings Bank of this Island, it is witnessed that (the land in the plan hereto annexed—or otherwise described) together with all buildings and erections thereon and all rights and appurtenances thereto, are absolutely sold and hereby conveyed, for the consideration aforesaid, unto the said A.B. and his heirs.

Witness
this day of , 19
(Seal of Court.)

It is the request of the Kingston and St. Andrew Corporation (or Parish Council, of the parish of) that the above title be executed by this Honourable Court.

Dated this _____ day of _____, 19____
A.B. (Mayor).
(Chairman).
C.D., (Clerk).
(Secretary).