

PUBLIC HEALTH ACT 36 OF 1919

119 Nuisances prohibited

No person shall cause a nuisance or shall suffer to exist on any land or premises owned or occupied by him or of which he is in charge any nuisance or other condition liable to be injurious or dangerous to health.

122 What constitutes a nuisance

The following shall be deemed to be nuisances liable to be dealt with in the manner provided in this Chapter: -

- (a) Any dwelling or premises which is or are of such construction or in such a state or so situated or so dirty or so verminous as to be injurious or dangerous to health or which is or are liable to favour the spread of any infectious disease;
- (b) any stream, pool, lagoon, ditch, gutter, watercourse, sink, cistern, watercloset, earthcloset, privy, urinal, cesspool, drain, sewer, dung pit, sloptank, ashpit or manure heap so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health;
- (c) any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by man for drinking or domestic purposes or in connection with any dairy or milk shop or in, or in connection with the manufacture or preparation of, any article of food intended for human consumption, which is polluted or otherwise liable to render any such water injurious or dangerous to health;
- (d) any stable, kraal, cowshed, or other building or premises used for the keeping of animals or birds which is so constructed, situated, used or kept as to be offensive or injurious or dangerous to health;
- (e) any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is injurious or dangerous to health;
- (f) any dwelling which is so overcrowded as to be injurious or dangerous to the health of the inmates or which does not conform with any regulations in force in the district as regards air-space, floor-space, lighting or ventilation;
- (g) any public building which is so situated, constructed, used or kept as to be unsafe, or injurious or dangerous to health;
- (h) any occupied dwelling for which such is proper, sufficient and wholesome water supply is not available within a reasonable distance as under the circumstances it is possible to obtain;
- (i) any factory or trade premises not kept in a cleanly state and free from offensive smells arising from any drain, privy, watercloset, earthcloset, or

urinal, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein;

- (j) any factory or trade premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health;
- (k) any area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infectious, communicable or preventable disease or injury or danger to health;
- (l) any chimney (not being the chimney of a private dwelling) sending forth smoke in such quantity or in such manner as to be offensive or injurious or dangerous to health;
- (m) any cemetery, burial-place or birth place of sepulchre so situated or so crowded or otherwise so conducted as to be offensive or injurious or dangerous to health; or
- (n) any other condition whatever which is offensive, injurious or dangerous to health.

"Author of a nuisance" means the person by whose act, default or sufferance the nuisance is caused, exists or is continued, whether he is an owner or occupier or both owner and occupier, or any other person.

123 Notice to remove nuisance

The local authority, if satisfied of the existence of a nuisance, shall serve a notice on the author of the nuisance, or if he cannot be found, then on the occupier or owner of the dwelling or premises on which the nuisance arises or continues, requiring him to remove it 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 to prevent a recurrence of the said nuisance: Provided that

- (a) where the nuisance arises from any want or defect of a structural character, or where the dwelling or premises are unoccupied, the notice shall be served on the owner;
- (b) where the author of 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 dwelling or premises, the local authority shall itself remove the same and may do what is necessary to prevent the recurrence thereof.

124 Procedure in case owner fails to comply with notice.

(1) If the person on whom a notice to remove a nuisance has been served as aforesaid fails to comply with any of the requirements thereof within the time specified, or 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 cause a complaint relating to such nuisance to be made before a magistrate and such magistrate shall thereupon issue a summons requiring the person on whom the notice was served to appear before this court.

(2) If the court is satisfied that the alleged nuisance exists or that, although removed, it is likely to recur on the same premises, the court shall make an order on the author thereof, or the occupier or owner of the dwelling or premises, as the case may be, requiring him to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within a time specified in the order and to do any works necessary for that purpose, or an order prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence, or an order both requiring the removal and prohibiting the recurrence of the nuisance.

(3) The court may by such order impose a fine not exceeding ten pounds on the person on whom the order is made and may also give directions as to the payment of all costs incurred up to the time of the hearing or making of the order for the removal or prohibition of the nuisance.

(4) Before making any order the court may, if it thinks fit, adjourn the hearing or further hearing of the summons until an inspection, investigation or analysis in respect of the nuisance alleged has been made by some competent person.

(5) Where the nuisance proved to exist is such as to render a dwelling unfit, in the judgment of the court, for human habitation, the court may issue a closing order prohibiting the use thereof as a dwelling until in its judgment the dwelling is fit for that purpose; and may further order that no rent shall be due or payable by or on behalf of the occupier of that dwelling in respect of the period in which the closing order exists; and on the court being satisfied that it has been rendered fit for use as a dwelling the court may terminate the closing order and may by further order declare the dwelling habitable, and from the date thereof such dwelling may be let or inhabited.

(6) Notwithstanding any such last-mentioned order, further proceedings may be taken in accordance with this section in respect of the same dwelling in the event of any nuisance occurring or of the dwelling being again found to be unfit for human habitation.

125 Penalties in relation to nuisances

(1) Any person who fails to comply with an order made under section one hundred and twenty-four shall, unless he satisfies the court that he has used all diligence to comply with such order, be guilty of an offence and liable on conviction to a fine not exceeding twenty pounds, and to a further fine not exceeding two pounds for every day during which the failure continues.

[Sub-s. (1) substituted by s.16 of Act 15 of 1928.]