



Nos 15 Of 1862
NUISANCES ORDINANCE

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Yatalamatta.

CHAPTER 562

NUISANCES

Ordinance AN ORDINANCE TO PROVIDE FOR THE BETTER PRESERVATION OF PUBLIC HEALTH AND
Nos 13 of 1863, THE SUPPRESSION OF NUISANCES
61 of 1939,
3 of 1946,
87 of 1946.

[1st January, 1863.]

Short title. 1. This Ordinance may be cited as the Nuisances Ordinance.

Certain acts made offences. *2. Whosoever shall commit any of the following offences shall be liable to a fine not exceeding fifty rupees :—

Keeping a house, &c., in a filthy state. (1) Whosoever, being the owner or occupier of any house, building, or land in or near any road, street, or public thoroughfare, whether tenanted or otherwise, shall keep or suffer the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation, so as to be a nuisance to or injurious to the health of any person.

Having foul and offensive drains. (2) Whosoever shall have in or upon any house building, or land occupied by him any foul or offensive ditch, gutter, drain, privy, cesspool, or other receptacle.

Keeping an accumulation of dung, &c. (3) Whosoever, being the occupier of a house, building, or land in or near any road, street, or public thoroughfare, shall keep or allow to be kept for more than twenty-four hours, otherwise than in some proper receptacle any accumulation of dung, offal, filth, refuse, or other noxious or offensive matter, or suffer such receptacle to be in a filthy or noxious state, or neglect to employ proper means to remove the filth therefrom and to cleanse and purify the same.

(4) Whosoever shall keep in or upon any house, building, or land occupied by him any cattle, goat, swine, or other animal, so as to be a nuisance to or injurious to the health of any person. *Keeping cattle, goats, swine, &c.*

(5) Whosoever, being the owner of a house, building, or wall, shall allow the same to be in a ruinous state, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or to the occupiers thereof or to passengers. *Allowing house, &c., to be in a state ruinous or likely to fall.*

(6) Whosoever shall suffer any waste or stagnant water or other matter to remain in any place within the premises occupied by him, or shall allow the contents of any privy or cesspool to overflow or soak therefrom. *Suffering waste or stagnant water to remain, &c.*

(7) Whosoever shall throw, put, or cast, or cause to enter in any stream, tank, reservoir, well, cistern, conduit or aqueduct, any dead animal, or any dirt, rubbish, filth, or other noisome or offensive matter or thing, or shall cause or suffer to run, drain, or be brought thereinto any unwholesome or offensive liquid, matter, or thing, or flowing from any house or building or from any ground occupied by him, or shall do anything whereby any such water shall be in any degree fouled or corrupted. *Casting animals, dirt, &c., in streams.*

(8) Whosoever shall keep in any market, shop, building, stall, or place used for the sale of butchers' meat, *Exposing for sale unwholesome meat, &c.*

* Primary Court has exclusive jurisdiction under section 33 of the Judicature Act read with Gazette Extraordinary No. 43/4 of 1979-07-02.

poultry, fish, fruit, or vegetable or expose or shall allow to be exposed for sale in any place or way any animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable which is unfit for the food of man.

Selling noxious articles as food.

(9) Whosoever shall sell or offer or expose for sale as food or drink for man any article which has been rendered or has become noxious or unfit for such use, knowing or having reason to believe the same to be noxious or unfit for such use.

Keeping manufactories without licence

(10) Whosoever shall keep any manufactory or place of business from which offensive or unwholesome smells arise, without a licence for that purpose, as provided in section 5.

Depositing coconut husks, &c

(11) Whosoever shall keep or deposit any coconut husks, coir, or any other substance at or near such places, or in such a manner as to be a nuisance to or injurious to the health of any person.

Throwing dirt, &c., on road, or into sewers.

(12) Whosoever shall throw or put, or permit his servants to throw or put, any earth, dirt, ashes, filth, refuse from any garden, kitchen, or stable, or any broken glass or earthenware, or other rubbish, on any street, road, or public place or passage, or into any sewer or drain.

Notice to the owner or occupier to abate the nuisance

3. Whosoever shall continue or suffer to continue any of the nuisances above specified after being convicted of any of the above offences, or after notice in writing prior to any conviction from the Board of Health, or Urban Council or Town Council, or any of its officers, or from the Magistrate, requiring him to abate or put an end to the same, shall be liable to a further fine not exceeding ten rupees for each day after such conviction or notice. And the court competent to try the offender is hereby empowered to impose such further fine, although the aggregate thereof may exceed in amount the jurisdiction of such court.

4. Any person authorized by the Board of Health, or Urban Council or Town Council, may, and he is hereby empowered, at all reasonable times, with or without assistants, to enter into and inspect any market, building, shop, stall, or place used for the sale of butchers' meat, poultry, fish, fruit, or vegetable, or as a slaughter-house, and to examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable which may be therein; and in case any animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable appear to him to be intended for the food of man, and to be unfit for such food, the same may be seized and conveyed to the nearest Magistrate; and if it appear to such Magistrate, upon the evidence of a competent person, that any such animal, carcase, meat, poultry, game, flesh, fish, fruit, or vegetable was intended for the food of man and is unfit for such food, he shall order the same to be destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food.

Markets may be visited, and unwholesome meat seized and destroyed

5. No place shall be used within the limits of a town for the purposes of a manufactory or place of business from which offensive or unwholesome smells arise, except under a licence from the Assistant Commissioner of Local Government for the administrative region, within which such manufactory or place of business is used, who is hereby empowered at his discretion, from time to time, to grant such licences, and the same, with the sanction of the Minister, to recall; and the licence shall be on a stamp of twenty rupees, and shall be substantially of the form in the Schedule.

What manufactories must be licensed.

6. The Board of Health for each province, or Urban Council or Town Council, may make by-laws -

Board of Health, &c., may make by-laws.

(a) with respect to the removal by the owners and occupiers of houses of dust, ashes, rubbish, filth, manure, dung, and soil collected, placed, or found in or about any house, stable, cow-house, street, or place whatsoever, and for preventing the deposit thereof in or by the side of any street so as to be a nuisance to any person;

(b) for the draining, cleansing, covering, or filling up all ponds, pools, open ditches, sewers, drains, and places containing or used for the collection of any drainage, filth, water, matter, or thing of an offensive nature or likely to be prejudicial to health;

(c) for the cleansing, purifying, ventilating, and disinfecting of houses, dwellings, churches, and places of assembly by the owners or occupiers and persons having the care and ordering thereof;

(d) for the preventing or mitigating any epidemic, endemic, or contagious diseases, and for the speedy interment of the dead during the prevalence of such diseases; and

(e) for all other matters as are not specially enacted by this Ordinance, and as shall be necessary for the preservation of the public health and the suppression of nuisances:

Provided that no such by-laws shall be repugnant to the provisions of this Ordinance, and the same shall not be of any force and effect unless and until the same be submitted to and confirmed by the Minister, who is hereby empowered to allow, amend, or disallow the same as he may think proper, and published in the Gazette;

Provided also that the said Board of Health or Urban Council or Town Council may alter or repeal any such by-laws.

By-laws to be taken judicial notice of

7. All courts and Magistrates shall take judicial notice of such by-laws when the same shall have been confirmed and published as aforesaid.

Short particulars of offences and penalties to be published

8. The Board of Health, or Urban Council or Town Council, shall cause short particulars of the several offences for which any penalty is imposed by this Ordinance, or of any by-law made under this Ordinance, and of the amount of every such

penalty, to be printed in the Sinhala, Tamil and English languages and copies thereof to be circulated so as to secure due publicity to the same.

9. Any breach of by-laws so made as aforesaid shall be deemed an offence, and the person guilty thereof shall, on conviction, be liable to a fine not exceeding twenty rupees, and in the case of a continuing offence a further fine not exceeding the sum of five rupees for each day after conviction for the original offence, or after written notice from the Board of Health, Urban Council or Town Council, or any officer thereof in its name, or from the Magistrate, calling upon him to remove the same; and the court competent to try the offender is hereby empowered to impose such further fine, although the aggregate thereof may exceed in amount the jurisdiction of such court.

Breach of by-laws made an offence.

10. Nothing in this Ordinance shall be construed to render lawful any act or omission on the part of any person which is, or but for this Ordinance would be, otherwise deemed to be a nuisance, or to exempt any person guilty of such nuisance from prosecution or action in respect thereof.

Other nuisances not affected by this Ordinance.

11. Where any notice is required by this Ordinance to be given to the owner or occupier of any building or land, such notice addressed to the owner or occupier, as the case may require, may be served on the occupier of such building or land, or left with some adult member or servant of his family, or, if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such building or land, and it shall not be necessary in any such notice to name the occupier or the owner.

Service of notices.

12. If at any time it shall appear to the Board of Health, Urban Council, Town Council, or to the Magistrate that a nuisance ought to be abated, or any work or thing required by this Ordinance or by any by-law to be performed or done, such Board or Council or Magistrate may give notice to

Board of Health, Urban Council, Town Council, or Magistrate may abate nuisances

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the owner or occupier, as the case may be, requiring him to get such nuisance abated, or such work or thing performed or done, within such time as the Board of Health, Urban Council, or Town Council shall deem reasonable; and if after such notice default is made in the removal of the nuisance or the performance of such work, or in the doing of such thing, the Board of Health, Urban Council, Town Council, or Magistrate, whether any penalty is or is not provided for such default, may cause such nuisance to be removed or work to be performed or such thing to be done, and the expense thereby incurred, if not paid by the owner or occupier, or any person on his behalf, shall, when notified to the Magistrate's Court by the person entrusted with the performance of such work or the doing of such thing, and proved to be reasonable by the evidence of two or more competent persons, be recovered as any ordinary fine imposed by the court.

Occupier may execute works in default of owner.

13. Whenever default is made by the owner of any land in the execution of any work required to be executed by him, the occupier of such land may cause such work to be executed, and the cost thereof shall be paid to him by the owner.

Occupier executing works for owner may deduct his expenses from the rent.

14. Whenever the occupier of any land shall be put to any expense or pay any money for anything required under this Ordinance which is payable by the owner, being the defaulter, such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expenses, and he shall have a right to retain possession of such house until such expenses are paid or tendered to him.

Course if occupier obstruct owner.

15. If the occupier of any land prevent the owner thereof from carrying into effect any of the provisions of this Ordinance after notice of his intention so to do has been given by the owner to such occupier, any Magistrate, upon proof thereof, may make an order in writing requiring such occupier to permit the owner to execute all such works as may be necessary for carrying into effect the provisions of this Ordinance; and if after the expiration of eight days from the date of the order such occupier refuse to permit such owner to execute such works,

such occupier shall, for every day during which he so continues to refuse, be liable to a fine not exceeding twenty rupees; and every such owner during the continuance of such refusal shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

16. The Board of Health, Urban Council, Town Council, or Magistrate shall, for the purposes of this Ordinance, have power by themselves or their officers to enter at all reasonable hours in the day-time into and upon any land, for the purpose of inspecting the same or removing any nuisance or executing any work authorized by this Ordinance, without being liable to any legal proceedings or molestation whatever on account of such entry, or of anything done in any part of the land in pursuance of this Ordinance.

Power to enter into lands.

17. Whoever at any time shall obstruct or molest the Board of Health, Urban Council, Town Council, or Magistrate, or any of their officers or workmen, or any person employed by them in the performance and execution of their duty, or of anything which they are respectively empowered or required to do by virtue or in consequence of this Ordinance, shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty rupees.

Obstruction of Board of Health, &c., or Magistrate, or their officers.

18. The Magistrate by whom any fine is imposed by virtue of this Ordinance may award any portion not exceeding one-half thereof to the informer.

Informer's share.

19. No person shall be liable to any fine for any offence committed under this Ordinance unless the complaint respecting such offence shall have been made before a Magistrate within three months next after the commission of such offence.

Limitation of prosecutions.

20. It shall be the duty of all officers of the police force, and of all grama seva niladharis, police and peace officers generally, to aid and assist in the prevention of all offences against this Ordinance within their respective jurisdiction; and any officer or grama seva niladhari who being cognizant of any such offence, whether upon his own view or upon the information

Police officer to assist.

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of others, shall fail to make complaint thereof before the duly constituted authority, or shall fail to act promptly and vigorously thereupon, shall be guilty of an offence, and be liable on conviction thereof to a fine not exceeding fifty rupees.

"Magistrate" shall be respectively mean the Board of Health of the province, the Urban Council or Town Council of the area, or the Magistrate of the division within which the nuisance exists, or any work or thing has to be performed or done, and the term "administrative region" shall mean an administrative region defined by Order made under section 2 of the Local Government (Administrative Regions) Ordinance.

21. In construing this Ordinance the terms "Board of Health", "Urban Council", "Town Council", and

Interpretation.

SCHEDULE

A. B., of is hereby empowered to keep a manufactory or place of business for [Section 5.]
at

C. D.,

(Date.)

Assistant Commissioner of Local Government
for the administrative region
