

Act No. 77, 1902.

SMOKE NUISANCE
ABATEMENT.

An Act to consolidate the enactments for abating the nuisance arising from the smoke of furnaces. [15th September, 1902.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Smoke Nuisance Abatement Act, 1902."

Repeal and savings.

2. (1) The Act twenty-ninth Victoria number sixteen is hereby repealed.

(2) All proclamations issued under the authority of the Act hereby repealed, the effect of which is not exhausted at the time of the passing of this Act, shall be deemed to have been made hereunder.

Interpretation.
29 Vic. No. 16,
ss. 1, 2.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"furnace" means any furnace employed or to be employed in the working of any engine by steam or in any mill, factory, distillery, brewhouse, sugar refinery, bakehouse, gasworks, waterworks, public bath or wash-house;

"justice" means justice of the peace.

Smoke Nuisance Abatement.

4. This Act shall apply—

- (a) to every furnace constructed before the first day of July, one thousand eight hundred and sixty-six, which is in any city, town, or hamlet, containing, according to the last census for the time being, not less than two thousand inhabitants;
- (b) to every furnace, whether constructed before or after the said day, which is in the suburbs of any such city, town, or hamlet, of which suburbs the boundaries are now or may hereafter be described in any proclamation made or deemed to have been made by the Governor under this Act;
- (c) to every furnace constructed after the said day in any city or town.

Application of Act.
29 Vic. No. 16,
ss. 1 and 2.

5. All furnaces to which this Act applies shall be so constructed or altered as to prevent as far as possible the formation of smoke therein.

Construction, &c., of
furnaces.
Ibid.

6. Whosoever being the owner or occupier of the premises in which any such furnace is, or being a foreman or other person employed by such owner or occupier, uses such furnace, the same not having been so constructed as to prevent as far as possible the formation of smoke therein, or so negligently uses such furnace that smoke arises therefrom, shall be liable to a penalty not exceeding five pounds nor less than forty shillings, and upon a second conviction for a like offence to a penalty not exceeding ten pounds, and upon each subsequent conviction for a like offence to a penalty not exceeding twice the amount of the penalty imposed for the next preceding conviction.

Penalties.
Ibid.

7. The Justices before whom any complaint under this Act is heard may, with the consent of the person charged, on the hearing of the case, appoint a competent person to examine the furnace in question, and to make his report thereon whether it has been constructed or altered in compliance with the provisions of this Act, and may suspend their decision until they have received such report.

Justices may
obtain report.
Ibid. s. 3.

8. (1) The Governor may, by proclamation published in the Gazette, extend the provisions of this Act to the suburbs of any city, town, or hamlet, containing, according to the last census, for the time being, not less than two thousand inhabitants.

Extension of Act to
certain suburbs.
Ibid. s. 1.

(2) Such proclamation shall describe the boundaries of the suburbs to which such provisions are extended.

9. No complaint shall be brought against any person for the recovery of any penalty under this Act except by a superintendent, inspector, or sergeant of police, or by an inspector of nuisances, or by the owner or occupier of premises with reference to which the furnace in question is so situate as to create an annoyance to the occupiers of such premises.

By whom complaint
may be brought.
Ibid. s. 4.

Balranald Irrigation.

Joint owners or
occupiers.
29 Vic. No. 16, s. 5.

10. In case of any 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 one or more of them without proceeding against the others or other of them, but nothing herein contained shall prevent the parties so proceeded against from recovering relief in any case in which they are entitled to relief by law.
