

Act No. 82, 1902.

NOXIOUS TRADES.

An Act to consolidate the enactments relating to the carrying on of noxious trades. [15th September, 1902.]

**B**E 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:—

Short title.

1. This Act may be cited as the "Noxious Trades Act, 1902."

2.

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2. (1) The Acts mentioned in the First Schedule to this Act Repeal and savings. are to the extent therein expressed hereby repealed.

(2) (i) All proclamations made under the authority of any enactment hereby repealed, and having effect at the time of the passing of this Act, shall be deemed to have been made hereunder.

(ii) Every license granted under the authority of any enactment hereby repealed, and existing at the time of the passing of this Act, shall be deemed to have been granted under the authority of this Act.

(iii) All regulations made under the authority of any enactment hereby repealed, and being in force at the time of the passing of this Act, shall be deemed to have been made under the authority of this Act.

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

57 Vic. No. 21, s. 26.

“The Board” means the Board of Health as constituted and incorporated by the Public Health Act, 1902.

“District” means district constituted by or under the authority of this Act.

“Noxious trade” means any trade, business, or manufacture declared by the Governor, under the provisions of this Act, to be a noxious trade.

“Prescribed” means prescribed by regulations made under the authority of this Act.

4. (1) This Act shall have effect in the county of Cumberland. Local scope.

(2) (a) The Governor, on the recommendation of the Board, Ibid. ss. 1 and 27. may, by proclamation in the Gazette, declare that the provisions of this Act are, on and after a day to be named in such proclamation, extended to any other part of the State of New South Wales, and on and after the day so named the provisions of this Act shall have effect in such part of the said State; the Governor may, on the recommendation and in the manner aforesaid, revoke or vary any such proclamation.

(b) On and after the day on which the provisions of this Act have effect in any district the power of the council of any municipality under the authority of the Municipalities Act, 1897, to make by-laws for suppressing nuisances and for restraining noisome trades, so far as it includes or refers to the carrying on of any noxious trade within that district, shall be repealed; and any by-laws in force on that day within that district dealing with any of the matters above-mentioned shall be void, and shall stand repealed on that day.

5. (1) The Governor, on the recommendation of the Board, Governor to declare what are noxious trades. may declare, by proclamation in the Gazette, that any trade, business, or manufacture therein named is a noxious trade within the meaning Ibid. s. 2. of this Act, and may, by proclamation as aforesaid, revoke or vary any proclamation made under this section. (2)

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(2) The Board shall forthwith furnish to the local authorities hereinafter mentioned a copy of every proclamation made under this section.

*Local authorities.*

Local authorities.  
57 Vic. No. 21, s. 3.

6. Subject to the provisions hereinafter contained, this Act shall be administered by the following local authorities—

- (a) within the boundaries of the city of Sydney, the municipal council of that city;
- (b) within the limits of any other municipality or portion thereof, the council of that municipality;
- (c) in any place where there is no municipality, the senior police officer of the police district in which that place is situate:

And in each case the area within which a municipal council or police officer has authority as aforesaid shall constitute a district for the purposes of this Act.

Duties of local  
authorities.  
*Ibid.* s. 4.

7. It shall be the duty of every local authority within its district—

- (a) to keep a register of the name and address of every person carrying on, or about to carry on, a noxious trade, and of the premises used or to be used by that person in carrying on that trade, and such other particulars as are prescribed;
- (b) to strike from the register the name and address of every person who has ceased to carry on a noxious trade;
- (c) to keep the register open at all reasonable times for inspection by the Board or its officers, and to furnish any extracts from the same that the Board requires;
- (d) with the approval of the board in that behalf previously obtained to issue annual licenses in the form and in the manner prescribed upon payment of the fees prescribed;
- (e) by itself or its officers, to inspect at the times prescribed all premises registered under this Act, and the material, machinery, appliances, and utensils therein used, and to enter on the register the date and result of every inspection;
- (f) to furnish to the Board in the month of July of each year a report of its proceedings under this Act during the last preceding twelve months, in such form as is prescribed;
- (g) to carry out any regulations in force under this Act, and any instructions issued by the Board dealing with noxious trades.

Powers of local  
authorities.  
*Ibid.* s. 5.

8. The local authority shall, within its district, have the following powers in addition to any other powers conferred by this Act, or by any regulations made under this Act dealing with noxious trades, namely—

- (a) to enter or authorise the entry at any time into or upon and to inspect any premises used or reasonably suspected of being used in carrying on any noxious trade;

(b)

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- (b) to require, by notice in writing, any person carrying on a noxious trade to place and maintain his premises in a sanitary condition;
- (c) to refuse or cancel the registration of any person in respect of any premises which are on an unsuitable site or in an insanitary condition, or in, on, or about which the provisions of this Act or any regulation made thereunder dealing with noxious trades are not carried out.

*The Board.*

9. Any officer of the Board, and any person duly authorised by the Board in that behalf, may, at any time, exercise the rights of entry and inspection conferred on the local authority by the two next preceding sections. Powers of officers and board. 57 Vic. No. 21, s. 6.

10. The Board may exercise any of the powers and perform any of the duties which a local authority may exercise or perform under this Act, and anything done by a local authority inconsistent with any power exercised or duty performed by the Board under this or the next preceding section shall be void and inoperative. Powers of board. Ibid.

11. The Board may require a local authority to exercise any power conferred or perform any duty imposed on it by this Act, and within a time to be limited by the Board in that behalf; and if the said requirement is neglected or disobeyed by the said authority, the Board may exercise the power or perform the duty, and recover in an action of debt in any Court of competent jurisdiction against the said authority the expenses thereby incurred. Board may require local authority to exercise powers or perform duties. Ibid. s. 7.

*Carrying on of noxious trades.*

12. (1) (a) Every person, before commencing to carry on a noxious trade in a district within which this Act is then in force, shall apply in writing to the local authority of that district to enter on the register the particulars mentioned in paragraph (a) of section seven of this Act. Applications to local authority for registration, and renewal of registration. Ibid. s. 8.

(b) Where a person, on the day when this Act comes into force in a district, is carrying on a trade, business, or manufacture then declared to be a noxious trade, he shall, within three months after the said day, apply as aforesaid to be registered.

(c) Where a trade, business, or manufacture carried on by a person in a district is afterwards declared to be a noxious trade, the said person shall, within three months after the day when the said trade, business, or manufacture has been declared to be a noxious trade, apply as aforesaid to be registered.

(d) The application shall in each case be accompanied by the payment to the local authority of the prescribed fees.

(2) The application to register shall be renewed yearly, on or before the first day of July in each year, and shall be accompanied by the prescribed annual fee. (3)

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(3) Immediate notice shall be given by the person carrying on any noxious trade of any change in the particulars above mentioned.

Carrying on trade  
without registration.  
57 Vic. No. 21, s. 9.

**13.** Whosoever within a district carries on a noxious trade in or on any premises, or uses any premises in carrying on that trade without being then registered in respect of those premises, or without being the holder of a license under this Act in respect of those premises, shall be liable to a penalty not exceeding twenty-five pounds for each day during which he carries on the said trade or uses those premises as aforesaid.

Special provisions as  
to certain licenses.  
15 Vic. No. 13, s. 20.

**14.** No license shall be granted or being granted shall be operative for or in respect of any house or premises used as an establishment for the extraction of tallow from the carcasses of cattle or for the salting of beef for exportation as aforesaid, unless the proprietor thereof shall have entered into a recognizance to His Majesty with two sufficient sureties—himself in two hundred pounds and the sureties in one hundred pounds each in the form and with the conditions in the Second Schedule hereto.

Second Schedule.

*Miscellaneous.*

Application of fees  
and penalties.  
57 Vic. No. 21, s. 21.

**15.** All fees payable to, and all penalties recovered by or under the authority of a municipal council, shall be paid to that council, and shall be applied to the same purposes as the city rate, in the case of the municipal council of Sydney, and as the general rates in the case of any other municipal council, and in every other case the fees and penalties shall form part of the Consolidated Revenue Fund and be applied accordingly.

Regulations.  
*Ibid.* s. 22.

**16.** (1) The Governor may, upon the recommendation of the Board, make regulations respecting—

- (a) registration ;
- (b) the granting of licenses ;
- (c) the fees to be paid ;
- (d) the inspection of registered and unregistered premises ;
- (e) the disposal of offal and garbage ;
- (f) the sanitary rules to be observed and the appliances to be used in the carrying on of noxious trades under this Act ; and
- (g) generally for carrying out the provisions of this Act.

(2) The Governor may by such regulations impose any penalty not exceeding twenty pounds for any breach thereof.

(3) Such regulations shall be published in the Gazette, and shall thereupon, if not inconsistent with this or any other Act, have the force of law ; and shall be laid upon the Table of each House of Parliament without delay.

Obstructing persons  
in discharge of duty.  
*Ibid.* s. 23.

**17.** Whosoever hinders or obstructs any person in the discharge of a duty imposed on him by or under any authority conferred by this Act, or by any regulations made thereunder, shall be liable to a penalty not exceeding ten pounds.

**18.**

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18. Whosoever refuses or neglects to do any of the things which he is required by this Act to do, or is guilty of a breach of any of the provisions of this Act, or refuses or neglects to carry out any of the lawful requirements of the Board or of a local authority, shall, in addition to any liability to a cancellation of any registration under this Act, be liable to a penalty not exceeding twenty pounds for each offence.

Penalties for  
contravention of this  
Act.  
57 Vic. No. 21, s. 24.

19. All penalties imposed by any regulations made under this Act, may be recovered in the same manner as if such penalties had been imposed under this Act.

Penalties how  
recovered.  
*Ibid.*, s. 25.

SCHEDULES.

FIRST SCHEDULE.

Section 2.

| Reference to Act. | Title or short title.  | Extent of repeal.       |
|-------------------|--|-------------------------|
| 15 Vic. No. 13    | An Act to amend the laws for the slaughtering of cattle and to secure the immediate destruction of animals dying of disease. | Section twenty.         |
| 57 Vic. No. 21    | Noxious Trades and Cattle-slaughtering Act, 1894 ...   | The unrepealed portion. |

SECOND SCHEDULE.

Section 14.

New South Wales }  
to wit. }

BE it remembered that on the \_\_\_\_\_ day of \_\_\_\_\_, one thousand nine hundred and \_\_\_\_\_, A.B. of \_\_\_\_\_, C.D. of \_\_\_\_\_, and E.F. of \_\_\_\_\_, came personally before us, G.H. and J.K., Esquires, two of His Majesty's Justices of the Peace, acting in and for the district of \_\_\_\_\_ in the said State, and acknowledged themselves to owe to our Sovereign Lord the King, to wit the said A.B. the sum of two hundred pounds, the said C.D. the sum of one hundred pounds, and the said E.F. the sum of one hundred pounds of lawful money of Great Britain, to be respectively levied upon their several goods and chattels, lands and tenements, to the use of our said Lord the King, His Heirs, and Successors, in case default shall be made in the performance of any of the conditions hereunder written.

The conditions of this recognizance are such that whereas the said A.B. is to be licensed to slaughter cattle on his premises situate at \_\_\_\_\_, and the said A.B. intends to employ his said premises as a place or establishment for the extraction of tallow from the carcasses of cattle or for salting beef for exportation (as the case may be), if the said A.B. shall keep a book in which he shall enter a particular and faithful account and description of all cattle slaughtered on the said premises, specifying the colours, marks, brands, sex, and apparent age of such cattle, and the time of slaughter, and the names of the persons by whom such cattle were delivered at the said premises, and of the persons on whose account the said cattle were received, and of the persons to whom or for whose use the tallow extracted from the same or the beef salted has been delivered; and shall permit such book and all cattle intended to be slaughtered to be inspected by any person \_\_\_\_\_

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*Newcastle Sewerage.*

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person who may require to see the same, and shall transmit once in each fortnight to the Bench of Justices at a report of all cattle slaughtered, together with the particulars above mentioned, in writing under his hand, or in his absence under the hand of the manager of the said establishment. Then this recognizance to be void otherwise to remain in full force.

Taken and acknowledged the day and year above written before us.

G. H. (L.S.)  
J. K. (L.S.)

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