

SCHEDULES

SCHEDULE 2

STATUTORY NUISANCES: SUPPLEMENTARY PROVISIONS

Default powers

- 5.—(1) This paragraph applies to the following functions of a district council—
- (a) its duty under section 64 to cause its district to be inspected to detect any statutory nuisance which ought to be dealt with under section 65 or sections 65 and 66; and
 - (b) its powers under paragraph 2 or 3.
- (2) If the Department is satisfied that any district council has failed, in any respect, to discharge a function to which this paragraph applies which it ought to have discharged, it may make an order declaring the council to be in default.
- (3) An order made under sub-paragraph (2) which declares a council to be in default may, for the purpose of remedying the default, direct the council (“the defaulting council”) to perform the function specified in the order and may specify the manner in which and the time or times within which the function is to be performed by the council.
- (4) If the defaulting council fails to comply with any direction contained in such an order the Department may, instead of enforcing the order by mandamus, make an order transferring to itself the function of the council specified in the order.
- (5) Where the function of a defaulting council is transferred under sub-paragraph (4), the amount of any expenses which the Department certifies were incurred by it in performing the function shall on demand be paid to it by the defaulting council.
- (6) Any expenses required to be paid by a defaulting council under sub-paragraph (5) shall be defrayed by the council in the same manner, and shall be debited to the same account, as if the function had not been transferred and the expenses had been incurred by the council in performing them.
- (7) The [Statutory Rules \(Northern Ireland\) Order 1979 \(NI 12\)](#) shall not apply to any order under this paragraph.