



# Public Health Act 1936

## 1936 CHAPTER 49

### PART I

#### LOCAL ADMINISTRATION.

##### *Local authorities and their districts.*

#### **1 Local authorities for purposes of Act.**

- (1) Subject to the provisions of this Act with respect to certain special authorities, districts and areas, it shall be the duty of the following authorities to carry this Act into execution, that is to say—
- (i) in a county borough, the council of the borough;
  - (ii) in an administrative county, as respects certain matters, the county council and, as respects all other matters, the councils of county districts, without prejudice, however, to the exercise by a parish council of any powers conferred upon such councils.
- (2) In this Act the following expressions have the meanings hereby assigned to them :—
- " local authority " means the council of a borough, urban district or rural district;
  - " urban authority " means the council of a borough or urban district;
  - " rural authority " means the council of a rural district;
  - " district, " in relation to the local authority of a borough, means the borough; and
  - " parish, " in relation to a common parish council acting for two or more grouped parishes, means those parishes :

Provided that, in relation to a rural district with respect to which there is in force such a direction as is mentioned in subsection (2) of section forty-two of the Local Government Act, 1933, any reference in this Act to a local authority, to a rural authority, or to a rural district council shall be construed as a reference to the council by whom the affairs of the district are being temporarily administered.

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*Status: This is the original version (as it was originally enacted).*

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*Port health authorities and, joint boards.*

**2 Constitution of port health district under port health authority.**

- (1) In this Part of this Act the expression " port " means a port as established for the purposes of the enactments relating to the Customs and, in relation to any such port or any part of any such port, the expression " riparian authority " means—
  - (a) any local authority whose district, or any part of whose district, forms part of, or abuts on, that port or part of a port; and
  - (b) any conservators, commissioners or other persons having authority in, over or within that port or part of a port.
- (2) Subject to the provisions of this section, the Minister may by order—
  - (i) constitute a port health district consisting of the whole or any part of a port, and either—
    - (a) constitute one riparian authority the port health authority for the district; or
    - (b) constitute a joint board, consisting of representatives of two or more riparian authorities, to be the port health authority for the district;
  - (ii) constitute a port health district consisting of any two or more areas, being ports or parts of ports, and constitute a joint board, consisting of representatives of two or more riparian authorities, to be the port health authority for the district.
- (3) A joint board so constituted a port health authority shall be a body corporate by such name as may be determined by the order constituting the port health district, and shall have perpetual succession and a common seal and power to hold land for the purposes of their constitution without licence in mortmain.
- (4) Where the Minister proposes to make an order under this section, he shall give notice thereof to every riparian authority who will under the order be liable to contribute to the expenses of the port health authority, and if, within twenty-eight days after such notice has been given to any such riparian authority, they give notice to the Minister that they object to the proposal and the objection is not withdrawn, any order made by the Minister which will impose any such liability on that authority shall be provisional only, and shall not have effect until it is confirmed by Parliament.
- (5) All expenses of, and incidental to, the constitution of a port health district shall be payable by the port health authority and, so far as those expenses are expenses incurred by the Minister, the amount thereof as certified by him shall be recoverable by him from the authority as a debt due to the Crown.

**3 Jurisdiction, powers, and &c. of port health authority.**

- (1) An order constituting a port health district—
  - (a) shall confer on the port health authority jurisdiction over all waters within the area to which the order relates, and also over the whole of the district of any such riparian authority as may be specified in the order, or such part of any such district as may be so specified; and
  - (b) may assign to the port health authority any of the functions, rights and liabilities of a local authority under any enactment contained in this Act, or any unrepealed enactment contained in the Public Health Acts, 1875 to 1932.

- (2) Section two hundred and ninety-three of the Local Government Act, 1933, which enables any of the provisions of that Act to be applied to a joint board of which the constituent members are local authorities, shall apply also in relation to any port health authority, notwithstanding that that authority may be a single local authority, or may be a joint board of which all the constituent members are not local authorities :

Provided that, where the port health authority are the council of a borough, the provisions of the said Act relating to the audit of accounts by district auditors shall not be so applied, unless all the accounts of the council are subject to such audit.

- (3) The provisions of sections one hundred and eight to one hundred and ten of the Local Government Act, 1933, as adapted and set out in the First Schedule to this Act, shall have effect with respect to the medical officer of health and sanitary inspector of a port health district.

#### **4 Restriction on discharge of functions by local authorities within port health district.**

- (1) A local authority having jurisdiction in any part of a port health district, including the port health district of the port of London, shall cease to discharge in relation thereto any functions which are functions of the port health authority:

Provided that, with the approval of the Minister, the port health authority of any such district may by agreement delegate, with or without restrictions or conditions, any of their functions to a riparian authority whose district lies within, extends into or abuts on, the district of the port health authority.

- (2) Where under the preceding subsection any functions of a port health authority are delegated to a riparian authority, the riparian authority in the discharge thereof shall act as agents of the port health authority.

#### **5 Existing port sanitary authorities to be renamed port health authorities.**

Port sanitary districts and port sanitary authorities constituted under any Act passed before this Act, including the port sanitary district and port sanitary-authority of the port of London, shall be known as and styled port health districts and port health authorities, and references in any Act or other document to port sanitary districts or port sanitary authorities shall be construed accordingly.

#### **6 Union of districts, or parts of districts, for certain purposes under joint board.**

- (1) Subject to the provisions of this section, if, on an application made to him by the local authorities of the districts to which the application relates, or by any of those authorities, it appears to the Minister that it would be for the advantage of those districts or any of them, or of any parts of those districts or any of them (whether such parts are contributory places or not), to be constituted a united district for any purpose of this Act, or of the Public Health Acts, 1875 to 1932, so far as those Acts are not repealed, the Minister may, by order, constitute for that purpose a united district consisting of such of those districts or parts of districts as can, in his opinion, be combined advantageously.

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- (2) The governing body of a united district shall be a joint board, which shall be constituted by the order constituting the district and shall consist of representatives of the local authorities of the constituent districts or parts of districts :

Provided that, if the council of the county, or of any of the counties, in which the united district or any part thereof will be situate, undertake to make annual contributions towards the expenses of the joint board, provision may be made by the order constituting the board for the board to include representatives of that council, so, however, that the number of representatives appointed under this proviso shall be less than one-half of the total number of the members of the board.

- (3) A joint board constituted under this section shall be a body corporate by such name as may be determined by the order constituting the united district, and shall have perpetual succession and a common seal and power to hold land for the purposes of their constitution without licence in mortmain.
- (4) Where the Minister proposes to make an order under this section, he shall give notice thereof to the local authority of every district which, or any part of which, is proposed to be included in the united district, and also to the county council, and, if within twenty-eight days after such notice has been given to any such authority or council, they give notice to the Minister that they object to the proposal and the objection is not withdrawn, any order made by the Minister shall be provisional only and shall not have effect until it is confirmed by Parliament.
- (5) All expenses of, and incidental to, the constitution of a united district shall be payable by the joint board and, so far as those expenses are expenses incurred by the Minister, the amount thereof as certified by him shall be recoverable by him from the board as a debt due to the Crown.

## **7 Restriction on discharge of functions by local authorities within united district.**

- (1) A local authority having jurisdiction in any part of a united district shall cease to discharge in relation thereto any functions which are functions of the joint board:

Provided that—

- (a) the Minister may at any time authorise a local authority having jurisdiction in any part of the district to discharge 'in relation to that part, concurrently with the joint board, any functions which are functions of that board, subject, however, to such conditions and restrictions, if any, as he may impose;
- (b) with the approval of the Minister, the joint board may by agreement delegate, with or without restrictions or conditions, any of their functions to the local authority of any constituent district.
- (2) Where under the preceding subsection any functions of a joint board are delegated to a local authority, that authority in the discharge thereof shall act as agents of the joint board.

## **8 Joint boards representing councils of counties and county boroughs.**

- (1) For the purpose of facilitating co-operation between councils of counties and county boroughs in the discharge of their functions under this Act, it shall be lawful for the Minister to make by order such provision as appears to him to be expedient for

enabling any two or more such councils to discharge through a joint board such of those functions as may be specified in the order:

Provided that no such order shall be made except with the consent of all the councils concerned.

- (2) A joint board constituted under this section shall be a body corporate by such name as may be determined by the order constituting the board, and shall have perpetual succession and a common seal and power to hold land for the purposes of their constitution without licence in mortmain.
- (3) Joint committees constituted under section five of the Public Health (Tuberculosis) Act, 1921, or under any enactment repealed by that Act, shall be known as and styled joint boards and references in any Act or other document to such joint committees shall be construed accordingly.

## **9 General provisions as to orders constituting port health districts, united districts and joint boards.**

- (1) An order made by the Minister under the foregoing provisions of this Part of this Act constituting a port health district, or a united district, or such a joint board as is mentioned in the last preceding section, may contain such incidental, consequential and supplemental provisions as appear to him to be necessary or proper for bringing the order into operation and giving full effect thereto and, in particular, but without prejudice to the generality of the foregoing words, provisions—
  - (a) for the settlement of any differences arising in consequence of the operation of the order, between districts, parishes or other areas;
  - (b) for the transfer of property and liabilities, and the making of any such adjustment of accounts or apportionment of liabilities between districts, parishes or other areas as may be rendered necessary by the operation of the order; and
  - (c) as to the persons by and to whom any moneys found to be due are to be paid, and the raising of such moneys.
- (2) Any such order as aforesaid, whether or not confirmed by Parliament, may be amended or revoked by a subsequent order made by the Minister, but, where the Minister proposes to make an order under this subsection, he shall give notice thereof to the port health authority or joint board concerned and to every authority or council which is, or under the proposed order will be, a constituent authority or council, and, if within twenty-eight days after such notice has been given to any such authority, board or council they give notice to the Minister that they object to the proposal and the objection is not withdrawn, any order made by the Minister shall be provisional only and shall not have effect until it is confirmed by Parliament.
- (3) Any reference in this Act to an order constituting a port health district, united district, or joint board shall be construed as including a reference to any order made under this section for the amendment of the original order.

## **10 Borrowing powers of port health authorities and joint boards..**

A port health authority or joint board constituted under this Part of this Act shall, subject to the provisions of the order by which they were constituted, have the like powers of borrowing for the purposes of their functions under the order as a local authority have of borrowing for the purposes of their functions under this Act.

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*Status: This is the original version (as it was originally enacted).*

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*Division of districts.*

**11 Power of urban authority to divide their district.**

- (1) An urban authority may divide their district into parts for all or any of the purposes of this Act, and may vary or discontinue any such division.
- (2) Where a district is divided into parts under this section, the authority in making and levying rates shall charge separately on each of those parts all expenses incurred in respect of that part for the purpose or purposes for which the division was made, and such share as the authority may deem equitable of any expenses, including loan charges, properly attributable to that part in common with any other part or parts of the district.

**12 Constitution and dissolution of special purpose areas in rural districts.**

- (1) A rural authority may, with the approval of the Minister, constitute any part of their district a special purpose area for the purpose of charging thereon exclusively the expenses of works of sewerage, sewage disposal or water supply, or of any other works the expenses of which are declared by or under any enactment (including any enactment in this Act) to be special expenses.
- (2) Special drainage districts constituted under section two hundred and seventy-seven of the Public Health Act, 1875, or under the corresponding provisions of any earlier Act, shall be known as and styled special purpose areas, and references in any Act or other document to special drainage districts shall be construed accordingly.
- (3) The Minister may by order vary or dissolve any special purpose area, whether constituted under this Act or as mentioned in the last preceding subsection.

*Investment of rural authorities with urban powers.*

**13 Power of Minister to invest particular rural authority with urban powers.**

- (1) The Minister, on an application made to him in accordance with the provisions of this section, may by order—
  - (a) declare any provisions of this Act which are in force in boroughs and urban districts to be in force in any particular rural district, or in any particular contributory place in a rural district; and
  - (b) invest the council of the rural district, as respects the district or, as the case may be, as respects that particular contributory place, with all or any of the functions of an urban authority under this Act, either unconditionally or subject to such conditions as may be specified in the order as to the time, area or manner during, at or in which those functions are to be discharged.
- (2) An application for the purposes of this section may be made by—
  - (a) the council of the rural district;
  - (b) the council of the county in which the district is situate;
  - (c) the parish council of any parish situate in the district; or
  - (d) any number of local government electors for the district or for any contributory place therein, not being less than one hundred or one-third of the total number of those electors, whichever is the less:

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Provided that, where the application is made by the council of a parish or by local government electors for a contributory place, the order of the Minister shall not confer upon the rural district council any new power, except in relation to, or to a part of, that parish or, as the case may be, that contributory place.