



# Public Health Act 1936

1936 CHAPTER 49 26 Geo 5 and 1 Edw 8

## PART XII

### GENERAL

#### *Relinquishment and transfer of powers and duties*

320, .....<sup>F1</sup>  
321.

#### Textual Amendments

**F1** Ss. 320, 321 repealed by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

**322 Power of Minister to enforce exercise of powers by local authorities, &c., in default.**

(1) .....<sup>F2</sup>

(2) [<sup>F3</sup>If the Minister is satisfied that any council . . . <sup>F4</sup> or joint board have failed to discharge their functions under this Act in any case where they ought to have done so], he may make an order declaring them to be in default and directing them for the purpose of removing the default to discharge such of their functions, and in such manner and within such time or times, as may be specified in the order.

(3) If a council, authority or board with respect to whom an order has been made under the last preceding subsection fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Minister, in lieu of enforcing the order by mandamus or otherwise, may—

(i) . . . <sup>F5</sup>

(ii) . . . <sup>F6</sup>, make an order transferring to himself such of the functions of the body in default as may be [<sup>F3</sup>specified in his order].

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*Changes to legislation: There are currently no known outstanding effects for the Public Health Act 1936,  
Cross Heading: Relinquishment and transfer of powers and duties. (See end of Document for details)*

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#### Textual Amendments

- F2** Ss. 322(1), 323 repealed by [Local Government \(Miscellaneous Provisions\) Act 1976 \(c. 57\)](#), **Sch. 2**
- F3** Words substituted by [Local Government \(Miscellaneous Provisions\) Act 1976 \(c. 57\)](#), **s. 27(5)**
- F4** Words repealed by [Public Health \(Control of Disease\) Act 1984 \(c. 22, SIF 100:1\)](#), s. 78, **Sch. 3**
- F5** S. 322(3)(i) repealed by [Local Government \(Miscellaneous Provisions\) Act 1976 \(c. 57\)](#), **Sch. 2**
- F6** Words repealed by [Local Government \(Miscellaneous Provisions\) Act 1976 \(c. 57\)](#), **Sch. 2**

#### Modifications etc. (not altering text)

- C1** S. 322 excluded by [Clean Air Act 1968 \(c. 62\)](#), **s. 8(7)**
- C2** S. 322 applied by [Housing Act 1985 \(c. 68, SIF 61\)](#), **s. 410(2)**
- C3** S. 322 restored for specified purposes by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 69, **Sch. 8 para. 1(3)** (with [ss. 58\(7\)](#), [101\(1\)](#), [141\(6\)](#), [160\(1\)\(2\)\(4\)](#), [163](#), [189\(4\)–\(10\)](#), [190](#), [193\(1\)](#), [Sch. 26 paras. 3\(1\)\(2\)](#), [13\(2\)\(3\)](#), [17](#), [40\(4\)](#), [57\(6\)](#), [58](#))

**F7** **323** .....

#### Textual Amendments

- F7** Ss. 322(1), 323 repealed by [Local Government \(Miscellaneous Provisions\) Act 1976 \(c. 57\)](#), **Sch. 2**

#### Modifications etc. (not altering text)

- C4** S. 323 restored for specified purposes by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 69, **Sch. 8 para. 1(3)** (with [ss. 58\(7\)](#), [101\(1\)](#), [141\(6\)](#), [160\(1\)\(2\)\(4\)](#), [163](#), [189\(4\)–\(10\)](#), [190](#), [193\(1\)](#), [Sch. 26 paras. 3\(1\)\(2\)](#), [13\(2\)\(3\)](#), [17](#), [40\(4\)](#), [57\(6\)](#), [58](#))

### **324 Provisions as to exercise by Minister of functions of body in default.**

- (1) Where under the last but one preceding section the Minister has by order transferred to himself any functions of a council . . . <sup>F8</sup> or joint board, any expenses incurred by him in discharging the said functions shall be paid in the first instance out of moneys provided by Parliament, but the amount of those expenses as certified by the Minister shall on demand be paid to him by the body in default, and shall be recoverable by him from them as a debt due to the Crown, and that body shall have the like power of raising the money required as they have of raising money for defraying expenses incurred directly by them.
- (2) The payment of any such expenses as aforesaid shall, to such extent as may be sanctioned by the Minister, be a purpose for which a local authority . . . <sup>F8</sup> or joint board may borrow money in accordance with the statutory provisions relating to borrowing by such an authority or board.

#### Textual Amendments

- F8** Words repealed by [Public Health \(Control of Disease\) Act 1984 \(c. 22, SIF 100:1\)](#), s. 78, **Sch. 3**

#### Modifications etc. (not altering text)

- C5** Functions of Secretary of State under s. 324 so far as exercisable by virtue of s. 10(5) of Public Libraries and Museums Act 1964 made exercisable (E.) by Chancellor of Duchy of Lancaster:

**Changes to legislation:** There are currently no known outstanding effects for the Public Health Act 1936,  
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S.I. 1979/907, **art. 4**, transferred to the Secretary of State and the Lord President of the Council respectively, by S.I. 1981/207, art. 2(1), **Sch. 1 Pt. I** and S.I. 1983/879, **art. 5**, retransferred to the Chancellor of the Duchy of Lancaster by S.I. 1984/1814, art. 2, **Sch. 1 Pt. I** and transferred back to the Lord President of the Council by S.I. 1986/600 art. 2(1), Sch. 1 Pt. I

- C6** S. 324 applied by **Housing Act 1985** (c. 68, SIF 61), s. **410(2)**
- C7** S. 324 restored for specified purposes by **Water Act 1989** (c. 15, SIF 130), s. 69, **Sch. 8 para. 1(3)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 13(2)(3), 17, 40(4), 57(6), 58)
- C8** Functions of the Lord President of the Council under s. 324 (as applied by s. 10(5) of the Public Libraries and Museums Act 1964) transferred (3.7.1992) to the Secretary of State (or no longer exercisable by the Lord President of the Council in the case of functions exercisable by him concurrently with the Secretary of State) by virtue of S.I. 1992/1311, art. 3(1), **Sch. 1 Pt.I**.

### **325 Power to vary and revoke orders relating to defaults.**

In any case where under this Part of this Act an order has been made by the Minister transferring to a county council or to himself any functions of a council . . . <sup>F9</sup> or joint board, the Minister may at any time by a subsequent order vary or revoke that order, but without prejudice to the validity of anything previously done thereunder; and when any order is so revoked the Minister may, either by the revoking order or by a subsequent order, make such provision as appears to him to be desirable with respect to the transfer, vesting and discharge of any property or liabilities acquired or incurred by the county council or by him in discharging any of the functions to which the order so revoked related.

#### **Textual Amendments**

- F9** Words repealed by **Public Health (Control of Disease) Act 1984** (c. 22, SIF 100:1), s. 78, **Sch. 3**

#### **Modifications etc. (not altering text)**

- C9** S. 325 applied by **Housing Act 1985** (c. 68, SIF 61), s. **410(2)**
- C10** S. 325 restored for specified purposes by **Water Act 1989** (c. 15, SIF 130), s. 69, **Sch. 8 para. 1(3)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 13(2)(3), 17, 40(4), 57(6), 58)

**Changes to legislation:**

There are currently no known outstanding effects for the Public Health Act 1936, Cross Heading: Relinquishment and transfer of powers and duties.