



# Public Health Act 1936

## 1936 CHAPTER 49

### PART XII

#### GENERAL.

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

#### **320 Relinquishment of functions by district councils.**

- (1) The council of a county district may at any time, by agreement with the council of the county in which the district is situate, relinquish in favour of, and transfer to, the council of the county any of their functions under this Act for such period and upon such terms and subject to such conditions, if any, including terms and conditions as to the transfer of property and liabilities, as may be specified in the agreement:

Provided that, except in the case of an agreement which is expressed to remain in force for a specified period not exceeding five years, it shall be an implied term of any agreement made under this section that either party to the agreement may determine it at the end of any financial year by giving notice to the other party not less than twelve months beforehand.

- (2) A copy of an agreement made under this section shall forthwith be sent to the Minister and notice shall be given to him as soon as may be of the determination of the agreement, or of any variation in the terms thereof.

#### **321 Complaint by county council to Minister of default of council of county district.**

If it appears to a county council that the council of any county district within their county have made default in discharging any of their functions under this Act, the county council may complain to the Minister, and thereupon the Minister shall cause a local inquiry to be held into the matter.

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

- (1) If—
- (i) a complaint is made to the Minister that any council, port health authority or joint board have failed to discharge their functions under this Act in any case where they ought to have done so; or
  - (ii) the Minister is of opinion that an investigation should be made As to whether any council, port health authority or joint board have failed as aforesaid,
- the Minister may cause a local inquiry to be held into the matter.
- (2) If, after a local inquiry has been held in pursuance either of this section or of the last preceding section, the Minister is satisfied that there has been such a failure on the part of the council, authority or board in question, 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) if the body in default are the council of a county district, or a joint board whose district lies wholly within one county, or a port health authority whose district (so far as it does not consist of water) lies wholly within one county, make an order transferring to the council of the county such of the functions of the body in default as may be specified in his order;
  - (ii) in any other case, make an order transferring to himself such of the functions of the body in default as may be so specified.

**323 Subsidiary provisions on transfer of functions of body in default to county council.**

Where any functions of the council of a county district, a port health authority or a joint board are transferred by an order under the last preceding section to a county council—

- (a) the expenses incurred by the county council in discharging those functions shall, except in so far as they may be met by any grant made by the county council, be a debt due from the body in default to the county council, and shall be defrayed as part of the expenses of the body in default in the execution of this Act, 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;
- (b) any such expenses as aforesaid shall, where the body in default are the council of a rural district, be raised as general expenses, or as special expenses, or partly as general expenses and partly as special expenses, according as the county council may direct;
- (c) the county council, for the purpose of functions transferred to them, may on behalf of the body in default borrow money subject to the like conditions, in the like manner, and on the security of the like revenues as that body might have borrowed for the purpose of those functions;

- (d) the county council may charge the said revenues with the payment of the principal and interest of the loan, and the loan, with the interest thereon, shall be paid by the body in default in like manner, and the charge shall have the like effect, as if the loan were lawfully raised and charged on those revenues by that body; and
- (e) the county council shall keep separate accounts of all receipts and expenditure in respect of the transferred functions.

**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, port health authority 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, port health authority or joint board may borrow money in accordance with the statutory provisions relating to borrowing by such an authority or board.

**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, port health authority 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.