



# Water Act 1945

## 1945 CHAPTER 42

### PART II

#### LOCAL ORGANISATION OF WATER SUPPLIES.

#### 13 Default powers of Minister.

- (1) If a complaint is made to the Minister that—
- (a) any local authority or any joint water board constituted under section six of the Public Health Act, 1936, or any enactment repealed by that Act, have failed to discharge the duty imposed upon them by section one hundred and eleven of the Public Health Act, 1936;
  - (b) any statutory water undertakers supplying water under any local enactment have failed to give an adequate supply of water, either as respects quantity or quality, to any area which they are supplying, or have failed to give any supply which they have been lawfully required to give;
  - (c) any statutory water undertakers have failed to take such steps as are reasonably practicable to obtain new powers or to extend their existing powers for the purpose of remedying any such failure as is mentioned in paragraph (a) or paragraph (b) hereof; or
  - (d) any statutory water undertakers have failed to do anything which they are required to do by or under this Act;

or the Minister is of opinion that an investigation should be made as to whether any local authority, joint water board or statutory water undertakers have failed in any of the matters aforesaid, he may cause a local inquiry to be held into the matter.

- (2) If after a local inquiry has been held in pursuance of the last foregoing subsection, the Minister is satisfied that there has been such a failure on the part of the local authority, joint water board or statutory water undertakers in question, he may make an order declaring them to be in default and directing them for the purpose of remedying the default to discharge such of their functions in such manner and within such time or times as may be specified in the order or, as the case may be, to take such steps within

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such time or times as may be specified in the order to obtain new powers or to extend their existing powers.

- (3) If the body declared to be in default by an order made under the last foregoing 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 make an order transferring to himself such of the functions of the body in default as he thinks fit:

Provided that, if the body in default are the council of a county district or a joint water board, the Minister may transfer the functions to the council of the county within which the functions are wholly or mainly exercisable, instead of to himself.

- (4) Where functions transferred to the Minister under this section include the function of applying to the Minister for any new powers or for an extension of existing powers, the Minister may grant the new powers or the extension of existing powers as if an application had been made therefor, and shall give all such notices and do all such other things as would have been required to be given or done in connection with such an application, and any enactment relating to the application for and grant of such new powers or extension of existing powers shall have effect with the necessary adaptations and modifications.
- (5) Where any functions are transferred to a county council under this section—
- (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 undertaking of the body in default 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) the county council, for the purpose of the 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;
  - (c) 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
  - (d) the county council shall keep separate accounts of all income and expenditure in respect of the transferred functions.
- (6) Where the Minister has transferred any functions to himself under this section, any expenses incurred by him in discharging those functions shall be paid in the first instance by him, 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.

Where the body in default are a local authority or joint water board, the payment of any such expenses as aforesaid shall, to such extent as may be sanctioned by the Minister, be a purpose for which the local authority or board may borrow money in accordance with the statutory provisions relating to borrowing by" such an authority or board.

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- (7) Any order made under subsection (3) of this section may provide for the transfer to the Minister or the county council, as the case may be, of such of the property and liabilities of the body in default, as, in the opinion of the Minister, may be necessary or expedient, and when any such order is 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 any property or liabilities held by him or by the county council for the purposes of the functions transferred.
- (8) Section three hundred and twenty-two of the Public Health Act, 1936, (which confers default powers on the Minister) shall not apply to any default to which this section applies.