
Changes to legislation: Environmental Protection Act 1990, Paragraph 4 is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 3

STATUTORY NUISANCES: SUPPLEMENTARY PROVISIONS

Default powers

- 4 (1) This paragraph applies to the following function of a local authority, that is to say its duty under section 79 to cause its area to be inspected to detect any statutory nuisance which ought to be dealt with under section 80 [^{F1}or sections 80 and 80A] and its powers under paragraph 2 [^{F1}or 2A] above.
- (2) If the Secretary of State is satisfied that any local authority has failed, in any respect, to discharge the function to which this paragraph applies which it ought to have discharged, he may make an order declaring the authority to be in default.
- (3) An order made under sub-paragraph (2) above which declares an authority to be in default may, for the purpose of remedying the default, direct the authority (“the defaulting authority”) 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 authority.
- (4) If the defaulting authority fails to comply with any direction contained in such an order the Secretary of State may, instead of enforcing the order by mandamus, make an order transferring to himself the function of the authority specified in the order.
- (5) Where the function of a defaulting authority is transferred under sub-paragraph (4) above, the amount of any expenses which the Secretary of State certifies were incurred by him in performing the function shall on demand be paid to him by the defaulting authority.
- (6) Any expenses required to be paid by a defaulting authority under sub-paragraph (5) above shall be defrayed by the authority in like manner, and shall be debited to the like account, as if the function had not been transferred and the expenses had been incurred by the authority in performing them.
- (7) The Secretary of State may by order vary or revoke any order previously made by him under this paragraph.
- (8) Any order under this paragraph may include such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate.
- [^{F2}(9) This paragraph does not apply to Scotland.]

Textual Amendments

F1 Words in Sch. 3 para. 4(1) inserted (E.W.) (5.1.1994) by 1993 c. 40, ss. 4(7)(a)(b), 12(1)

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F2 Sch. 3 para. 4(9) added (1.4.1996) by 1995 c. 25, s. 107, **Sch. 17 para. 7(d)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(4A) inserted by [2021 c. 30 s. 57\(2\)](#)
- s. 33ZB(10A) inserted by [2021 c. 30 s. 69\(3\)\(b\)](#)
- s. 34ZB(8A) inserted by [2021 c. 30 s. 69\(5\)\(b\)](#)
- s. 45A-45AZG substituted for s. 45A by [2021 c. 30 s. 57\(4\)](#)
- s. 46(2)(a)(b) substituted for words by [2021 c. 30 s. 57\(5\)](#)
- s. 106A inserted by [2023 c. 6 s. 41\(2\)](#)
- s. 161(2AA)(2AB) inserted by [2016 anaw 3 s. 69\(4\)](#)