



# Clean Air Act 1993

## 1993 CHAPTER 11

### PART VII

#### MISCELLANEOUS AND GENERAL

##### *Administration and enforcement*

#### 60 Default powers. **E+W**

- (1) If the Secretary of State is satisfied that any local authority (in this section referred to as the “defaulting authority”) have failed to perform any functions which they ought to have performed, he may make an order—
  - (a) declaring the authority to be in default; and
  - (b) directing the authority to perform such of their functions as are specified in the order;and he may specify the manner in which and the time or times within which those functions are to be performed by the authority.
- (2) 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 such of the functions of the authority as he thinks fit.
- (3) Where any functions of the defaulting authority are transferred in pursuance of subsection (2) above, the amount of any expenses which the Secretary of State certifies were incurred by him in performing those functions shall on demand be paid to him by the defaulting authority.
- (4) Where any expenses are in pursuance of subsection (3) required to be paid by the defaulting authority in respect of any functions transferred in pursuance of this section—
  - (a) the expenses shall be defrayed by the authority in the like manner, and shall be debited to the like account, as if the functions had not been transferred and the expenses had been incurred by the authority in performing them; and

*Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S - Scotland extent*

*Changes to legislation: Clean Air Act 1993, Section 60 is up to date with all changes known to be in force on or before 29 February 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*

- (b) the authority shall have the like powers for the purpose of raising any money required for the purpose of paragraph (a) as the authority would have had for the purpose of raising money required for defraying expenses incurred for the purposes of the functions in question.
- (5) An order transferring any functions of the defaulting authority in pursuance of subsection (2) may provide for the transfer to the Secretary of State of such of the property, rights, liabilities and obligations of the authority as he considers appropriate; and where such an order is revoked the Secretary of State may, by the revoking order or a subsequent order, make such provision as he considers appropriate with respect to any property, rights, liabilities and obligations held by him for the purposes of the transferred functions.
- (6) An order made under this section may be varied or revoked by a subsequent order so made.
- (7) This section does not apply to a failure by a local authority—
- (a) to discharge their functions under section 18 (declaration of smoke control areas);
  - (b) to submit proposals to the Secretary of State in pursuance of a direction under subsection (1) of section 19 (Secretary of State’s power to require creation of smoke control area); or
  - (c) to perform a duty imposed on them by or by virtue of subsection (4) or (6) of that section.
- (8) In this section “functions”, in relation to an authority, means functions conferred on the authority by virtue of this Act.

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

## 60 Default powers. **S**

- (1) If the Secretary of State is satisfied that any local authority (in this section referred to as the “defaulting authority”) have failed to perform any functions which they ought to have performed, he may make an order—
- (a) declaring the authority to be in default; and
  - (b) directing the authority to perform such of their functions as are specified in the order;
- and he may specify the manner in which and the time or times within which those functions are to be performed by the authority.
- (2) 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 such of the functions of the authority as he thinks fit.
- (3) Where any functions of the defaulting authority are transferred in pursuance of subsection (2) above, the amount of any expenses which the Secretary of State certifies were incurred by him in performing those functions shall on demand be paid to him by the defaulting authority.

*Status:* There are multiple versions of this provision on screen. These apply to different geographical extents. **Skip to:** E+W - England and Wales extent S - Scotland extent

**Changes to legislation:** Clean Air Act 1993, Section 60 is up to date with all changes known to be in force on or before 29 February 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

- (4) Where any expenses are in pursuance of subsection (3) required to be paid by the defaulting authority in respect of any functions transferred in pursuance of this section—
- (a) the expenses shall be defrayed by the authority in the like manner, and shall be debited to the like account, as if the functions had not been transferred and the expenses had been incurred by the authority in performing them; and
  - (b) the authority shall have the like powers for the purpose of raising any money required for the purpose of paragraph (a) as the authority would have had for the purpose of raising money required for defraying expenses incurred for the purposes of the functions in question.
- (5) An order transferring any functions of the defaulting authority in pursuance of subsection (2) may provide for the transfer to the Secretary of State of such of the property, rights, liabilities and obligations of the authority as he considers appropriate; and where such an order is revoked the Secretary of State may, by the revoking order or a subsequent order, make such provision as he considers appropriate with respect to any property, rights, liabilities and obligations held by him for the purposes of the transferred functions.
- (6) An order made under this section may be varied or revoked by a subsequent order so made.
- (7) This section does not apply to a failure by a local authority—
- (a) to discharge their functions under section 18 (declaration of smoke control areas);
  - (b) to submit proposals to the <sup>[F1]</sup>SEPA in pursuance of a direction under subsection (1) of section 19 (<sup>[F1]</sup>SEPA's power to require creation of smoke control area); or
  - (c) to perform a duty imposed on them by or by virtue of subsection (4) or (6) of that section.
- (8) In this section “functions”, in relation to an authority, means functions conferred on the authority by virtue of this Act.

#### Extent Information

- E2** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F1** Words in s. 60(7)(b) substituted (S.) (28.7.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 198** (with ss. 7(6), 115, 117); S.I. 1995/1983, **art. 2**; S.I. 1996/186, **art. 3**

**Status:**

There are multiple versions of this provision on screen. These apply to different geographical extents.

**Skip to:**

- E+W - England and Wales extent
- S - Scotland extent

**Changes to legislation:**

Clean Air Act 1993, Section 60 is up to date with all changes known to be in force on or before 29 February 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.

[View outstanding changes](#)

**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. 16(4A)(4B) inserted by [S.I. 2023/908 reg. 16](#)
- s. 20(5D)-(5F) inserted by [2021 c. 30 Sch. 12 para. 10\(2\)](#)
- s. 21(4A)-(4D) inserted by [2021 c. 30 Sch. 12 para. 11\(2\)](#)