

Public Health Act 1875

1875 CHAPTER 55

PART IX

LOCAL GOVERNMENT BOARD.

Inquiries by Board.

293 Power of Board to direct inquiries.

The Local Government Board may from time to time cause to be made such inquiries as are directed by this Act, and such inquiries as they see fit in relation to any matters concerning the public health in any place, or any matters with respect to which their sanction approval or consent is required by this Act.

294 Orders as to costs of inquiries.

The Local Government Board may make orders as to the costs, of inquiries or proceedings instituted by, or of appeals to the said Board under this Act, and as to the parties by whom or the rates out of which such costs shall be borne; and every such order may be made a rule of one of the superior courts of law on the application of any person named therein.

295 Orders of Board under this Act.

All orders made by the Local Government Board in pursuance of this Act shall be binding and conclusive in respect of the matters to which they refer, and shall be published in such manner as that Board may direct.

296 Power of Inspectors of Local Government Board.

Inspectors of the Local Government Board shall, for the purposes of any inquiry directed by the Board, have in relation to witnesses and their examination, the production of papers and accounts, and the inspection of places and matters required

to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts.

Provisional Orders by Board.

297 As to provisional orders made by Local Government Board.

With respect to provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made :—

- (1) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates:
- (2) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner, aforesaid, and at which all persons interested shall be permitted to attend and make objections:
- (3) The Local Government Board may submit to Parliament for confirmation any provisional order made by it in pursuance of this Act, but any such order shall be of no force whatever unless and until it is confirmed by Parliament:
- (4) If while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills:
- (5) Any Act confirming any provisional order made in pursuance of any of the Sanitary Acts or of this Act, and any Order in Council made in pursuance of any of the Sanitary Acts, may be repealed altered or amended by any provisional order made by the Local Government Board and confirmed by Parliament:
- (6) The Local Government Board may revoke, either wholly or partially, any provisional order made by them before the same is confirmed by Parliament, but" such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament:
- (7) The making of a provisional order shall be prima, facie evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such provisional order have been complied with:
- (8) Every Act confirming any such provisional order shall be deemed to be a public general Act.

298 Costs of provisional orders.

The reasonable costs of any local authority in respect of provisional orders made in pursuance of this Act, and of the inquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs .shall be paid

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accordingly; and if thought expedient by the Local Government Board, the local authority may contract a loan for the purpose of defraying such costs.

Power of Board to enforce Performance of Duty by defaulting Local Authority.

299 Proceedings on complaint to Board of default of local authority.

Where complaint is made to the Local Government Board that a local authority has made default in providing their district with sufficient sewers, or in the maintenance of existing sewers, or in providing their district with a supply of water, in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or that a local authority has made default in enforcing any provisions of this Act which it is their duty to enforce, the Local Government Board, if satisfied, after due inquiry, that the authority has been guilty of the alleged default, shall make an order limiting a time for the performance of their duty in the matter of such complaint. If such duty is not performed by the time limited in the order, such order may be enforced by writ of Mandamus, or the Local Government Board may appoint some person to perform such duty, and shall by order direct that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum specified in the order, together with the costs of the proceedings, shall be paid by the authority in default; and any order made for the payment of such expenses and costs may be removed into the Court of Queen's Bench, and be enforced in the same manner as if the same were an order of such Court.

Any person appointed under this section to perform the duty of a defaulting local authority shall, in the performance and for the purposes of such duty, be invested with all the powers of such authority other than (save as herein-after provided) the powers of levying rates; and the Local Government Board may from time to time by order change any person so appointed.

300 Further provision for recovery of expenses.

Any sum specified in an order of the Local Government Board for payment of the expenses of performing the duty of a defaulting local authority, together with the costs of the proceedings, shall be deemed to be expenses properly incurred by such authority, and to be a debt due from such authority, and payable out of any moneys in the hands of such authority or of their officers, or out of any rate applicable to the payment of any expenses properly incurred by such authority, which rate is in this part of this Act referred to as "the local rate." If the defaulting authority refuses to pay any such sum, with costs, as aforesaid, for a period of fourteen days after demand, the Local Government Board may by order empower any person to levy, by and out of the local rate, such sum (the amount to be specified in the order) as may, in the opinion of the Local Government Board, be sufficient to defray the debt so due from the defaulting authority, and all expenses incurred in consequence of the nonpayment of such debt.

Any person or persons so empowered shall have the same powers of levying the local rate, and requiring all officers of the defaulting authority to pay over any moneys in their hands, as the defaulting authority would have in the case of expenses legally payable out of a local rate .to be raised by such authority; and the said person or persons, after repaying all sums of money so due in respect of the order, shall pay the

surplus, if any, (the amount to be ascertained by the Local Government Board,) to or to the order of the defaulting authority.

Power of Board to borrow to defray expenses of performing duty of defaulting authority.

The Local Government Board may from time to time certify the amount of expenses that have been incurred, or an estimate of the expenses about to be incurred, by any person appointed by the said Board under this Act to perform the duty of a defaulting local authority; also, the amount of any loan required to be raised for the purpose of defraying any expenses that have been so incurred, or are estimated as about to be incurred; and the certificate of the said Board shall be conclusive as to all matters to which it relates.

Whenever the Local Government Board so certifies a loan to be required, the Public Works Loan Commissioners may advance to the Local Government Board, or to any person appointed as aforesaid, the amount of the loan so certified to be required on the security of the local rate, without requiring any other security; and the Local Government Board, or the person so appointed, may, by any instrument duly executed, charge the local rate with the repayment of the principal and interest due in respect of such loan, and every such charge shall have the same effect as if the defaulting local authority were empowered to raise such loan on the security of the local rate, and had duly executed an instrument charging the same on the local rate.

302 Recovery of principal and interest.

Any principal money or interest for the time being due in respect of any loan under this Act made for payment of the expenses incurred or to be incurred in the performance of the duty of a defaulting local authority shall be taken to be a debt due from such authority, and, in addition to any other remedies, may be recovered in the manner in which a debt due from a defaulting authority may be recovered in pursuance of the provisions of this part of this Act.

The surplus (if any) of any such loan, after payment of the -expenses aforesaid, shall, on the amount thereof being certified by the Local Government Board, be paid to or to the order of the defaulting authority.

"Expenses," for the purposes of the provisions of this part of this Act relating to defaulting local authorities, shall include all sums payable under those provisions by or by the order of the Local Government Board, or the person appointed by that Board.

Powers of Board in relation to Local Acts, &c.

303 Power to repeal and alter local Acts.

The Local Government Board may, on the application of the local authority of any district, by provisional order, wholly or partially repeal alter or, amend any local Act, other than an Act for the conservancy of rivers, which is in force in any area comprising the. whole or part of any such district, and not conferring powers or privileges on any persons or person for their or his own pecuniary benefit, which relates to the same subject matters as this Act.

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Any such provisional order may provide for the extension of the' provisions of the local Act referred to therein beyond the district or districts within the limits of such Act, or for the exclusion of the whole or a portion of any such district from the application of such Act; and may provide what local authority shall have jurisdiction for the purposes of this Act in any area which is by such order included in or excluded from such district.

304 Settlement of differences arising out of transfer of powers or property to local authority.

On the application of any authority from whom or to whom any powers rights duties capacities liabilities obligations and property, or any of them, are at any time transferred or alleged or claimed to be transferred in pursuance of this Act, or any provisional order made thereunder, or on the application of any person affected by such transfer, the Local Government Board may by order settle any doubt or difference, and adjust any accounts arising out of or incidental to such powers rights duties capacities liabilities obligations or property, or to the transfer thereof, and direct the parties by whom and to whom any moneys found to be due are to be paid, and the mode of raising such moneys; and any provisions contained in any order so made shall be deemed to have been made in pursuance of and to be within the powers conferred by this section, subject to this proviso, that where any such order directs any rate to be made, or other act or thing to be done, which the party required to make or do would not, apart from the provisions of this Act, have been enabled to make or do by law, such order shall be provisional only until it has been confirmed by Parliament.

Any settlement or adjustment under this section may be included in any provisional order which gives rise to the same.