



Food Safety Act 1990

1990 CHAPTER 16

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Powers of Ministers

42 Default powers.

- (1) Where [^{F1}the Secretary of State] is satisfied that—
 - (a) a food authority (in this section referred to as “the authority in default”) have failed to discharge any duty imposed by or under this Act; and
 - (b) the authority’s failure affects the general interests of consumers of food,
he may by order empower another food authority [^{F2}or the Food Standards Agency] (in this section referred to as “the substitute authority”), or [^{F3}a person (whether or not an officer of his) who is authorised by him in writing to do so], to discharge that duty in place of the authority in default [^{F4}but if regulations made by the Ministers so provide, no person shall be so authorised unless he has such qualifications as may be prescribed by the regulations.].
- (2) For the purpose of determining whether the power conferred by subsection (1) above is exercisable, the Minister may cause a local inquiry to be held; and where he does so, the relevant provisions of the Local Government Act shall apply as if the inquiry were a local inquiry held under that Act.
- (3) Nothing in subsection (1) above affects any other power exercisable by the Minister with respect to defaults of local authorities.
- (4) The substitute authority or [^{F1}the Secretary of State] may recover from the authority in default any expenses reasonably incurred by them or him under subsection (1) above; and for the purpose of paying any such amount the authority in default may—
 - (a) raise money as if the expenses had been incurred directly by them as a local authority; and

Status: Point in time view as at 01/06/2005. This version of this provision has been superseded.

Changes to legislation: Food Safety Act 1990, Section 42 is up to date with all changes known to be in force on or before 03 June 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)

- (b) if and to the extent that they are authorised to do so by the Minister, borrow money in accordance with the statutory provisions relating to borrowing by a local authority.

(5) In this section “the relevant provisions of the Local Government Act” means subsections (2) to (5) of section 250 of the ^{M1} Local Government Act 1972 in relation to England and Wales and subsections (3) to (8) of section 210 of the ^{M2} Local Government (Scotland) Act 1973 in relation to Scotland.

Textual Amendments

- F1** Words in s. 42(1)-(4) substituted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 8** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F2** Words in s. 42(1) inserted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5 para. 19** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F3** Words in s. 42(1) substituted (3.1.1995) by 1994 c. 40, ss. 76, 82(2)(f), **Sch. 16 para. 17(a)**
- F4** Words in s. 42(1) inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2)(f), **Sch. 16 para. 17(b)**

Modifications etc. (not altering text)

- C1** S. 42 amended (1.4.2000) by 1999 c. 28, s. 18, Sch. 3 Pt. I paras. 1, 6 (with s. 38); S.I. 2000/1066, **art. 2**
- C2** S. 42 transfer of functions (23.3.2005) by Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849), art. 1, **Sch.** (with art. 6)

Marginal Citations

- M1** 1972 c. 70.
- M2** 1973 c. 65.

Status:

Point in time view as at 01/06/2005. This version of this provision has been superseded.

Changes to legislation:

Food Safety Act 1990, Section 42 is up to date with all changes known to be in force on or before 03 June 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.